

April 16, 2012

**KILMARNOCK TOWN COUNCIL
Monday, April 16, 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

Paul S. Jones
Rebecca Nunn
Mae Umphlett

Members Absent:

Shawn Donahue

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:

Vice-Mayor Smith requested to amend the April 16, 2012 Town Council meeting agenda to include a Closed Session under New Business to discuss personnel performance and grievance as allowed in FOIA 2.2-371(A) Para (1).

ACTION: Vice-Mayor Smith made a motion to amend the April 16, 2012 Town Council meeting agenda to include a Closed Session as allowed in FOIA 2.2-371(A) Para(1) to discuss personnel performance and grievance, seconded by Councilmember Nunn; and carried unanimously.

3. Minutes: Approve, Correct, or Amend the Minutes of the Regular Town

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Council Meeting held March 19, 2012.

ACTION: Councilmember Nunn made a motion to approve the March 19, 2012 Town Council Meeting Minutes as presented, seconded by Councilmember Jones; 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, Kilmarnock VA stated that at the March Town Council meeting he spoke on the upcoming election, following which, the Mayor commented that he was "right on the line". Mr. Spivey advised that the language in the agenda stated that the public was allowed to speak on any matter not scheduled for public hearing. Mr. Spivey said that he believed that he was a part of the public and chose to speak on a matter to which the Mayor commented that he was "right on the line" and questioned "what line?" Mr. Spivey stated that no matter what subject he had chosen to speak on, it would have been in accordance with the agenda. Mr. Spivey said that in speaking out at this point, he may cause the Mayor to become angry with him but added that he was increasingly concerned that the Mayor would use any method he could to get his way and to get those persons he endorsed elected so he could have a "yes Mayor" Council. Mr. Spivey continued by saying that if the Mayor did this then many believed he would undoubtedly proceed in firing the Town Manager, changing the Town Code, and giving the position of Mayor great powers. Mr. Spivey stated that he was born in Virginia, the United States of America and he was a veteran who supported the Constitution, the Constitution of Virginia, and the Charter of the Town of Kilmarnock. Mr. Spivey said that he did not intend to standby and allow them to be disrespected by taking away his rights to speak at the public meetings. Mr. Spivey stated that this particular election was more important than any other in the last twenty years of which he had been a Town resident. Mr. Spivey urged all voters in Kilmarnock to get involved, to vote, and to understand what was happening in Kilmarnock. Mr. Spivey stated that he considered the Mayor's attempt to censor his comments and influence this election in order to gain greater power a blatant attempt to take some of his liberty away from him. Mr. Spivey advised that he would do what he could to prevent that. Mr. Spivey encouraged all voters to vote for candidates independent of the Mayor.

Mayor Booth thanked Mr. Spivey for his comments.

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5. Planning Commission Report – Councilmember Bouslough, Council Liaison

There was no Planning Commission meeting held in April.

6. Committee Reports:

A. Water/Sewer Committee: Councilmember Nunn, Chair

1) Report from April meeting

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

Councilmember Nunn stated that Town Manager Saunders reported that he was continuing to look for ways to meet the Town's need for sewer jetting services and was checking into local contractors. Mrs. Nunn advised that there was a discussion of recent blockages regarding an undersized sewer line on Chase Street and the need to develop replacement plans for the problematic section of line. Mrs. Nunn stated that Pat Chenoweth at the WWTP reported that the plant continued to perform very well but advised that a tree had fallen across the perimeter fence and that repairs would probably be necessary once the tree was removed. Mrs. Nunn advised that Wayne Kent and Franklin Carter had reported that the lift stations and well heads had been performing well during the last month. Mrs. Nunn stated that after consulting with the Committee on a matter, the Committee agreed to recommend that Council waive the sewer connection fee for a resident on Yorkshire Street whose septic system had failed and who was faced with an expensive connection to the existing force main. Mrs. Nunn advised that she would speak more on this issue in a few minutes. Mrs. Nunn continued by saying that the Well #1 pump house demolition had been completed. Mrs. Nunn said that the noise abatement structure at the WWTP was still under construction. Mrs. Nunn stated that the work on the Wiggins Avenue Force Main job had begun adding that Mr. Rosenbaum had explained an alternate route for connecting to the Town sewer that would result in less business interruption and expense. Mrs. Nunn said that a Waverly Avenue resident had been compensated by the Town's insurance company for damages related to a sewer back up and had released all claims against the Town. Mrs. Nunn stated that Franklin Mechanical would soon replace several water meters in an attempt to give a fair estimate of the cost of doing all the replacements.

2) Committee Recommendations to Council

Recommend that Council waive the sewer connection fee for a resident on Yorkshire Street whose septic system had failed and the only option was to install an expensive grinder pump and connect to the Town's force main.

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Councilmember Nunn advised that a resident of Yorkshire Street had their septic to fail causing them to have to pump it out twice in twenty days. Mrs. Nunn stated that the resident needed to hook up to the Town's sewer system but couldn't afford to do so. Mrs. Nunn said that the Committee decided that they would make this an action item and do the humanitarian thing this one time by waiving the hook-up fee for sewer since they had already paid for water. Mrs. Nunn added that the family would have the expense of installing a grinder pump.

ACTION: Councilmember Nunn made a motion to waive the sewer hook-up fee for a resident in need on Yorkshire Street, seconded by Councilmember Umphlett;

DISCUSSION:

Councilmember Bouslough asked if there was concern about setting a precedent.

Councilmember Nunn replied that there was always a concern about that. Mrs. Nunn said that there were several situations like this and thought that maybe once a year they could consider a request such as this one since the family had paid for service but there was no service there.

Councilmember Bouslough asked Town Attorney Stamm if there was any way that this could come back and haunt the Town from a legal standpoint if approved.

Town Attorney Stamm replied that he didn't recall any such recourse but added that didn't mean it couldn't be done. Mr. Stamm advised that he would be glad to research it and report at the next meeting.

Councilmember Jones asked if the Yorkshire resident paid for water and sewer hook-up.

Councilmember Nunn replied that they did not pay for the sewer hook-up because there wasn't any there. Mrs. Nunn added that they were elderly, living on social security, and were in dire straits.

Councilmember Jones said that he understood but noted that just as Councilmember Bouslough had said, once it was done, they were opening the door for others.

Councilmember Nunn stated that in the future if they have further requests with the same set of extraordinary circumstances than maybe once a year they could make a determination to waive one. Mrs. Nunn commented that the Town had done the Mary Ball Project and even though it was through a grant,

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the door was sort of opened then. Mrs. Nunn advised that there were only two other houses on Yorkshire Street and those residents could afford hook-up to the sewer.

Vice-Mayor Smith asked for the hard dollar cost to the Town.

Town Manager Saunders replied that there was no cost to the Town. Mr. Saunders said that once they were hooked up they became a new customer which added to the flow. Mr. Saunders stated that there was no cost coming out of pocket for the Town.

Councilmember Jones added that was because the Town never supplied any materials for hook-ups.

Town Manager Saunders replied that Mr. Jones was correct.

Councilmember Jones advised that he didn't even know who the residents were so he was not playing a side at all but felt it was opening the door to having to provide others with free hook-ups as well.

Vice-Mayor Smith stated that his issue was that the Mary Ball Project residents did not have to pay and due to the number's game this resident didn't qualify because there were not enough homes on their street. Mr. Smith said that in his opinion they should have the same right as anyone else.

Mayor Booth wanted to know where the line would be drawn.

Councilmember Nunn replied that they would have to be entertained on an individual basis.

Councilmember Jones said that would be unfair in his opinion.

Councilmember Nunn replied that the Town might not ever get another request like this one. Mrs. Nunn stated that because it was done once didn't mean it ever had to be done again. Mrs. Nunn said that this circumstance was very unusual. Mrs. Nunn advised that the residents had to pay 6 to 7 thousand dollars in order to get to the point of being able to hook up.

Councilmember Bouslough stated that what the Town would be doing was relinquishing the fee that one normally paid. Mr. Bouslough said that there would be no cost to the Town and they would be doing it for humanitarian reasons.

Mayor Booth called for the vote which was unanimous.

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

1) Report from April, 2012 Meeting

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

Councilmember Nunn gave the Committee Report in lieu of Mr. Donahue's absence.

Councilmember Nunn reported that the Committee reviewed potential locations for the entrance signs at Technology Drive and two design options which were a marquee featuring all tenants or a monument sign featuring only the name of the park. Mrs. Nunn said that staff would discuss the two options with current tenants for their input. Mrs. Nunn advised that Town Manager Saunders had contacted the Lancaster County Board of Supervisors regarding the real estate tax rebate aspect of a derelict structure ordinance. Mrs. Nunn stated that any rebates for correcting a structure would need support of both jurisdictions. Mrs. Nunn added that they would have more information on this matter when the County took the topic up. Mrs. Nunn explained that if someone had a derelict structure, then the Town could give them tax abatement incentives to help improve it, in other words if they had a \$50,000 structure and turned it into a \$200,000 structure, then they would only have to pay tax on \$50,000 for a period of seven years. Mrs. Nunn added that this was being done in a lot of areas and it was giving people the incentive to renovate their property. Mrs. Nunn stated that the Committee discussed opening events for Baylor Park and staff was going to determine a suitable date for such. Mrs. Nunn said that the Committee also discussed initial plans for brick installation and an unveiling at the Dog Park. Mrs. Nunn advised that staff would determine a suitable date for that as well. Mrs. Nunn added that they were going to create a patio in front of the dog park with the memorial bricks that were sold. Mrs. Nunn stated that the Committee reviewed a request from Dog and Oyster Vineyard for a TODS (tourist oriented directional sign) near Main Street and Irvington Road. Mrs. Nunn advised that the Committee recommended that it not exceed 24" wide by 30" high so it would not be larger than the hospital sign. Mrs. Nunn advised that Phase 1 of the Mary Ball Road Project had been completed. Mrs. Nunn said that an RFQ had been released for planting the Steptoe's District islands and side beds with annuals adding that the planting would be done by volunteers. Mrs. Nunn stated that they were going to try four hanging baskets to see if they survived. Mrs. Nunn said that the Commonwealth Transportation Board had approved the "Through Truck Restrictions for Main Street. Mrs. Nunn stated that VDOT was now working on the signage and they were anticipating sixty days until installation. Mrs. Nunn advised that local deliveries and access to the grain elevator on Waverly Avenue would not be affected. Mrs. Nunn said that Vice-Mayor Smith relayed a citizen's comment that the lack of through trucks would hurt businesses and requested that Council

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reverse their decision. Mrs. Nunn stated that the Committee recognized this feedback as well as other feedback received in support of eliminating through truck traffic. Mrs. Nunn said that there had been a meeting held whereas anyone with any reservations or concerns about the issue could have made them known then. Mrs. Nunn advised that the Committee was provided an update on power installation at the Main Street Town Centre location. Mrs. Nunn finalized by saying the Committee was updated on the “new” trolley acquired for the Triangle Trolley Route by Bay Transit.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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

1) Report from April, 2012 Meeting

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

In lieu of Councilmember Donahue’s absence, Mayor Booth asked Councilmember Umphlett to give the report.

Councilmember Umphlett advised that Chief Bedell reviewed the March statistics with the Committee and discussed the status of several ongoing police matters in Town. Mrs. Umphlett stated that Councilmember Donahue addressed a situation that was occurring at the Town playground whereas a large number of young people were gathering there in the late afternoon and early evening hours, using profane language, and intimidating people who wanted to use the playground or Town parking lot. Mrs. Umphlett said that the Police Chief advised the Committee that nothing could be done because they were not doing anything illegal. Mrs. Umphlett stated that Mr. Donahue suggested that consideration be given to move the playground from its current location to the Town Centre lot where fewer Town residents would be affected by this situation.

Councilmember Nunn asked what was actually happening at the playground.

Councilmember Umphlett advised that Mr. Donahue had reported that two female patrons of his hotel were intimidated by a group of youths who were being very noisy and using foul language to the point where he had to personally escort them to their destination.

2) Committee Recommendations to Council

There were no recommendations to Council.

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D. Emergency Preparedness Committee: Councilmember Umphlett, Chair

1) Report from April, 2012 meeting

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

Councilmember Umphlett advised that she and Town Manager Saunders reviewed the status of the Town's preparations for weather related emergencies. Mrs. Umphlett stated that Mr. Saunders reported that, with the possible exception of the generator for the Wiggins Avenue sewer lift station which would be replaced soon, the Town was reasonably well prepared for power outages lasting for an extended period of time. Mrs. Umphlett advised that the one item that warranted attention was providing fuel to the police cars and public works vehicles if all of the gas stations were closed. Mrs. Umphlett stated that Town Manager Saunders agreed to look into a solution to this problem before the next Committee meeting.

Councilmember Nunn commented that she thought the Town should have their own fuel tanks.

Town Manager Saunders replied that it was a large liability.

2) Committee Recommendations to Council

There were no recommendations made to Council.

E. Town Centre Committee: Councilmember Jones, Chair

1) Report from April, 2012 meeting

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

Councilmember Jones stated that he had good intentions but showed up for the meeting on the wrong day which generated laughter.

Councilmember Nunn gave the report. Mrs. Nunn advised that Town Manager Saunders had received one quote for the site planning services for a new Town Hall to be built on the existing lot. Mrs. Nunn stated that it was decided to issue a formal RFP to solicit more bids for this work. Mrs. Nunn explained that they were working on some type of design for a building to go on the current lot and not the Town Centre lot.

2) Committee Recommendations to Council

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There were no recommendations made to Council.

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

1) Report from April, 2012 Meeting.

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

Vice-Mayor Smith advised that the Committee continued its conversations regarding recent businesses coming into Town and those exiting. Mr. Smith said that the Committee also reviewed information provided by the VA Department of Housing and Community Development on Rural Economic Development and demographic information on Lancaster and Northumberland Counties. Mr. Smith said that they discussed potential approaches to partnering with Bay Transit and having the Trolley increase its run to include Grey's Point Campground during the high season months.

Councilmember Nunn thought that was a great idea.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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

1) Report from April, 2012 meeting.

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

Vice-Mayor Smith stated that the Committee discussed various methods to increase communication with citizens. Mr. Smith invited the community as a whole to come to the next meeting and share any ideas that they had on this issue. Mr. Smith said that the Committee viewed a working draft of the FY 2013 budget and recommended a public work session for all Councilmembers on Wednesday May 2nd at 6 pm. Mr. Smith stated that the outcome from the session would provide input for the May Admin/Finance meeting. Mr. Smith said that the first reading of the final submission was targeted for the May 21st Council meeting. Mr. Smith stated that the Committee reviewed the need to provide FY 2012 (current year) budget funding for the Mary Ball Road Project spending that was budgeted for in FY 2011. Mr. Smith said that the spending actually occurred in FY 2012 and a budget supplemental appropriation was needed. Mr. Smith continued by saying that the Committee discussed the recent performance review process for the Town Manager and Town Attorney and voted to hold the

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summarized Town Council feedback in abeyance until a review of the total performance management process was conducted and finalized. Mr. Smith advised that updates were provided on open FY 2012 capital projects such as Radio Well fencing, Wiggins Avenue force main replacement, Wiggins Avenue lift station generator replacement, and radio meter purchases. Mr. Smith stated that the Committee was informed of a request made by the Coast Guard Auxiliary for a proclamation regarding National Safe Boating Week as May 19 – 25, 2012. Mr. Smith advised that a court order dismissing the lawsuit by Waste Water Management, Inc. had been received. Mr. Smith stated that the Committee was updated on the use of the “DMV Stop” program which was a program designed to help in the collection of past due personal property taxes.

2) Committee Recommendations to Council

A. Recommend that Council approve the disbursements from March 20, 2012 to April 16, 2012 totaling \$603,849.43.

ACTION: Vice-Mayor Smith made a motion to approve the disbursements from March 20, 2012 to April 16, 2012 totaling \$603,849.43 as presented, seconded by Councilmember Nunn; and carried unanimously.

B. Recommend that Council approve a supplemental appropriation to the FY 2012 budget in the amount of \$78,923 in the Water Department and \$326,311 in the Sewer Department.

ACTION: Vice-Mayor Smith made the motion to approve a supplemental appropriation to the FY 2012 budget in the amount of \$78,923 in the Water Department and \$326,311 in the Sewer Department, seconded by Councilmember Bouslough; and carried unanimously.

C. Recommend that Council approve to conduct a public work session on the FY 2013 budget on Wednesday, May 2nd at 6 pm.

ACTION: Vice-Mayor Smith made the motion to conduct a public work session on the FY 2013 budget on Wednesday, May 2nd at 6 pm, seconded by Councilmember Umphlett; and carried unanimously.

Councilmember Nunn advised that Vice-Mayor Smith had stated that the Admin/Finance Committee had discussed the performance review process for the Town Manager and Town Attorney but noted that a review of the total

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management process was conducted and had been finalized. Mrs. Nunn said that she realized that some of the Councilmembers on the Admin/Finance Committee including Vice-Mayor Smith, Mr. Donahue and Mayor Booth were not on Council at that time, but added that the process had already been done and implemented by previous Councilmembers. Mrs. Nunn advised that the instruments to conduct the performance evaluations were in place and was passed by Council in 2008 therefore there was nothing for the Committee to review.

7. Administrative Comments and Reports: Town Manager Saunders

A. State Budget

Town Manager Saunders reported that the state budget would be voted on tomorrow, adding that the Governor had 30 days to sign it. Mr. Saunders hoped to know the final details by the end of the month.

B. Donald Vaughan Trial

Town Manager Saunders reported that the trial of Donald Vaughan regarding local charges had been scheduled to start this week but a final plea agreement had been reached.

C. Recognition for Mercer Place

Town Manager Saunders stated that he was pleased to see the full page article in the Richmond Times-Dispatch concerning the success of Mercer Place and he congratulated Mr. Bill Warren and his team for receiving such positive publicity for their project and for Kilmarnock and Lancaster County in general.

D. Burn Ban

Town Manager Saunders stated that County Administrator Frank Pleva told him that a ban on outdoor burning in Lancaster County was being considered and could be in place soon.

E. Trolley

Town Manager Saunders reported that Bay Transit had procured an almost new trolley to be used during the season. Mr. Saunders said that it had many new features including air condition.

F. Hospital Water Tank.

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Town Manager Saunders reported that pressure washing and painting of the hospital water tank would begin this week.

G. Letter from Mr. Albert Pollard, Sr.

Town Manager Saunders stated that each Councilmember had received a copy of the letter sent by Mr. Pollard which was almost identical to the one that he put in the Rappahannock Record. Mr. Saunders said that he has had many conversations with VDOT over the same concerns and would continue to look for ways to improve the signals but added that there were complications that Mr. Pollard's letter ignored.

8. Old Business

There was no discussion under Old Business.

9. New Business

A. Closed Session

1) Enter into Closed Session as allowed by FOIA 2.2-371(A) Para (1) personnel performance and grievance.

ACTION: Vice-Mayor Smith made a motion to enter into Closed Session as allowed by FOIA 2.2-371(A) Para (1) to discuss personnel performance and grievance, seconded by Councilmember Nunn; and carried unanimously.

Mayor Booth called for a 10 minute recess prior to Closed Session at 7:37 pm.

Council entered into Closed Session at 7:47 pm.
Regular Meeting reconvened at 8:50 pm.

2) Certify Closed Session held IAW FOIA 2.2-371(A) Para (1) Personnel Performance and Grievance.

ACTION: Councilmember Nunn made a statement certifying that in the Closed Session which just concluded that 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

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that motion. Statement was unanimously supported by a roll call vote.

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

ACTION: Councilmember Nunn made a motion to give Town Manager Saunders a vote of confidence because his performance evaluation was deemed to be very good by a majority of Council and he was cleared by Council of all allegations, seconded by Councilmember Bouslough; and carried unanimously.

10. Council Comments

There were no Council comments made.

11. Adjournment

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

Meeting adjourned at 8:55 pm

Prepared by:

Joan N. Kent

Raymond C Booth, Jr., Mayor

Cindy Balderson, Acting Clerk

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