

January 25, 2010

**KILMARNOCK TOWN COUNCIL
Monday, January 25, 2010
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order:

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

Dr. Curtis H. Smith, Mayor
Paul Jones, Vice-Mayor
Howard Straughan

Barbara Robertson
Rebecca Nunn
John A. Smith

Members Absent:
Randy Moubray

Staff Present:
Tom Saunders, Town Mgr.
Marshall Sebra, Town Planner/Asst. Town Mgr.
Paul C. Stamm, Jr., Town Attorney
Jackie Blencowe, Town Clerk
Joan N. Kent, Transcriber
Michael S. Bedell, Chief of Police

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

2. Acceptance and Approval of Agenda

ACTION: Councilmember Smith made a motion to accept the agenda for the January 25, 2010 Town Council meeting as presented, seconded by Councilmember Straughan; and carried unanimously.

3. Minutes: Approve, Correct, or Amend Minutes of the Regular Town Council Meeting held December 21, 2009.

ACTION: Councilmember Nunn made a motion to approve the December 21, 2009 Regular Town Council Meeting Minutes, seconded by

**Councilmember Smith; and carried
unanimously.**

4. Public Comments and Presentations

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

A. Public Forum

1) Mr. Les Spivey of 58 East Church Street, Kilmarnock, VA, thanked Town Manager Saunders and Community Development Strategist, Susan Cockrell, for organizing the community meeting recently held at the middle school. Mr. Spivey acknowledged how unfortunate it was that a meeting regarding sex crimes in Kilmarnock had to be held at all. Mr. Spivey said it was nice to see all of the law enforcement jurisdictions working together to solve the crimes and said that, within itself, showed the possibility of maybe the county and Town cooperating together to resolve all types of issues and not just crimes. Mr. Spivey stated that the incidents unfortunately pointed out that the Town was not prepared for this type of crime. Mr. Spivey recalled that the Town Manager was asked during the meeting why the community had not been notified after the first incident and Mr. Saunders replied something to the effect that no one was really sure what law enforcement was up against at the time. Mr. Spivey said that based on all of this he would like to suggest that the Town and local law enforcement spend some time thinking outside the box. Mr. Spivey gave the examples that New York and DC were not prepared for 9/11, Appomattox was not prepared for the recent eight murders that occurred in their county, and the Town of Kilmarnock was not prepared for sex crimes to this extent. Mr. Spivey noted that the world is changing and crime is coming to the Northern Neck. In general, Mr. Spivey thought that the Town needed to be prepared so that it could respond appropriately. Mr. Spivey said that he was not blaming anyone for what happened and doubted that much could have been done to prevent the first incident. However, Mr. Spivey stated there was a need to learn from what had transpired and to think about what could have been done so that it didn't happen again. Mr. Spivey said that no one was going to be able to prevent all crimes from happening but he felt that everyone could be just a little more prepared. Mr. Spivey stated that he and his wife moved to Kilmarnock in an attempt to escape the mass of people and crimes in Northern VA and other large cities. Mr. Spivey said that he still felt the Northern Neck had a low crime rate but recent events had made it abundantly clear that the citizens of the Town could no longer ignore the bad things that happened outside the Northern Neck and assume that they would never happen here. Mr. Spivey said that everyone needed to keep their doors locked, their eyes open, and report anything that didn't fit into the normal pattern of life here to the authorities. Mr. Spivey finalized by saying that if a few more law enforcement personnel were needed then the Town should hire them and the citizens should support them.

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Mayor Smith commented that Mr. Spivey had made several good points and felt that Sheriff Crockett had summed it up at the meeting when he said that citizens were asking him during the investigation if law enforcement could hurry up and get the guy so that they would not have to leave their outside lights on or lock their doors anymore. Mayor Smith said that he hoped people learned from the recent tragic events and didn't slip back into their old ways.

2) Mr. Henry Nickel of Irvington, VA, advised Council that he was the vandal caught spray painting the Town's tower and wanted to apologize to Kilmarnock Police Department, Town Council, and to his parents whom he caused great embarrassment. Mr. Nickel said that he was willing to do whatever he could to make amends including repainting the tower like it should be or payment to have it restored to normal. Mr. Nickel stated that he would be doing 20 hours of community service at Dreamfields Youth Ball Park and anywhere else the Town thought fitting. Mr. Nickel asked for forgiveness.

Mayor Smith asked Mr. Nickel how old he was.

Mr. Nickel responded by saying that he was 25 years old.

Mayor Smith said to Mr. Nickel that he was too old for this type of behavior which had landed him in trouble but stated that he was going to direct the Town Manager to work with him and make the final decision on how the Town should proceed with this matter. Mayor Smith told Mr. Nickel that his apology was accepted.

3) Ms. Linda Small of 18 Dixie Avenue in Kilmarnock, VA, stated that she and others in her neighborhood were having a problem with the occupants of one particular house and its landlord. Ms. Small said that the citizens in that area wanted to take their neighborhood back and make it safe. Ms. Small advised that this particular troublesome property had housed a pedophile some years back and now served as a crack, weed, and flop house. Ms. Small said that originally two girls had rented the house but noted that two men were now occupying the residence as well. Ms. Small stated that one of the men had drug convictions and the other had been evicted from two other houses on Church Street. Ms. Small said that the owner of the property refused to help and went as far as having his phone number changed. Mrs. Small stated that she had her life threatened by the people living there on two occasions and noted that law enforcement had responded to 18 calls there. Ms. Small said that the citizens in that area were in danger because things were getting really bad there. Ms. Small stated that cars were in and out of that residence 24 hours a day and most only stayed for two minutes or so. Ms. Small advised that there was a pole with a transformer on Dixie Avenue and asked that the Town put a streetlight there. Ms. Small said that corner was very dark and allowed those residents to get away with a lot. Ms. Small stated that she would stay up 24 hours a day if necessary to watch them if the Town

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would put up some Crime Watch signs. Ms. Small said that the cars going to and from that residence were traveling at about 40 to 50 mph around the curve and she felt that speed limit signs were needed because there were children in the neighborhood. Ms. Small finalized by saying that the citizens needed help from Council to enlighten the landlord and protect the neighborhood.

Mayor Smith advised Ms. Small that he would direct the Town Manager to make an inquiry to VDOT in regards to the speed limit signs, to the Streets Committee to check into the streetlight, and to Chief Bedell to speak with her about starting a neighborhood crime watch in that area.

Councilmember Nunn asked Chief Bedell why the Town couldn't get those people out of that residence.

Chief Bedell replied there were no grounds for eviction at this time.

Councilmember Nunn said that they were selling drugs.

Chief Bedell replied that they had to be caught.

Investigator Joan Kent from Lancaster Sheriff's Office reported that one of the occupants of that residence had been caught and was going to trial in February.

Councilmember Nunn asked if that individual was convicted could they be made to leave.

Town Attorney Stamm replied that the Town did not have the authority to interfere with a landlord and his tenant.

Ms. Small asked if the landlord could be sued for endangering the neighborhood by allowing them to stay there.

Town Attorney Stamm replied to Ms. Small that she would have to seek advice from private counsel because he served as the Town's attorney.

Mayor Smith felt that a streetlight in that area would be a good start in the right direction.

Town Manager Saunders said that he had already spoken to Virginia Dominion Power.

Mr. Bob Wille of 415 Bay Ridge Avenue, Kilmarnock, VA, advised that he lived in the same neighborhood and that police were patrolling the area both day and night. Mr. Wille wanted to thank law enforcement for their efforts.

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In order to speed up the process of putting a streetlight in that area, Vice-Mayor Jones made the following motion:

ACTION: Vice-Mayor Jones made a motion that in cooperation with Virginia Dominion Power, the Town of Kilmarnock approve the expenditure for the installation of a streetlight on the corner of Dixie and Avonne Avenues, seconded by Councilmember Straughan; and carried unanimously.

B. Presentations

Planning Commission Report: Councilmember Nunn, Council Liaison

Councilmember Nunn stated that there were two public hearings scheduled for the January Planning Commission Meeting. The first public hearing held was in regards to a request by Sea Star Enterprises, LLC, to rezone six parcels of land totaling approximately 1.2 acres located off of Chase Street, between Heatherfield Court and Cedar Lane to R-2 in order to build 19 condominium units similar to those at Heatherfield. Mrs. Nunn advised that it was the recommendation of the Planning Commission that the request be granted. The second public hearing was a carryover from the December meeting and was in regards to a request by White Stone Land Partners, LLC for a conditional use permit to place a fuel distribution center on 4 of their 10 acres located north of Harris Road and south of Technology Park Drive. Mrs. Nunn advised that the Planning Commission was recommending to Council that the request made during the December meeting to rezone the 10-acre parcel to M-1 be granted. Mrs. Nunn continued by saying that the Planning Commission was recommending to Council that the request for a conditional use permit for a fuel distribution center be denied. Mrs. Nunn reminded Council that they did not have to go along with the recommendation and could vote differently.

5. Public Hearing:

A. Request by Suzanne M. Bellows, c/o Partners for Lancaster County Schools Foundation, to rezone approximately 5.8 acres of property located off East Church Street, north of Saint Andrews Presbyterian Church to R-2 (Medium Density Residential). The request pertains to Tax Map# 24-22H (in part) and is currently zoned A-1 (Agricultural).

1) Description of Rezoning and Developer Presentation

Assistant Town Manager/Planning Director Marshall Sebra referred Councilmembers to the information and maps provided for them in their packets. Mr. Sebra advised that the request for rezoning was in compliance with

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the Comprehensive Plan and that it was the recommendation of the Planning Commission that the request be granted. Mr. Sebra introduced Mr. Bill Warren, President of Partners for Lancaster County Schools Foundation who gave a brief presentation on the intended use for the property.

Mr. Bill Warren advised Council that he had Mr. Bill Burton with Bay Design and Attorney Frank Burke, who was representing Ms. Suzanne Bellows, there with him to help answer any questions that they might have in regards to the rezoning and intended use of the property. Mr. Warren began by saying that it was the foundation's desire to construct two apartment buildings on the 5.8-acre site in order to provide affordable housing for teachers, nurses, healthcare employees, law enforcement officers, municipal employees and county employees. Pictures of the proposed apartment buildings and detailed information were included in each Councilmember's packet. Mr. Warren advised that each building would have eight individual units, which would consist of two bedrooms, two baths, a washer, a dryer, and a dishwasher. Mr. Warren said that there would be a parking area, pavilion, ball field and a gazebo on site to produce a nice facility with a campus look. Mr. Warren stated that the foundation had been very fortunate in regards to community support and advised that Ms. Suzanne Bellows had sold them the land at a very affordable price. Mr. Warren noted that Mr. Sebra's information in the packet had provided Council with most of the technical information so he wanted to go over the eligibility factors. Mr. Warren advised that the IRS required the foundation to sign a Safe Harbor Resolution, which specified the income level of qualifying residents under a 501C3. Mr. Warren said that basically out of 16 units, 4 would be unrestricted, 6 would have to be in range of less than \$48,000 of annual income per year, and the other 6 would be in range of \$32,000 to \$38,000 annual income depending on the AMI. Mr. Warren advised there were currently 91 county teachers, 25 private school teachers, 53 hospital employees, 22 RWC employees, 46 county employees, 15 Kilmarnock employees and 1 White Stone employee eligible for residency. Mr. Warren expected one-half to two-thirds of the residents to be teachers.

Mayor Smith asked Mr. Warren if he had said that a percentage of the units would be unrestricted.

Mr. Warren replied that four units would be unrestricted.

Mayor Smith asked who would own the units.

Mr. Warren replied that the foundation would own and operate the units. Mr. Warren advised that one resident would be compensated for being on site personnel by not having to pay full rent. Mr. Warren stated that there would be a management firm and committee of three from the foundation overseeing the complex. Mr. Warren assured Council that they were not replicating Section 8 housing because anyone eligible for Section 8 housing would not have the annual income required to live there.

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Councilmember Nunn asked what assurance did everyone have that the foundation would not sell the complex to a private individual twelve to fifteen years down the road from now.

Mr. Warren responded by saying it was definitely not the plan but confessed that there was really no way to assure them that this would not happen. Mr. Warren replied that the purpose of doing the project was to create a living community that would attract teachers and nurses to the area and give them incentive to stay here. Mr. Warren said that was the intent of the foundation board which was comprised of local individuals.

Mayor Smith asked how many more units could be put on the lot other than the two that were proposed.

Mr. Warren replied that because of the acreage, no more units other than the proposed two would be allowed under existing Town ordinances.

Councilmember Nunn asked if people with children would be allowed to live there.

Mr. Warren replied that they would.

Councilmember Straughan asked if the units could be sold to the individuals who occupied them at some point.

Mr. Warren replied that they could not sell individual units because of the Safe Harbor Resolution with the IRS stating that they were not built for profit. Mr. Warren stated that the only way any of it could be sold was if the foundation was abolished and both buildings were sold together.

Vice-Mayor Jones asked if combined income had to be between a husband and wife or if it could be between any two people.

Mr. Warren replied that he believed it had to be the combined income of two people and gave the example of two teachers rooming together. Mr. Warren stated that the units in North Carolina have 28 teachers living in 24 units so they had at least 4 instances where units were being shared by roommates. Mr. Warren said that the foundation was very fortunate to have the support of Reverend Tom Coye from St. Andrew's Presbyterian Church and noted that Reverend Coye and his wife had visited the Dare County facility because he had been concerned about what the complex would look like in his neighborhood.

Councilmember Robertson asked for the proposed project deadline date.

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Mr. Warren advised that the total cost of the project was estimated at 1.9 million dollars of which the foundation had to raise \$690,000 to limit borrowing so that the rent could be kept as low as possible. Mr. Warren said that the foundation had accumulated \$640,000 in one year and was 75% of the way to reaching their goal. If successful with the rezoning, Mr. Warren said that he anticipated Bill Burton with Bay Design working with VDOT and the Town toward a site-plan approval and having the contract out for bid in December 2010 with the project completed by June or July 2011.

Councilmember Robertson asked if the \$625 rent included water/sewer or electric.

Mr. Warren replied that it did not and advised that when they started working with the Town in regards to water and sewer then they might have to adjust the rent to cover that to some degree.

Councilmember Robertson asked if the appliances would be electric.

Mr. Warren replied that they would.

2) Mayor Smith opened the public hearing.

3) Mayor Smith asked for public comments.

a. Reverend Tom Coye, resident of Venable Drive and pastor at St. Andrew's Presbyterian Church in Kilmarnock, VA, stated that Mr. Warren had been very good about addressing all of his concerns and answering his questions. Reverend Coye said that he and his church already had Section 8 housing on one side and thought at first that this project would be the same. Reverend Coye advised that after speaking with Mr. Warren he learned that this was a well thought out project designed for working people. Reverend Coye said that what he and his wife saw in North Carolina was exactly what the photos provided to Council depicted and acknowledged that it was a nice setting. Reverend Coye stated that he and the Church board were pleased and looked forward to having good neighbors.

b. Mr. Gerald Sellers of 42 Venable Drive, Kilmarnock, VA, stated that he and some of the other residents on Venable Drive were concerned about what would happen if the foundation decided to sell the complex within the next five years or so to whomever and the Town ended up with yet another undesirable neighborhood. Mr. Sellers asked who would profit if the complex was ever sold.

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Mr. Warren replied that if the foundation went out of business and the property was sold then after all obligations were paid, the rest of the money would go to the county school system.

Mr. Sellers stated that the foundation had good intentions but wanted to know how they would regulate the number of people living in a unit. Mr. Sellers said that it happened all the time, where one person moved in and then brought in their boyfriend or girlfriend with their two kids and then the sister moved in with two kids, and everyone lived together for under \$650 a month.

Mr. Warren said that there would be a management plan in place and residents would have to sign a lease declaring the number of persons living in the unit. Mr. Warren said that they would not allow a large family to move in with only two bedrooms because that would not be adequate living conditions. Mr. Warren stated that a landlord who needed the money might allow something like that but the foundation was not for profit and would have tighter regulations.

Mr. Sellers advised Council that the biggest concern of the residents on Venable Drive was that if the foundation folded and the complex was sold to a group of investors from who knows where, what started out with good intentions might turn into yet another undesirable neighborhood in the Town of Kilmarnock. Mr. Sellers wanted to know if the Town could in some way legally stipulate that if the property was rezoned to R-2, any development on it could never be used for Section 8 housing in order to protect the citizens of the Town.

Mayor Smith asked Town Attorney Stamm if it was appropriate for Council to request that the foundation form a homeowner's association to govern the operation of the property.

Town Attorney Stamm replied that there was no legislature allowing the Town to command covenants on properties.

Mayor Smith asked if it could be done as a proffer.

Town Attorney Stamm replied that if the foundation chose to proffer such then yes, but the Town could not demand it. However, Mr. Stamm said that if the foundation tried to put something in writing which was a direct prohibition to Section 8 housing then it would affect their 501C3. Mr. Stamm advised that literally the feds would kick it out. Mr. Stamm advised unless there was a deed restriction there was nothing much that Council could do under the Town Code.

Town Manager Saunders stated that the only leverage that Council had was to not grant the rezoning.

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Mr. Sellers said that when he served on Council he voted against rezoning property on James B. Jones Memorial Highway as R-2 because it opened the door to low income housing and he felt the need to protect the residents there. Mr. Sellers stated that once a property was zoned R-2 it left the door wide open to whatever.

Mayor Smith asked Mr. Warren if the major reason the foundation wanted to put the complex in Town was for sewer and water purposes.

Mr. Warren replied that the reason that the foundation wanted to put the complex at the chosen location was because it would provide a town like atmosphere within walking distance to shopping and restaurants. Mr. Warren said that the foundation could have purchased property in the county probably for less money and would not have had any difficulty in rezoning it to R-2 but noted that it would not have achieved the purpose intended which was to bring teachers and nurses here and give them an incentive to stay. Mr. Warren said that the plan all along was to find property in Kilmarnock and noted that access to water and sewer did play a role in the decision.

Mayor Smith advised that Council was in a dilemma because they had to protect the voters and property owners in Town but at the same time if something was good for the Town then it was definitely wanted.

Councilmember Nunn asked if Ms. Bellows could put conditions on the property.

Attorney Frank Burke advised that in the old days covenants were placed on property saying that it could not be inhabited by African Americans which would be thrown out of court today just like a covenant disallowing Section 8 housing probably would be. Mr. Burke said that his client and her son owned approximately 400 acres between Route 3 and Route 200 and had placed a conservation easement on all of it. When first approached by the foundation, Mr. Burke said that Ms. Bellows was reluctant but after finding out what the organization was about and the concept they had she called him to see what he thought. Mr. Burke stated that he came to this area in 1983 because he had gotten a job with Attorney Buddy Clarke. Mr. Burke said at the time, he was making \$15,000 a year and if his wife hadn't worked to make the other \$15,000 then they wouldn't have had anywhere to live. Mr. Burke advised that the kind of complex that the foundation was suggesting would have been ideal for him and his wife at the time. Mr. Burke said that there were a lot of people out there today in the same boat. Mr. Burke advised that he understood how Mr. Sellers felt and said that he had brought up some good points. Mr. Burke said that when a person lived in a neighborhood they should check into any developing that would affect it and make sure that things were done as well as they could be. Mr. Burke suggested that Mr. Sellers get together with the foundation to see what they were doing and maybe even serve on the board in order to have input on what went on in that

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environment. Mr. Burke felt that something such as this was definitely needed in the Town of Kilmarnock. Mr. Burke commented that it was a great downtown area for walking and that every year he purchased all of his Christmas gifts from the local shops. Mr. Burke said that young mothers could take their children to the playground. Mr. Burke stated that it was a good thing in a lot of ways but noted that he understood why Mr. Sellers and some of the others felt the way that they did. Mr. Burke advised that the Federal government dealt with most of the legal aspects involving what was allowed. Mr. Burke said that even if certain things were proffered and Ms. Bellows placed covenants on the property, he just didn't know if it would be permanent. Mr. Burke stated that the best chance for success was having a group of local folks overseeing things and members of the community getting involved such as the lady who came before Council with the problems in her neighborhood and to ask for the streetlight.

Mr. Sellers said that Harvey Lane (now Fox Hill Drive) was a very nice neighborhood at one time but stated that it had surely slid down a slope now. Mr. Sellers advised that he was not saying that Mr. Warren's project was not wonderful and much needed in the community but once property was zoned R-2 then no one knew what they were going to get. Mr. Sellers reiterated that at one time Harvey Lane was a well respected area and suggested Council ask the police chief how many times his officers have had to respond to calls there. Mr. Sellers stated that the Town had enough undesirable neighborhoods and the citizens wanted to get something nice. Mr. Sellers said that what the foundation proposed was nice but wondered what it would be in five, ten or fifteen years from now. Mr. Sellers finalized by saying that he had hoped that there could have been some type of language inserted prohibiting the complex from becoming another Harvey Lane.

Town Attorney Stamm advised that the foundation had signed agreements with IRS regarding income levels and had a huge loan with VDHA, which would have to approve the management plan. Mr. Stamm said that the courts would probably never uphold the covenants that were suggested even if the Town tried to enforce them.

Mr. Sellers said that the "what if" syndrome was his only concern and that was what if it turned into another undesirable property somewhere down the line.

Mr. Burke said that what the foundation hoped to accomplish was going to take years to carry out and this project was not something that they could build and flip the next day because of the monetary contributions and grants involved.

Mayor Smith commented that the whole county talked about the need for affordable housing but it never went in the county, or Irvington or White Stone but seemed to hit Kilmarnock and sometimes it had gone sour on the Town.

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Mayor Smith said that the citizens who vote for Councilmembers didn't like it and had brought that dislike to their attention many times. Mayor Smith stated that it did appear to be a wonderful project but just as Mr. Sellers had said what would it be in years to come. Mayor Smith asked why this was not proposed to Irvington or White Stone.

Mr. Warren replied that at first, the foundation had a parcel of land in White Stone in mind but stated that it just didn't work out appropriately. Mr. Warren said that they entertained the thought of a lot of different places but it made more sense to put the complex in Kilmarnock not only because of water and sewer but because the location would be an incentive to keep people in the area. Mr. Warren said that all of the foundation members were local and well known and it was their intention to operate the complex the same way into the future. Mr. Warren advised that the difference in the foundation's project as compared to Harvey Lane, Indian Creek Apartments or Kilmarnock Village Apartments was that the individual who owned at least two of those complexes lived in Richmond and owned one half of Section 8 properties in the state. Mr. Warren said that the difference was he was a remote landlord for profit whereas the foundation was not. Mr. Warren commented that the members of the foundation were local and would have to face the citizens of Town on a daily basis. Mr. Warren said that he wished he could offer reassurance for the long term but legally he wouldn't know how to go about it.

Mayor Smith asked Mr. Warren what members of the foundation's board resided in Kilmarnock.

Mr. Warren replied that Mr. Emerson Gravatt and Mrs. Tara Booth served on the board and lived in Town. Mr. Warren said that the foundation would be happy to have a member of Council or anyone of their choosing to serve on the board as well.

Councilmember Robertson asked Mr. Warren how long the North Carolina complexes had been in operation.

Mr. Warren replied that one had been open for two years and the other for one year.

Mayor Smith asked if the foundation had to keep money for repairs to the complex in escrow.

Mr. Warren replied that there were rigid minimums based per unit and square footage that had to be kept in escrow for repairs. Mr. Warren said that the foundation could always raise more money if needed.

Vice-Mayor Jones recalled that only a few months back, Council approved a request made by Mr. Jones Felvey to establish affordable housing just

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off of Irvington Road in Kilmarnock for teachers, nurses, etc., where the individual would be able to purchase the home that they were residing in.

Mr. Warren responded by saying that was correct however the difference was buying versus renting. Mr. Warren said that when a teacher came to this locality they were placed on a three-year probationary period and were reluctant to purchase a home. Mr. Warren said that due to the budget cut a number of teachers were laid off last year. Mr. Warren felt that the probationary period and lack of affordable housing was what was affecting this locality from attracting and keeping good teachers.

Mr. Sellers asked if it was true that the foundation could not discriminate against an individual as long as they met the income criteria even if the person was not a teacher, nurse, law enforcement officer, etc.

Mr. Warren replied that was true. Mr. Warren said that the foundation would pre-advertise at the schools well before the apartments were made available just as they did in North Carolina. Mr. Warren advised that the complexes in North Carolina were both filled with teachers.

Vice-Mayor Jones advised that he had several rental properties and noted that there were rental vacancies in the local newspaper almost every week. Mr. Jones said that the nicest person in the world could move in and then the boyfriend moved in and then his daughter moved in with her baby, then the daughter's boyfriend moved in and the property owner ended up with a house full of people who were hard to get out of there.

Mr. Warren advised that he had owned at least a half dozen rental properties himself and fully understood what Mr. Jones was saying. Mr. Warren stated that as he said earlier that when someone moved into the complex they had to declare who would be living there as part of their lease and if they breached it, they had to leave.

Vice-Mayor Jones said that he shared the same fears as Mr. Sellers and wondered what the property could turn into ten years from now. Mr. Jones stated that he didn't want to invite what had just happened here around Christmas time back into the Town again. Mr. Jones admitted that his major concern was that the property was going to be zoned R-2.

Mr. Bob Wille of Bay Ridge Avenue in Kilmarnock, VA, stated that he agreed with Mr. Sellers but said that the school system here had a problem each year keeping teachers because they were not making enough money and thought that maybe this project would keep some of them here. Mr. Wille said that he could understand how Mr. Sellers felt because he lived in the neighborhood that Ms. Small was talking about earlier during the meeting and stated that it was scary.

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Town Attorney Stamm said that if the foundation decided to sell the property to someone else before the project got off ground and that someone wanted to put in Section 8 housing, they would not get a zoning permit because of what had already been shown.

4) Mayor Smith closed the public hearing.

5) Mayor Smith asked for Council's discussion and/or action.

Councilmember Smith wanted to know if the Mayor could appoint a committee to work closely with the foundation on a solution.

Mayor Smith replied that he felt they were past that point.

Councilmember Nunn advised that all that Council was deciding at this time was whether or not to grant the zoning change and was not approving any plans.

ACTION: Councilmember Straughan made a motion to grant the request by Suzanne Bellows c/o Partners of Lancaster County Schools Foundation to rezone approximately 5.8 acres of property located off of East Church Street, north of Saint Andrews Presbyterian Church shown as Tax Map # 24-22H (in part) from A-1 to R-2, seconded by Councilmember Robertson; and carried with a 3 to 2 vote in favor of. (Vice-Mayor Jones and Councilmember Smith were opposed).

Mayor Smith called for a 5-minute recess at 8:15 pm.
Council was called back into session at 8:20 pm.

6. Committee Reports

A. Water/Sewer Committee: Councilmember Smith, Chair

1) Report from January 6, 2010 Meeting.

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

Councilmember Smith advised that Well #3 was ready for final inspection but that James Seagle still had a little work to do on the inside. Mr. Smith said that Mr. Seagle also reported that the Harvey Lane lift station generator replacement had been completed and was in the start-up stage. Mr. Smith advised

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that the committee discussed the possibility of combining the proposed sewer lift station for the Mary Ball Road CDBG project with the Grace Hill pump station which was nearby. Mr. Smith said that Mr. Bill Rosenbaum and Town Manager Saunders were investigating the option and would report back next month. Mr. Smith stated that Mr. Seagle and Assistant Town Manager/Planning Director Sebra were going to review the recently submitted plans for the proposed 19-unit condominium project on Chase Street. Mr. Smith reported that the committee also discussed a sewer backup near 120 Roseneath Avenue, which was going to require an outside contractor to remove tree roots that had penetrated the line. Mr. Smith said that Chief Operator Pat Chenoweth advised that applicants had been interviewed for the position at the WWTP and that she and Town Manager Saunders hoped to fill the position soon. Mr. Smith stated that Ms. Chenoweth also advised that they were experiencing a problem with a pump control at the plant but noted other than that everything else there was satisfactory.

Town Manager Saunders reported that since the meeting the line on Roseneath Avenue had been replaced. Mr. Saunders also advised that the Town had received satisfactory reports on the samples taken from Well #3 and were just waiting on the lab results.

Councilmember Nunn advised that last week the Kilmarnock Volunteer Fire Department flushed the hydrants on Kenmore Avenue and a resident had muddy water coming from their faucet. Mrs. Nunn said that she called James Seagle who came out and worked in the rain until the problem was resolved and then came back at 7 am the next morning. Mrs. Nunn stated that Mr. Seagle had repeatedly suggested to the firemen that when flushing the hydrants they do so until the water runs clear or the lines could become contaminated which was what had happened in this incident.

Councilmember Smith advised that he would speak to the fire department and take care of the problem.

2) Committee Recommendations to Council

There were no committee recommendations to Council.

B. Streets/Sidewalks/Playground Committee: Councilmember Robertson, Chair

1) Report from January 13, 2010 meeting-Town Manager Saunders

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

Town Manager Saunders reported that the committee discussed the holiday decorations and decided that there would be no changes for next year.

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Mr. Saunders stated that the Main Street island repair was completed but unfortunately went bad during the big rain which caused the contractor some problem. Mr. Saunders said that the crush and run under the pavers went bad and had to be taken back out. Mr. Saunders advised that VDOT had examined it and they were waiting on Lee Hy Paving Company to take a look at it. Mr. Saunders stated that he was still working on getting quotes and proposals for the surveillance cameras at the intersections in Town.

2) Recommendation to Council

a. Recommend that Council authorize staff to solicit bids for Town Centre Drive walk/bike path.

ACTION: Councilmember Nunn made a motion to authorize staff to solicit bids for Town Centre Drive walk/bike path, seconded by Councilmember Smith; and carried unanimously.

C. Police/Public Safety Committee: Vice-Mayor Jones, Chair

1) Report from January 4, 2010 meeting.

A copy of the monthly police report and committee meeting notes was included in each Councilmember's packet.

Vice-Mayor Jones reported that the committee discussed the sexual assault investigation that transpired in December and the recent vandalism at the radio well. Mr. Jones said that there was a personnel issue, which needed to be discussed in closed session.

2) Committee Recommendations to Council

a. Present 2010 Kilmarnock Fire Dept. license plates to KVFD Chief Balderson.

Mayor Smith noted that Chief Balderson was not present and asked Vice-Mayor Jones to distribute the license plates.

D. Emergency Preparedness Committee: Councilmember Smith, Chair

There was no meeting held.

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E. Economic Development Committee: Councilmember Nunn, Chair

1) Report from January 12, 2010 meeting.

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

Councilmember Nunn stated that the committee reviewed the list of businesses allowed in M-1 and C-1 zoned areas with conditional use permits and discussed the possibility of a revision at a later date. Mrs. Nunn advised that two new businesses had contacted Town Manager Saunders about coming into Town. Mrs. Nunn stated that one was a landscaping business and the other was a security company. Mrs. Nunn reported that a business on North Main Street would soon be closing and that Specials would be relocating in the Dawson building. Mrs. Nunn reported that Twice Told Tales had left but the Animal Welfare League would be moving into their building. Mrs. Nunn reported that Ms. Susan Cockrell gave the committee an update on the merger between Kilmarnock and the Lancaster County Chamber of Commerce, which would be called Lancaster by the Bay Chamber. Mrs. Nunn advised that the committee asked staff to prepare an information packet that could be given out to prospective businesses as they looked for new locations.

2). Committee Recommendations to Council

There were no committee recommendations to Council.

F. Town Centre Committee: Councilmember Nunn, Chair

1) Report from January 12, 2010 meeting

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

Councilmember Nunn advised that Town Manager Saunders had several meetings with contractors and shell building vendors scheduled for this month. Mrs. Nunn reported that the committee reviewed space allocation tables that had been developed in an earlier phase of office planning and found them somewhat generous. Mrs. Nunn stated that the committee reviewed plans for adding a six-foot wide paved walking/biking lane on Town Centre Drive from East Church Street to Main Street and voted to recommend that Council instruct staff to put the project out for bid. Mrs. Nunn advised that the committee additionally discussed the preliminary plans for a people/dog park on the 9-acre parcel and noted that Mrs. Moubray had volunteered to donate all of the signage for the dog park.

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2) Committee Recommendations to Council

There were no committee recommendations to Council.

G. Administration/Finance Committee: Councilmember Straughan, Chair

1) Report from January 8, 2010 meeting.

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

Councilmember Straughan reported that the committee discussed the vacancy at the WWTP and said that the position would soon be filled. Mr. Straughan stated that Robinson, Farmer, Cox had finished their recent audit and the Town received a clean report. Mr. Straughan praised Mrs. Judy Stevens for the wonderful job that she does. Mr. Straughan advised that the auditors would be present at the February meeting to answer any questions that Council might have. Mr. Straughan stated that the committee asked staff to solicit proposals from outside financial accounting or municipal financing specialists to get an independent appraisal of the Town's financial condition regarding revenue and expense trends as part of the pending budget cycle. Mr. Straughan finalized by saying that the committee approved the 2010 to 2011 Town operating and capital budget.

2) Committee Recommendations to Council

a. Recommend that Council approve the disbursements from December 21, 2009 to January 25, 2010.

ACTION: Vice-Mayor Jones made a motion to approve the disbursements from December 21, 2009 thru January 25, 2010 as presented, seconded by Councilmember Smith; and carried unanimously.

b. Recommend that the date for the next Council meeting be changed from February 15th to February 22nd, due to Presidents' Day Holiday.

ACTION: Vice-Mayor Jones made a motion to change the date for the February Council meeting from February 15th to February 22 in observance of Presidents' Day, seconded by Councilmember Smith; and carried unanimously.

7. Administrative Comments and Reports: Town Manager Saunders

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A. Security cameras at major intersections are being investigated.

B. Joint Planning Commission/Council meeting scheduled for February 9th

Town Manager Saunders advised that there would be a joint meeting held on February 9th for a presentation regarding the Water/Sewer Master Plan.

C. Kilmarnock Entertainment Center Grand Opening

Town Manager Saunders stated that the Kilmarnock Entertainment Center was hosting a VIP Reception on February 1st. Mr. Saunders advised that the entertainment center was a significant achievement for the Town.

D. Town Code Revision

Town Manager Saunders reported that the revised editions of the Town Code had arrived and presented each Councilmember with a copy.

E. Staff Recognition

Town Manager Saunders stated that he would like to commend Mr. Marshall Sebra on the quality of his work. Mr. Saunders advised that Mr. Sebra had been very busy the last few months with public hearings and projects and noted that he had received numerous compliments on his professionalism.

F. Town Elections

Town Manager Saunders reported that the county was making a code change regarding Town elections but stated that the change dealt with a technicality and basically tying up some loose ends.

8. Old Business

A. Mary Ball Road CDBG Status Report: Assistant Town Manager/Planning Director Marshall Sebra.

Assistant Town Manager/Planning Director Sebra requested that Council authorize the Town Manager to sign the Resolution of Appropriation for the Mary Ball Road Neighborhood Improvement Project that was included in their packet. The Resolution resolved that for the fiscal year 2010-2011, the Town of Kilmarnock appropriated funds in the amount of \$469,492.00 for the completion of Phase 1 of the Mary Ball Road Neighborhood Improvement Project upon execution of a contract with the Virginia Department of Housing and Community Development.

ACTION: Councilmember Smith made the motion to

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authorize the Town Manager to sign the Resolution of Appropriation for the Mary Ball Road Neighborhood Improvement Project as presented, seconded by Councilmember Straughan; and carried unanimously.

Mayor Smith called for a 3-minute recess at 8:42 pm
Council was called back into session at 8:45 pm.

9. Enter into Closed Session as allowed by FOIA 2.2-3771 (A) Para (1) Personnel.

ACTION: Councilmember Smith made the motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (1) Personnel to discuss performance evaluation, salary or job aents of specific employees, seconded by Councilmember Straughan; and carried unanimously.

Council entered into Closed Session at 8:45 pm.
Regular Session reconvened at 8:55 pm.

10. Certify Closed Session held IAW FOIA 2.2-3711(A) Para (1) Personnel.

ACTION: Councilmember Straughan made a motion to certify that the Closed Session was held IAW FOIA 2.2-3711(A) Para (1) Personnel and nothing was discussed except the matters identified in the motion to convene in Closed Session. Motion was seconded by Councilmember Smith; and carried unanimously by roll call.

Jones, Paul S. – yes
Nunn, Rebecca T. – yes
Robertson, Barbara – yes
Smith, John A. - yes
Smith, Dr. Curtis H. – yes
Straughan, Howard – yes

11. New Business

There was no New Business

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12. Council Comments

There were no Council comments.

13. Adjournment

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

Meeting adjourned at 8:57 pm.

Prepared by:

Joan N. Kent

Dr. Curtis H. Smith, Mayor

Jacqueline L. Blencowe, Clerk

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