

March 19, 2012

**KILMARNOCK TOWN COUNCIL  
Monday, March 19, 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  
Denis Bouslough  
Shawn Donahue

Paul S. Jones  
Rebecca Nunn  
Mae Umphlett

**Members Absent:**

William Smith, Vice-Mayor

**Staff Present:**

Tom Saunders, Town Mgr.  
Susan Cockrell, Asst. Town Mgr.  
Paul C. Stamm, Jr., Town Attorney  
Cindy Balderson, Acting Town 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 Nunn asked if the Council Comments section of the agenda was inadvertently left out.

Mayor Booth addressed Mrs. Nunn's question by stating that all of the Councilmembers had the opportunity to make comments throughout the meeting therefore it didn't seem to be necessary especially since there were Old and New Business sections. Mayor Booth said that by deleting it, he thought there was a good chance of streamlining the meetings and getting things formalized. Mayor Booth advised that if specific items needed to be addressed then they could be listed on the agenda under Old or New Business. Therefore, Mayor Booth said that he asked the Town Manager to remove the Council Comments section.

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Councilmember Nunn advised Mayor Booth that was Council's decision to make, not his.

**ACTION: Councilmember Nunn made a motion to put the Council Comments section back on the agenda,**

Mayor Booth replied that he did not recognize it as being Council's decision because as Chairman of the Council, he was the one who actually approved the agenda.

Councilmember Nunn replied that she had already made a motion.

Mayor Booth stated that he was denying her motion, and if she wanted to make an objection to the whole Council, she could do so.

Councilmember Nunn stated her objection to the Mayor's denial of her motion and reiterated that the Mayor did not have the authority to remove the Council Comments section from the agenda.

Mayor Booth clarified that Councilmember Nunn was making an objection to his denial of her motion, but added, that he wasn't sure it required a second. Mayor Booth stated that he had denied Councilmember Nunn's motion to have the Council Comments section reinstated, because as Chairman of Council, he felt that it was his decision to make. Mayor Booth advised that Council would vote on the objection following any discussion that other Councilmembers had on the issue.

Councilmember Donahue asked Councilmember Nunn to clarify what it was that she wanted.

Councilmember Nunn replied that she wanted the Council Comments section put back on the agenda. Mrs. Nunn advised that particular section had always been on the agenda and reiterated that it was not the Mayor's prerogative to remove it, but a decision that had to be made by Council.

Councilmember Donahue asked what the significance was as to whether or not that section was on the agenda.

Councilmember Nunn replied that at the end of the meeting every Councilmember had their right to make their specific comments. Mrs. Nunn said that the Mayor, on his own initiative, decided to remove it. Mrs. Nunn stated that at first, she just thought it was an oversight. Mrs. Nunn advised that the Council Comments section was part of the agenda and always had been. Mrs. Nunn said that it was not something that the Mayor could just arbitrarily decide to remove.

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Mayor Booth felt the problem was that the end of every Council meeting had become a junk session with everybody bringing up everything and frivolous things. Mayor Booth reiterated that at the end of every meeting there were Old and New Business sections which only required a Councilmember to validate the topics they wanted to discuss by having them placed on the agenda under one of those sections. Mayor Booth said that it appeared to him to be a positive move. Mayor Booth reiterated that there was an objection to the Chair's ruling to Councilmember Nunn's motion and wanted to know if there was any further discussion before the vote.

Councilmember Jones advised that he thought the Council Comments section should be on the agenda because a Councilmember might have forgotten something during the meeting or a discussion period and they would have a second chance to bring it up under that section.

Councilmember Bouslough asked Town Attorney Stamm who had the authority to oversee the agenda.

Town Attorney Stamm replied that he was not sure but could find the answer with the combination of the VA Code and Roberts Rules of Order. Mr. Stamm advised that he just couldn't give a spot answer. Mr. Stamm said that he did know that Mrs. Nunn's motion was not out of order because it was made during the approval of the agenda.

Mayor Booth stated that he was going to let Council decide on his overruling of Mrs. Nunn's motion and her objection to his ruling which he thought required a two-thirds vote.

**Mayor Booth called for the vote:** Some Councilmembers confirmed their vote by voicing the affirmative but the transcriber was unable to record it. Councilmember Nunn asked Town Attorney Stamm if it required a two-thirds vote or majority vote.

Town Attorney Stamm replied that he had no idea and would look it up in Robert's Rules of Order.

Mayor Booth stopped the meeting to wait for the Town Attorney's ruling.

Councilmember Donahue stated that he understood where the Mayor and Mrs. Nunn were both coming from. Mr. Donahue asked if it would be a suitable compromise to have the Council Comments section placed back on the agenda with a limited time for each Councilmember to give their comments. Mr. Donahue said that if not, someone could grandstand and talk for a day or two.

Councilmember Nunn said that the time could be limited to 3 minutes like they did for public comments, which would be fine with her.

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Mayor Booth asked what would be wrong with placing any comments under Old or New Business.

Councilmember Donahue replied that he was trying to find a compromise.

Councilmember Nunn said that they didn't need to compromise because the section should not have been removed.

Councilmember Donahue stated that he was just trying to help in getting the issue ironed out. Mr. Donahue asked if they could move on to other business while the Town Attorney was doing his research.

Councilmember Nunn stated that they could not because the agenda had to be approved first.

Town Attorney Stamm said that he thought he was getting close to an answer.

Mayor Booth told Town Attorney Stamm to take his time.

(Transcriber asked Mayor Booth if he could ask for a show of hands when Councilmember's cast their votes so it could be recorded correctly)

There was a pause among Councilmembers while Town Attorney Stamm looked for the answer in Robert's Rules of Order.

Mayor Booth explained to Councilmember Nunn that she couldn't take over the responsibilities that lie in another place and that the agenda was approved by the Chairman. Mayor Booth said that as Mayor, he was Chairman of Council, and that was his reasoning for eliminating Council Comments, which in his opinion, was not often used but when it was, became a junk section for a lot of stuff that should have been specifically placed on the agenda.

Councilmember Nunn replied that for as long as she had known about Council, there had been a Council Comments section at the end of every agenda. Mrs. Nunn stated that it appeared to her, that this was his attempt to silence the Council. Mrs. Nunn reiterated that she thought it was Council's decision whether or not to make a major agenda change.

Mayor Booth replied that it was not an attempt by him to silence Council at all. Mayor Booth reiterated that he just wanted to see items of discussion placed on the agenda under Old or New Business and not have a lot of stuff sprung at the end of the meeting, some of which he felt was very frivolous. Mayor Booth reiterated that quite often that section was not used, but during the times that it was, it had become a junk session.

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Councilmember Nunn asked for specifics regarding a junk session.

Mayor Booth told Councilmember Nunn that he thought she understood what he was trying to say.

Councilmember Nunn replied that she really didn't because she didn't know what he considered to be junk that was discussed by the Council.

Mayor Booth stated that he was willing to move on if the Town Attorney still needed time to make a determination and added that they could certainly keep Council Comments on the agenda for this evening.

**ACTION: Councilmember Nunn made a motion to add Council Comments to the agenda,**

Mayor Booth stated that he was waiting for a reply from the Town Attorney.

Town Attorney Stamm stated "simple majority" but added that he had not come to the part of whether or not the Mayor could deny Councilmember Nunn's motion.

Mayor Booth advised that what he was going to do to alleviate the issue, since they did not have the answer to their question, was to put Council Comments back on the agenda for this meeting. Mayor Booth asked Councilmember Nunn if that would satisfy her concerns for the moment.

Councilmember Nunn replied that it would for now.

Mayor Booth asked Town Attorney Stamm to have his recommendation ready by next month's meeting so they could have a proper vote in case he removed the Council Comments section from that agenda.

**ACTION: Councilmember Nunn amended her motion to approve the agenda with the addition of the Council Comments section following New Business section seconded by Councilmember Donahue; and carried unanimously.**

**3. Minutes: Approve, Correct, or Amend the Minutes of the Regular Town Council Meeting held February 27, 2012**

**ACTION: Councilmember Nunn made a motion to approve the February 27, 2012 Town Council Meeting Minutes as presented,**

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**seconded by Councilmember Donahue; 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.

Mr. Les Spivey of East Church Street in Kilmarnock, VA stated that he was away for a week and when he returned he discovered candidate's signs had appeared pretty much everywhere, some of which were being paid for by someone other than the candidates themselves. Mr. Spivey believed that just as in state and national politics that when someone donated to a campaign, they typically had a reason for doing so and that donation created an obligation for that elected official to return something to the person who donated. Mr. Spivey noted that there were a lot of federal election laws, county election laws, and added that he didn't know them all or really cared to, but in a Town like Kilmarnock, the citizens deserved to know who paid for what. Mr. Spivey didn't think that the citizens as a whole would appreciate it or even think it was fair if candidates were financed, or whatever, in order to become Councilmembers by someone other than themselves. Mr. Spivey said that he thought it was really sad that some of the candidates were being promoted or financed by someone and it was not publically disclosed by being listed on their signs or in their advertisements. Mr. Spivey stated that he just wanted to express his concern about this development and while he didn't necessarily think that these people shouldn't run, he thought the citizens should be made aware of who was paying for what.

Mayor Booth thanked Mr. Spivey for his comments.

Mr. Spivey added that he didn't mention any names.

Mayor Booth advised Mr. Spivey that he thought his comments were right on the line and certainly generic in nature but stated for the record that he would not allow the Town government meetings now or in April to become local forums.

#### **5. Planning Commission Report: Councilmember Bouslough, Liaison**

There was no meeting held.

#### **6. Committee Reports:**

A. Water/Sewer Committee: Councilmember Nunn, Chair

1) Report from March 2012 Meeting

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

Councilmember Nunn advised that Town Manager Saunders reported that the enclosure to reduce blower noise at the WWTP had arrived and was being assembled when time permitted. Mrs. Nunn stated that Mr. Saunders also informed the Committee that the contract with Franklin Mechanical for the Wiggins Avenue force main replacement was in process of execution and he expected work to begin in thirty days. Mrs. Nunn said that a reimbursement claim by a Waverly Avenue resident for damages related to a blocked sewer line had been forwarded to the Town's insurance company for investigation. Mrs. Nunn stated that Tri-State Utilities was going to conduct a video inspection on the recently discovered 6" terra cotta sewer line on Waverly and a decision on how it would be replaced would depend on what they discovered. Mrs. Nunn advised that Mr. Saunders and the public works staff were continuing to look into options for procuring sewer jetting services. Mrs. Nunn stated that there was a potential need to replace a section of line on Chase Street following a recent sewage blockage which would be further investigated by Mr. Saunders and Mr. Rosenbaum. Mrs. Nunn finalized by saying that Pat Chenoweth, WWTP and Wayne Kent, Field Utilities reported there had been no upsets or system failures for the month.

## 2) Committee Recommendations to Council

There were no recommendations to Council.

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

### 1) Report from March, 2012 Meeting

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

Councilmember Nunn chaired the meeting in Mr. Donahue's absence and stated that she would be happy to give Mr. Donahue's report for the third time.

Councilmember Nunn advised that the Committee reviewed the potential locations for entrance street lighting at Technology Drive and that Town Manager Saunders was going to talk with the property owners regarding shared space. Mrs. Nunn stated that there was also discussion regarding potential locations for power installations on the Town Centre property. Mrs. Nunn said that the Committee discussed sending a draft ordinance to Council for review regarding

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derelict structures. Mrs. Nunn reported that they were still waiting for a final decision on the “through truck” ban from the Commonwealth Transportation Board and had anticipated a decision by the end of 2011. Mrs. Nunn stated that a discussion was held regarding a citizen’s request for better cross walk signage throughout the Town and the Committee was soliciting VDOT’s expertise on requirement and potential options. Mrs. Nunn said that the new “No Parking” signs on East Church Street were ineffective probably due to their height and that new signage had been ordered which would be placed perpendicular to the street vs. parallel. Mrs. Nunn stated that although VDOT did not paint curbing, the Town was authorized to do so. Mrs. Nunn finalized by saying that the Kiwanis Club was proceeding with the gazebo between the crab sculpture and the fencing at the playground.

2) Committee Recommendations to Council

There were no recommendations to Council.

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

There was no meeting held.

D. Emergency Preparedness Committee: Councilmember Umphlett, Chair

There was no meeting held.

E. Town Centre Committee: Councilmember Jones, Chair

There was no meeting held.

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

1) Report from March, 2012 Meeting.

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

In lieu of Vice-Mayor Smith’s absence due to illness, Mayor Booth asked Councilmember Umphlett to give the report.

Councilmember Umphlett reported that the Committee reviewed the status of new and existing businesses and the need to identify the types of businesses needed in the area as part of a recruitment process. Mrs. Umphlett stated that Assistant Town Manager Cockrell gave each Committee Member a Lancaster by the Bay Chamber Visitor and Business Guide for 2012 and they discussed innovative ways to grow businesses and social media planning.

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2) Committee Recommendations to Council

There were no recommendations to Council.

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

1) Report from March, 2012 meeting.

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

In lieu of Vice-Mayor Smith's absence due to illness, Mayor Booth asked Town Manager Saunders to give the report.

Town Manager Saunders reported that the Committee continued discussions regarding ways to increase communications within Council and the community at large. Mr. Saunders said that the FY 2013 Budget preparation was underway and that the Committee expected to have an early draft by the end of March. Mr. Saunders added that the lack of a State Budget created uncertainty as to the impact on sales tax distribution and VRS changes. Mr. Saunders advised that the Committee entered into a Closed Session to discuss a personnel matter.

2) Committee Recommendations to Council

a. Recommendation for Council to approve the disbursements from February 28, 2012 through March 19, 2012 totaling \$175,353.44

**ACTION: Councilmember Jones made a motion to approve the disbursements from February 28, 2012 through March 19, 2012 as presented, seconded by Councilmember Bouslough; and carried unanimously.**

b. Recommendation for Council to approve audio recording of all Committee meetings and the indefinite storage of the tapes.

**ACTION: Councilmember Nunn made a motion to audio record all Committee meetings in the future and the tapes be stored indefinitely, seconded by Councilmember Jones;**

**DISCUSSION:**

Councilmember Donahue stated that prior to making it a permanent decision it should be tested first to make sure that everyone was comfortable with the

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quality of the audio tapes. Mr. Donahue recommended that they try it on a 30-day basis to see if the technology and everything was up to speed.

Mayor Booth advised that that couldn't be done unless Councilmember Nunn modified her motion.

Councilmember Nunn replied that she did not wish to modify her motion and informed Councilmember Donahue that it would be the same technology used for the Council meetings.

**Mayor Booth called for the vote which was 4 to 1 in favor of.  
(Councilmember Donahue opposed)**

c. Recommendation for Council to approve that all Committee meetings would be held at the Town Hall.

**ACTION: Councilmember Nunn made the motion that all Committee meetings be held at the Town Hall, seconded by Councilmember Jones; and carried unanimously.**

Councilmember Bouslough asked if the building would be opened to accommodate the flexible Committee meetings schedules.

Town Manager Saunders replied that efforts would be made to have the building open during reasonable hours.

Mayor Booth stated for the record that he was not in favor of 6:30 am meetings which generated laughter. Mayor Booth said that was just too early for him.

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

### A. Mary Ball Road CDBG Update

Town Manager Saunders reported that water/sewer work on the Mary Ball Road Project had been completed which generated applause.

Councilmember Donahue asked about the recovery of the person who was injured on the job.

Town Manager Saunders replied that he was still being rehabilitated.

### B. State Budget

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Town Manager Saunders advised that there was still no State Budget and the folks in Richmond would not be reconvening until April 18, 2012. Mr. Saunders said that they would be submitting a proposed budget based on a bunch of surmises and guesswork.

#### C. "No Thru Truck Traffic"

Town Manager Saunders reported that at the Commonwealth's Board of Transportation meeting last Wednesday in Richmond, the Town's "No Thru Truck Traffic" on Main Street request was granted. Mr. Saunders advised that it had taken over a year to get that done and it wouldn't be in effect until it filtered down from the top to the local VDOT office. Mr. Saunders said that signs would have to be installed and there was other work that had to be done before it could be implemented.

Councilmember Jones commented that he hoped this would be enforced.

Town Manager Saunders assured Mr. Jones that the Town was committed to enforcing it.

#### D. New Employee

Town Manager Saunders advised that Libbie DeGaetani had been hired to fill the position as "Office Services Specialist" and would be starting on Monday, March 26<sup>th</sup>.

Mayor Booth thanked Town Manager Saunders for his report. Mayor Booth asked Councilmember Nunn where she had placed Council Comments on the agenda.

Councilmember Nunn replied that Council Comments were placed behind New Business where it had always been.

Mayor Booth reiterated again that in the future he wanted to encourage all Councilmembers to have items placed under Old Business or New Business for discussion. Mayor Booth advised that he was not trying to hinder their progress in any way but was simply trying to have the items listed for discussion.

Town Manager Saunders asked Mayor Booth if topics of discussion under Old Business or New Business were to come to him.

Mayor Booth replied to Mr. Saunders that they were to go to him as usual so he could put the agenda together and then provide him with a draft for approval. Mayor Booth said that if he had any problems with the agenda he would discuss it with Mr. Saunders but added that he usually didn't have any problems.

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Town Manager Saunders explained that he was just looking for clarification.

Mayor Booth stated that he was just trying to make things better and have good meetings that ran smoothly. Mayor Booth thought if it could be done in this manner, it would be helpful.

## **8. Old Business**

There was no discussion under Old Business.

## **9. New Business**

There was no discussion under New Business.

## **10. Council Comments**

Councilmember Nunn stated that according to the Town Code, the Council operated under Robert's Rules of Order which meant that at meetings, the Mayor, President, or Chairman was supposed to remain impartial. Mrs. Nunn advised that the Mayor of Kilmarnock, which was a ceremonial title, was also supposed to remain impartial and found it reprehensible that the Mayor had hand-picked "his" candidates, had publically admitted to financing campaigns, had been seen putting up candidate signs, and was bad mouthing other candidates, two of whom serve on the Council, to business people and voters. Mrs. Nunn stated that the Mayor was attempting to stack the Council with his "yes" people when he was so full of condemnation when he accused the Council of trying to stack the Planning Commission. Mrs. Nunn said that this Mayor had made the Town and the Council a laughing stock with his personal attacks, the most recent being Saturday past when he and his "personal advisor" told other elected officials from neighboring towns and Board of Supervisors members that I was an alien. Mrs. Nunn explained that she was wearing a headband with shamrocks on it, in celebration of St. Patrick's Day. Mrs. Nunn stated that they were all quick to tell her about the politically improper remarks and personal attacks and were horrified that such statements were made by a seated Mayor who was an elected official and another who was a candidate running for Council. Mrs. Nunn said that the Mayor's constant attacks on personnel and Councilmembers was despicable as was his endeavor to take the law and the authority of the Council into his own hands. Mrs. Nunn stated that it was her belief that the majority of the Council had no confidence in the Mayor and would happily accept his resignation tonight which generated applause from the audience.

Mayor Booth advised Councilmember Nunn that he thought that her comments and actions always spoke for themselves and that her attack on him was not even worthy of a response which also generated applause from the audience.

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**11. Adjournment**

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

Meeting adjourned at 8:15 pm

Prepared by:

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

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Raymond C Booth, Jr., Mayor

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Cindy Balderson, Clerk

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