

July 16, 2012

**KILMARNOCK TOWN COUNCIL**  
**Monday, July 16, 2012**  
**Town Hall**  
**Kilmarnock, VA**

**Regular Meeting Minutes**

**1. Call to Order:**

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

Raymond C. Booth, Jr., Mayor  
William L. Smith, Vice-Mayor  
Shawn Donahue  
Emerson Gravatt

Rebecca T. Nunn  
Howard Straughan  
Mae P. Umphlett

**Staff Present:**

Tom Saunders, Town Mgr.  
Susan Cockrell, Asst. Town Mgr.  
Marshall Sebra, Zoning Admin/Planning Director  
Paul C. Stamm, Jr., Town Attorney  
Cindy Balderson, Town Clerk  
Joan N. Kent, Transcriber  
Michael S. Bedell, Chief of Police  
Pat Chenoweth, Chief Operator WWTP

Mayor Booth welcomed Kilmarnock residents, business owners, and guests and then led the recital of the Pledge of Allegiance. Mayor Booth recognized former Councilmembers Paul Jones and Denis Bouslough who were seated in the audience and newly elected Councilmember Howard Straughan to his first meeting.

**2. Acceptance and Approval of Agenda**

Vice-Mayor Smith requested to add a Closed Session as item D under Old Business as allowed in FOIA 2.2 -3711(A) Para (1) for the purpose of appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body.

**ACTION: Vice-Mayor Smith made a motion to add a Closed Session for reasons described above to the agenda as item D under Old Business, seconded by Councilmember Umphlett; and carried unanimously.**

July 16, 2012

**ACTION: Councilmember Straughan made a motion to approve the July 16, 2012 Town Council Meeting Agenda as amended, seconded by Councilmember Nunn; and carried unanimously.**

Councilmember Nunn asked Mayor Booth to be recognized.

Mayor Booth granted recognition and gave Mrs. Nunn the floor.

Councilmember Nunn stated that after someone had videotaped a Town Council meeting with their cell phone, Council decided to allow meetings to be videotaped but the person and equipment were to be confined to a specific area in the room. Mrs. Nunn advised that it was a citizen's right to videotape but since it was not being done by the Council, she asked a gentleman with camera to state his name for the record.

The gentleman replied that his name was Joe Besbeck.

Councilmember Nunn asked what company he was with.

Mr. Besbeck replied that he was not with a company.

Councilmember Nunn asked Mr. Besbeck who his client was.

Mayor Booth interceded and stated that Mr. Besbeck was videotaping the meeting at his request. Mayor Booth advised that as the Mayor he was entitled to archive the meetings.

Councilmember Nunn asked who was paying for Mr. Besbeck's services.

Mayor Booth replied that the service was provided at no cost to the Town.

Councilmember Nunn said that the Town would like to have a copy of the tape because thanks to photo-shop these days, the tape could be altered to make all of them look like idiots.

Mayor Booth said that since the video tape was being produced for him, he was certainly willing to share a copy of it with the Town.

Councilmember Nunn thanked Mayor Booth.

**3. Approve, Correct, or Amend the Minutes of the Regular Town Council Meeting held June 18, 2012.**

July 16, 2012

Councilmember Nunn advised there were two corrections that needed to be made to the Minutes. Mrs. Nunn said that one was on page 7 noting that Father Bruce was actually spelled as Father Bruse. The second was on page 11 which was the misspelling of by-laws.

**ACTION: Councilmember Straughan made a motion to approve the June 18, 2012 Town Council Meeting Minutes with the above corrections, seconded by Councilmember Nunn; and carried unanimously.**

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

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

Mayor Booth noted that no one had signed up to speak but said that he wanted to address an issue and placed his name on the sign-up sheet.

Councilmember Nunn told Mayor Booth that it wasn't necessary for him to sign-up in order to speak.

Mayor Booth advised that he was going to do it anyway so that he wouldn't have to worry about someone saying that he didn't do it correctly later on.

Mayor Booth stated that prior to being elected as Mayor he was the Chairman of the Kilmarnock Planning Commission. Mayor Booth said that he wanted to address two pending appointments for terms expiring on the Planning Commission which were also items of business on the agenda. Mayor Booth advised that those two seats were currently held by appointed members Dave Reedy and Jane Ludwig who was the present Chair of the Planning Commission. Mayor Booth said that those two outstanding members had served the Town for more than 30 combined years. Mayor Booth advised that both wished to be reappointed and it was the wish of the Planning Commission that they be reappointed. Mayor Booth stated that failure to reappoint either of the two or both would deprive the citizens of valuable experience. Mayor Booth said that their experience and years nearly tripled the public service experience of all of the Councilmembers and in his opinion, it would be unthinkable not to reappoint them for any reasons much less ones that may be political. Mayor Booth stated that those two fine Commissioners should be reappointed. Mayor Booth advised that morale was already low on the Planning Commission and not surprisingly so. Mayor Booth stated that the unpaid public servants on that body were tired of being labeled as "chickens" and being told that Councilmembers were the "roosters". Mayor Booth said that instead of removing them from participation in the Capital Improvement Plan Budget process which the Planning Commission

July 16, 2012

had traditionally done over the years, he believed that Council and staff should be using the approximate sixty combined years of experience and skills of the Planning Commission Members to its full potential. Mayor Booth stated that tensions between Council and the Planning Commission because of their exclusion from the CIP Budget process as well as from the Town's most recent election needed to be set aside. Mayor Booth advised that Council could start the process of mending fences tonight by supporting the reappointments that he had mentioned.

## **5. Planning Commission Report**

A meeting was held but no official business was conducted due to the lack of a quorum.

## **6. Public Hearing:**

A hearing was held to gain public input on a proposed text amendment to the Technology Zone Ordinance, Chapter 43, section 43-4 Boundaries. The proposed boundary would encompass parcels located east and adjacent to the existing Technology Zone, and immediately north of Grace Hill Development off of Harris Road; more specifically tax map numbers 28-155A, 28-138, and 28-138A.

### **a. Description of the Text Amendment**

Zoning Administrator/Planning Director Sebra advised that the tax map numbers in question were Town property and that a public hearing was held a few months to rezone this property. Mr. Sebra directed the Council's attention to a map on the wall where he identified the subject properties. Mr. Sebra advised Councilmembers that he had included a staff report, map, and the current technology zone coordinates in their packets. Mr. Sebra stated that the purpose of this hearing was to change the text regarding the boundaries portion of the ordinance. For the record, Mr. Sebra read the current text in the ordinance that would be replaced: "The technology zone shall be that area located within the following boundary lines: All that certain land bounded by Harris Road and following the line of the Town land to its common boundary with Rappahannock Hospital Corporation thence along the aforesaid common boundary to Harris Road." Mr. Sebra then read the proposed text: "The technology zone shall be all that certain land bounded by Harris Road to the West, DMV Drive to the North, headwaters of Dymer Creek to the East, completed by following along Town land and parcels adjacent Technology Park Drive to Harris Road. Displayed on an April 2012 map prepared by the Town of Kilmarnock." Mr. Sebra advised that the Kilmarnock Planning Commission held a public hearing on this issue during their June 11, 2012 meeting and was recommending to Council that the text amendment be approved. Mr. Sebra noted that both public hearings were properly advertised in accordance with state law.

July 16, 2012

- b. Mayor Booth opened the public hearing.
- c. Mayor Booth asked for public comments.

There were no public comments.

- d. Mayor Booth asked for staff comments.

Town Manager Saunders advised that Tech Park had been a tremendous engine for the Town's economic development and provided all of the tools to attract and develop businesses there.

- e. Mayor Booth closed the public hearing.
- f. Mayor Booth asked for Council comments and/or action.

Councilmember Gravatt asked if the land was already in Tech Park.

Town Manager Saunders said that it was and the new language was just to include it.

**ACTION: Councilmember Gravatt made a motion to adopt the proposed text amendment to the Technology Zone Ordinance, Chapter 43, sec. 43-4, Boundaries to encompass parcels located east and adjacent to the existing Technology Zone, and immediately north of Grace Hill Development off of Harris Road; more specifically tax map number 28-155A, 28-138, and 28-138A, seconded by Councilmember Straughan; and carried unanimously.**

#### **Committee Reports:**

A. Water/Sewer Committee: Councilmember Nunn, Chair

- 1) Report from July, 2012 Meeting

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

Councilmember Nunn advised that Town Manager Saunders reported that the plans for sewer line repair and upgrades to Waverly Avenue and Chase Street were undergoing a second review by VDOT which could take up to sixty days. Mrs. Nunn stated that there was a brief discussion of new rules for the

July 16, 2012

collection of delinquent water and sewer fees due to changes in the state code. Mrs. Nunn said that Town Manager Saunders would provide the Committee with a detailed recommendation on this after obtaining more information from VML. Mrs. Nunn announced that the Committee received official notice that the Town's WWTP had received laboratory certification which allowed them to perform much of its own testing. Mrs. Nunn advised that Chief Operator Pat Chenoweth was seated in the audience and deserved recognition for her hard work in achieving this goal. Mrs. Nunn advised that Ms. Chenoweth was saving the Town tons of money. Mrs. Nunn stated that employee P.J. Jones at the WWTP would be sitting for his Class III Operators License this week. Mrs. Nunn said that there were no problems reported at the treatment plant. Mrs. Nunn advised that Bill Rosenbaum reported that the Wiggins Avenue force main replacement was complete with the exception of the connection at the pump station. Mrs. Nunn stated that the contractor was waiting for delivery of a valve. Mrs. Nunn said that there was a review of change orders necessitated by VDOT requirements and that the pump station generator replacement bids were due later in the week.

## 2) Committee Recommendations to Council

Recommend that Council present Chief WWTP Operator Pat Chenoweth with a Certificate of Commendation for her successful effort to have the Town's lab achieve state certification.

**ACTION: Councilmember Nunn made a motion to present Chief WWTP Operator Pat Chenoweth with a Certificate of Commendation, seconded by Vice-Mayor Smith; and carried unanimously.**

Town Manager Saunders presented Chief WWTP Operator Pat Chenoweth with the Certificate which generated applause.

Mr. Saunders stated that it was extraordinary for a treatment plant the size of the Town's to have a certified lab and added that Ms. Chenoweth brought the skills with her from the big city and had been generous with her abilities.

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

### 1) Report from July, 2012 Meeting

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

July 16, 2012

Councilmember Donahue reported that Town Manager Saunders provided the Committee with an update on conversations held with the county regarding a proposed Kilmarnock ordinance on derelict structures. Mr. Donahue advised that this involved the adoption of real estate tax abatement for structures that were approved. Mr. Donahue noted that the question for the county was whether this would be a county wide adoption or adopted just within the Town limits. Mr. Donahue advised that Bill Hayden had requested that a cross walk be constructed from his properties on Irvington Road to Savannah Joe's and the Committee decided that location would not be a good area for such. Mr. Donahue stated that the Committee did discuss extending the sidewalks along South Main to Wiggins Avenue but added that there were several issues involved in doing so. Mr. Donahue said that the Committee would be conducting further review on this matter. Mr. Donahue stated that the Committee discussed making the Kilmarnock Playground safe and enjoyable for everyone. Mr. Donahue said that signs were placed at the playground saying that if a child was under 12 years of age they were welcome and if older they probably shouldn't be there. Mr. Donahue advised that Town Manager Saunders and Chief Bedell would continue to monitor the issue. Mr. Donahue stated that the Town Manager advised the Committee that additional handicapped parking spaces were needed in the downtown area. Mr. Donahue said that Councilmember Nunn suggested that the Committee consider an ordinance to curtail the number of signs that can be displayed during a local election. Mr. Donahue finalized by saying that the Bradford Pears at the Kilmarnock Post Office had been removed by the owners.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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

1) Report from July, 2012 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. Mr. Donahue took the opportunity to welcome Councilmember Gravatt to the Committee. Mr. Donahue said that it was his understanding that Chief Bedell went over KPD stats and there was a general discussion regarding the playground issues.

2) Committee Recommendations to Council

There were no recommendations to Council.

D. Emergency Preparedness Committee: Councilmember Umphlett, Chair

July 16, 2012

1) Report from July, 2012 meeting

Councilmember Umphlett stated that a brief meeting was held whereas Town Manager Saunders explained the Committee's function to Councilmember Gravatt. Mrs. Umphlett advised that unless an emergency arose, the August meeting would not be held.

2) Committee Recommendations to Council

There were no recommendations made to Council.

E. Town Centre Committee: Councilmember Straughan, Chair

1) Report from July, 2012 meeting

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

Councilmember Straughan advised that the Committee discussed and reviewed the sites for the new town hall as well as the type of construction and size. Mr. Straughan stated that Committee would be gathering further information before making a formal recommendation to Council.

2) Committee Recommendations to Council

There were no recommendations made to Council.

F. Economic Development Committee: Councilmember Gravatt, Chair

1) Report from July, 2012 Meeting.

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

Councilmember Gravatt stated that the Committee discussed a three phased approach to a promotional brochure program to accent the retail merchants in Town. Mr. Gravatt advised that the Committee approved the first two phases and phase one would pilot during the 2012 holiday season. Mr. Gravatt said that continuing with the second phase would depend on the interest and participation by local merchants. Mr. Gravatt advised that the Committee discussed the status of new and existing buildings in Town and spoke with the owners about possibly lowering their rent in order to attract new businesses to the ones that were vacant. Mr. Gravatt said that they reviewed the impact of the trial Grey's Point "Shop, Dine & Wine" program. Mr. Gravatt advised that the Trolley made two trips over the July 4<sup>th</sup> holiday and brought a total of 15 people to Town to

July 16, 2012

shop, wine taste, and dine. Mr. Gravatt stated that the Committee authorized three additional events for the balance of the summer and staff would proceed in setting them up. Mr. Gravatt advised that it was a lengthy meeting and the discussion of the Commonwealth's Tourism Development Financing was tabled until August's meeting.

## 2) Committee Recommendations to Council

Recommend that Council approve the first two phases of the Kilmarnock ABC's promotional brochure program with the cost being charged to Media Advertising and Festivals/Marketing line items in the budget.

**ACTION: Councilmember Nunn made a motion to approve phase one and two of the Kilmarnock ABC's Promotional Brochure Program, seconded by Councilmember Straughan;**

### **Discussion:**

Councilmember Donahue asked how much money was going to be spent on this project.

Assistant Town Manager Susan Cockrell replied that the total for the first two phases was \$7000.00.

Councilmember Donahue asked how much was budgeted for the year for this.

Assistant Town Manager Cockrell replied that the quiz was getting harder which generated laughter. Ms. Cockrell estimated between 4 and 10 stating that they were within budget.

**Mayor Booth called for the vote which was unanimous.**

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

#### 1) Report from July, 2012 meeting.

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

Vice-Mayor Smith stated that the fiscal year ended on June 30<sup>th</sup> and provided Councilmembers with a year-end summary of financial operations which he went over. (See Attachment 1) Mr. Smith stated that the total revenue taken in by the Town was \$3,503,396 and the total amount of expenses for the

July 16, 2012

Town was \$3,709,538 leaving a negative cash surplus of \$206,143. Mr. Smith said that the Town spent a little over a million dollars on capital improvements and it took the \$206,143 to do that.

Councilmember Nunn commented that the Town was in good shape.

Vice-Mayor Smith had also prepared and presented to Council a revenue source budget line item review which he also went over (See Attachment 2). Mr. Smith said that for the most part meals tax was right on the nail head and came in at 0.01% over. Mr. Smith stated that the second largest revenue was BPOL taxes which came in at 0.43% over what was projected. Mr. Smith advised real estate taxes came in at 8.15% over and the bank stock tax was 35.28% over what had been projected. Mr. Smith said that the first on the losing side was local sales tax which was under by -7.18%. Mr. Smith added that at the end of the day, the Town's revenues were \$66,000 more than what was budgeted for. Mr. Smith asked Councilmembers if they had any questions.

Mayor Booth said that the numbers sounded pretty good. Mayor Booth asked if there weren't additional capital expenditures because of the way the water/sewer capital outlay and the Mary Ball Road Project were grouped.

Vice-Mayor Smith replied he didn't see any others but admitted that some may have jumped into the Mary Ball Road Project because the report said General Funds Revenue and Mary Ball Road Project.

Mayor Booth stated it would be wonderful if that were the case because the affected deficit was about \$307,000 so if there were actually no other capital improvement expenses associated with the year's work than the Town was \$100,000 better off than projected. Mayor Booth asked Vice-Mayor Smith to make sure that all of the capital improvement projects had been included in the outline and were applied to any surplus that the Town had from other funds that would affect the total of the deficit.

Vice-Mayor Smith replied that the total figures tied to the books were for cash inflow and outflow. Mr. Smith said that it was in there and he thought it was in the Mary Ball Road Project. Mr. Smith advised that the books had not been closed because there was a sixty day window therefore there might be some adjustment entries.

Mayor Booth thanked Vice-Mayor Smith and added that it sounded like good news.

Councilmember Donahue was under the impression that the Mary Ball Road Project was a two million dollar project with the Town investing \$500,000 and the state investing 1.5 million. Mr. Donahue didn't understand why only

July 16, 2012

\$128,000 was showing when it was actually \$500,000. Mr. Donahue also wanted to know where the figures were that showed what the Town had given to the college and the fire department. Mr. Donahue advised that all of those were big numbers.

Vice-Mayor Smith said that he would have to go back and check some numbers.

Councilmember Nunn stated that she served on the board of the Mary Ball Road Project and advised that the hook-up fees were included in the \$500,000. Mrs. Nunn said that recipients from the Mary Ball Road Project were hooking up at no cost and that every time a hook-up was done it was \$10,090.00. Councilmember Nunn stated that the Town didn't spend that money but it looked as if they did.

Town Manager Saunders said that was part of the equation but it was also true that this was a multi-year project so not everything was showing up all in one year. Mr. Saunders added that much of it showed up last year.

Councilmember Donahue stated that was correct but the Town paid \$500,000 for approximately twenty homes to be hooked up.

Councilmember Nunn interjected that the Town didn't pay anything for the hook-ups. Mrs. Nunn reiterated that hook-ups didn't cost the Town anything.

Councilmember Donahue stated that the Town spent \$500,000 on that project.

Councilmember Nunn said that it was her understanding that the Town would end up spending \$300,000 out of pocket.

Town Manager Saunders advised that he thought it would be a little more than that.

Councilmember Nunn said that the state gave the Town money but hook-up fees were included in what the Town had to spend which didn't cost the Town anything. Councilmember Nunn advised that the Town didn't write a check for that.

Councilmember Donahue replied that the Town had written checks for the project for the past several months.

Councilmember Nunn asked if the Town had written \$100,000 in checks for it.

July 16, 2012

Councilmember Donahue replied not yet and advised Mrs. Nunn that the \$500,000 figure was the one that she had given at a Council meeting. Mr. Donahue said that he didn't see it anywhere on the paperwork he had been provided with tonight.

Councilmember Nunn said that was because the project had not been completed.

Councilmember Donahue said that he accepted that but he did not feel that the figures provided were a true reflection of all the capital improvement projects for the fiscal year. Mr. Donahue said that Council gave money to the college and the fire department too.

Councilmember Nunn advised that the money which was set aside for sidewalks was given to the college.

Councilmember Donahue interjected that was not what he was talking about. Mr. Donahue said that they were numerous capital improvement projects and there were only three listed. Mr. Donahue stated there were a lot more than three projects that went on in the last fiscal year.

Vice-Mayor Smith advised Councilmember Donahue that this was the true impact as far as cash in and cash out. Mr. Smith agreed that the two checks that Mr. Donahue was referring to were in there but he would have to look to see what category they were actually in.

Mayor Booth said that what he would like to see was a more detailed breakdown of the numbers. Mayor Booth asked Town Manager Saunders to provide all Councilmembers with a more extensive breakdown of the numbers just discussed.

Town Manager Saunders said that he would have a lot of numbers once the 60 day window closed and he could give it to them but it was all a matter of public record.

Mayor Booth stated that he understood that the numbers could change a little over the 60 day period. Mayor Booth advised that the problem was that they had very broad figures grouped together and preferred to see numbers a little more specific.

Town Manager Saunders said that he could make more copies from what Vice-Mayor Smith was working from but then again (inaudible).

Vice-Mayor Smith stated that the figures could be narrowed down but the only issue would be getting this together before the 60 day window. Mr. Smith said that the college money may not have made it to a CIP category yet.

July 16, 2012

Mayor Booth said that the money for RCC was disbursed six months ago and asked why it wouldn't be in a CIP category by now.

Town Manager Saunders interjected that those adjustments were made by the auditors every September.

Mayor Booth asked if that was the way it worked.

Town Manager Saunders replied that it was.

Mayor Booth said he supposed that everyone could wait until after the 60 day window to receive more detailed information. Mayor Booth thanked Vice-Mayor Smith for all of his hard work.

Vice-Mayor Smith started with his Committee Report by saying that they began a review of Town Council roles and responsibilities for each subcommittee. Mr. Smith said that a rough draft was sent to each chairman by e-mail for them to look over and make adjustments. Mr. Smith stated that once completed they would have a packet to give to new Councilmembers showing what each Committee's responsibilities were. Mr. Smith advised that they discussed revisions to the Town Charter and determined that the Admin/Finance Committee would create the initial draft. Mr. Smith said that he would distribute a meeting schedule because it would be impossible for them to take on that project during normal regular monthly meetings. Mr. Smith stated that an electronic version would be sent out to everyone for input and changes until a draft was reached that could be presented to Council. Mr. Smith said that Town Manager Saunders was requested to get input from VML and Municode on baseline charters. Mr. Smith advised that the Committee recommended a Resolution of Appreciation for Paul Jones's service to the Town of Kilmarnock. Mr. Smith stated that Town Manager Saunders recommended that Council confirm the appointment of Cindy Balderson to the position of Town Clerk effective July 17, 2012 and the Committee concurred. Mr. Smith said that the Committee discussed the structure of the Town's legal representation and agreed to research how other similarly sized jurisdictions approached their contracts. Mr. Smith stated that Councilmember Donahue suggested that the Town solicit RFP's for legal representation. Mr. Smith advised that a set of expectations for the RFP needed to be generated in advance and several potential examples were discussed.

## 2) Committee Recommendations to Council

A. Recommend that Council add Howard Straughan to check signatory

**ACTION: Vice-Mayor Smith made a motion to add Councilmember Howard Straughan to the**

July 16, 2012

**Town's check signatory, seconded by Councilmember Nunn; and carried unanimously.**

B. Recommend that Council appoint Cindy Balderson as the Town Clerk effective July 17, 2012.

**ACTION: Vice-Mayor Smith made the motion to appoint Cindy Balderson as Town Clerk effective July 17, 2012, seconded by Councilmember Nunn; and carried unanimously.**

There was applause following the vote.

C. Recommend that Council approve the disbursements from June 19, 2012 through July 16, 2012 totaling \$166,609.58 of which \$18,217.95 was debt payment on the Main Street Program

**ACTION: Councilmember Straughan made a motion to approve the disbursements from June 19, 2012 through July 16, 2012 as presented, seconded by Councilmember Gravatt; and carried unanimously.**

D. Recommend that Council recognize former Councilmember Paul Jones for his service to the Town of Kilmarnock by way of Proclamation.

**ACTION: Vice-Mayor Smith made a motion to recognize former Councilmember Paul Jones for his years of service to the Town of Kilmarnock; seconded by Councilmember Nunn; and carried unanimously.**

Town Manager Saunders read and presented the proclamation to former Councilmember Paul Jones which generated applause.

Mayor Booth thanked Mr. Jones for his years of service and all that he had done for the Town of Kilmarnock.

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

### **A. Welcome New Councilmembers**

Town Manager Saunders welcomed new Councilmembers and

July 16, 2012

returning Councilmembers. Mr. Saunders stated that he looked forward to working with each of them.

#### B. Wiggins Avenue Force Main Replacement

Town Manager Saunders reported that this project was nearly completed. Mr. Saunders said that the part that the Town had been waiting on was now in hand so if the weather permitted the project could be finished by the end of the week.

#### C. Public Works Recognition

Town Manager Saunders recognized the efforts of the public works department for their efforts to keep the plants alive during the hot, dry weather stating that employees came out in the early morning hours to water them.

#### D. Watershed Study Grant Awarded to Kilmarnock

Town Manager Saunders said that the Town had received a Watershed Study Grant and asked Zoning Administrator/Planning Director Sebra to explain what it was.

Mr. Sebra advised that the National Fish and Wildlife Foundation had several different grants that could be applied for but the one that the Town was awarded was for technical assistance and called a "walk up grant". Mr. Sebra said that the Town had been awarded a little over \$38,000 to study the current watersheds in Town and how the storm water impacts those watersheds. Mr. Sebra advised that Kilmarnock was unique in the fact that it has three watersheds in the heart of it. Mr. Sebra said that there were some problems with the way that storm water ran off this area, flowing down stream, and carrying pollutants. Mr. Sebra advised that through this grant, the National Fish and Wildlife Foundation would hire a contractor to conduct research and testing on the Town's watersheds and provide a report that could pave the way to obtaining other grants for future development and action. Mr. Sebra said that he looked forward to working with them and that they were in the contract phase at this time.

Councilmember Nunn asked Mr. Sebra if he was responsible for getting the Town this grant.

Mr. Sebra replied that he was which generated applause.

Town Manager Saunders added that the important thing was that jurisdictions that have this work done would be first in line for money coming down the pike for implementation. Mr. Saunders advised that it was a definite achievement and that Mr. Sebra did all of the work.

July 16, 2012

## 8. Old Business

There was no discussion under Old Business.

## 9. New Business

### A. Election of Vice-Mayor and Confirmation of Committee Assignments

Mayor Booth stated that with regards to the Committee assignments, they were conclusive unless there were objections by Councilmembers.

Mayor Booth asked for nominations for Vice-Mayor.

Councilmember Nunn nominated Councilmember William Smith which was seconded by Councilmember Straughan.

Councilmember Smith requested that his name be removed as a nominee.

Councilmember Umphlett asked Mr. Smith to reconsider his decision.

Councilmember Smith stated that he just was not able to give the job what it needed at this point and nominated Emerson Gravatt.

Councilmember Gravatt stated that he had just gotten there on Council which generated laughter.

Councilmember Donahue seconded Councilmember Smith's nomination.

**ACTION: Councilmember Smith made a motion to elect Councilmember Emerson Gravatt as Vice-Mayor of the Town of Kilmarnock, seconded by Councilmember Donahue; and carried unanimously.**

The vote generated applause.

Mayor Booth thanked Councilmember Smith for all of the hard work he had done as Vice-Mayor and said that Council would miss him serving in that capacity.

### B. Appointment to Board of Zoning Appeals

Mayor Booth advised that he would take the names of nominees to fill the seat vacated by the resignation of Howard Straughan.

July 16, 2012

Councilmember Nunn nominated Mr. Bob Wille.

Councilmember Straughan seconded the nomination.

Councilmember Smith asked if Council was being premature in nominations since the public was not aware of the vacancy. Mr. Smith wondered if the position should be advertised.

Councilmember Donahue said that Bob Wille was more than qualified but since Councilmember Nunn had requested that the Planning Commission vacancies be advertised, then so should the BZA position.

Councilmember Nunn said that was fine with her.

Mayor Booth stated that he actually had that discussion from the June 20, 2011 meeting but didn't feel the need to go into it. Mayor Booth said that it seemed that the policy for the past several years had been to reappoint people who wanted to be reappointed but if there were vacant seats then the positions were advertised. Mayor Booth felt that advertising for vacant seats was the appropriate way.

Councilmember Nunn reiterated that it was fine with her. Mrs. Nunn stated that Mr. Wille had expressed interest but added that if they were advertising for Planning Commission positions then they should do the same for BZA.

Town Attorney Stamm advised that the person chosen to fill the vacant seat had to be approved by all of the judges including the chief judge before the appointment was in effect which would take some time to get done.

Mayor Booth asked Town Manager Saunders to make arrangements to advertise for that position.

### C. Appointment to Planning Commission

Mayor Booth stated that he would take the names of nominees to fill the two expiring terms on the Planning Commission.

Councilmember Donahue nominated the existing Planning Commission Members Dave Reedy and Jane Ludwig whose terms were the ones that were expiring. Mr. Donahue stated that the two had served the Town well for a number of years. Mr. Donahue said that they wanted to do the job so they should be allowed to do the job.

Councilmember Smith stated that he was concerned because the Planning Commission was supposed to have monthly meetings but from January 2012 through July 2012, they only had two.

July 16, 2012

Councilmember Nunn stated that they had met three times during that period.

Councilmember Smith corrected himself and advised that during the months of April, May, and July they were unable to form a quorum to conduct business. Mr. Smith said that there seemed to be something going on. Mr. Smith stated that his concern was if Council was doing what was best for the Town if the positions were never opened to the public and they just went with the status quo. Mr. Smith felt that the Town should consider having some type of term limits for Planning Commission Members in the future.

Councilmember Nunn replied "absolutely".

Councilmember Straughan was in agreement.

Mayor Booth stated that being a product of the Planning Commission he always checked on them to make sure they were behaving and they had indicated to him that they had met their requirements by meeting quarterly. Mayor Booth asked Zoning Administrator/ Planning Director Sebra if that was correct.

Mr. Sebra replied that according to the by-laws the Planning Commission had met their requirements.

Mayor Booth said that when he served as Chairman and Claudia Williamson was Vice-Chair, they always felt that there should be a meeting every other month so that the public would know that they were engaged. Mayor Booth advised that the Planning Commission By-Laws did state that they shall meet quarterly.

Councilmember Nunn commented that they just did make it because they had a meeting in January and one in June.

Town Attorney Stamm advised that if there was no business for the Planning Commission to conduct then there would be no meeting and that was in the by-laws. Mr. Stamm stated that there was a requirement of four meetings per year, one of which had to be held in September for the election of Chairman and Vice-Chair by the Planning Commission Members.

Mayor Booth stated that the Planning Commission had the scope of their work reduced in the past several years and was pushed out of participation in the Capital Improvement Plan Budget so he didn't know that they needed to meet quite as often as they did. Mayor Booth stated that he didn't believe that the reason the meetings weren't held in April and May was due to a lack of quorum.

Town Manager Saunders advised that the meeting in May was for an advertised public hearing and they failed to have a quorum.

July 16, 2012

Councilmember Nunn added that they didn't have a meeting in April either which was scheduled.

Mayor Booth asked for clarification that there were actually two meetings where they failed to form a quorum.

Town Manager Saunders replied that was correct.

Mayor Booth stated that he didn't think it was fair to blame the two Commission Members who were up for reappointment this time because they had been outstanding members who had worked hard and had a good attendance record. Mayor Booth said that he was aware that Mrs. Ludwig had missed the most recent meeting because she had gone on a trip but reiterated that both were outstanding members of the Planning Commission with thirty some years of service. Mayor Booth felt it would be a mistake not to reappoint them.

Newly elected Vice-Mayor Gravatt stated that one member of the Planning Commission had missed three meetings in a row and a total of four meetings over the past twelve months. Mr. Gravatt asked if that was grounds for dismissal according to their by-laws.

Councilmember Nunn advised that it was.

Town Attorney Stamm verified that a Planning Commission Member could be removed for missing three consecutive meetings or a total of four during a year.

Councilmember Nunn advised that there was a Planning Commission Member who had not attended a meeting so far this year. Mrs. Nunn said that Travis Abbott was appointed in August and only attended two meetings. Mrs. Nunn advised that he had missed three consecutive meetings and four within a year therefore she felt he should be removed. Mrs. Nunn stated that he obviously had no interest in the Planning Commission.

Mayor Booth agreed that the members had a responsibility to attend the meetings and that those who had a certain amount of absences may be removed according to the by-laws but he thought it was up to the Planning Commission to discipline their own members once they were appointed.

Town Attorney Stamm replied that removal was an action taken by Council.

Mayor Booth commented that sometimes people get sick and in Mr. Abbott's case he had his tonsils removed but he was not supporting wholesale absenteeism.

July 16, 2012

Councilmember Donahue advised that the agenda only covered the discussion of the two terms that were expiring and not the discussion of any other member.

Councilmember Nunn advised that this was all part of the discussion and they were not ready to make an appointment yet because all Council was aware of at this time was that the two existing members wanted to remain and Councilmember Smith mentioned term limits which broadened the discussion.

Councilmember Donahue replied not to the extent of other Planning Commission Members because the agenda only covered the two appointments.

Newly elected Vice-Mayor Gravatt stated that he felt there were three expired terms.

Councilmember Nunn was in agreement and said that Mr. Abbott's term should be up.

Councilmember Donahue stated that was not on the agenda.

Councilmember Nunn said that it didn't have to be on the agenda because it was part of the discussion.

Mayor Booth said that as Chair he felt that they had strayed somewhat and added that he was just as guilty as anyone else. Mayor Booth said that they needed to get back on focus. Mayor Booth asked if they were going to entertain nominees tonight or advertise the Planning Commission positions.

Councilmember Nunn stated that since Councilmember Smith had brought up term limits and chaired the Admin/Finance Committee maybe that discussion should be held there to see if they wanted to make it a two term limit. Mrs. Nunn said that it would only be fair to do that for Council as well because if a person had not come up with a good idea in 8 years then they probably wouldn't. Mrs. Nunn felt they should advertise even though three people had submitted their names to Council for appointment to the Planning Commission they would certainly be interested in more.

Councilmember Smith said that Council was different because they were elected not appointed.

Councilmember Nunn laughed and said that she knew but she was sure someone would bring it up. Mrs. Nunn stated that the Planning Commission was appointed by the Council and served at the pleasure of the Council. Mrs. Nunn said that the appointments to fill the vacancies should be deferred until the August meeting to give people the opportunity to apply.

July 16, 2012

Councilmember Donahue asked if the Planning Commission would have a quorum if those two positions were not filled before then.

Mayor Booth stated that the Planning Commission would be good through August.

**ACTION: Councilmember Nunn made a motion to defer appointment for the two vacancies on the Kilmarnock Planning Commission until the August Town Council meeting, seconded by Councilmember Smith; and carried unanimously.**

Councilmember Nunn asked if the third Planning Commission vacancy would be discussed in Admin/Finance as well.

Mayor Booth warned Councilmember Nunn to be careful with that.

Councilmember Nunn said that she was talking about the Planning Commission By-laws.

Mayor Booth said that Mr. Abbott had his tonsils removed, obviously had been under medical care, and could have a doctor's note for all she knew.

Councilmember Nunn stated that he had been at Great Fortunes and taking medicine.

Mayor Booth advised that was not an appropriate comment and unnecessary. Mayor Booth reminded Mrs. Nunn that he or she could get sick at any time.

Councilmember Nunn asked Mayor Booth if Mr. Abbott had been sick every month this year.

Mayor Booth stated that he was only referring to the last two meetings. Mayor Booth told Mrs. Nunn that she had said that Mr. Abbott had missed three meetings in a row but he thought that he had only missed two. Mayor Booth stated that he was not sure if the meetings without a quorum even counted.

Councilmember Nunn replied that they did.

Mayor Booth stated that they shouldn't hold someone accountable for absences when they might have been sick and had a doctor's excuse. To do so, Mayor Booth said was treading on shaky ground.

July 16, 2012

Councilmember Nunn advised that according to Robert's Rules of Order when a meeting was held official or not it counted as a meeting. Mrs. Nunn said that Travis Abbott had not been to a meeting this year.

Newly elected Vice-Mayor Gravatt advised Mayor Booth that his point was if it was a scheduled meeting and he was sick then he should give notification to the Town Office as opposed to just not showing up.

Mayor Booth stated that he didn't disagree with that and believed that Mr. Abbott did notify Mr. Sebra.

Mr. Sebra verified that Mr. Abbott had notified him by phone or email when he was going to be absent. Mr. Sebra advised that Mr. Abbott was absent from the last meeting due to work related issues.

Mayor Booth advised that his only concern was that they didn't throw good people off of the Planning Commission because of a spell of absences due to illness and work related obligations. Mayor Booth agreed that if people didn't show up for the meetings than the system didn't work. Mayor Booth stated that they would take up further Planning Commission matters at the next Council meeting so they could continue on with this meeting.

#### D. Closed Session

1. Enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (1) for the purpose of discussion, consideration or interviews of perspective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of a public body.

**ACTION: Councilmember Smith made a motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (1) for the above stated Reasons, seconded by newly elected Vice-Mayor Gravatt; and carried unanimously.**

Mayor Booth called for a 10 minute prior to the Closed Session at 8:25 pm.

Council entered into Closed Session at 8:35 pm.  
Regular meeting reconvened at 9:20 pm.

2) Certify Closed Session held IAW FOIA 2.2-3711(A) Para (1) for the purpose of discussion, consideration or interviews of perspective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of a public body.

July 16, 2012

**ACTION: (NAME) made a statement certifying that in the Closed Session which just concluded that nothing was discussed except the matter or matters (1) specifically identified in the motion to convene into 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  
Smith, William L. - yes  
Umphlett, Mae – yes  
Straughan, Howard – yes  
Gravatt, Emerson – yes  
Nunn, Rebecca T. – yes  
Donahue, Shawn – yes

#### **10. Council Comments**

There were no Council Comments.

#### **Adjournment**

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

Meeting adjourned at 9:21 pm

Prepared by:

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Joan N. Kent

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Raymond C Booth, Jr., Mayor

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Cindy Balderson, Clerk

July 16, 2012