

June 20, 2011

**KILMARNOCK TOWN COUNCIL**  
**Monday, June 20 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 Councilmembers present:

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

Paul S. Jones  
Rebecca Nunn

Resignations:

Randy Moubray  
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.

Mayor Booth announced that, as unfortunate as it was, he had to report that there had been two resignations from Town Council within the month with the last coming about earlier in the day. Mayor Booth stated that he had received resignations from Councilmember Randy Moubray and Councilmember John A. Smith. Mayor Booth thanked both of them for their years of service to the Town and added that service in this capacity was always a sacrifice. Mayor Booth said that Council would be moving forward to fill the vacancies.

Town Manager Saunders introduced Officer Ron Loving as the newest member of the Kilmarnock Police Department who had just graduated from Rappahannock Criminal Justice Academy. Mr. Saunders said that Officer Loving

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had already hit the street, and he just wanted to give Council and the citizens a chance to meet him.

Council and audience greeted Officer Loving with a round of applause.

Officer Loving stood and thanked everyone for giving him the opportunity to serve and stated that he was looking forward to working for the Town.

Mayor Booth welcomed him aboard.

## **2. Acceptance and Approval of Agenda**

**ACTION: Vice-Mayor Smith made a motion to accept the agenda for the June 20, 2011 Regular Town Council meeting as presented, seconded by Councilmember Donahue; and carried unanimously.**

## **3. Minutes: Approve, Correct, or Amend the Minutes of the Regular Town Council Meeting held May 16, 2011.**

Councilmember Nunn advised that in the first paragraph on page 12 of the minutes there was a typographical error in the last sentence. The correct figure was \$99,999 instead of \$999,999.

Mayor Booth stated that he never even read the minutes but saw that today and pointed it out as an error because it obviously did not make sense. Mayor Booth asked if there were any other considerations regarding the minutes and if there was no other discussion then he would entertain a motion to accept them as amended.

**ACTION: Councilmember Nunn made a motion to accept the May 16, 2011 Regular Town Council Meeting Minutes with the one correction noted, seconded by Councilmember Donahue; and carried unanimously.**

## **4. Public Comments and Presentations:**

A. Public Forum

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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) Mr. Bobby Crowther of P.O. Box 76, Kilmarnock, VA, addressed Council and stated that he had just built a home in Kilmarnock at 34 Purcell Drive and gotten his (water/sewer) permit on March 1<sup>st</sup>. Mr. Crowther said that he called first to ask what the fees were and sent his contractor Mr. Lloyd Dilday with Chesapeake Homes with a check to the Town Office. Mr. Crowther advised that the check was cashed and then about 4 or 5 days later he heard from an outside source that the Town was going to charge him more money. Mr. Crowther said that he came to the Town Office to see Town Manager, Tom Saunders, and Mr. Saunders told him that he did not know what the situation was but that he would find out and get back with him. Mr. Crowther advised that Mr. Saunders wrote him a letter and told him that he would let him know what the amount would be, if any, after he had talked with Blake Franklin who was away at the time. Mr. Crowther said that he was told when he paid the \$10,085 that would be it. Mr. Crowther stated that he never heard anything back from Mr. Saunders. Mr. Crowther advised that he called the Town Office twice and talked to whoever answered the phone. At that time he was told that Mr. Saunders had gone to his son's graduation and they would have him call when he got back on Monday or Tuesday of the following week. Mr. Crowther said that he never heard back from him. Mr. Crowther advised that he called back to the Town Office again and spoke to a lady who answered the phone and told him that he should call Blake Franklin and gave him the cell phone number. Mr. Crowther said that he called Mr. Franklin who told him that he did not leave word with anyone to have Mr. Crowther call him. Mr. Crowther stated that at the time Mr. Franklin was working in Colonial Beach but told him that he would be finished in front of his house in a couple of days. Mr. Crowther said that he had not yet heard a word back from anyone about what the price was going to be or if there was going to be any extra charge until two weeks ago when he got a bill from Franklin Mechanical for \$2,200. Mr. Crowther advised that it was charged to his account and he did not authorize anyone to do that and noted that he still had not heard anything from the Town and finalized by saying that he did not want to pay it.

Mayor Booth advised Mr. Crowther that he and Council had received his complaint and stated that the appropriate thing for him to do at this time was to refer it to committee. Mayor Booth stated that Council could not make split second decisions on matters like this and for that reason he would refer it to Water/sewer Committee and Admin/Finance Committee. Mayor Booth told Mr. Crowther that he was welcome to attend the committee meetings and would be advised of the dates and times that they would meet.

Mr. Crowther stated that he had picked up all of the literature that the Town had out front and there was nothing found in any of them that said there would be any additional charges other than the \$10,085 which he had paid.

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Councilmember Nunn commented that Mr. Crowther had called and discussed this issue with her. Mrs. Nunn asked Mr. Crowther if he thought that his bill for \$2,200 was (unable to complete her sentence)

Mr. Crowther interrupted Councilmember Nunn and said that he thought he should not be charged anything because there was nothing that said it was to be done.

Councilmember Nunn continued by saying that she knew that but wanted to know if he thought that this was his final bill.

Mrs. Betty Crowther who was seated in the audience asked Council why Franklin Mechanical was charging Mr. Crowther anything at all.

Mr. Crowther said that Town Manager Tom Saunders must have told Franklin Mechanical to charge it to him because he did not.

Councilmember Nunn said to Mr. Crowther that the reason she asked was because during their discussion he had told her that he thought he was going to be billed \$2,400 more.

Mr. Crowther replied that Mr. Saunders had said that it might be that amount but also said that he would not know until he talked to Blake Franklin. Mr. Crowther reiterated that he did not want to pay any of it because he did not see anything in writing that said he had to pay anything other than the \$10,085.

Councilmember Nunn wanted to clarify that Mr. Crowther was not only upset about having to pay the extra amount but the fact that the Franklin Mechanical bill was sent directly to him.

Mr. Crowther replied that there was not anything in black and white telling him that there were going to be extra charges.

Councilmember Donahue asked if the \$10,000 figure was the Town's normal fee for the water/sewer.

Councilmember Nunn replied that it was.

Councilmember Donahue then asked why Franklin Mechanical was charging Mr. Crowther the \$2000+.

Mr. Crowther replied that he was told that they had to run an extra line across the road.

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Vice-Mayor Smith asked Mr. Crowther when he came into the Town Office and had the initial meeting was there ever any conversation that there could be additional charges or an explanation of the process of what had to happen.

Mr. Crowther replied that there was not.

Mayor Booth advised Mr. Crowther that this matter would be referred to the appropriate committees and the Town Office or he personally would advise him of when those committees would meet. Mayor Booth said that they would investigate his complaint and reach a determination. Mayor Booth thanked Mr. Crowther for coming in and discussing the matter with Council.

2) Mr. Bill Warren provided an update on the Mercer Place project to Council and advised that it would be open for occupancy on July 1<sup>st</sup>. Mr. Warren gave Councilmembers a list of possible occupants which he went over with them. Mr. Warren stated that at the onset of the project there was concern by Council that Mercer Place might resemble another rental property in Town which was Section 8 or whatever the case may have been. Mr. Warren advised that of the 16 two bath, two bedroom units in the complex 13 had been reserved and they were processing the paperwork. Mr. Warren stated that six of the proposed renters were teachers, one was a community service board counselor, one was the Assistant Health Care Administrator at Lancashire, one was an M-TEQ employee, one was a Northern Neck Wi-Fi employee, one was a deputy sheriff, one was a nurse from the hospital, and the last was a corrections officer. Mr. Warren advised that there were three more units that had not been rented yet and they were being held for teachers coming from an outside area. Mr. Warren said that the grand opening was going to be held on Thursday, July 7<sup>th</sup>, at 5 pm and everyone was invited. Mr. Warren stated that a unit would be open for examination. Mr. Warren said that he wanted to thank Town Manager Saunders, Town Clerk Blencowe, and Utility Supervisor James Seagle for working with them on the water/sewer business. Mr. Warren stated that they were going to be hooked up to water tomorrow and would be paying the Town approximately \$161,000 on June 30<sup>th</sup> which was the point of occupancy.

Mayor Booth advised Mr. Warren that Mercer Place was a tremendous project which turned out well. Mayor Booth thanked Mr. Warren for coming to the Council meeting.

3) Mr. Les Spivey of 58 East Church Street stated that at the risk of being repetitive, he was there once again to suggest that Council not alter the BPOL tax and let it stay where it was. Mr. Spivey suggested that if Council wanted to help the Town's merchants they could allocate \$50,000 to \$100,000 towards marketing so that the merchants would get more business. Mr. Spivey commented that in many jurisdictions the meals tax and lodging tax went towards trying to attract more business and people to their Towns.

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Reporter Audrey Thomasson took a photo of Mr. Spivey while he was at the podium.

Mr. Spivey smiled for the photo and continued by saying that he was aware that two Councilmembers had resigned and was curious as to what the process was for their replacement. Mr. Spivey asked if Council would be so kind as to relay that process to the audience.

Mayor Booth asked Town Attorney Stamm if it was appropriate to do so and if it was could he give a brief overview on the process entailed to fill the vacancies.

Town Attorney Stamm informed the audience that Councilmembers had been provided with the two pertinent code sections regarding the replacement of the vacant seats. Mr. Stamm said that when a vacancy occurred in a local governing body the remaining body, within 45 days of the office becoming vacant, may appoint a qualified voter of the election district in which the vacancy occurred to fill the vacancy. Mr. Stamm continued by saying that if a majority of the remaining members of the body or board could not agree, or failed to act, then the Circuit Court Judge of the county could make the appointment. Mr. Stamm said that notwithstanding any charter provisions to the contrary the person so appointed shall hold office only until the qualified voters fill the vacancy by special election pursuant to 24.2-227 and the person so elected has qualified. Mr. Stamm said that special elections had to be held on a Tuesday and could not be held within 55 days prior to a general or primary election and may not be held during primary election but only during a general election and noted that there were cost factors that needed to be considered as well. Mr. Stamm advised that there was a general election coming up in November. Mr. Stamm noted that one of the resigning councilmembers' seats would be up in May anyway. Mr. Stamm said that if there was a special election held then the Town would have to pay for the whole entourage. Mr. Stamm advised that it could not be held within 55 days of this coming August because there would be a primary going on then. Mr. Stamm said that Mr. Moubrey's seat had two years from next May left on it; so, if whoever wanted that seat got appointed by Council and then ran and won in November, that person would serve out the rest of the term which would not be a full term. Mr. Stamm stated that whoever was nominated for Mr. Smith's seat, if he did the math correctly, there was going to be a problem finding a date because the state and county registrar would not let them have a special election so close to a regular election. Mr. Stamm finalized by saying that these were the rules.

Councilmember Nunn asked Mr. Stamm if what he was saying was that if two people were appointed then they would have to run for election in November.

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Town Attorney Stamm said that the person taking Mr. Moubray's seat would be best standing for election in November rather than having the confusion. Mr. Stamm said that Mr. Smith's seat was up for election in May anyway.

Councilmember Nunn said that November would come before May.

Town Attorney Stamm replied that somebody would run for election in November for that seat only to have to run again in May.

Town Manager Saunders advised that he had a conversation with Mrs. Harding at the County Registrar's Office and, because of the peculiarities of Kilmarnock's polling places during general elections, it would be very difficult to hold a special election for a replacement Councilmember. Mr. Saunders advised that the law was changing as of July 1 which would allow the Town to wait until the next regularly scheduled election which was in May. Mr. Saunders said that he was still researching this but believed that they could appoint two Councilmembers now and then hold an election in May.

Councilmember Donahue asked if there were going to be four seats up for election this May.

Town Manager Saunders replied in the affirmative.

Mayor Booth stated that both the Town Attorney and Town Manager had given very thorough explanations, but he was going to try to put it in layman's terms for the audience.

Mayor Booth stated that in order to keep the Circuit Court from intervening, it was paramount that Council appoint someone to fill the vacancies within 45 days of the resignations. Mayor Booth said that, subsequent to filling the vacancies, they were required to hold a special election. Mayor Booth stated that he believed, and noted that Mr. Stamm was researching the code, that the Town could hold one or both of the special elections in November. Mayor Booth said that he did not think that it made sense, especially in the case of Mr. Smith's term which ended in May, to appoint someone and then have a special election in November with the term ending in May and then there having to be yet another election. Mayor Booth suggested that a prudent course of action would be to make an appointment for Mr. Smith's term and that appointee be allowed to serve until the seat came up for election in May. Mayor Booth said that it did make sense to have a special election in November for Mr. Moubray's seat because the winner of that special election would serve the remainder of his term which was in excess of two years.

Town Attorney Stamm told the Mayor when he had discussed this with him earlier that he had not talked to the county registrar but noted that Town

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Manager Saunders did. Mr. Stamm said that he was sure that they could work it out but there might be a cost to the Town.

Councilmember Nunn confirmed that there would be a cost to the Town because Grace Church and the rescue squad building were already polling places and the firehouse would have to be opened up.

Mayor Booth asked if this was pursuant to the comments made by the Town Manager that a special election would have to be held at a separate polling place.

Town Manager Saunders stated that they would have to do something to keep non-Kilmarnock voters from voting in the Kilmarnock election when they were at the polling places because during the general election people from all over the county were voting.

Mayor Booth replied that made perfect sense and added that it was a work in process. Mayor Booth advised the audience that they tried to give them as much information as possible and ensured them that it would be done within the rules and guidelines that were set forth. Mayor Booth said that they would furnish all of the information as soon as they could.

Councilmember Donahue stated that he thought Mr. Spivey was asking how Council was going to appoint the appointees and what the procedure was going to be.

Mayor Booth said that the Town would advertise the vacancies and interested individuals would be interviewed by Council.

Vice-Mayor Smith advised the audience that they knew there were two vacant seats so anyone interested in joining the Town Council needed to make their interest known.

Councilmember Nunn commented that Mr. Howard Straughan had received the next number of votes when he ran during the election.

Mayor Booth stated that they should not get into the specifics of candidates because at this time they had not even authorized the advertising of the vacancies which would be done later in the meeting. Mayor Booth said that Council had offered an explanation regarding the existence of the vacancies and the procedure that would be followed to fill them and would like to keep out of the specifics until action had been taken. Mayor Booth asked Councilmember Nunn if that would be alright with her.

Councilmember Nunn replied that it would.

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Mayor Booth stated that anyone who was a citizen of the Town of Kilmarnock as well as a registered voter was eligible to apply and would be welcomed.

4) Mr. Benny Balderson of 68 Venable Drive in Kilmarnock, VA, was present on behalf of the Kilmarnock Volunteer Fire Department and commented that he was not there to ask for money, which generated laughter. Mr. Balderson said that, on behalf of the fire department, he wanted to thank the Town for helping them with their roof. Mr. Balderson advised that it was greatly appreciated because the little bit of funds that they did have went toward training and equipment and noted it was a difficult task to raise money for the fire department. Mr. Balderson finalized by saying that what the Town had done was greatly appreciated.

Mayor Booth commented that the Town was glad to help and stated that everyone appreciated the job that they did. Mayor Booth said that he saw that Northumberland gave them some money as well.

Mr. Balderson replied that they did and commented how nice it was of them. Mr. Balderson hoped that everyone got a chance to see how nice the new roof looked and added that they had gotten their generator as well and it was ready to go.

5) Mrs. Betty Crowther of P.O. Box 1266, Kilmarnock, VA, stated that she has been a resident of Kilmarnock for thirty years. Mrs. Crowther said that her eyes were greatly opened when her father-in-law, Mr. Bobby Crowther, came in and applied for his water/sewer hook-up. Mrs. Crowther said that he received a receipt which was marked paid in full but later got word from an outsider that there might be more expense involved. Mrs. Crowther showed a little drawing on a piece of paper which she said stated that if the Town had to go from a line off of First Street there would be an additional \$4,500 expense and if they had to go off of a line on Bellevue there would be an additional \$7,000 expense. Mrs. Crowther explained that the drawing and information had been faxed to her. Mrs. Crowther said that she understood the Town's position on its being hard to give an exact quote regarding the lines. However, she highly recommended that the Town provide some sort of documentation so that when people came in to apply it would be well affirmed and disclosed that there could be additional fees. Mrs. Crowther commented that it was not like she was talking about \$10 or \$20 but thousands and thousands of dollars. Mrs. Crowther said that this must not have been the first time that this has happened because she had heard of similar situations. Mrs. Crowther thought that it would alleviate a lot of complaints and surprises as well as give future owners, builders, and consumers in the Town of Kilmarnock some peace of mind knowing that there were not going to be surprises to the extent of thousands of dollars.

Mayor Booth thanked Mrs. Crowther for coming.

## B. Planning Commission Report

Mayor Booth announced that Councilmember John A. Smith had been the liaison to the Planning Commission but noted that he had not been in attendance at the last few meetings. Mayor Booth stated that he would read a brief synopsis of what transpired at the meeting and would later appoint a replacement liaison. Mayor Booth read that the Planning Commission met on Monday June 13<sup>th</sup> and discussed sign ordinance amendments and examined examples of ordinances from other jurisdictions. Mayor Booth stated that the use of lights and animation were reviewed, and the focus was directed to controlling these types of lights in the Steptoe's District. Mayor Booth advised that staff was working on drafting a code revision to present at the next meeting. Mayor Booth finalized by saying that staff announced the recent submittal of a planning grant application called the Town of Kilmarnock Watershed Management Plan Study.

Mayor Booth asked Town Manager Saunders if he could explain what the grant would be used for.

Town Manager Saunders stated that for all general purposes it would help the Town with studying the stormwater situation and creating priorities for improvements that had to be addressed. Mr. Saunders said that in the older part of Town there was no stormwater management and the water just sort of ran off into gullies. Mr. Saunders stated that staff felt that they should look at the situation and see if there was anything that could be done to improve it.

Mayor Booth commented that Mr. Saunders had given a very good explanation and thanked him. Mayor Booth stated that as Mr. Saunders had said it was a study grant but noted that it was his understanding that there could be some implementation money required. Mayor Booth said that he did not want to see Kilmarnock put into place burdensome regulations with regard to watershed management. Mayor Booth stated that he was sure that the prudent people on the government bodies would see to it that the Town did not become a poster child for excessive regulation in this area.

## 5. Committee Reports

### A. Water/Sewer Committee: Town Manager Saunders

#### 1) Report from June 1, 2011 Meeting.

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

Town Manager Saunders reported that the Committee discussed the need to replace the door at the Hills Quarter Pump Station which he noted had

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been done. Mr. Saunders said that preliminary work had been done on the RFP for the Wiggins Avenue force main upgrades. Mr. Saunders advised that Utility Supervisor, James Seagle, reported that the water main to the Mercer Place project had been completed as far as the Town's responsibilities were concerned. Mr. Saunders stated that Mr. Seagle also reported that he was making progress on the database that was required for radio read meter installation. Mr. Saunders advised that when Mr. Seagle got back from his cruise then they would continue on with the project. Mr. Saunders stated that Mayor Booth had asked if there had been any feedback regarding the noise abatement project at the WWTP. Mr. Saunders said that he had not received any feedback recently and advised that they were still conducting tests to see how things went through the summer.

2) Committee Recommendations to Council.

There were no recommendations made to Council.

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

1) Report from June 2, 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 and asked Councilmember Nunn to give the report.

Councilmember Nunn stated that Town Manager Saunders reported that he hoped to have the open position on the Public Works staff, the one assigned to keeping the Steptoe's District clean, filled by the end of the week. Mrs. Nunn said that Mr. Saunders also reported that there had been a little progress on the demolition of the Davis building but not much. Mrs. Nunn said that after much discussion the Committee agreed to recommend to Council that the Town seek a court order requiring the immediate removal of the unsafe structure. Mrs. Nunn stated that the Committee discussed responses to Maintenance Code violation letters, both positive and negative. Mrs. Nunn said that after much discussion the Committee agreed to recommend that Council ask the Planning Commission to review existing penalties and suggest revisions that would increase penalties for repeat offenders of the Town's Nuisance and Property Maintenance Code Ordinances.

2) Committee Recommendations to Council

a. Recommend that Council seek a court order requiring immediate demolition of the unsafe structure next to Davis Dodge on Main Street.

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Mayor Booth advised that the Committee had recommended legal action to enforce a demolition order for the unsafe building owned by Edward Davis on North Main Street and entertained any discussion and or action from Council.

Town Manager Saunders advised that he had learned today that a demolition permit had been issued to a contractor who had said that he was going to start the demolition early next week. Mr. Saunders stated that he did not have the documents in hand to prove that and, therefore, suggested that Council take action in case nothing happened within a week or so.

Mayor Booth commented that if this could be done without taking legal action it would benefit the Town; however, he stated the question was if Councilmembers trusted that this will be done or did they want to defer action until next month.

**ACTION: Councilmember Nunn made a motion for action to be deferred at this meeting but if demolition had not begun by July 1, 2011 then the Town was to proceed in seeking a court order, seconded by Vice-Mayor Smith;**

Councilmember Donahue stated that he would like to modify the motion to say that if the demolition had not been done by the next Council meeting then the Town would seek the court order rather than have a date circled.

Mayor Booth replied that he did not believe the motion could be modified and had to be voted either up or down unless Councilmember Nunn accepted the modification.

Councilmember Nunn stated that since there had been so many delays she felt that a time limit needed to be set for July 1<sup>st</sup>.

Mayor Booth stated that Councilmember Nunn's motion needed to be voted on in its original form.

**Mayor Booth called for the vote which was 3 to 1 in favor of (Councilmember Donahue was opposed). Motion passed.**

b. Recommend that Council ask the Planning Commission to review the range of penalties for repeat violators of Nuisance and Property Maintenance Code.

Councilmember Nunn asked if there were monetary penalties in place now.

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Town Manager Saunders replied that there were various penalties in place but they were not all uniform. Mr. Saunders advised that there were no escalating penalties in place for repeat offenders and that was what they were asking the Planning Commission to take a look at.

Councilmember Donahue asked if staff had ever enforced the penalties already in place.

Town Manager Saunders replied that they have.

**ACTION: Councilmember Nunn made a motion to turn this matter over to the Planning Commission and ask them to review the range of penalties for repeat violators, seconded by Councilmember Donahue; and carried unanimously.**

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 June 14, 2011 meeting

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

Vice-Mayor Smith said that the Committee discussed the final draft of the local incentive package for the Enterprise Zone. Agreement was reached to offer the incentives to all businesses (with identified exceptions) and that the incentives were of a rebate nature to be paid following an application and qualification process. Mr. Smith continued by saying that the incentives involved BPOL licensing, water/sewer connection fees, water/sewer usage rate reductions and real estate taxes to qualifying businesses. Mr. Smith said that the Committee was recommending that Council approve these changes and forward them to the Northern Neck Planning District Commission for inclusion as a change to the Northern Neck Enterprise Zone. Mr. Smith added that this would require a public

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hearing in September as part of an amendment to the Northern Neck Enterprise Zone. Mr. Smith said that the Committee also discussed RCC's plans for satellite facilities in the area. Mr. Smith stated that the Committee reviewed the upcoming rack brochure branding the Northern Neck (from the Northern Neck Tourism Commission) that would be placed in all VDOT VA Welcome Centers and directed staff to reserve space promoting Kilmarnock and its amenities.

Councilmember Nunn announced that the Town had purchased a \$1200 ad.

Councilmember Donahue stated that Mr. Spivey had suggested that the Town spend \$50,000 to \$100,000 and noted that they had a long way to go.

Vice-Mayor Smith stated that Kilmarnock Entertainment Center had requested a resolution from Council to support its desire to host the 60<sup>th</sup> Annual VA Peninsula USBC Open City Championship which was a multi weekend bowling tournament to be held in January/February 2012. Mr. Smith said that this event would attract several hundred people to Kilmarnock who had probably never been here before.

## 2) Committee Recommendations to Council

Recommend that Council adopt Resolution of Support for the 60<sup>th</sup> Annual VA Peninsula USBC Open City Championship.

Vice-Mayor Smith advised that a copy of the resolution was included in each Councilmember's packet and he read it out loud. (See Attachment)

Mayor Booth said that Councilmember Donahue certainly had the facility to host the event and noted that he was in support of it.

Councilmember Nunn stated that she would like to support the resolution but had a problem with one sentence that was in it. Mrs. Nunn said that the sentence in question was "We take this opportunity to extend our collective support and offer to help in any way needed". Mrs. Nunn commented that the Town would be glad to help except at the expenditure of taxpayer money. Mrs. Nunn asked if the event would require extra police officers or anything.

Councilmember Donahue replied not that he was aware of.

Councilmember Nunn commented that the months of January and February were a terrible time economically and added that this would be a good thing; however, she wanted to know if there would be enough hotel rooms for everyone.

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Councilmember Donahue said that they hoped to have enough but noted that there could be anywhere from 500 to 1,000 people in Town.

Councilmember Nunn stated that the Tides Inn was closed during those months.

Mayor Booth commented that a lot of people would be commuting and not staying.

Councilmember Nunn asked where the people would be coming from.

Councilmember Donahue replied Yorktown, Hampton, Virginia Beach and even further.

Councilmember Nunn stated that she was in support of the resolution but did not like the wording "help in any way needed".

Mayor Booth suggested that Mrs. Nunn could make the motion to adopt the resolution but add that it would not be funded by the Town in any way. Mayor Booth advised that the modification would be part of the motion but not part of the resolution.

**ACTION: Councilmember Nunn made a motion to adopt the Resolution of Support for the 60<sup>th</sup> Annual VA Peninsula USBC Open City Championship and render support to the event with the exception of using any taxpayer dollars, seconded by Vice-Mayor Smith; and carried unanimously.**

F. Town Centre Committee:

1) Report from June 14, 2011 meeting

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

Councilmember Nunn advised that the Committee discussed the deficiencies of the current Town Hall and Police offices and instructed staff to be prepared within sixty days to recommend a course of action to improve the situation. Mrs. Nunn said that a proposal was presented to the Committee but the persons extending the proposal had requested sixty additional days. Mrs. Nunn commented that they were on hold until August. Mrs. Nunn stated that the Committee also discussed the need for a master development plan for public

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facilities on the Town Centre lot but action was delayed until after a Town Hall course of action was determined. Mrs. Nunn said that the Committee agreed that the Scottie Yard Dog Park grand opening was successful and noted that there were still some things that needed to be done to bring the park to completion. Mrs. Nunn commented that people really liked it, and she had received lots of phone calls about it. Mrs. Nunn finalized by saying that so far there had been no problems there, so they were doing well. Mrs. Nunn added that she was very glad that Councilmember Jones was at the meeting and noted that he had some really good ideas.

## 2) Committee Recommendations to Council

There were no recommendations made to Council

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

#### 1) Report from June, 2011 meeting.

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

Vice-Mayor Smith advised that the Committee continued to discuss the FY2012 budget which would be covered under Old Business. Mr. Smith stated that financial reports ending in the month of May were included in each Councilmember's packet and additional information received from the Town Office today actually took them up to June 10<sup>th</sup>. Mr. Smith advised that the Town's revenues were up slightly over last year and the Town was going to exceed the budget revenue projections. Mr. Smith stated that the Town's expenses were considerably lower than what had been budgeted for. Mr. Smith advised that one of the items that rolled into that surplus was BPOL which was up \$30,000 this year and was basically at the same level that it was for 2007 and 2008. Mr. Smith said that it actually resulted in a 15% increase over what had been budgeted for this year. Mr. Smith stated that the total revenue was \$3,713,000 with total expenses at \$3,559,000 with a surplus of \$153,800 which did not include the reimbursement from the Mary Ball Road Block Grant that amounted to \$251,899. Mr. Smith advised that the Town was looking to have a surplus of \$406,000 on the current budget. Mr. Smith continued by saying that the Committee spoke with Town Manager Saunders concerning the implementation of the on-line payment system but noted that the service had hit a snag with the accounting software provider but a fix was underway. Mr. Smith hoped that at least utility payments would be possible in the near future and noted that some Councilmembers were going to be used as experiments to make sure it was operating properly. Mr. Smith stated that Town Manager Saunders reported that it would be necessary for Council to adopt a resolution opting out of the VRS Line of Duty Act pool and enrolling in the VML LODA pool at this time. Mr. Smith said that there was considerable discussion

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regarding the liability that could accrue to the Town if the matter was not attended to.

2) Committee Recommendations to Council

a. Recommend that Council approve the disbursements from May 17, 2011 to June 20, 2011 totaling \$305,760.29.

**ACTION: Councilmember Nunn made a motion to approve the disbursements from May 17, 2011 to June 20, 2011 as presented, seconded by Vice-Mayor Smith; and carried unanimously.**

b. Recommend that Council adopt a resolution opting out of VRS Line of Duty Act Benefit Pool.

Vice-Mayor Smith said that a copy of the resolution was included in each Councilmember's packet.

Mayor Booth asked Town Manager Saunders if he would explain what all of this was about to the other Councilmembers because he had done such a fine job in explaining it to him.

Town Manager Saunders advised that the Line of Duty Act was a benefit for police, firefighters and emergency responders which was enacted some years ago by the general assembly and was funded until last year by the state. Mr. Saunders said that the state fell on hard times and decided that they could not afford it anymore. Mr. Saunders advised that they had expanded on their benefit package and included a number of other things and noted that the table showing what this would cost going forward was very scary. Mr. Saunders said that right now the Town had to agree to fund it one way or another. Mr. Saunders advised that he studied this and talked with a number of people and was recommending that the Town not participate in the state sponsored pool but opt into the VML pool. Mr. Saunders hoped to find that the expenses would not continue to escalate but were reduced with future acts of the general assembly. Mr. Saunders said that the Town was lucky in the aspect that the only folks that they were responsible to cover were its police officers. Mr. Saunders stated that the county agreed to cover all of the volunteer firefighters and rescue personnel. Mr. Saunders finalized by saying that this was not something that was mandated by the state and each community had to work it out as partners.

Councilmember Nunn asked how much this was going to cost.

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Town Manager Saunders replied that right now the benefit cost about \$250 per officer per year but noted that the projections were that over the course of four or five years it could be as much as \$1000 per officer per year.

Councilmember Nunn asked how much it was going to cost with VML.

Town Manager Saunders replied that the projections were approximately 30% less.

Councilmember Jones asked if the officers would have the same coverage.

Town Manager Saunders replied that they would because all of the benefits were mandated by the state.

Councilmember Nunn asked if it was 30% less than \$1000 or 30% less than \$250.

Town Manager Saunders replied that each year it was projected to go up in cost.

Councilmember Donahue asked if Chief Bedell had any comments on this subject.

Chief Bedell replied that all of this had caught him by surprise.

Mayor Booth asked if the Town Attorney wanted to weigh in on the topic.

Town Attorney Stamm stated that he would definitely weigh in by saying that the legislature was not going to help pay for it and noted that the VML had a perfectly good program.

Councilmember Nunn stated that if Mr. Saunders has researched it in his usual manner and was recommending that Council do this then that was what should be done.

**ACTION: Councilmember Nunn made a motion to adopt the Resolution to opt out of the VRS Line of Duty Act Benefit pool and enroll in the VML LODA pool, seconded by Councilmember Jones; and carried unanimously.**

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

### **A. Mary Ball Road CDBG**

Town Manager Saunders reported that the contractor on the Mary Ball Road Project had to pull off for two weeks to take care of an emergency somewhere else but was back on site now. Mr. Saunders stated that the contractor had said that he was going to bring in an additional crew to help make up for lost time and would still have the project finished by the end of August.

### **B. Application for Stormwater Study Grant.**

Previously discussed during the meeting.

### **C. Meet and Greet with Senator Ryan McDougle**

Town Manager Saunders advised that he was fortunate to attend a meet and greet with State Senator Ryan McDougle who would be representing Lancaster County, the Town of Kilmarnock and most of the lower Northern Neck in the Senate of Virginia. Mr. Saunders stated that the event was held to put faces to names and discuss general concerns. Mr. Saunders commented that he was happy to have participated in that event.

### **D. Participation Check Received**

Town Manager Saunders was happy to report that the Town had received the cost participation check from the Bank of Hampton Roads to help pay for the Mary Ball Pump Station because of its connection to the Grace Hill Subdivision.

### **E. Requirement to Adopt New Fund Balance Policy**

Town Manager Saunders stated that he was not an accountant and jokingly added that he was proud of that which generated laughter. Mr. Saunders said that this requirement was semantics more than anything else but would help to bring the Town into compliance which was what the auditors wanted to see. Mr. Saunders noted that it would not change the way that the Town handled money but implement new terms to describe the various reserve funds.

Mayor Booth inquired as to what would be changed.

Town Manager Saunders replied that the terminology would change in regards to how they describe various accounts. Mr. Saunders said that the Town had been calling the accounts by their own names and the county was doing the same. Mr. Saunders stated that this was an effort to get everyone in unison.

**ACTION: Vice-Mayor Smith made a motion to adopt the New Fund Balance Policy as presented, seconded by Councilmember Nunn; and carried unanimously.**

## **8. Old/Unfinished Business**

Second Reading and Adoption of Fiscal Year 2012 Budget, Including Proposed Reductions in BPOL Tax Rates

Rate Changes:

A. All classifications currently taxed at \$.12 per \$100 of gross receipts to be taxed at \$.108

B. All classifications currently taxed at \$.18 per \$100 of gross receipts to be taxed at \$.108

C. All classifications currently taxed at \$.35 per \$100 of gross receipts be taxed at \$.23

D. No changes to the wholesale classification at \$.023/100 or the fixed flat rate classifications.

Mayor Booth wanted to state on his behalf that he ran a business in Town and that a reduction in the BPOL tax (albeit minimal) did benefit him personally. Mayor Booth asked if there were any other Councilmembers who wanted to make a similar declaration.

Town Attorney Stamm advised that even though he would not have a vote in this matter he also had a business in Town and the reduction in the BPOL tax would benefit him as well. Town Attorney Stamm said that it was not a high end conflict of interest because no one would have to declare that they owned a home in Kilmarnock although it would be obvious because they were on Council. Town Attorney Stamm commented that it was good for Council to disclose what they had.

Mayor Booth said that his thoughts were that right down to real estate taxes and personal property taxes, even though people had made an issue of this, it really did not stand to reason. Mayor Booth stated that everybody, as the Town Attorney had mentioned, had a home and personal property in Town and the reality was that if Council could never vote on any tax issues that would benefit them minimally there would be no one to vote on anything at any time. Mayor Booth said that the Town would have to ship in a council to make those votes for them. Mayor Booth stated that the arguments that had been raised in this regard did not stand to reason, and he thought some of the attacks on the good people

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who serve on Council were somewhat shameful. Mayor Booth advised that in saying that he had declared his potential conflict.

Vice-Mayor Smith stated that he was a partial owner of a professional company in Town and noted that at this point it was a 33 1/3 % ownership and noted that the actual tax savings for his business would be \$60 per year and his part would be a savings of \$20 per year which if he divided by 12 would give him a savings of about \$1.80 a month.

Councilmember Donahue stated that he owned several businesses in the Town of Kilmarnock that would benefit from the BPOL tax reduction being proposed. Mr. Donahue said that like Vice-Mayor Smith had stated it was not a significant amount of money but it was an act of good faith especially if they looked at the Town of White Stone who could not reach their budget and were proposing to implement this tax. Mr. Donahue said that if they were going to be aggressive in keeping businesses in Town and attracting new ones then he thought the appropriate thing to do was to reduce the BPOL tax rate to the business community but noted that he would benefit from that.

Councilmember Nunn stated that what she did not understand was if the savings were so minimal and they were hardly paying any BPOL tax at all then why they thought that this was going to bring new businesses to Town especially if they were only going to save \$20. Mrs. Nunn said that it just didn't compute. Mrs. Nunn advised that the two biggest savers in lowering the BPOL tax were going to be Wal-Mart and the medical services billing. Mrs. Nunn stated that it had not been proven that the reduction of BPOL tax would bring businesses into the area and as the Vice-Mayor had just told them the BPOL was up \$38,000 for this year which was a 15% increase showing that businesses were coming in. Mrs. Nunn stated that if they were only saving \$20 per year she did not see how that was going to help a business or even a \$60 savings for that matter. Mrs. Nunn said that she did not see businesses deciding to go to White Stone instead of Kilmarnock because of a \$60 fee.

Councilmember Donahue stated that he and Councilmember Nunn agreed on that one point which was that \$60 was not a significant number but noted that for the past several years it had been said that Kilmarnock was anti-business friendly, and he felt that this gesture extended an olive branch saying that they were trying to do something to help in these tough economic times. Mr. Donahue said that if it was not going to have a significant impact on the budget then he thought that they should do it. Mr. Donahue advised that he had talked to numerous business people over the past few weeks and had a 3 page letter from Dunn Rite Auto stating how they felt about business taxes in the Town of Kilmarnock. Mr. Donahue said that numerous other business people had asked Council to do something to help them during these tough economic times. Mr. Donahue reiterated this was an olive branch saying that although the Town was aware of their situation there was not a heck of a lot that could be done but here is

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something to get moving in the right direction. Mr. Donahue finalized by saying that was all it was.

Vice-Mayor Smith stated that he had conducted quite a bit of research on this issue that he wanted to share with Council and the audience. Mr. Smith said that since 2010 Kilmarnock had lost 27 businesses out of a total of 293 however during that same time period they picked up 11 but still had a net loss of 16 businesses. Mr. Smith advised that meant that 1 out of every 11 businesses that were in Town was no longer in existence. Mr. Smith advised that even though the BPOL tax revenues were holding their own or increasing, the business presence was declining. Mr. Smith stated that, based on the revenues he gave earlier, more than 65% of those revenues came either directly or indirectly from the Town's business merchants. Mr. Smith said the remaining, which was less than 14% of those monies, was generated from the residents through real estate taxes, personal property taxes, utility taxes, and motor vehicle taxes. Mr. Smith stated that any remaining percentage came from other revenue streams not associated with the businesses or residential sector. Mr. Smith asked where would Kilmarnock be without the local businesses and added that personally he would not be able to be a Town resident and pay what he was paying today in order to have the amenities that he had. Mr. Smith felt that they really needed to reach out and let the business community know that they realize that economic times were bad and that financially the Town was in the place where they could do this. Mr. Smith stated that ultimately it would not affect the residents whatsoever. Mr. Smith said that their hope was to continue to maintain the level or increase the business percentage which would help eliminate any future increases that they would have to impose on the residents. Mr. Smith advised that the reduction in BPOL would send the message to our business community that the Town heard that they were struggling and wanted to help. Mr. Smith said that BPOL was the only tax today that was direct and came from the business community with the exception of the real estate and personal property taxes. Mr. Smith added that everything else was a flow-through. Mr. Smith advised that a business could be non-profitable with a negative income at the end of the year and still have to stroke the Town of Kilmarnock a check because BPOL was based on the gross revenues coming in and not the bottom line. Mr. Smith stated that they were proactively trying to keep the business population here so that there was no additional burden placed on the residents.

Mayor Booth thanked Vice-Mayor Smith for his outstanding summary and concurred with it in totality.

Councilmember Jones stated that he could not support this because nothing was done for the residents of the Town and it catered to the businesses and businesses only. Mr. Jones felt that some of the residents were struggling on fixed incomes and were trying to meet the rising costs and no one reduced their taxes by even one penny. Mr. Jones advised if that had been done at least by one

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cent he would support lowering the BPOL. Mr. Jones finalized by saying that as it stood now he was not going to support this.

Mayor Booth responded by saying to Councilmember Jones that he and other members of Council had played the residents of the Town against the businesses. Mayor Booth advised that there was not enough money in that tax pool comprising of real estate and personal property taxes and if the Town doubled them tomorrow it would not create a significant amount of money. Mayor Booth said that they were not going to raise taxes on the residents. Mayor Booth stated that he led the fight against the last real estate tax increase three years ago. Mayor Booth said that for him to use those tactics of trying to coerce the citizens of the Town into believing that somehow by giving the businesses a break, their taxes were going to go up was inappropriate. Mayor Booth advised that was not the case and was not factual. Mayor Booth said that it was misinformation and he strongly disagreed with Councilmember Jones' argument against lowering the BPOL tax. Mayor Booth said that real estate tax and personal property tax remained low and water/sewer rates had not been raised and he would fight to keep it that way.

Councilmember Jones replied that he did not know that he had played anybody.

Mayor Booth asked Councilmember Jones if he had any further comments because if so he would hear them.

Councilmember Jones stated that he did not.

Councilmember Donahue asked if they were just voting on the BPOL tax.

Town Attorney Stamm replied that this was the second reading and adoption of the budget including the reduction of the BPOL tax. Mr. Stamm said that Council was voting for the whole budget as proposed.

Councilmember Nunn asked Town Attorney Stamm if the BPOL tax could be voted on separately.

Town Attorney Stamm said that a motion could be with amendments but there could only be one motion for the whole budget.

Councilmember Donahue stated that his concerns were much broader than the BPOL tax and had to do with the whole procedure in which this budget was set. Mr. Donahue advised that he was on the Admin/Finance Committee and became very frustrated when he received this budget and saw that there were increases in salary for staff. Mr. Donahue said that he could not figure out why salaries were escalating. Mr. Donahue commented that when he, Mayor Booth and Vice-Mayor Smith were running for Council one of the things that they

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discussed was why the salaries for the Town of Kilmarnock were escalating so quickly. Mr. Donahue stated that he looked at the proposed budget and sure enough he saw that the salaries were going up 3% across the line in every department. Mr. Donahue said that he asked Town Manager Saunders at the Committee meeting what was going on. Mr. Donahue advised that he was told that staff was recommending a 3% pay increase for every employee that worked for the Town of Kilmarnock. Mr. Donahue stated that he asked Mr. Saunders if this raise was going to be for everyone and he said that it was and that was the way that the Town did it. Mr. Donahue said it did not matter if it was a new hire, someone on probation, or someone who had been with the Town for 25 years. Mr. Donahue stated that he was a little concerned about that because some Mayor out in California was making a million dollars a year and he wanted to know what the Town employees were making. Mr. Donahue said that he was denied access to what the Town employees made and he quoted directly that he was told "I can't tell you what someone is making". Mr. Donahue advised that Town Manager Saunders came back and said that he could tell him what a job description paid but could not disclose what the employees were making. Mr. Donahue said that he asked how he was supposed to vote and recommend a 3% across the board pay increase when he was not aware of what any Town employee was making. Mr. Donahue commented that something was wrong with this. Mr. Donahue stated that later on, Town Attorney Stamm got involved and said that staff had to disclose the information to him because he was on the Committee so, therefore, he needed to know. Mr. Donahue said that he continued to investigate and found out that the Town had a phenomenal fringe benefit package and commented that the local paper did not want to report that because they only wanted to report what they liked to report. Mr. Donahue said that the Town paid 100% of the employees' health care, dental coverage, eye exam coverage, and retirement coverage. Mr. Donahue noted that there was a deferred compensation plan as well which meant if an employee gave 20 bucks a month then the Town would have to match it. Mr. Donahue advised that he had government workers staying at the Inn and he showed all of this to them and asked what the Coast Guard was paying and was told that they did not offer these benefit packages even in the Coast Guard. Mr. Donahue stated that the Town of Kilmarnock was offering this and something was wrong. Mr. Donahue said that now Council was supposed to give a 3% increase across the board. Mr. Donahue reiterated that something was wrong and someone had to ask the question. Mr. Donahue commented that the employees, who were good, dedicated people had heard that they were going to get a 3% pay increase. Mr. Donahue stated that he was told that he was destroying morale around Town Hall because he was not going to vote for a pay increase but said that the employees should not have been told that in the first place. Mr. Donahue felt that it should have been discussed privately because these were proposals that members of Council were only thinking about. Mr. Donahue asked when the employee started telling the employer what they wanted for a pay increase. Mr. Donahue asked everyone to think about that because management told the Admin/Finance Committee what they were recommending for a pay increase. Mr. Donahue advised that it was not the Committee saying that the employees had

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done a good job and this was what the pay increase should have been. Mr. Donahue stated that if no one had questioned it, the Town would have just given it. Mr. Donahue advised that there were some people who worked in the Town Office who deserve better than 3%. Mr. Donahue said that he did not like the way that it was being run across the board at 3%. Mr. Donahue advised Town Manager Saunders that he thought that he handled this poorly. Mr. Donahue stated that there should have been a lot more disclosure than the way it was handled. Mr. Donahue commented that even Councilmember Nunn agreed with him; however, she might not tonight that this was handled poorly. Mr. Donahue reiterated that it should have been handled differently than what it was. Mr. Donahue stated that now they were stuck. Mr. Donahue commented that there were good people who were very upset. Mr. Donahue said to take a look around the room because normally there was not every employee who worked for the Town present but commented it was their livelihood that was being discussed. Mr. Donahue wanted to know how many of the employees actually lived in the Town of Kilmarnock out of the 15 to 20. Mr. Donahue stated that Council had to do what was best for the Town of Kilmarnock and not what was best for the employees in these tough economic times. Mr. Donahue advised that was all he was saying and added that he did not disagree that the employees did a great job and were entitled to a raise but the execution was lousy.

Councilmember Nunn told Mr. Donahue that she agreed with him that she was not sure that there should be a 3% increase but did not agree with him that Town Manager Saunders had handled this poorly.

Councilmember Donahue commented to Councilmember Nunn that she could go ahead and retract it now.

Councilmember Nunn reiterated that she did not agree with him that Mr. Saunders had handled things poorly.

Councilmember Donahue reiterated that she could go ahead and retract it now.

Councilmember Nunn advised Mr. Donahue that they did not even discuss Mr. Saunders. Mrs. Nunn told Mr. Donahue not to sit there and act like they did.

Councilmember Donahue said to Councilmember Nunn that she came to him right after the last meeting.

Councilmember Nunn replied that she did, but they never discussed Mr. Saunders.

Mayor Booth stated that he wanted to move on and asked Councilmember Jones if he had any comments.

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Councilmember Jones asked Councilmember Donahue if his statement regarding the deferred compensation plan for employees was that if the employee put in \$20 then the Town would match it.

Councilmember Donahue replied that was what he read in the report.

Councilmember Jones advised Mr. Donahue that he was making it sound like if an employee put in a hundred dollars the Town would match it.

Councilmember Donahue replied that \$20 was the max.

Councilmember Jones told Mr. Donahue that he was making it sound that way though.

Councilmember Donahue stated that he wanted to be very clear that it was \$20 max.

Councilmember Jones said that the Town matched only half up to \$20 and told Mr. Donahue that he was wrong.

Councilmember Donahue asked Councilmember Jones to tell him what other localities did that.

Councilmember Jones replied that the state did that.

Councilmember Donahue said that he was talking about a little Town like Kilmarnock.

Councilmember Jones stated that when he served on the Admin/Finance Committee this was provided to the employees as supplemental retirement and a sign of respect. Mr. Jones said that not all of the employees were a member of this and said that there were only about five.

Councilmember Donahue replied that was their option.

Councilmember Jones said that it was not a big deal like Mr. Donahue was trying to make it out to be and noted that Vice-Mayor Smith was only putting out \$20 a year for his BPOL tax. Mr. Jones asked Mr. Donahue where the big deal was. Mr. Jones continued by saying that the Town was only paying the employee's health care and if the employee added a family member it came out of their pocket. Mr. Jones stated that the 3% raise showed a sign of respect for the employees. Mr. Jones stated that these were bad economic times and the price of everything was going up but the employees had to live. Mr. Jones stated that some of them were struggling as well.

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Vice-Mayor Smith stated that he felt that they might be mixing apples with oranges as far as the budget process was concerned because in his mind what they did as far as the budget went was to put parameters in place to allow for potential increases. Mr. Smith said that if they put a 3% increase in there based on where the salaries were last year, in his mind that did not necessarily state that everyone was getting a 3% raise.

Councilmember Donahue stated that was what they were told in the first meeting.

Vice-Mayor Smith replied that it might have been but he did not remember that. Mr. Smith advised that he knew the numbers they were using showed a 3% increase total but added that did not mean that a certain employee got x amount. It was more like this was a department, Mr. Smith added, and a 3% increase was where they were. Mr. Smith said that gave the parameters as far as what their comfort level was and as far as what they could handle. Mr. Smith stated that in his opinion it should not be Council's decision to say what employee deserved what percentage unless brought into those conversations because at the end of the day Council was approving, if it went through, a 3% increase over what the salary levels were today. Mr. Smith said he did feel that there was some merit in further conversations and that was something that the Adm/Finance Committee would have to look at as far as better procedures and processes.

Councilmember Nunn asked if this budget was passed would every employee get a 3% raise.

Town Manager Saunders replied that it would depend on Council's future action.

Councilmember Nunn stated that maybe one employee was not as good at their job as another employee was and wanted to know if that employee would get the raise too.

Town Manager Saunders replied that would not be his intention.

Councilmember Nunn felt that the wording was off because when it said across the board it meant that everyone would get a 3% raise. Mrs. Nunn said that she did not think that the new police officer should receive it if he had only been with the Town for three months.

Vice-Mayor Smith said that he did not think the new police officer should get the raise either. Mr. Smith said that he felt that each individual person should be looked at to see what they have done, what their performance was, and it could be possible that someone might not get any raise and someone else get 5%.

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Councilmember Nunn said that the old, old Council, the one previous to when she came on had just given a 4% across the board pay raise and she just did not understand that. Mrs. Nunn stated that there should be some consideration for merit.

Joan Kent excused herself for interrupting but asked Mayor Booth if it would be possible to address Council. Mrs. Kent stated that she thought this matter was still in the public hearing stage and missed her opportunity to speak earlier in the meeting.

Mayor Booth allowed Mrs. Kent to speak.

Mrs. Kent stated that she did not live in Kilmarnock but was once a full time employee of the Town. Mrs. Kent advised that she worked for Kilmarnock Police Department from 1999 until 2007. Mrs. Kent addressed Councilmember Donahue regarding his mention at a previous Council meeting of the Springsted Study. Mrs. Kent advised that she was a part of that study and was one of the people who worked for the Town and was underpaid even with the benefit package included. Mrs. Kent said that she left Kilmarnock in 2007 and went back to work for Lancaster County because she would be making more money with better benefits. Mrs. Kent said that it was important that Council remember that the people who work for the Town whether it be for the police department, WWTP, in the office, or in public works were people who chose to take a safe secure road in life. Even though the pay was average, they would make enough to pay their mortgage, buy their groceries, and would have their health insurance and retirement plan. Mrs. Kent stated that she could guarantee that not one Town employee had gotten rich by working for the Town. Mrs. Kent added but that was their choice in life which was to take the safe, secure road. Mrs. Kent said that these people did not go into business for themselves or reap any benefits when the economy was good and now when the economy was bad it seemed as if they wanted to take the 3% raise from them. Mrs. Kent said that these were people who were out in 95 degree weather fixing a water leak or in 19 degree weather fixing a busted water main with icicles hanging off of them in the middle of the night so that the businesses could open up the next day. Mrs. Kent continued by saying that they were the ones who got out of their bed in the middle of the night when an alarm sounded at the WWTP or there was a problem. Mrs. Kent added that they were the ones that were up at night patrolling and protecting the businesses and residents while everyone else slept soundly in their beds. Mrs. Kent asked where the Town would be without them. Mrs. Kent said that Judy Stevens had kept the Town's books for many years and had passed every audit. Mrs. Kent stated that the ladies who worked in the office kept things running smoothly as well as the guys who worked out in the field. Mrs. Kent said that the Town was successful because it had a good work force behind it. Mrs. Kent commented that when the economy was good the businesses were reaping the benefits. Mrs. Kent said when the businesses' cash flow was good there was no extra cash going to the Town employees but that was okay with them because they were the ones who chose to take the safe, secure route and

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not to go into business for themselves. Mrs. Kent stated that now that the economy was bad and some of the businesses did not save for a rainy day they felt like the 3% raise should not be given to the employees. Mrs. Kent said that she got upset when she heard Council talking about the employees benefit packages because the employees had those benefits for a lot of years when they were not making the pay that they are making now. Mrs. Kent said that when the Springsted Study was done it showed that a lot of Town employees were underpaid. Mrs. Kent asked Council to please take time and think about this issue and to think about the employees who were faithful to the Town.

Mayor Booth stated that he would like to urge fellow Councilmembers to do the following. Mayor Booth said that he believed that the BPOL tax reductions were prudent and should be made as presented and not reduced in any capacity. Mayor Booth said that he also had some considerations about how this pay raise was presented and stated that he too agreed with Councilmember Donahue in that the cart was presented before the proverbial horse. Mayor Booth continued by saying that given the fact that the Town did have some very good employees and he effectively believed that they were almost promised this raise prematurely he proposed the following modification to the budget with respect to pay increases. Mayor Booth stated that the pay increase would not supersede 3% for any employee and be recommended by the Town Manager subject to the approval of the Adm/Finance Committee. Mayor Booth said that he did not mean to say pay increase that would extrapolate over the course of time but a one-time bonus as a reward to employee service. Mayor Booth stated that future compensation would be considered at the appropriate time. Mayor said that he did believe that Council should conduct a much more thorough and broader review of employee payrolls in the future which was a concern of Mr. Donahue's and he agreed with him. Mayor Booth recommended to fellow Councilmembers that the budget and BPOL package be passed with BPOL reductions intact, and limiting the pay increases to up to a 3% bonus for any particular employee to be recommended by Town Manager Saunders and to be approved by the Adm/Finance Committee as the final arbiter and take a broader review of employee payroll in the future.

Councilmember Nunn stated that she did not think that the Town Manager should have to turn employee pay decisions over to the Adm/Finance Committee because the Town Manager was the one that did the employees' job performance reviews. Councilmember Nunn felt that if Council started doing this then they were micro-managing because the Town Manager did run the Town or rather was the administrator to the Town Staff.

Mayor Booth stated that they respectfully disagreed with that.

Vice-Mayor Smith stated to the Mayor that the comments that he had just made did not affect anything pertaining to the budget because they were still looking at the 3% boundary. Mr. Smith said that, therefore, he did not know if it

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was necessary at this point in approving the budget that was in place that any of this would come into play because it would not change any of the numbers.

Town Attorney Stamm stated that it was semantics and asked if the pay increase was included in the budget in the payroll lines.

Vice-Mayor Smith replied that it was.

Town Attorney Stamm asked if there was a note that stated that it was to be meted out by quality assurances by the Town Manager and if there was not the "across the board" could probably be legally erased but then he really did not know once it was changed from being in the payroll to being a bonus or whatever it was that the Mayor wanted.

Mayor Booth told Town Attorney Stamm that was what they were asking him. Mayor Booth said that he was asking theoretically at this point because no one had made a motion yet but wanted to know if one Councilmember made the motion to convert the salary increase into a bonus and put the restrictions on the hypothetical 3% to be recommended by Town Manager with final review by the Adm/Finance Committee was there a way to put those restrictions on the money in the budget. Mayor Booth stated that they could not just blindly approve this without restrictions.

Town Attorney Stamm replied that he knew that Mr. Saunders' intent was to issue out the raise based on merit and told Mayor Booth if he wanted restrictions on it then he would have to put them on it and he could not increase anything at this point.

Vice-Mayor Smith asked once again if Council wasn't just mixing apples with oranges when looking at the budget because they were talking about dollar items and not drilling into specifics.

Town Attorney Stamm replied that the budget was a general appropriation and that Council was not passing a motion that told Town Manager Saunders to make those pay increases. Mr. Stamm said that they were proposing the money in the budget so that if it did occur the money would be there and there would not have to be a special budget meeting.

Mayor Booth asked if a Councilmember wanted restrictions on how that money was administered and it was in the form of a motion then those restrictions would apply would it not.

Town Attorney Stamm said that was correct.

Mayor Booth asked Councilmembers if either of them wanted to make a motion.

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**ACTION; Vice-Mayor Smith made a motion that the budget be approved as presented, seconded by Councilmember Donahue;**

**DISCUSSION:**

Councilmember Jones asked if this motion allowed the employees to have their 3% raise or not.

Mayor Booth said that he believed that the motion authorized the numbers but he was not sure whether or not Council would revisit the matter in another vote regarding authorization and changing the raise to a bonus. Mayor Booth turned to Attorney Stamm in this matter for help.

Town Attorney Stamm stated that if they passed the proposed budget as it was then they passed it as salary.

Town Manager Saunders stated that was not so. Mr. Saunders said that Council made the money available in an expense category and how it was implemented was up to Council.

Councilmember Jones said that if they voted for the budget the way it was then they were voting for the BPOL tax reduction which was what he was against.

Councilmember Nunn confirmed that was correct.

**Mayor Booth called for the vote: which was 2 in favor of (Vice-Mayor Smith and Councilmember Donahue) and 2 opposed (Councilmember Jones and Councilmember Nunn) Mayor Booth broke the tie by voting in support of the motion. The motion passed with a 3 to 2 vote in favor of.**

**9. New Business**

**A. Council Vacancy: Authorization to Advertise for Candidates**

Mayor Booth stated that the next order of business was to discuss the Council vacancies. Mayor Booth stated that he was appointing himself to serve as Council Liaison to the Kilmarnock Planning Commission in lieu of Councilmember Smith's resignation. Mayor Booth said he looked forward to working with them and hoped to reduce some of the contention between the two boards.

Mayor Booth asked Town Attorney Stamm to explain what was needed regarding advertising for the Council vacancies.

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Town Attorney Stamm stated that a resume or letter of interest was to be received by the Town Manager by a certain date. Mr. Stamm said that the interested persons would be interviewed by the Council and then voted on by the Council. Mr. Stamm said that an advertisement for the vacancies would be placed in the Rappahannock Record.

Mayor Booth advised that in order to meet the 45 day limit, both vacancies would have to be filled at the next Council meeting.

**ACTION: Councilmember Donahue made a motion to authorize staff to advertise for candidates to fill the vacancies on the Kilmarnock Town Council, seconded by Vice-Mayor Smith; and carried unanimously.**

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

**ACTION: Vice-Mayor Smith made a motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (7) Legal Counsel about probable future litigation, seconded by Councilmember Nunn; and carried unanimously.**

Mayor Booth called for a 10 minute recess prior to Closed Session at 8:55 pm.

Council entered into Closed Session at 9:05 pm.  
Regular Meeting reconvened at 9:27 pm.

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

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

Booth, Raymond C., Jr. - yes

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Donahue, Shawn – yes  
Jones, Paul S. - yes  
Nunn, Rebecca T. – yes  
Smith, William L. – yes

## **9. Council Comments:**

Vice-Mayor Smith was asked to summarize the comments that he had made prior to the return of the Clerk. Mr. Smith said he had noticed some inconsistencies in the reporting of who was present and who was absent on the monthly committee meeting notes that were distributed. Mr. Smith said he wanted the Finance/Administration Committee to look into giving this process more consistency in the future.

Mayor Booth said he had a comment as Mayor. Mayor Booth said that Councilmember Nunn wrote a Letter to the Editor on June 16, 2011 from which he read, "Already, without advertising the now open position, at least three people have told me they have submitted their names for appointment". Mayor Booth continued that he called the Town Office on Friday and not one person had submitted an application there. Mayor Booth indicated that he did not want the citizens to be misled.

Councilmember Nunn said the three people who talked to her were Joan Gravatt, Mei Li Beane, and Howard Straughan. Mrs. Nunn asked Mayor Booth if he was accusing her of lying, and he read the quote from the letter again.

Mayor Booth said the Town Office and Town Planner Sebra were asked if they had seen any applications and they were not aware of any.

Councilmember Nunn said she told the three people she talked to that the Planning Commission said they were going to advertise and they needed to talk to Jane Ludwig, Chairman of the Planning Commission, about the process.

Mayor Booth said there seems to be a communication problem. Mayor Booth continued that he hopes someone will apply and told Mrs. Nunn he was sorry for any misunderstanding.

## **10. Dates to Remember:**

Mayor Booth called attention to the dates in the agenda for upcoming meetings and noted that the Town Office will be closed on July 4, 2011, for Independence Day.

## **11. Adjourn:**

**ACTION: Vice-Mayor Smith made a motion to adjourn,**

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**seconded by Councilmember Donahue; and  
carried unanimously.**

Meeting adjourned at 9:38 pm.

Prepared by:

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

\_\_\_\_\_  
Raymond C. Booth., Jr., Mayor

\_\_\_\_\_  
Jacqueline L. Blencowe, Clerk