

January 23, 2012

**KILMARNOCK TOWN COUNCIL**  
**Monday, January 23, 2012**  
**Town Hall**  
**Kilmarnock, VA**

**Regular Meeting Minutes**

**1. Call to Order:**

Mayor Booth called the Regular Meeting to order at 7:00 pm with the following Councilmembers present:

Raymond Booth, Mayor  
William L. Smith, Vice-Mayor  
Denis Bouslough  
Shawn Donahue

Paul S. Jones  
Rebecca Nunn  
Mae Umphlett

**Staff Present:**

Tom Saunders, Town Mgr.  
Susan Cockrell, Asst. Town Mgr.  
Paul C. Stamm, Jr., Town Attorney  
Jackie Blencowe, Town Clerk  
Cindy Balderson, Deputy Clerk  
Joan N. Kent, Transcriber  
Michael S. Bedell, Chief of Police

Mayor Booth welcomed Kilmarnock residents, business owners, and guests and then led the recital of the Pledge of Allegiance.

**2. Acceptance and Approval of Agenda**

Councilmember Bouslough requested to amend the January 23, 2012 Town Council meeting agenda by moving the Mayor's State of the Town Address listed as item number 4 to follow Council Comments listed as item number 11. Mr. Bouslough stated that he would also like to add a Closed Session to the end of the agenda as permitted by VA Code 2.2-3711(A) (7) to consult with legal counsel regarding the pending case of Wastewater Management, Inc. vs. the Town of Kilmarnock.

**ACTION: Councilmember Bouslough made a motion to amend the agenda as cited above, seconded by Councilmember Jones; and carried unanimously.**

**3. Minutes: Approve, Correct, or Amend the Minutes of the Regular Town Council Meeting held December 19, 2011**

**ACTION: Vice-Mayor Smith made a motion to approve the December 19, 2011 Town Council Meeting Minutes as presented, seconded by Councilmember Bouslough; and carried unanimously.**

**4. Public Comments and Presentations:**

Mayor Booth invited members of the audience to address Council with any issues or concerns that were not scheduled for public hearing. Mayor Booth asked that comments be limited to 3 minutes per person.

There were no participants in the Public Comments section.

Town Manager Saunders presented Kilmarnock Volunteer Fire Department Chief Bennie Balderson and President Tom Jones with the 2012 Town of Kilmarnock fireman's tags.

Mayor Booth thanked Town Manager Saunders for making the presentation and the representatives of the fire department for being there. Mayor Booth, on behalf of the Town, wanted to thank all of the fire department members for everything they did to keep citizens safe.

**5. Planning Commission Report – Councilmember Bouslough, Council Liaison**

Councilmember Bouslough reported that during the Planning Commission meeting a public hearing was held in regards to rezoning the Town's 60+ acres from R-1 (residential) to M-1 (industrial). Mr. Bouslough said that the property was adjacent to the current Technology Zone and more specifically described the parcels as being located north of Grace Hill Development and identified as Tax Map numbers 28-155A, 28-138, and 28-138A. Mr. Bouslough advised that there were two adjacent property owners who submitted written concerns and a third who was present at the meeting. Mr. Bouslough stated that the property owners' concerns seemed to be related to vehicular access into Grace Hill Development and vegetative privacy buffers. Mr. Bouslough said the Planning Commission approved a motion to forward this issue to Town Council for public hearing. Mr. Bouslough stated that the Planning Commission recommended approval of the rezoning with consideration to proffer a vegetative buffer adjacent to residential properties. Mr. Bouslough noted that no action was needed by Council at this time. Mr. Bouslough finalized by saying that Zoning Administrator/Planning Director Sebra would place the required advertisement so that Council could hold a public hearing next month.

## **6. Committee Reports:**

### **A. Water/Sewer Committee: Councilmember Nunn, Chair**

#### **1) Report from January 2012 Meeting**

A copy of the Committee meeting notes was included in each Councilmember's packet.

Councilmember Nunn reported that Town Manager Saunders advised that the sewer system had been functioning properly for the past month with the exception of a few blockages. Mrs. Nunn stated that Mr. Saunders passed around a brass fitting at the meeting which she found very interesting. Mrs. Nunn said that it showed just how much corrosion a little amount of water could make. Mrs. Nunn stated that Mr. Saunders also reported that the cover ordered for the blowers at the Waste Water Treatment Plant had not arrived yet. Mrs. Nunn advised that she had personally heard the noise coming from the plant and added that the Town had received numerous complaints from three parties. Mrs. Nunn assured everyone that the Water/Sewer Committee was working to alleviate the problem. Mrs. Nunn advised that as the Chair of the Committee she would respond to the letter written to the editor of the Rappahannock Record from Mr. Lindsay. Mrs. Nunn said that Mr. Saunders reported that the preliminary work to have the fencing installed around the Radio Well site was coming to a conclusion and he hoped to have it ready for quotes by the end of the month. Mrs. Nunn advised that they had received only one quote for demolition of the pump house on Waverly Avenue so the Committee gave approval to re-advertise the job in an attempt to get a better price. Mrs. Nunn stated that Mr. Rosenbaum reported that the plans for the Wiggins Avenue force main replacement were essentially complete. Mrs. Nunn said that they would be changing from a 6 inch pipe to an 8 inch pipe which would increase capacity by 100%. Mrs. Nunn added that Mr. Rosenbaum was going to ask the bidders to come up with some innovative approaches that would give the Town the longest service for lowest cost and maintenance. Mrs. Nunn said that they also reviewed the continuing progress on the radiometers and a situation where some meters were ordered but never installed. Mrs. Nunn stated that the Committee received a report from WWTP Operator Pat Chenoweth and Utilities Supervisor Wayne Kent.

Mr. Bennie Balderson, Chief of the Kilmarnock Volunteer Fire Department asked the Town for a list of nonfunctional fire hydrants.

Town Manager Saunders jokingly replied that he hoped it was a short list and assured Mr. Balderson that he would get that information to him.

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## 2) Committee Recommendations to Council

There were no recommendations to Council.

### B. Streets/ Sidewalks/ Playground Committee: Councilmember Donahue, Chair

#### 1) Report from January, 2012 Meeting

A copy of the Committee meeting notes was included in each Councilmember's packet.

Councilmember Donahue stated that he was not able to attend the meeting and asked Councilmember Nunn if she would give the report.

Councilmember Nunn stated that the Committee discussed potential actions to address a streetlight at the entrance of Technology Drive. Mrs. Nunn informed Council that the problem was that the Town didn't own any property at the entrance to put the light on therefore staff would continue to pursue options. Mrs. Nunn advised that Mr. Warren was also requesting a light at Mercer Place but added that unfortunately the initial price from Virginia Dominion Power was in excess of \$5000. Mrs. Nunn said that Mr. Warren was examining other options such as checking with his own electrician. Mrs. Nunn advised that Mr. Warren was willing to share the price of the light with the Town. Mrs. Nunn stated the Committee also reviewed Mr. Sowder's interest in donating open space at Grace Hill to the Town of Kilmarnock. Mrs. Nunn said that as a past President of a Condo Association, she had a problem with this and noted that Town Attorney Stamm also felt that there might be legal issues associated with "common space". Mrs. Nunn continued by saying that staff presented an initial draft ordinance on derelict structures modeled after the city of Norfolk. Mrs. Nunn advised that the Committee was updated on the discussions held with Mr. Thompson. Mrs. Nunn stated that prior to the Main Street Project there were four parking spaces next to Anchor Pharmacy. Mrs. Nunn said that Mr. Thompson gave up two of the spaces for the Main Street Project because the parking went from pull in to parallel but now VDOT did not want to allow the two parking spaces that were left anymore because they were dangerous. Mrs. Nunn added that the grain trucks and 18-wheelers couldn't make the turn. Mrs. Nunn advised that Mr. Thompson did understand that the two spaces would be eliminated and the handicap sign would be replaced with a "no parking" sign. Mrs. Nunn said that the Committee checked into having a fireworks display for the 4<sup>th</sup> of July and found that the cost would be in excess of \$13,000 and would have to be held outside the Town limits. Mrs. Nunn advised that the Committee had decided not to pursue this any further. Mrs. Nunn stated that snow removal letters went out to certain merchants. Mrs. Nunn also advised that the Committee wanted to commend the Street's Team for their efficient removal of the Christmas décor adding that they got the decorations down during the first week of January and worked in the middle of the night. Mrs. Nunn

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stated that Councilmembers provided feedback on holiday programs in anticipation of the 2012 season. Mrs. Nunn advised that the tree lighting ceremony with the memorial reading and banners would be held the Tuesday before Thanksgiving like last year. Mrs. Nunn stated that she had received orders for an additional five banners. Mrs. Nunn said that the Town continued to value the Chamber's annual lighted Christmas parade and supported its continuing occurrence. Mrs. Nunn advised that pickets in the playground fence were recently repaired by Mayor Booth's staff which was greatly appreciated. Mrs. Nunn finalized by saying that the Committee would continue to study the derelict structure ordinance before making a proposal to Council.

2) Committee Recommendations to Council

There were no recommendations made to Council.

C. Police/Public Safety Committee: Councilmember Donahue, Chair

1) Report from January, 2012 Meeting

There was no meeting held but a copy of the monthly statistics was included in each Councilmember's packet.

Councilmember Nunn wanted to know when the Police and Safety Committee had met last.

Councilmember Donahue replied that the Committee had met in November.

2) Committee Recommendations to Council

There were no recommendations to Council.

D. Emergency Preparedness Committee: Councilmember Umphlett, Chair

1) Report from January, 2012 meeting

There was no meeting held.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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E. Town Centre Committee: Councilmember Jones, Chair

1) Report from January, 2012 meeting

There was no meeting held.

2) Committee Recommendations to Council

There were no recommendations made to Council.

F. Economic Development Committee: Vice-Mayor Smith, Chair

1) Report from January, 2012 Meeting.

A copy of the Committee meeting notes was included in each Councilmember's packet.

Vice-Mayor Smith stated that as everyone had already heard, the Planning Commission had reviewed and voted to recommend to Council the M-1 designation for Town property at Tech Park. Mr. Smith advised that the Committee reviewed recent business closings and openings within the Town and general economic activity. Mr. Smith stated that a review of the HUB Zone development showed minimal activity with the exception of MTEQ who relayed the importance of the designation through an email to the Town. Mr. Smith said that there was a conference call between the Planning District Commission and the Small Business Development Agency and they were in the process of contacting Rob Whitman to help get the designation back. Mr. Smith added that the Town had not lost the designation yet but were on the docket to do so. Mr. Smith advised that the General Assembly convened on January 11<sup>th</sup> and VML would provide daily coverage of key issues affecting municipalities. Mr. Smith stated that Town Manager Saunders would be forwarding emails on issues of local concern for the Town Council's review or action. Mr. Smith finalized by saying that RCC's Kilmarnock Center held its open house on January 21<sup>st</sup>, 2012 from 1 to 3 pm and the majority of Council was in attendance. Mr. Smith advised that Mayor Booth spoke at the event and noted that there were over a hundred people there. Mr. Smith stated that there was good representation from the community and business leaders. Mr. Smith said that he was overly impressed with what he saw and added that it exceeded his expectations.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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G. Administration/Finance Committee: Vice-Mayor Smith, Chair

1) Report from January, 2012 meeting.

A copy of the Committee meeting notes was included in each Councilmember's packet.

Vice-Mayor Smith stated that there were ongoing discussions with one of the Town residents regarding reimbursement of connection fees. Mr. Smith advised that the Committee was continuing discussions on the ways to increase communications between the Town and residents such as holding Committee meetings earlier in the month so that each Councilmember would get their packets earlier and have more time to review them. Mr. Smith stated that Mr. Sowder wanted to know what the Town's position was on possible changes to Grace Hill's restrictive covenants. Mr. Smith said that the Town Attorney advised that it would all depend on the specific proposals. Mr. Smith advised that there would be a 10% increase by the Town's cable franchisee for residents. Mr. Smith stated that the annual financial audit opinion had been received from Robinson, Farmer, Cox and Associates which was basically a clean report saying that there were no material financial issues. Mr. Smith advised that total assets from June 2010 to June 2011 increased by 1.2 million and the Town's total liabilities decreased by \$150,000. Mr. Smith stated that the net assets increased by 1.4 million from June 2010 to June 2011.

2) Committee Recommendations to Council

Recommend that Council approve the disbursements from December 20, 2011 to January 23, 2012 totaling \$362,234.77 of which \$142,130.23 was debt service payment to BB&T for the Main Street Project.

**ACTION: Vice-Mayor Smith made a motion to approve the disbursements from December 20, 2011 through January 23, 2012 as presented, seconded by Councilmember Nunn; and carried unanimously.**

**7. Administrative Comments and Reports:** Town Manager Saunders

A. Mary Ball Road CDBG Update

Town Manager Saunders reported that there were only two homes left to be connected to water/sewer with a third sitting on the fence as to whether or not they wanted to participate. Mr. Saunders advised that they were very close to wrapping the project up and wanted to congratulate everyone who was involved such as Mr. Bill Rosenbaum, Franklin

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Mechanical, and Marshall Sebra who had really been the person running the show.

#### B. RCC- Opening of Kilmarnock Center

Town Manager Saunders wanted to add his congratulations to the Town and to everyone involved for what he thought was a wonderful grand opening at RCC. Mr. Saunders said that it was one of the most exciting things that had happened in Town in a long time. Mr. Saunders stated that he appreciated everyone's contribution.

#### C. Letter to Editor of Rappahannock Recording WWTP Noise

Town Manager Saunders stated that he wanted to address the letter written to the Rappahannock Record regarding the noise from the WWTP. Mr. Saunders said that he had been in contact with the Lindsey family and the recent noise activity that was referred to in the letter went back to 2008. Mr. Saunders said that he thought the noise level had changed since then because that was when the blowers were first installed. Mr. Saunders stated that since then a cabinet had been put over them to reduce the noise. Mr. Saunders said that the Town was still looking for alternatives. Mr. Saunders stated that he had offered repeatedly to visit the Lindsey's property whenever the noise level was bothersome and noted that they had called him. Mr. Saunders added that the family was not there all of the time but when they had come down and called he was unable to identify where the noise was coming from. Mr. Saunders stated that he thought the problem was the chronic blower noise and the direction of the wind. Mr. Saunders said that they had tried to meet the Lindseys halfway and felt the implication that the Town had not taken any steps to alleviate the problem was not fair. Mr. Saunders advised that they continued to look for ways to reduce the noise and pointed out that the configuration of the tanks, blowers, and such didn't give them much lead way. Mr. Saunders said that they needed to be able to get to this equipment in order to work on it and lift it out with a crane if necessary. Mr. Saunders stated that although they could build a concrete encasement around it, it would still have to be open to the environment. Mr. Saunders said that he had a removable cover on order but noted that it had to be customized because of its size and he had not yet received it.

#### D. Fair Housing Resolution

Town Manager Saunders asked Town Council to adopt the Resolution as part of the Mary Ball Road Neighborhood Improvement Community Development Block Grant Project which simply stated that Kilmarnock practiced fair housing laws and did not discriminate against race, color, religion, sex, national origin, age, familial status or disability.

**ACTION: Councilmember Bouslough made a motion to**

**adopt the Fair Housing Resolution as presented, seconded by Councilmember Nunn; and carried unanimously.**

Councilmember Nunn advised that she was serving on the Rehab Board for the Mary Ball Community Block Grant Project and had met with Mrs. Conway last week to help her to write a letter regarding the things that the contractor left undone. Mrs. Nunn advised that one of the challenges with the rehab was that Class A, number one contractors were not interested because the most that could be done to a house was \$25,000 worth of work unless there was an extension. Mrs. Nunn stated that Mrs. Conway had a lot of cracks and holes left in the walls that were not filled and her rehab had been completed almost a year ago. Mrs. Nunn said that she hoped she had gotten everything straight for Mrs. Conway and found being on the Rehab Board to be very interesting.

## **8. Old Business**

Councilmember Nunn stated that last month she made a motion to establish a war memorial which was passed. Mrs. Nunn said that there was discussion by certain Councilmembers regarding where the memorial would be placed and until a decision was made on what was going to be done with the Town Centre property, then maybe the war memorial should not be put there. Mrs. Nunn stated that on September 14, 2010, the Town Council determined that the Town Centre property would be kept permanently and used as a Town Park for people. Mrs. Nunn advised that Mayor Booth agreed to endorse it only if it would be free of excessive consultants and engineering. Mrs. Nunn said that on October 12, 2010 the Committee discussed the best way to proceed and agreed to draw up a list of names of who would serve on the Park Committee. Mrs. Nunn stated that this had not done. Mrs. Nunn said that Council also passed a motion that it would be a native plant park consisting of coastal plain plants, trees, and shrubs. Mrs. Nunn advised that it seemed that Council had decided what to do with the Town Centre property which was to have a permanent people park on it and therefore it would be the perfect place to put the war memorial. Mrs. Nunn stated that she had several people to call and offer their help with this project who seemed very excited about it. Mrs. Nunn wanted to propose that the war memorial be placed in the people park.

Councilmember Donahue stated that he agreed with everything that Councilmember Nunn had just said however, the Committee had not come before Council and given them a comprehensive plan for the people park. Mr. Donahue stated that what Councilmember Nunn had said was true and factual but added that Council had to be ready to put it in writing and say that this was how the park was going to be developed. Mr. Donahue said that the Committee, which was chaired by Mrs. Nunn, had not come up with a plan and presented it to Council.

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Councilmember Nunn replied that she did not chair the Town Centre Committee.

Mayor Booth advised that Councilmember Jones did.

Councilmember Donahue commented that regardless, no one had presented a comprehensive plan for the park. Mr. Donahue advised them not to take an acre of land and just do another project. Mr. Donahue asked the Committee to come up with a drawing that said they were ready.

Councilmember Nunn advised that it had already been determined that the Town Hall was not going to be on the Town Centre property but was going to be on the current Town Hall lot.

Councilmember Donahue asked who made that determination.

Councilmember Nunn replied the Committee did.

Councilmember Donahue asked if that was everyone's understanding.

Vice-Mayor Smith replied that it was not his.

Councilmember Bouslough commented that it wasn't his understanding either.

Councilmember Donahue told Councilmember Nunn that she had just sat there and said that it was understood by everyone that this was what was taking place.

Councilmember Nunn replied that it was the understanding of the Committee but it had not been presented to Council yet.

Councilmember Donahue commented that was what he was trying to say. Mr. Donahue said that everyone was in agreement and wanted to do this but the Committee needed to move forward.

Councilmember Nunn replied that she understood that but added Council had already decided that there was going to be a people park adjacent to the dog park. Mrs. Nunn stated that all she was proposing was that the war memorial be put in the people park which Council had already determined that they were going to have.

Councilmember Donahue said that the people who live in the Town wanted to see a plan and for them not just take another acre of land or whatever was needed and do what they wanted with it.

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Councilmember Nunn replied that she wasn't taking an acre of land because it was Council who determined that they wanted a people park.

Councilmember Donahue stated that all he was saying was they needed to go about this in the right way.

Mayor Booth said that he didn't feel that any of this was argumentative and that it appeared to him that Councilmember Donahue's concern was procedural. Mayor Booth stated that he thought it should go back to Committee to be properly approved and then presented to Council. Mayor Booth said that he would entertain discussion from other Councilmembers on what they thought was appropriate.

Vice-Mayor Smith said that it was his understanding that just as the dog park was done on a temporary basis, anything put on the property would have to be done so that it could be picked up and moved if necessary. Mr. Smith stated that nothing permanent was supposed to go there until they decided what was going to be done with that whole parcel. Mr. Smith felt at this point it was too early to tell until a decision was made on the property. Mr. Smith didn't think it was in the best interest of the Town to go in and divide it up into small projects.

Councilmember Nunn advised that Council determined on September 14<sup>th</sup>, 2010 that the lot was strategically central to Town and should be kept permanently and used as a Town Park. Mrs. Nunn stated that this was a Council decision. Mrs. Nunn said that the only other thing going on with that property was that the Town was discussing something with the library but added that the Town property consisted of 9 acres. Mrs. Nunn stated that it was Council who had deemed that a permanent people park would be put there so the war memorial would not be moved.

Vice-Mayor Smith asked how big the people park was going to be and what it entailed. Mr. Smith said that Council didn't have any of the particulars at this point.

Councilmember Nunn stated that before she started asking people for money and getting their input she felt that she needed to be able to say where it was going to be.

Councilmember Umphlett stated that she was in agreement with Vice-Mayor Smith and needed to know more about the park. Mrs. Umphlett said that she had thought of some other places in Town where she thought the war memorial might go.

**ACTION: Councilmember Bouslough made a motion to table the discussion, send it back to the proper Committee to be discussed in detail and brought back to Council with a proper recommendation including where on the property the war memorial would go, seconded by Councilmember Donahue; and carried unanimously.**

## **9. New Business**

Councilmember Nunn stated that she had several people to contact her regarding the Virginia Freedom Food Act. Mrs. Nunn said that one of the critical issues for Kilmarnock and many small towns throughout the Commonwealth of Virginia was the lack of jobs. Mrs. Nunn advised that there was an act that supporters had brought to her which had the capability of providing jobs and invigorating the economy. Mrs. Nunn said that the Virginia Freedom Food Act stated that there would be no restrictions on the sale of food produced in the home, farm, or retail stores as long as the label contained the producer's name, address, and disclaimer that it was not government inspected. Mrs. Nunn stated that even back in the 80's people could can and sell their products at farmer's markets and added that this was a movement so that people could sell the beef from their cattle, their milk, cheese, and canned goods. Mrs. Nunn said that this would provide economic opportunity without a large corporation coming in and hiring people. Mrs. Nunn stated that they could use their own land, farms, and kitchens and their products would be able to be sold in retail stores. Mrs. Nunn said that everyone already knew about the lack of safety from many industrial foods and gave the example of one of the problems with beef was e coli. Mrs. Nunn advised that beef producers wanted to feed their cattle grain because it would make them get fat quicker but added that cattle were created to eat grass. Mrs. Nunn said that if a cow was fed grass or hay five days before it was slaughtered it would kill the e coli. Mrs. Nunn advised that all of the cattle here were grass fed so there was safety in local items. Mrs. Nunn stated that when she was on the Economic Development Committee they had discussed some Town sponsored areas where people could come and sell their wares. Mrs. Nunn said that the nature of the farm had changed over the years and industrial agriculture had steamrolled over the smaller units of food production through acts of legislation and regulation. Mrs. Nunn said that many on the panel of authority felt that bigger, cheaper, and faster was the way to go. Mrs. Nunn stated that we as a nation have since learned that bigger, faster and cheaper meant more chemicals in our foods, reduced nutrient value, loss of flavor and loss of independent food systems. Mrs. Nunn advised that there had been a rise in cancer, childhood obesity, and allergies had increased immensely. Mrs. Nunn stated that we wanted to be a healthy nation and we were now a chronically ill nation. Mrs. Nunn said that by recognizing the simple fact that what we ate determined our health was the key and we wanted our health back by deciding for ourselves what type of foods we

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wanted. Mrs. Nunn stated that we wanted our livelihoods back by profiting from our own laborers, our own kitchens, and our own lands. Mrs. Nunn stated that what she was asking Council to do was to endorse the Virginia Food Freedom Act which would urge the Virginia legislature to pass this bill. Mrs. Nunn felt that the Town should do everything that it could to encourage the local people to sell their products.

Councilmember Donahue stated that he had done some research on the issue and felt the initiative was well grounded but there were some real concerns. Mr. Donahue replied that the only thing that could be raised in Town was chickens so he guessed that she was asking Council to encourage the outside farmers to come into Kilmarnock and sell their wares without government inspection. Mr. Donahue advised that the second problem was that the Chamber of Commerce terminated the Town's Farmer's Market for next year. Mr. Donahue said that the Town gave the Chamber of Commerce \$2500 to promote Kilmarnock and the very thing they were supposed to promote, which was the Farmer's Market, they terminated. Mr. Donahue advised that no grocery store was going to take in and sell chicken and beef without USDA approval.

Councilmember Nunn replied that the local stores would and advised Mr. Donahue that he had just voted in favor of this at the last Republican meeting.

Mr. Donahue admitted that he did.

Councilmember Nunn asked him why he was arguing then like he always did.

Mr. Donahue said that outside of chickens, nothing else could be raised in the Town of Kilmarnock.

Councilmember Nunn advised that the retail stores could sell these products and make money. Mrs. Nunn said that there were people who lived right in Town who could make their wares and sell them.

Councilmember Donahue advised that he was just saying that he didn't think it was a Town of Kilmarnock issue.

Councilmember Nunn stated that all she was asking was for there to be a decree saying that the Town of Kilmarnock endorsed this. Mrs. Nunn said that the Town was part of a larger community and this would help people in the county and help retail merchants in the Town.

Councilmember Bouslough stated that he knew nothing about the Virginia Freedom Food Act and added that before he could vote on this he would like some time to study it.

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Councilmember Nunn stated that all she was asking for was an endorsement. Mrs. Nunn said that legislature had to vote on it not Council.

Councilmember Bouslough stated that he didn't want to endorse something that he knew nothing about.

Mayor Booth asked if there was further discussion or a motion.

**ACTION: Councilmember Nunn made the motion to endorse the Virginia Freedom Food Act, seconded by Vice-Mayor Smith; which was tied with a 3 to 3 vote. Mayor Booth broke the tie by opposing the motion. The motion was not carried by a 4 to 3 vote against.**

Councilmember Nunn commented surprise, surprise, surprise.

Mayor Booth told Councilmember Nunn that it was nothing personal and he felt bad about voting against her motion at the very first meeting of the year but added that he knew nothing about Virginia Freedom Food Act.

## **10. Council Comments**

There were no Council comments made.

## **11. Mayor's State of the Town Address**

Mayor Booth began by addressing the Vice-Mayor, Members of Council, Town Manager, Staff, Citizens of the Town of Kilmarnock and entered into his speech by saying "Despite the difficulties of many municipalities during these tough economic times, Kilmarnock has performed strongly during this time and I am pleased to report that the Town boasted approximately \$400,000 in surplus for the fiscal year ending June 30<sup>th</sup>, 2011. This in addition to substantial reserves held are evidence of the strength of our Town in this area. Still I believe we are not on the same track to duplicate these numbers in the current year. While Council's spending recently may have been affected by some extraordinary items, I am still concerned that Council has spent too freely at times since I have become Mayor. I urge Council to spend less and prioritize the spending. Excessive spending always leads to the need to raise taxes and fees. Our residents pay enough taxes and fees now. Someone the other day told me that the Town would have to raise the real estate tax rate this year because the new assessments would be lower and thus reduce revenues. My response was no. Although Town real estate and property taxes are essentially very low in essence, our citizens are really paying twice. Just as our counterparts at the state and federal levels, local government needs to live within its means, adjusting spending to meet existing revenues.

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Tonight, I pledge to our residents here in Kilmarnock that I will not support an increase in taxes of any kind. Businesses in our Town through the BPOL and the collection of Meals and other taxes provide the majority of our revenues. This enables individual taxes to be kept low while still providing essential services to residents. During the past year, we passed a 10% reduction in BPOL taxes for businesses as an incentive to increase revenues. I would like to thank those Members of Council who supported this important tax break to help simulate our local economy. Council as a whole passed other incentives for businesses to locate here in our Town. Tonight I would like to charge the Economic Development Committee as well as Council to make even more substantial efforts to stimulate business here in our Town. Now I would like to mention the services that we provide here in Town. First and foremost is public safety and police services. Statistics indicate that we have an effective police department and for the most part we have the luxury of living in a Town relatively free of major crime. I thank Chief Bedell and his officers for the job that they do. Second, water and sewer services are provided to our residents at a high level. These are the most challenging services that we provide because of past neglect and also because of state and federal mandates. In July, Town Manager Saunders made a decision to downsize and restructure our water department. It was a decision with which I did not agree because I believe the restructuring posed a risk of increase of cost to the system thus creating the need to raise rates. The jury is still out on this restructuring. By out-sourcing much of labor in this department, I believe in some ways has made the department more efficient and in other ways less efficient. But cost is the big question here and it will take some time for us to determine the overall merits of this restructuring. Still one thing remains clear, water and sewer rates are already high enough. They are burdensome on our citizens who are already struggling during these tough economic times. As Mayor, I will not support raising water and sewer rates for our residences or businesses. I ask my fellow Councilmembers to make the same commitment as I have. Council during the past year has overseen numerous important projects and contributions to our Town. Our donation to the Kilmarnock Fire Department to replace the firehouse roof, our generous donation to RCC's new learning center here in Kilmarnock, and the opening of Baylor Park and Nature Trail are notable examples. There are numerous others that I have not mentioned. I would like to thank all Members of Council, Town Manager Saunders, Assistant Town Manager Cockrell, Zoning Administrator Sebra, and all Members of Staff for all of their hard work that make these things happen. Despite criticism for being the Council that doesn't get along, we are fortunate to preside over a Town that is the envy of many of our surrounding locations. Because of our location, esthetic charm, and economic strength, Kilmarnock is the true hub of the Northern Neck. Tonight, I say to this Council it is not wrong to disagree on things that we feel strongly about. This is merely democracy at work. However, we should all including myself, show more civility in doing so. We all have talents and shortcomings, but each of us has a uniquely common dedication to serve our Town which does require sacrifice. I ask my fellow Councilmembers to join me in a new, more civil discourse beginning tonight. Finally, I want to thank those who make all of this, our wonderful Town of

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Kilmarnock possible. Thanks to our citizen, our taxpayers, it is you who make this great and it is my honor to serve you.”

The Mayor’s State of the Town Address generated applause.

## **12. Close Session:**

A. Enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (7) Legal Counsel about probable future litigation.

**ACTION: Councilmember Bouslough made a motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (7) Legal Counsel about the pending case of Wastewater Management, Inc. vs. Town of Kilmarnock, seconded by Councilmember Donahue; and carried unanimously.**

Mayor Booth called for a 10 minute recess prior to Closed Session at 7:55 pm.

Council entered into Closed Session at 8:05 pm.  
Regular Meeting reconvened at 8:17 pm.

B. Certify Closed Session held IAW FOIA 2.2-3711(A) Para (7) Legal Counsel about probable future litigation.

**ACTION: Vice-Mayor Smith made a statement certifying that in the Closed Session just concluded nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in Closed Session and (2) lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information Act cited in that motion. Statement was unanimously supported by a roll call vote.**

January 23, 2012

Booth, Raymond C., Jr.-yes  
Smith, William L. - yes  
Bouslough, Denis - yes  
Donahue, Shawn - yes  
Jones, Paul S. - yes  
Nunn, Rebecca T. - yes  
Umphlett, Mae – yes

C. Action Item: Result of Closed Session

**ACTION:** Councilmember Nunn made a motion to write a check for \$19,655.00 to Bruce E. Arkema, attorney for Waste Water Management, Inc., seconded by Councilmember Bouslough; and carried unanimously.

### 13. Adjournment

**ACTION:** Councilmember Smith made a motion to adjourn, seconded by Councilmember Nunn; and carried unanimously.

Meeting adjourned at 8:23 pm

Prepared by:

\_\_\_\_\_  
Joan N. Kent

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Raymond C Booth, Jr., Mayor

\_\_\_\_\_  
Cindy L. Balderson, Acting Clerk

January 23, 2012