

May 16, 2011

**KILMARNOCK TOWN COUNCIL
Monday, May 16, 2011
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 Council members present:

Raymond Booth, Mayor
Shawn Donahue
Paul S. Jones

Randy Moubray
Rebecca Nunn

Members Absent:

William L. Smith, Vice-Mayor
John A. Smith

Staff Present:

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

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

2. Acceptance and Approval of Agenda:

Councilmember Nunn stated that she would like to rise to a point of order to be added to the agenda.

Town Attorney Stamm advised Councilmember Nunn that she could make a statement at any given time during the meeting. Mr. Stamm told Mrs. Nunn that she would be best served if she added a specific item to the agenda.

Councilmember Nunn said that during the meeting she wanted to make a motion regarding appointments made to the Planning Commission.

May 16, 2011

Mayor Booth stated that the issue could be added under New Business.

ACTION: Councilmember Moubray made a motion to accept the agenda for the May 16, 2011 Regular Town Council meeting as amended, seconded by Councilmember Jones; and carried unanimously.

3. Minutes: Approve, Correct, or Amend the Minutes of the Regular Town Council Meeting held April 18, 2011.

ACTION: Councilmember Moubray made a motion to approve the April 18, 2011 Regular Town Council Meeting Minutes as presented, seconded by Councilmember Donahue; and carried unanimously.

4. Public Comments and Presentations:

A. Public Forum

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.

1) Ms. Lindsay Gardner, Director of the Lancaster Community Library, advised everyone that the library was celebrating its 50th birthday by having a huge open house on Sunday afternoon from 4 pm to 6 pm. Ms. Gardner invited everyone to drop by and stated that there would be entertainment, food, and drawings for three nooks (electronic readers). Ms. Gardner advised that there would be tours of the library and some short programs. Ms. Gardner then passed out bookmarks to Councilmembers, staff, and the audience.

2) Mr. Les Spivey of 58 East Church Street, Kilmarnock, VA, commented on the streetscape noting that it was looking much better than it had been in the past two months. Mr. Spivey said that he saw staff working on the playground to keep it maintained and noted that it always looked good. Mr. Spivey finalized by saying that he knew Council would find it difficult to believe, but he came there to say something nice, which generated laughter.

B. Planning Commission Report: Councilmember Smith, Liaison

Mayor Booth announced that Council Liaison, John A. Smith, was unable to attend the Council meeting but stated that a report was included in each Councilmember's packet. Mayor Booth said he would read the report but noted that Commission Member Bonner and Commission Member Gardner were seated

May 16, 2011

in the audience if there were any questions. Mayor Booth reported that the Planning Commission met on May 9th and several motions were passed. Mayor Booth advised that the first motion approved was to advertise for future open seats on the Commission. Mayor Booth stated that the second motion approved was to revise the Commission's by-laws to reflect a new meeting date and time which would be the 2nd Monday of the month at 6 pm. Mayor Booth reported that the Commission also discussed the current trends of advertising signs within the Town which initiated a review of the sign ordinance, focusing particularly on the use of LED signs. Mayor Booth said that other aspects discussed were illumination, temporary signs, flags, and parked vehicle signs.

5. Public Hearing:

First reading of Proposed Operating and Capital Projects Budget for Fiscal Year July 1, 2011 through June 30, 2012

A. Description of Proposed Budget: Tom Saunders, Town Manager

Town Manager Saunders reported that the proposed budget had been advertised for the last two weeks and he summarized from that advertisement. Mr. Saunders said the general fund revenues for proposed FY2012 totaled \$2,292,654.00 of which \$408,505.00 was reimbursement from the work on Mary Ball Road Project. Mr. Saunders advised that the water fund revenue would total \$802,498.00 and the sewer fund revenue would total \$1,512,790.00. Mr. Saunders said that the total of all sources of revenue would be \$4,607,942.00. Mr. Saunders advised that this reflected no change in the tax rate which would remain at \$0.10 per \$100 of assessed real estate and \$0.16 per \$100 of assessed personal property. Mr. Saunders said that the rates of the BPOL would be reduced from \$0.35 to \$0.23 per \$100 of gross receipts for the top tier (professionals, consultants, agencies, et al), from \$0.18 to \$0.108 per \$100 gross for the middle tier (hair salons, laundromats, et al) and from \$0.12 to \$0.108 per \$100 gross for the lower tier (retail and services). Mr. Saunders advised that the BPOL rate for wholesalers would remain at \$0.023 per \$100. Mr. Saunders finalized by saying that there would be no change in water/sewer rates for this proposed budget.

Councilmember Nunn commented that she was opposed to the BPOL changes.

Mayor Booth advised Councilmember Nunn that they would have discussion during the action portion of the public hearing.

B. Mayor Booth opened the public hearing

C. Mayor Booth asked for public comments.

May 16, 2011

1) Mr. Floyd Hollister of 41 Raleigh Drive, Kilmarnock, VA, commented that the Federal Government and the Commonwealth of Virginia were currently operating in the red. Mr. Hollister stated that Kilmarnock businesses were not doing well and noted that many had closed in the past year. Mr. Hollister advised that in 2006 the unemployment rate for Lancaster County was 4.4% and that in March of this year it was 10.6%. Mr. Hollister said that there had been no increases in social security, military retirement, civil service annuities, VA disability benefits, and probably a lot of other things that he was unaware of. Mr. Hollister stated that these were not good economic times yet Kilmarnock was proposing a budget of \$4.6 million with an increase of 3.4% over the 2010 budget. Mr. Hollister advised that the 25 year old and older population in Kilmarnock was 1,219 individuals. Mr. Hollister said that the proposed budget would average \$3,700 per person of ages 25 and older in Kilmarnock. Mr. Hollister stated that Kilmarnock had 765 dwellings of which the proposed budget would average \$6,000 per unit. Mr. Hollister said the reason that Kilmarnock was doing okay and generating a budget surplus was because of the high real estate assessments levied after the unprecedented rise in property values between 1998 and 2006 but added that since 2007 property values had gone down at least 25% and were unlikely to rise in the near future from the information he had gathered. Mr. Hollister warned that when the next real estate reassessment occurred it was likely to produce assessed values that were 25% lower than what was currently on the books. Mr. Hollister said that when this happened the Town's revenue would fall accordingly and Kilmarnock would have a financial crisis. Mr. Hollister advised that, in light of economic circumstances, it was unrealistic that the current financial surpluses would continue. Mr. Hollister felt that Kilmarnock needed to hold the line on spending and build up its surplus in anticipation of declining revenue that would result from the reassessment of property values. Mr. Hollister said that to do otherwise would most likely be judged as irresponsible when the Town's revenue fell just as the property values had. Mr. Hollister urged the Town Council to reconsider the proposed budget.

Mayor Booth thanked Mr. Hollister for his comments.

2) Mr. Howard Straughan of 460 Kenmore Avenue, Kilmarnock, VA, stated that the upcoming reduction of revenues from the real estate tax was coming just as Mr. Hollister had said yet Council was talking about reducing the BPOL tax. Mr. Straughan thought that this reduction was totally ridiculous. Mr. Straughan accused the Council of being very selective and said the BPOL reduction would benefit four individuals who were seated on Council and added that he would be interested to know how the reduction would affect each of those four. Mr. Straughan advised that if this reduction took place it would not benefit him or Mr. Hollister. Mr. Straughan stated that he thought it would be a total act of irresponsibility. Mr. Straughan said that the Town had infrastructure needs that had to be met such as the sewer system, Town Hall, and the business park. Mr. Straughan advised that the Town needed to pay its employees at least what other municipalities like Kilmarnock paid theirs. Mr. Straughan said that he was not

May 16, 2011

aware of any law firms, accounting firms, etc. that located to another area because of the BPOL tax; however, he could name several that came to Town in spite of it. Mr. Straughan stated that he thought for Council to selectively reduce BPOL taxes at this time really did not pass the smell test. Mr. Straughan challenged each Councilmember to make public how they would benefit from this reduction. Mr. Straughan also wanted to know if any Councilmembers had a relative or business associate that would benefit from this tax reduction. Mr. Straughan finalized by saying that he felt the public had a right to know this information.

Mayor Booth thanked Mr. Straughan for his comments.

3) Mr. Les Spivey of 58 East Church Street, Kilmarnock, VA, said that he wanted to address the concept regarding the real estate taxes. Mr. Spivey stated that real estate tax revenue only amounted to about 12% of the budget dollars that came in so even if there was a 20% drop in that revenue, it would have only a small effect on the long-term revenue that did come in. Mr. Spivey advised that the meals and lodging taxes were the two that generated the greatest amount of revenue for the Town. Mr. Spivey suggested that instead of reducing the BPOL tax in order to give something back to the merchants, maybe Council should use some of the meals and lodging taxes for marketing purposes to increase businesses and draw customers. Mr. Spivey felt that this would be more beneficial to the businesses in the long run. Mr. Spivey advised that many jurisdictions used a portion of those two taxes to help support marketing and other things in order to draw people to the Town. Mr. Spivey stated that he was curious as to what the projected surplus deficit from FY2011 was and how that affected what Council did for the FY2012 budget. Mr. Spivey said he thought it was grossly unfair that the residents of Kilmarnock who were not a part of the water/sewer system had to effectively pay for those who were since it was subsidized by the general revenues of the Town. Mr. Spivey believed that the water/sewer system including setting aside reserves and planning for the future should be self-supporting just as the state has encouraged it to be. Mr. Spivey said that he recognized that would raise his water/sewer rate but noted that when he looked at the homes that did not have it he thought to himself how would he like to live there and have to pay real estate taxes and other things yet not have water/sewer service. Mr. Spivey felt that a plan needed to be developed that would take water/sewer from being subsidized which was how it had always been to not being so. Mr. Spivey said that he loved the new roof on the fire department and suggested that Council consider making a standard donation to the fire department every year to help support them. Mr. Spivey was thankful that he did not have to get up at 2 am and hop on one of those fire trucks when the alarm went off. Mr. Spivey said that it was great to have volunteer firefighters who liked what they did and were good at it. Mr. Spivey felt that the Town as a whole should help them because they were volunteer firefighters not fundraisers.

Mayor Booth advised Mr. Spivey that there was no deficit in the FY2011 budget but a surplus of \$400,000 to \$500,000 before capital improvement

May 16, 2011

projects. Mayor Booth asked Town Manager Saunders if that was correct.

Town Manager Saunders replied that figure was in the ball park.

Mayor Booth stated that the conservative projections for 2012 yield a similar surplus amount. Mayor Booth thanked Mr. Spivey for his accurate depiction of the status of the real estate tax and a significant change in assessment values which he doubted would go down that much. Mayor Booth said that there was such a small amount of money in that tax category that it would not cause a financial dilemma.

Mr. Straughan stated from the audience that he thought those comments were made by Mr. Hollister not Mr. Spivey.

Mr. Hollister said that Mr. Spivey made the statement that a decrease in assessed property values would have a minimal impact on the budget. Mr. Hollister stated that somehow he felt a direct correlation between the assessed property values and those taxes because he felt that the Town kept the tax rate fixed and when the assessments went down so would the taxes resulting in the Town getting less money. Mr. Hollister wondered if the Town got rid of the BPOL tax which was a large source of income wouldn't it have to be replaced by some other part of the tax base.

Mayor Booth said that he knew better than to start this conversation but said that the point he had tried to make was that he agreed with Mr. Spivey's assessment because there was just not that much money in personal property tax or real estate tax pool.

4) Ms. Lindsay Gardner, Director of the Lancaster Community Library, thanked Council for their donation last year. Ms. Gardner said that she would love to stand before them and tell them all of the wonderful things that the library did but she suspected that they already knew. Ms. Gardner stated that they receive approximately \$80,000 from the state each year which was predicated on a local match so they were required to file a report showing their streams of revenue and noted that one of the most important numbers on that report was the amount received from local government. Ms. Gardner said that the money given to them by the Town was greatly appreciated and it helped them to get the money needed from the state.

Councilmember Nunn stated that she had a note passed to her by a Town resident and asked if the Mayor would care to read it.

Mayor Booth reviewed the note and stated that he did not care to read it.

Councilmember Nunn replied that she did not think so.

D. Staff Comments

There were no additional staff comments.

E. Mayor Booth closed the public hearing.

F. Mayor Booth asked for Council comments and/or action.

Councilmember Nunn advised that everyone appreciated the work that was done by the Admin/Finance Committee in an attempt to rework the BPOL taxes and noted that in these tough economic times the Council would certainly like to help local businesses and she thought that they could. Mrs. Nunn continued that the Town is looking at a 4 million dollar plus budget for the upcoming year and she did not think that it was the time to cut any taxes. Mrs. Nunn also cautioned Councilmembers, four of whom have businesses in Town, that they should think very carefully about cutting the BPOL tax because it might be looked upon by some citizens as self-serving. Mrs. Nunn advised that they were all there to do what was best for the Town and not what was best for themselves as individuals. Mrs. Nunn said that there had always been resistance to taxes and fees and certainly more so now that the economy was in such bad shape. Mrs. Nunn continued by saying that Towns had declining and stagnant revenues in this economy and needed to look at spending cuts. Mrs. Nunn advised that local revenue systems were becoming out of sync as they changed what and how they produced and consumed. Mrs. Nunn stated that the economic flow that the local tax system was designed to meet was a shrinking fraction of wealth and economic activity. Mrs. Nunn said that goods were giving way to services which was cutting down on the amount of sales taxes collected. Mrs. Nunn added that commerce was accelerating and localities were losing sales taxes because of it. Mrs. Nunn advised that sales tax revenue would continue to decline in the future according to a recent CCPA study. Mrs. Nunn stated that the same study conducted from 1961 to 2010 concluded that there was no evidence that lowering taxes for businesses was successful or sustainable. Mrs. Nunn said that the federal government was pre-empting local and state authority and putting tax and expenditure limits on local and state governments. Mrs. Nunn advised that Governor McDonnell had established a commission to consider altering or abolishing BPOL taxes. Mrs. Nunn said that the position held by towns statewide was to stand in opposition to these proposed changes which would have an adverse effect on them and their revenue streams. Mrs. Nunn simply stated that the state was trying to take away revenue from the towns. Mrs. Nunn said that local government was dependent upon governmental assistance from states which was drying up. Mrs. Nunn advised that state funding was steadily decreasing; therefore, Council needed to think very carefully about lowering the BPOL taxes. Mrs. Nunn said that this should not be a political ploy. Mrs. Nunn advised that one of the main reasons given regarding the proposal to lower the BPOL taxes was to attract new businesses to Kilmarnock. Mrs. Nunn said that 46 of 95 counties in Virginia have

May 16, 2011

the BPOL tax and 123 of 190 cities and towns have it yet Virginia, according to the joint economic committee study of the United States Congress, was number three in the United States for attracting new businesses for the years of 2010 and 2011. Mrs. Nunn advised that the BPOL tax had certainly not kept new businesses from locating anywhere within this state. Mrs. Nunn stated that taxation was far from the factors that attracted businesses to an area and added that there was more to where a business located than the tax rate; otherwise, all businesses would be located in the Bahamas. Mrs. Nunn said that businesses were attracted to an area by its proximity to transportation, its health care facilities, its legal structure, the education stream, the skill of the workforce, and the quality of life including the amenities of which the Town has an abundance. Mrs. Nunn stated that the BPOL taxes were raised in 2005 to help pay for the Main Street Project and noted that debt had not yet been paid off. Mrs. Nunn asked why there was even a suggestion to lower the tax before the bill was paid. Mrs. Nunn stated that if the tax was lowered and the Town lost \$60,000 in revenue how would it be replaced and wanted to know would it place a burden on the citizens who lived in Town. Mrs. Nunn said that a majority of Kilmarnock's merchants did not live in Town and yet 75% of the police calls were from businesses for bad checks, shoplifting, identity theft, public disturbances, vandalism, and assistance to accompany their cash trucks to the banks. Mrs. Nunn stated that it was not like the merchants were not getting something in return for their BPOL tax. Mrs. Nunn said that overall taxes were lower because of the BPOL. Mrs. Nunn warned that if they were lowered other taxes would have to go up eventually to compensate for the Town's loss of revenue. Mrs. Nunn reiterated that the lowering of business taxes was neither successful nor sustainable. Mrs. Nunn said that the proposal to cut the BPOL for professionals was like comparing apples to oranges and stated that lawyers, real estate and financial services had very little in the way of equipment and inventory and, therefore, had less expense than other businesses. Mrs. Nunn continued by saying yet that was the group who would reap the biggest benefit from the proposal. Mrs. Nunn advised that she had three suggestions to make. Mrs. Nunn said that the first was revenue neutral which was to waive BPOL taxes altogether for new businesses coming into the Town for two years regardless of their revenue. Mrs. Nunn stated that since the Town did not already have that money they would not be losing any money but would be providing an additional incentive to establish a business here. Mrs. Nunn reiterated that was revenue neutral adding that if they did not have the money they could come for two years and not pay any tax and the Town would not be losing anything. Mrs. Nunn said that another way to help the business people was to set the BPOL tax so that if a business made under a certain amount in a year such as \$100,000.00 they would pay a set fee rather than a percentage. Mrs. Nunn advised that lastly, she would be willing to go along with a one-time 10% across the board BPOL reduction to everyone equally for one year to see if reducing the BPOL actually did have an effect on additional revenue for businesses and whether or not it attracted new businesses. Mrs. Nunn said that if it did then Council should revisit this area in one year. Mrs. Nunn added that if it did not then the BPOL should return to its current level by determination of the Town Manager.

May 16, 2011

Mayor Booth asked if there were additional comments.

Councilmember Jones stated that he was in agreement with Councilmember Nunn. Mr. Jones said that the Town had not done anything for its citizens by way of tax reduction noting that a lot of the residents were senior citizens living on a fixed income; however, they were proposing to do so for businesses. Mr. Jones added that there were four persons seated on Council that had businesses in the Town; one was absent but two would vote and the Mayor would be the third if there happened to be a tie.

Mayor Booth advised that it was important for the citizens to realize that the Town was not raising real estate taxes, personal property taxes or water/sewer rates. Mayor Booth said that there was actually a very small amount of money in this particular revenue pool as compared to the BPOL tax and meals tax pool. Mayor Booth stated that he felt that the citizens were astute enough to know that if the Town provided stimulus and incentives to businesses and maintained a healthy business community by cutting the BPOL rates then it would effectively increase the volume of business done. Mayor Booth advised that it was a curve that was observed in every economy whether it was federal, state, or local and said that when tax rates were cut it increased the volume of business. Mayor Booth reiterated that by keeping the businesses healthy in Kilmarnock, it would preclude the need to raise real estate tax, personal property tax or water/sewer rates. Mayor Booth added that as a matter of fact the amount of money in real estate and personal property tax pool was so small that the Town could not raise it enough to even make a significant difference. Mayor Booth stated that it appeared to him that by keeping the business community healthy it would ensure that other fees and tax rates would not go up because in that case the businesses effectively paid the heavy burden of the tax.

Councilmember Nunn said that if the purpose was to attract businesses then why not let new businesses come in without having to pay the BPOL tax for two years.

Councilmember Moubray said that the proposal was not only to attract new businesses but to make a statement to the businesses already here during these tough economic times. Mr. Moubray advised that it was a statement saying that the Town was trying to help them out.

Councilmember Nunn said that the proposal also made a statement to the citizens which was "screw you".

Councilmember Donahue asked if Council was discussing the budget in general or just BPOL.

Councilmember Moubray replied that they were just discussing

May 16, 2011

BPOL at that moment.

Mayor Booth replied that this was a discussion on the general budget as well as the BPOL tax so if Councilmember Donahue had a comment he could go ahead and make it.

Councilmember Donahue said that if everyone looked at the 4.6 million dollars in the budget, the BPOL tax reduction was around \$30,000 a year to the business community.

Mayor Booth advised that it was more like \$50,000.

Councilmember Donahue said that whether it was \$50,000 or \$60,000 of a 4.6 million dollar budget, the Town's biggest expense was the cost of doing business. Mr. Donahue stated that the budget which was advertised in the newspaper showed for the use of funds in administration, public safety, and public works a big expense of roughly 1.4 million dollars in payroll. Mr. Donahue said that in looking at expenditures and things to address, the Town should look at that. Mr. Donahue advised that in 2007, a firm named Springsted was hired to conduct an analysis of the Town and what was paid out in benefit packages. Mr. Donahue stated that during this study they interviewed 18 different public entities. Mr. Donahue said that the study showed what the Town paid out, what was overpaid, what was underpaid, and what needed to be benchmarked. Mr. Donahue said that the Town was talking about \$50,000 in BPOL tax reductions but wanted Council to take a look at what the Town had paid out in employee packages. Mr. Donahue stated that holiday leave in the 18 jurisdictions that participated in the study ranged from 8 to 13 days. Mr. Donahue advised that the Town paid 12 days of holiday leave and matched most jurisdictions so it was where it should have been. Mr. Donahue noted that in the study there were things that stood out such as medical insurance and said that Kilmarnock was in the top tier of paying for employee benefit packages. Mr. Donahue continued by saying that when it came to medical coverage, the Town was on the top. Mr. Donahue stated that the Town paid 100% of the employees' medical coverage, which meant that they did not contribute a cent. Mr. Donahue added that the Town paid 100% of dental care, eye care and even paid deferred compensation. Mr. Donahue said that in other words if someone worked for the Town of Kilmarnock and put in an extra \$20 dollars per pay period it was matched by the Town.

Councilmember Jones interjected that the Town would only pay one half of the twenty dollars.

Councilmember Donahue asked the Town Manager if he was wrong.

Town Manager Saunders replied that he was "cherry picking" but he was correct.

May 16, 2011

Councilmember Donahue stated that tremendous benefits were offered to employees who work for the Town of Kilmarnock. Mr. Donahue asked where did that money come from and answered his own question by saying it came off the backbone of the businesses and residents in the Town of Kilmarnock. Mr. Donahue said that if the real estate taxes, personal property taxes, and water/sewer rates were going to be kept low by attracting businesses to the Town of Kilmarnock so that the revenue would come in to manage the expenses by lowering BPOL then so be it. Mr. Donahue continued to harp on the employee benefit packages which he referred to as tremendous and noted that the budget included a possible 3% employee raise. Mr. Donahue reiterated that the Town was giving the best employee benefit package out of 16 jurisdictions. Mr. Donahue said that the Town was not consistent in what it was offering and the people in Town were paying the price.

Councilmember Nunn stated that the biggest sources of revenue for the Town are the meals and lodging taxes which do not come from the businesses but from the customers. Mrs. Nunn advised Mr. Donahue that money from those taxes did not belong to him because it came from his customers and it was passed through.

Councilmember Donahue stated that if there were no restaurants in Kilmarnock...

Councilmember Nunn interrupted and told Mr. Donahue that he was not paying the tax the customers were and reminded him of when he said that 60% of his meal sales came from people who lived out of Town. Mrs. Nunn reiterated that he was not paying the money because he was getting it from someone else and putting it in a separate account because it was owed to the Town.

Councilmember Donahue said that if there were no restaurants in Kilmarnock then there would be no revenue.

Councilmember Nunn replied that Lee's Restaurant would be there forever.

Councilmember Moubray stated that if the businesses were not there...

Councilmember Nunn interrupted and stated that the businesses had not gone anywhere and were not going anywhere. Mrs. Nunn added that a few might have gone somewhere but those that had been around for a long time were not going anywhere and certainly not because of the BPOL tax.

Councilmember Jones said that he would reserve his comments for later.

May 16, 2011

Councilmember Nunn stated that she was wondering about some of her suggestions that she had made earlier. Mrs. Nunn said that if they were not just interested in attracting new businesses and wanted to make a statement to the ones already established then why not give a one-time 10% cut across the board to everybody for one year and then revisit the issue at the end of the year. Mrs. Nunn added if a business did not make a certain amount of money in a year then they would pay a fixed rate. Mrs. Nunn acknowledged that she understood that businesses had to pay when operating at a loss and said that she did not think it was right, but if the Town set an amount such as \$100,000 and the business made only \$*999,999 in a year then they only had to pay \$50. *(corrected by Town Council 6/20/11)

Mayor Booth stated that if there was no further discussion, would anyone like to make a motion to approve the first reading of the budget.

Councilmember Nunn asked if Council had to come to a decision regarding the BPOL tax before the first reading of the budget was passed.

Town Attorney Stamm said that if Council voted in favor of the first reading of the budget then they would be saying yes to the reduction in the BPOL tax because that was how it was published.

ACTION: Councilmember Moubray made a motion to to approve the first reading of the budget as presented,

Mayor Booth called for a second to the motion. There was no second and the motion died.

Mayor Booth said that he was moving on to the next item on the agenda.

Town Attorney Stamm advised Council that there were certain deadlines and requirements by the state in which a budget had to be passed. Mr. Stamm stated that with no first reading the budget would have to be advertised again and Council would have to hold a special meeting somewhere down the line.

Mayor Booth asked Councilmember Donahue if he had a motion with modifications that he wanted to make.

Councilmember Nunn advised that it was done with.

Mayor Booth said that he did not know if it was or not and asked Mr. Donahue again if he had a motion with modifications.

Councilmember Donahue asked Town Attorney Stamm if he could do that.

May 16, 2011

Town Attorney Stamm said that the motion that was on the floor died without a second. Mr. Stamm told Mr. Donahue that he could make his replacement motion because the Mayor had not moved on to another point of business.

Mayor Booth said that was correct but he had been dangerously close to doing so but told Councilmember Donahue if he had a motion regarding the budget with modifications he would hear it.

Councilmember Nunn said that she did.

ACTION: Councilmember Nunn made a motion to approve the first reading of the budget with the amendment that the included BPOL tax reductions be excluded and replaced with a one-time 10% reduction in BPOL tax across the board for everyone and the issue revisited by Council at the end of one year,

Councilmember Donahue advised Councilmember Nunn that she spent more on her doggy park than that would amount to.

Councilmember Nunn replied that she did not spend one dollar of taxpayer money or her money on the doggy park.

Mayor Booth advised that a motion was on the floor and asked for a second. There was no second and the motion died.

ACTION: Councilmember Donahue made a motion to approve the first reading of the proposed budget with the specified reduction in BPOL taxes but amend to exclude a salary increase for the employees this fiscal year,

Mayor Booth advised that a motion was on the floor and asked for a second. There was no second and the motion died.

Mayor Booth moved on to the Committee Reports.

6. Committee Reports

A. Water/Sewer Committee: Councilmember Smith, Chair

1) Report from May 4, 2011 Meeting.

May 16, 2011

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

Councilmember Moubray gave the report in the absence of Councilmember Smith.

Councilmember Moubray advised that the Committee discussed a citizen complaint regarding a connection fee. Mr. Moubray said that the issue had been resolved. Mr. Moubray stated that the temporary sound barrier on the blowers at the WWTP seemed to reduce the noise somewhat but that the Committee was still evaluating other methods.

Councilmember Nunn was unable to find the Committee reports in her packet. Mrs. Nunn was provided with the reports and Councilmember Moubray resumed.

Councilmember Moubray continued by saying that the Committee reviewed the scope of the preliminary work needed if the Wiggins Avenue force main replacement was to take place later this year and authorized staff to proceed with developing an RFP that could be advertised. Mr. Moubray advised that the Grace Hill Pump Station had almost passed all of its tests and punch list work would take place over the next two weeks. Mr. Moubray said that they hoped to have full operation by around May 25th.

2) Committee Recommendations to Council.

There were no recommendations made to Council.

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

1) Report from May 5, 2011 Meeting

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

Councilmember Donahue stated that he was unable to attend the meeting due to his father's passing.

Councilmember Nunn told Councilmember Donahue that she was sorry about his father's passing and gave the report.

Councilmember Nunn reported that the tree was planted by the Friends of the Rappahannock at the dog park. Mrs. Nunn advised that last Saturday Town Manager Saunders, Councilmember Moubray and his wife Roxy, and one of their employees as well as herself and her husband Spike and one

May 16, 2011

other volunteer worked to put up the poles and railings. Mrs. Nunn stated that all that was left to be done was to put up the fencing and the dog park could be opened. Mrs. Nunn said that they planned to have it open on May 28th. Mrs. Nunn finalized by saying that she had sold six bricks within the past week. Mrs. Nunn added that she forgot to mention that Howard Straughan was at the dog park working as well.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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

There was no meeting held.

D. Emergency Preparedness Committee: Councilmember Moubray
Chair

There was no meeting held.

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

1) Report from May 10, 2011 meeting

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

Mayor Booth asked Councilmember Nunn if she would give the report in Vice-Mayor Smith's absence.

Councilmember Nunn reported that the Committee discussed the opening of the dog park which would be named "Scottie Yard" and the presentation of a little scottie dog that would be living there. Mrs. Nunn said that the Committee also discussed the Town Hall, the police department building and Assistant Town Manager Cockrell's office which was "yuk". Mrs. Nunn said that the Committee's recommendation was to have Town Manager Saunders research office space alternatives but they did not want a tacky trailer. Mrs. Nunn finalized by saying that something had to be done because some employees were working under terrible conditions.

Councilmember Jones asked the Mayor to appoint a committee to research putting up a new building instead of finding alternative space.

Councilmember Nunn said that the Town tried that once and it did not go anywhere.

May 16, 2011

Councilmember Jones replied that was when the Town was considering building a brand new Town Hall on the 9 acre lot. Mr. Jones said that he was talking about putting up a building on this lot and tearing the existing Town Hall and police building down. Mr. Jones said that in 20 years if Council was not happy with it then they could sell it. Mr. Jones stated that it was better than doing nothing and that Council had been discussing this issue for the past ten years.

Councilmember Moubray stated that he was on that committee before the changing of the hands and noted that Town Manager Saunders had most of the research that was conducted during that period of time. Mr. Moubray said that they too had discussed putting a steel building on the current Town Hall lot.

Mayor Booth said that he felt that this issue fell under one of the existing committees. Mayor Booth said that it appropriately fell under the Town Centre Committee.

Councilmember Nunn said that she was the only one who came to the meetings so, therefore, it was a Committee of one.

Councilmember Moubray told Councilmember Nunn that they wanted to make a recommendation that she handle it which generated laughter.

Councilmember Nunn advised that when she finished the dog park she would put the new building right up which also generated laughter. Mrs. Nunn asked Mayor Booth to appoint Councilmember Jones to the Committee.

Mayor Booth stated that he was not going to appoint any committees unless there was a motion.

ACTION: Councilmember Nunn made a motion to have Councilmember Jones appointed to the Town Centre Committee, seconded by Councilmember Donahue;

Mayor Booth asked Councilmember Jones if he was sure that he was not already on the Town Centre Committee.

Councilmember Jones said that he might be.

Mayor Booth said he was pretty sure that Mr. Jones was but he just was not coming to the meetings.

Councilmember Nunn retracted her motion when it was confirmed that Councilmember Jones was already on the Committee.

May 16, 2011

2) Committee Recommendations to Council

There were no recommendations made to Council.

F. Town Centre Committee: Councilmember John A. Smith, Chair

1) Report from May 10, 2011 meeting

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

Mayor Booth advised this section was covered in other areas of the meeting.

2) Committee Recommendations to Council

There were no recommendations made to Council

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

1) Report from May 4, 2011 meeting.

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

Mayor Booth advised that Vice-Mayor Smith was absent and Councilmember Donahue had missed the meeting. Mayor Booth asked Town Manager Saunders to give the report.

Town Manager Saunders advised that the Committee reviewed the current state of Peddler and Itinerant Merchant licenses which was still under review. Mr. Saunders advised that the Committee also discussed the potential for administrative fee options caused by additional billings and decided not to pursue it any further. Mr. Saunders said that the update for online payments showed that the necessary software had been installed but noted that they had hit a snag. Mr. Saunders said that they hoped to get it up and running by the middle of June. Mr. Saunders advised that a lot of work had gone into that and would eventually be a big convenience to the citizens but it was not quite there yet.

2) Committee Recommendations to Council

Recommend that Council approve the disbursements from April 19, 2011 to May 16, 2011 totaling \$473,521.38

ACTION: Councilmember Moubray made a motion to approve the disbursements from April 19,

**2011 to May 16, 2011 as presented,
seconded by Councilmember Donahue; and
carried unanimously.**

6. Administrative Comments and Reports: Town Manager Saunders

A. Mary Ball Road CDBG

Town Manager Saunders reported that the list looked almost the same as last month. Mr. Saunders said that the first element of the Mary Ball Road Project which was the pump station was now finished and in operation with the exception of some technical details which they would continue to get worked out. Mr. Saunders stated that they hoped to have the first Mary Ball Road home hooked to it by the end of next week. Mr. Saunders advised that they were nearly to the top of the hill with the sewer line installation on the west side of Route 3, which was the tricky part, so they would not be able to make as much daily progress as they had been but noted that Franklin Mechanical was doing a good job.

B. Mercer Place Water Main Extension Update

Town Manager Saunders advised that the Mercer Place water main extension had been completed with the exception of getting back acceptable results on the chlorination and bacteriological testing.

C. Paving Underway in Town

Town Manager Saunders commented on the paving that took place last week on Irvington Road and added that he appreciated everyone's cooperation especially the merchants there at Irvington Road and School Street. Mr. Saunders said that it was not a great day for them but they did well without much complaint. Mr. Saunders advised that East Church Street would also be paved this summer.

D. Steptoe's District Landscape Renovation Update

Town Manager Saunders advised that the Streetscape Project was completed last week thanks to the efforts of Assistant Town Manager Cockrell and Ransone's Nursery.

E. Tall Grass/Property Maintenance Code Violation Enforcement Actions

Town Manager Saunders advised that many letters had been sent out to Town residents regarding property violations primarily tall grass.

May 16, 2011

8. Old/Unfinished Business

There was no discussion under Old/Unfinished Business

9. New Business

A. Adopt Updated Zoning Map

Town Manager Saunders advised that a copy of the new zoning map was included in each Councilmember's packet and the official map was displayed on the wall. Mr. Saunders stated that it was updated to include recent zoning changes and would become the official map once it was adopted by Council.

ACTION: Councilmember Nunn made the motion to adopt the updated zoning map, seconded by Councilmember Moubray; and carried unanimously.

B. Planning Commission Nominees

Mayor Booth asked Councilmember Nunn if she would like to speak regarding this issue.

Councilmember Nunn made the following motion:

ACTION: Councilmember Nunn made the motion that future vacancies on the Kilmarnock Planning Commission be advertised and that interested applicants respond in writing with their qualifications to Council for Council's decision on the appointment since the Planning Commission was an advisory creation of the Council and was entirely subject to the Council, seconded by Councilmember Jones;

DISCUSSION:

Councilmember Donahue asked if there was a written policy regarding appointments to the Planning Commission.

Town Attorney Stamm replied that historically when Planning Commission Members were needed the word was put out there, it was advertised in the paper, and usually someone would have to go out and beg people to be on it. Mr. Stamm said that was usually what happened, and there was no problem with doing it that way.

May 16, 2011

Councilmember Nunn stated that according to Mr. Mark Flynn of VML, and she did not call him he made the call, the Planning Commission was truly an advisory creation of the Council and was entirely subject to the Council. Mrs. Nunn continued by saying that the Planning Commission was appointed by Council and Mr. Flynn could see no grounds whatsoever for the position that the Planning Commission should determine who should serve on it.

Town Attorney Stamm replied that the Planning Commission did not determine who would serve on it.

Councilmember Nunn stated that the Planning Commission was a group of appointees and appointees do not select who another appointee is going to be.

Town Attorney Stamm replied that they only made recommendations to select. Mr. Stamm added that was the way it had been forever.

Councilmember Nunn said that the problem was, which did not have anything to do with the Planning Commission, a while back there was a vacancy on Town Council and there were several people interested but there were a few out there pursuing someone to be on the Council who turned out to not even be a registered voter. Mrs. Nunn stated that Council needed to know the peoples' qualifications. Mrs. Nunn said that they needed to know if the person was registered to vote, that they wanted to do this, and that they had not been strong armed. Mrs. Nunn advised that she personally knew of two people who were interested in being on the Planning Commission this last time who were not aware of the vacancy until after the fact.

Councilmember Donahue commented that it had worked fine for the past fifty years and this was how it had been.

Councilmember Nunn replied that she was making a motion for a change and added that change was good.

Mayor Booth advised that a motion had been made, it was seconded, and now he was entertaining discussion.

Councilmember Jones said that this would give other people the opportunity to apply and be a part of the Town government. Mr. Jones noted that some people did not know when there was a vacancy and this would give them the information they needed if they wanted to apply.

Mayor Booth commented that he thought that traditionally the Planning Commission had forwarded its nominees to Council and in the discussion that he has had with them they seem to have no problem with that. Mayor Booth

May 16, 2011

stated that according to the Planning Commission report a motion was made at their last meeting recommending that the vacancies be advertised. Mayor Booth advised that he meant to bring a copy of that recommendation to the Council meeting but noted that he did not think he had it with him. Mayor Booth found the recommendation and advised Councilmember Nunn that he thought what the Planning Commission had already volunteered to do, which in fact might make her concerns moot, was in the form of a motion stating that when there was a vacancy on the Planning Commission an advertisement would be run by the Planning Commission asking any citizens to indicate their interest by sending a letter to the Commission. Mayor Booth continued reading and said that after two weeks, the Commission would go over the names during a committee meeting or regular meeting and determine who would be best suited to fill the vacancy and forward that name to Council for consideration. Mayor Booth advised that as Mayor and a former Planning Commission member, he certainly did not have a problem with vacancies being advertised and it appeared that the Planning Commission was willing to do that. Mayor Booth commented to Councilmember Nunn that this might satisfy her objections.

Councilmember Nunn replied that it did not because her motion was completely different. Mrs. Nunn said that "the chickens did not get to pick the rooster". Mrs. Nunn stated that the Planning Commission was the chicken and Council was the rooster. Mrs. Nunn stated that according to her motion the Council would advertise, receive the letters, and make the determination. Mrs. Nunn advised that the Planning Commission was appointed and they did not get to say who was going to be on there. Mrs. Nunn said that they were an advisory committee appointed by Council and her motion was that Council did everything and made the appointment.

Mayor Booth said that the motion had been made, duly seconded, and asked if there were any further comments.

Councilmember Moubray asked Councilmember Nunn if she did not think that the Planning Commission should be able to make recommendations as well as Council.

Councilmember Nunn replied that she absolutely thought that they should be able to make recommendations but that the letters of application should be sent to Council.

Councilmember Moubray advised ultimately that was how it was being done now the only thing that would be different was that vacancies would be advertised.

Councilmember Nunn noted that the Town had advertised in the past because that was how Vice-Mayor Smith had gotten on the Planning Commission.

May 16, 2011

Councilmember Moubray stated that he was all for it but he thought that they should receive recommendations from the Planning Commission with Council having the final decision in the end.

Mayor Booth said that with the Planning Commission doing the interviewing it kept Council from being able to effectively "stack the deck".

Councilmember Nunn interrupted but Mayor Booth asked her to please let him finish because he did not interrupt her when she was speaking.

Mayor Booth continued by saying that he felt that if the Planning Commission was going to be effective then it had to have some independence from Council. Mayor Booth stated that if Council was going to be able to pick and choose to effectively stack members on the Planning Commission then there was no sense in even having a Planning Commission.

Councilmember Nunn said that was her point and reiterated that they were appointed by Council. Mrs. Nunn stated that whoever the first people were that ever served on the Planning Commission were appointed by some Council. Mrs. Nunn said that this was the prerogative of the Council and the Planning Commission was a creation of the Council who was subject to the Council in every way so, of course, Council should select who served on it. Mrs. Nunn said that the chickens did not get to pick.

Town Attorney Stamm advised that Council has always appointed members to serve on the Planning Commission. Mr. Stamm said that the Planning Commission Members would get together and talk about possible appointees and send those names to Council for a final decision.

Councilmember Nunn replied that was fine but she wanted letters now stating their qualifications and she did not want a recommendation from one person stating that they had to twist five peoples' arms in order to get that. Mrs. Nunn advised that Ms. Headley would not have agreed to serve on the Planning Commission had she not been told beforehand that the meetings were going to be held on Monday nights. Mrs. Nunn stated that Ms. Headley was unable to attend Planning Commission meetings on Tuesday nights because she works at the jail doing prison ministry. Mrs. Nunn said that Ms. Headley told her that she was told that the Planning Commission meetings would be changed to Monday nights so that was why she agreed.

Mayor Booth replied "so" and asked Councilmember Nunn what all of that meant.

Councilmember Nunn replied that Ms. Headley was told that the meeting nights were going to be changed but they were never changed in the by-

May 16, 2011

laws. Mrs. Nunn said that only one person brought it up and that was how she got on there because she could not go on Tuesday nights.

Mayor Booth stated that he believed the by-laws had been changed.

Councilmember Nunn advised that they had not been changed.

Mayor Booth advised that there was a motion on the floor and they needed to vote if there was no further discussion.

Mayor Booth called for the vote which was tied at two votes in favor of (Councilmember Nunn and Councilmember Jones) and two votes against (Councilmember Moubray and Councilmember Donahue). Mayor Booth broke the tie by voting against the motion. The motion failed.

10. Council Comments:

There were no Council Comments.

11. Adjournment:

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

Meeting adjourned at 8:22 pm

Prepared by:

Joan N. Kent

Raymond C. Booth, Jr., Mayor

Jacqueline L. Blencowe, Clerk