

August 15, 2011

**KILMARNOCK TOWN COUNCIL  
Monday, August 15, 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  
Denis Bouslough  
Shawn Donahue

Paul S. Jones  
Rebecca Nunn  
Mae Umphlett

**Staff Present:**

Tom Saunders, Town Mgr.  
Susan Cockrell, Asst. Town Mgr.  
Marshall Sebra, Planning/Zoning Adm.  
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. Prior to moving forward with the meeting, Mayor Booth welcomed the two new Councilmembers-- Mrs. Mae Umphlett and Mr. Denis Bouslough.

**2. Acceptance and Approval of Agenda**

Councilmember Nunn requested to amend the agenda to include a discussion regarding the appointment of committees in accordance with Section 2-62 of the Town Code.

Mayor Booth stated that he would place the discussion under the Old Business Section of the agenda if Councilmember Nunn found that to be satisfactory.

Councilmember Nunn said that would be fine and thanked Mayor Booth.

**ACTION: Vice-Mayor Smith made a motion to accept the agenda for the August 15, 2011 Regular Town Council meeting as amended, seconded by Councilmember Nunn; and carried unanimously.**

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

**ACTION: Vice-Mayor Smith made a motion to accept the July 18, 2011 Regular Town Council Meeting Minutes as presented, seconded by Councilmember Donahue; and carried unanimously.**

**4. Public Comments and Presentations:**

**A. Public Forum**

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

Mayor Booth noted that former water superintendent James Seagle was seated in the audience and asked Mr. Seagle if he would like to address Council regarding the recent events concerning his employment status with the Town.

1) Mr. James Seagle expressed to Council his devastation over the recent decision by Town Manager Saunders to terminate his position with the Town of Kilmarnock. Mr. Seagle stated that he had worked for the Town for 16 ½ years and reiterated that he and his family were devastated over the recent event. Mr. Seagle said that he began his employment under the late Mayor Davis and Town Manager Larry Faison. Mr. Seagle advised that when he began working for Kilmarnock the Town's water system was in violation and Mr. Faison called Richmond, and they wanted to know who he had working on the system for him. Mr. Seagle stated that he was not trying to build himself up but was trying to tell it like it was. Mr. Seagle said that Richmond told Mr. Faison that he would get things straight for them and the Town's problems would go away. Mr. Seagle stated that he had been getting things done with a small crew and, even though he was a supervisor, he jumped into holes too because he was not one to sit behind a computer. Mr. Seagle said that as a small crew they all had to work together to get the job done and he got just as dirty as the next one down there working. Mr. Seagle commented if that didn't speak for what he had been doing for the Town all of these years then he didn't know what else to say. Mr. Seagle advised that he never let anyone go without service. Mr. Seagle said that at times there were

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some cones put around a leak but there was always so much to do with only a crew of two head where there should have been six people working. Mr. Seagle said that any other Town the size of Kilmarnock had six people doing the job. Mr. Seagle finalized by saying that he did not have anything more to say other than he had given all that he had to give.

Mr. Seagle received a round of applause from the audience.

Mayor Booth thanked Mr. Seagle for his comments.

2) Mr. Les Spivey, 58 East Church Street, Kilmarnock, VA, stood up and as he walked to the podium announced that what he had to say would probably not receive applause. Mr. Spivey stated that he thought this type of issue regarding personnel matters was only to be discussed in Closed Session and not by letters written to the local paper or in front of everybody. Mr. Spivey said that he did not necessarily have anything against Mr. Seagle at all but added that Council hired a Town Manager to manage the Town so, therefore, they should let him manage the Town. Mr. Spivey advised Council that if some of them wanted to be Town Manager then they should not be on Council or be the Mayor and be the Town Manager. Mr. Spivey said that Council either needed to change the Town Charter or follow it.

Mr. Spivey received a round of applause from the audience.

Mayor Booth thanked Mr. Spivey for his comments.

3) Mr. David Rose stated that he ran a restaurant in Kilmarnock and commented that he first met Mr. Seagle when he opened Rose's Crab House about 8 years ago. Mr. Rose said that he had water concerns at the establishment because there were some issues underground and he could not understand why things were like they were. Mr. Rose commented that Mr. Seagle was very helpful and brought to his attention how things had been changed when the building had gone from a private system years ago to the Town system. Mr. Rose said that Mr. Seagle was very knowledgeable and helpful. Mr. Rose stated that at that time he was challenging the Town's water and sewer concerns in regards to how much water did they actually use that did not go into the sewer and added in the restaurant business there was a lot of that. Mr. Rose said that before he knew it Mr. Capps was gone and there was another Town Manager and now that one was gone, and there was another Town Manager. Mr. Rose added that his concerns were never really addressed, but Mr. Seagle assured him that he would get back with him on that matter. Mr. Rose said he then took over the Steak House on Main Street and had a clogged water line there. Mr. Rose said that the discovery was made a week before the restaurant was to open. Mr. Rose stated that he called the Town Office for help because he was not sure what he was dealing with at that time. Mr. Rose recalled that Mr. Seagle came down, looked at the problem and brought a jetted roto-rooter piece of machinery with him. Mr. Rose said that Mr.

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Seagle showed him how to use the piece of equipment and left it with him. Mr. Rose said that he got the problem taken care of and was able to open on time. Mr. Rose commented that since that time he has had five other issues with water and sewer at that location. Mr. Rose stated that Mr. Seagle seemed to be the only one who knew where the lines were and what needed to be done. Mr. Rose said that regardless of what the nature was in regards to Mr. Seagle being terminated that was none of his business but added that he was simply there to say that there should be something that Mr. Seagle could offer them as a community and a Town somewhere within the Town's employment. Mr. Rose said that Mr. Seagle had been very helpful to him and others. Mr. Rose advised that one of his last issues was a problem with the grease trap during dinner hour on a Saturday evening. Mr. Rose asked who were they going to call in a situation like that-an 800 number that the Town hired as an outside source or whoever they got to try to replace Mr. Seagle. Mr. Rose said that in this circumstance he called the Town Office on the following Monday and asked if there was a problem somewhere because he had sewage backing up into his restaurant. Mr. Rose stated that sure enough he received a call from Mr. Saunders who said that they had found the problem, but Mr. Rose said he was pretty sure it was Mr. Seagle who had found the problem. Mr. Rose said that his three minutes were up but noted that Mr. Seagle was a good guy and asked the Town to find something for him to do.

Mr. Rose received a round of applause from the audience.

Mayor Booth thanked Mr. Rose for his comments.

4) Mr. Howard Straughan approached the podium and stated that he did not know if he was speaking for himself or Mr. Glenn Cockrell.

Mayor Booth jokingly commented that he did not know how to respond to that remark which generated laughter. Mayor Booth continued with the joke by asking if that meant he would get six minutes to speak instead of three which generated more laughter.

Mr. Straughan read a letter from Mr. Cockrell that said: "My wife, Poppy and I are unable to attend the meeting tonight. We greatly appreciate the opportunity to have our observations presented in our absence about the dismissal by Manager Saunders of town personnel charged with supervising the town's water system among other responsibilities. We want to address all of you in public because the mayor has forced the public to become involved, even though, in our respectful view, this dismissal is a matter best addressed in a private, closed door session. That "some attempt" may be underway to subvert the ownership and operation of the town's water system in the long term is possibly a matter for the public agenda of the council. That is, after "the attempt" has been thoroughly verified. However, a personnel matter is not at all in any way whatsoever fodder for a letter to the local paper's editor by a misguided and misleading accusatory member of council or mayor. Framing the former in terms of the latter is no more

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than a poorly veiled attempt to undermine the documented-by-charter cooperation between the council, the town's manager, and the mayor. Any city or town or other entity, especially one as small as Kilmarnock, would be truly fortunate to have an employee in a managerial position of the caliber of Tom Saunders. We have known Tom most of his life. We have followed his career from afar with great admiration. In all of his life roles, Tom deserves, that is, he has earned, others' respect. Indeed, he has ours. Let us emphasize: By praising Manager Saunders, we are not at all denigrating the dismissed personnel. In closing, we offer these remarks and observations with great, sincere hope for our town's future. Ranting by anyone in your respective positions in public on and about official town business is at best humiliating for both the rantor and the town's officials and staff. Not only is out-of-control railing against an individual a true distraction, even destructively so, but also it destroys the railer's credibility along with the imperative cooperation among all of you to appropriately sort and address private issues and public issues. Bombast is not governance, and intimidation is not leadership. Glenn Cockrell 8-15-11".

Mayor Booth thanked Mr. Cockrell for his comments by letter and stated that he was ready for Mr. Straughan's.

Mr. Straughan stated that he was greatly distressed to read the Mayor's letter to the newspaper. Mr. Straughan said that there were numerous misstatements of facts and erroneous conclusions. Mr. Straughan doubted that a majority of Council was consulted before the letter went into the paper because he knew of three who were not. Mr. Straughan advised that this was clearly a personnel matter and any discussion regarding it should have been done in a Closed Session and not in open forum. Mr. Straughan stated that regarding sewer rates, the sewer system was breaking even only if it was not taken into account that it did not have to pay its current debts and did not have to make any future repairs or upgrades. Mr. Straughan said to raise this entire matter to a public safety and health issue or the sale of the water/sewer system was a real stretch. Mr. Straughan commented that he believed that each Councilmember had received an email from a local businessman regarding the current situation and in response to the Mayor's letter. Mr. Straughan suggested that one Councilmember read the email out loud. Mr. Straughan advised that he agreed with just about everything that this person had said and wanted to know if they had the email.

Mayor Booth advised Mr. Straughan that he was free to give his comments, but he was not going to allow any email reading. Mayor Booth told Mr. Straughan that if he had the email with him and wanted to read it within his three minutes he could.

Mr. Straughan was unable to find his copy of the email but was handed one by a member of the audience. Mr. Straughan stated that the text in the email was so small that he was not sure that he could read it and asked Councilmember Umphlett if she would.

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Several Councilmembers stated that they had not received the email.

Mayor Booth said that he had no objections to Councilmember Umphlett reading the email.

Councilmember Umphlett read: "To all--I don't usually get involved in Town politics but this week pushed me over the edge. You officials that keep politicking and personally attacking each other in the newspaper and other social media have got to stop. You are embarrassing the citizens, business owners, and most importantly yourself. Mayor Booth has no reason to even ask the reason for Mr. Seagle's dismissal but to air it in the newspaper and with personal letters is the most unprofessional act of all. In the small business world, managers often give generic reasons for terminating employees and I would make a bet that this was what Mr. Saunders did for Mr. Seagle. By giving a generic reason, Mr. Seagle then has a better opportunity to find employment elsewhere. If Mr. Saunders was to give the real reason, and now he may be forced to, it would only cause more problems for Mr. Seagle. I am sure he has a valid reason that only he and Mr. Seagle know. Mayor Booth has now put Mr. Saunders in a position where he may have to defame Mr. Seagle and cause him more pain and suffering. It is very obvious that our Mayor has a personal vendetta against Mr. Saunders but to keep attacking him in the media and in open session is totally unethical. Our Town government has become the laughing stock of all small towns in Virginia and beyond. I don't believe that attendance is up at Council meetings because the citizens are concerned. They are there for the entertainment value and because they don't believe that they can trust you. The most despicable part of Mayor Booth's letter is that he is trying to scare the citizens of Kilmarnock. Really our water and sewer is now a potential health and safety concern? Mr. Saunders terminates our water and sewer guy and now we are not safe? If our system is that fragile maybe you should consider selling it. Joe Hudnall"

There was some applause from the audience.

Mayor Booth advised Mr. Straughan that he allowed the email to be read and asked if that concluded his comments.

Mr. Straughan replied that it did.

Mayor Booth thanked Mr. Straughan for his comments.

Mayor Booth asked if there was anyone else in the audience that would like to address Council but did not sign up to do so.

5) Ms. Sonja Headley stated that she lived on Third Avenue in Kilmarnock, VA, and would like to address Council.

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Mayor Booth asked her to please come forward.

Ms. Headley stated that she really appreciated the email that was just read. Ms. Headley said that she had heard stories but did not have names, but people from out of Town were reading the newspaper and just laughing over the community and the way things were handled. Ms. Headley advised that she did write a letter to the editor to be “tongue in cheek” but certainly not because she was self-righteous or anything. Ms. Headley recommended that if the Town had extra in their budget that they have a mediator come in to teach the whole Town Council and Mayor how to get along together and to help properly conduct Town meetings as well as some behavior modification techniques for a few of them. Ms. Headley quoted Sigmund Freud by saying “Civilized society is perpetually menaced with disintegration through this primary hostility of man towards another”. Ms. Headley stated that there was another quote from Jesus Christ which said that “Any kingdom divided against itself is laid waste or any city or house divided against itself will not stand”. Ms. Headley truly recommended that Council put some budget money into mediation, behavior modification, and how to properly conduct business without embarrassing the Town’s people and bring up important issues to help grow the Town and maintain it.

Ms. Headley received applause from the audience.

Mayor Booth thanked Ms. Headley for her comments.

6) Mr. David Rose asked Mayor Booth if he could speak for one more minute on a different topic.

Mayor Booth said that he was not supposed to allow it but added why not since he had indulged others.

Mr. Rose stated that there was something that he wanted to get off of his chest while he was there. Mr. Rose said that Councilmember Nunn made a comment in the newspaper on how with certain business owners the meals tax just went through their books. Mr. Rose asked where it went before it got to the books then answered himself by saying inside of their cash register. Mr. Rose said that they were the ones who collected it from the customer, put it in their bank accounts, managed and took care of it and then turned it over to the Town. Mr. Rose said that in the seven years that he had been in business, and he noted that his calculation was conservative, he had given \$127,000 to the Town that he collected and managed which, if he was not mistaken, helped to pay people like them. Mr. Rose said that it would at least be nice to know that somebody appreciated it. Mr. Rose stated that Mrs. Nunn’s comments in the paper were a slap in his face and he just wanted to get that off his chest.

Mr. Rose received applause from the audience.

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Councilmember Nunn apologized to Mr. Rose if he felt that her comments were a slap in his face but noted that she too had owned a business and stated that it was a pass-through tax. Mrs. Nunn advised that she used to put the tax in a separate account so she did not have to manage it or take it out of her personal money. Mrs. Nunn reiterated that she was sorry if it was a slap in his face and said that she did not mean for it to be that way but added that it was a pass-through tax and not his money.

Mayor Booth advised that during the public forum there was not supposed to be an exchange between the audience and Council. Mayor Booth asked if there was anyone else who wished to speak.

Councilmember Donahue stated that he just wanted to thank everyone for coming out and added that he knew it was a difficult issue as well as challenging times. Mr. Donahue said that it was nice to see that the American spirit was still alive in a little Town like Kilmarnock. Mr. Donahue advised that they could agree to disagree but what came out tonight was respect for each other and working together to find solutions for the community. Mr. Donahue stated that he applauded all of the citizens who came out to listen to what was being said. Mr. Donahue advised that a lot of things were confidential and could not come out during the public forum but he did appreciate them being there.

Councilmember Jones stated for the record that he had no knowledge of the Mayor's letter to the editor before the fact. Mr. Jones advised that the Mayor had never spoken to him on the issue and did not have the full support of Council as claimed. Mr. Jones told Mayor Booth that he would appreciate a letter of correction stating that he did not speak to him on the issue yet wrote in the letter that he had the support of the full Council.

Mayor Booth replied "no" and told Councilmember Jones if he had read the letter closely he had said that most of the people that he had spoken to on the Committees and on the full Council seemed not to favor this action. Mayor Booth stated that he never said that he polled or discussed the issue with full Council at all. Mayor Booth told Councilmember Jones that apparently he was misreading what he had communicated.

Councilmember Jones recalled that last month Mayor Booth had accused him of "playing the citizens" but added that he played them this time. Mr. Jones read from the newspaper article: "and the full Council to whom I have spoken seemed opposed to this decision" then added that it was misleading the people in Town and he felt that the Mayor had played the citizens like he had accused him of doing in the past.

Mayor Booth advised Councilmember Jones that he was entitled to his opinion.

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Councilmember Nunn stated that she had the exact quote made by the Mayor. Mrs. Nunn read: "most members of those Committees and the full Council to whom I have spoken seemed opposed to the decision". Mrs. Nunn advised Mayor Booth that he only spoke to two people, one of whom said that they were behind him all the way and the other who said that they could not make a decision. Mrs. Nunn told the Mayor that he did not speak to Councilmember Umphlett, Councilmember Jones, Vice-Mayor Smith or her and had no authority to write the letter. Mrs. Nunn stated that it was a total fabrication.

Mayor Booth told Mrs. Nunn that she had just read it for herself and the letter said *most* of the people that he had spoken to seemed to support him at the time and it was an accurate statement. Mayor Booth advised that he had a position and had spoken to two others and one more that really did not give him an opinion. Mayor Booth stated that they would discuss this matter in Closed Session.

Councilmember Jones advised that he only brought it up to clear the record.

#### B. Planning Commission Report: Denis Bouslough, Council Liaison

Council Liaison Bouslough reported that during the last Planning Commission meeting they discussed sign ordinance amendments along with amendments to penalties for violating the grass ordinance. Mr. Bouslough advised that the proposed amendments were scheduled to be brought before a public hearing on September 12, 2011. Mr. Bouslough advised that the Planning Commission was recommending to Council that Mr. Travis Abbott be chosen to fill the vacant seat. Mr. Bouslough stated that the Planning Commission was recommending to Council that the term reappointments for Commission Member Gardner and Commission Member Gravatt be approved. Mr. Bouslough finalized by saying that the Planning Commission elected Mr. Dave Reedy to serve as their Vice-Chair.

Mayor Booth advised that the appointments to the Planning Commission would be handled later during the meeting.

### **5. Committee Reports:**

#### A. Water/Sewer Committee:

There was no meeting held for the month of August. Meeting rescheduled for August 19.

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

1) Report from August 4, 2011 Meeting

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

Councilmember Donahue advised that he would keep his report short in the interest of time. Mr. Donahue stated that Assistant Town Manager Cockrell was working on the Town having a July 4<sup>th</sup> fireworks display. Mr. Donahue said that VDOT had sprayed chemicals in Town trying to kill everything in sight. Mr. Donahue advised that the Town Manager had contacted them and asked them to get a handle on that. Mr. Donahue said that public restrooms at the playground were a continued topic. Mr. Donahue commented that the next subject was ironic in light of the water/sewer reorganization but reported that the Town was replacing the spacing blocks on Waverly Avenue parking. Mr. Donahue commented that they could talk about that but not personnel. Mr. Donahue stated that weeding efforts were underway on the Kilmarnock playground and they were fixing the fence. Mr. Donahue advised that the Town hired a new part-time employee for the Steptoe's Area named Antwon Butler. Mr. Donahue said that Church Street was going to be repaved in August at some point. Mr. Donahue stated that Assistant Town Manager Cockrell was doing a great job organizing the Christmas Parade and they were searching for a name which would probably require a vote as well. Mr. Donahue finalized by saying that staff was researching what to do with the planters that kept blowing over on Main Street.

2) Committee Recommendations to Council

There were no recommendations to Council.

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

1) Report from the August 8, 2011 Meeting.

Councilmember Donahue advised that Councilmember Umphlett joined the Committee meeting. Mr. Donahue stated that they reviewed staff. Mr. Donahue noted that there was nothing very exciting to report other than some hoodlums went up on the roof of the Entertainment Center and threw the bowling balls off. Mr. Donahue added that they rolled them down Town Centre Drive. Mr. Donahue advised that nothing of significance transpired at the Carnival this year. Mr. Donahue said that they held a discussion with the Chief on how they could get the 911 dispatchers to work better with the Town of Kilmarnock. Mr. Donahue finalized by saying that the next Committee meeting was going to be held at 6:30 am at the Kilmarnock Inn.

2) Committee Recommendations to Council.

There were no recommendations to Council.

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D. Emergency Preparedness Committee: Councilmember Umphlett, Chair

There was no meeting held for the month of August.

Councilmember Umphlett advised that she was just getting the general idea of what the Committee was about. Mrs. Umphlett stated that the next meeting would be held following the 6:30 am Police/Public Safety Committee Meeting at the Kilmarnock Inn.

Councilmember Donahue reported that the reason they were having the meetings so early was because of Mrs. Umphlett's work schedule and noted that it really did not matter to him because he was up by 5:30 am every morning anyway. Mr. Donahue said that if it did pose a problem for anyone then they would change it.

Mayor Booth asked what time the Police/Public Safety Committee meeting was going to be.

Councilmember Umphlett replied between 6:30 and 7:00 am.

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

1) Report from August 9, 2011 meeting

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

Vice-Mayor Smith reported that the Committee meeting date had been changed to the second Tuesday of the month at 4:00 pm to accommodate some of the Committee Members' schedules. Mr. Smith advised that there was not a whole lot to report other than they were still looking at advertising opportunities. Mr. Smith said that the Committee authorized Assistant Town Manager Cockrell to go forward with Lancaster by the Bay Chamber. Mr. Smith stated that organization was looking more towards a visitor's guide as opposed to a straight business publication. Mr. Smith said that this would be a marketing opportunity to bring people from the outside in. Mr. Smith commented that they were within budget as far as advertising was going, so they asked Ms. Cockrell to move forward with an ad with them. Mr. Smith advised that the Town might be included in a contest that brought love to Kilmarnock which generated laughter. Mr. Smith laughed as well and said that love was all they needed.

Councilmember Donahue asked if the contest would be part of the bonding thing that was suggested by a member of the audience.

Vice-Mayor Smith advised that the contest was conducted through the Virginia Tourism Corporation and added that if anyone had recently been to

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any of the Welcome Centers they would have seen an 8 foot tall sign there bearing the letters LOVE. Mr. Smith said that it would be more of a photo opportunity than anything else. Mr. Smith advised that contest was done through social networking and people would have 24 hours to vote for Kilmarnock and, if Kilmarnock won, the LOVE letters would be forwarded to the Town for display on the Town lot for one month.

Councilmember Donahue commented that maybe they should be displayed at the Town Hall.

Vice-Mayor Smith stated that he did not think there was enough room. Mr. Smith said that they should have the contest results by tomorrow.

Assistant Town Manager Cockrell advised that there were 13 little Town's across the state vying for the title. Ms. Cockrell said that voting would be starting at 8 am on Wednesday Morning.

Vice-Mayor Smith said that if Kilmarnock won, the letters would be displayed for the month of September. Mr. Smith advised that it was a good opportunity for the Town to get exposure throughout the state.

Mrs. Sharon Booth who was standing the back of the room was unable to hear Assistant Town Manager Cockrell's statements and asked if the 13 towns had to "buy" into the contest.

Ms. Cockrell replied that she had said they were "vying" for the title and added that it was just a matter of people voting. Ms. Cockrell advised that she applied through the Virginia Tourism Corporation.

## 2) Committee Recommendations to Council

There were no recommendations made to Council.

### F. Town Centre Committee: Councilmember Jones, Chair

There was no meeting held in the month of August.

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

#### 1) Report from August 5, 2011 meeting.

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

Vice-Mayor Smith stated that everything was in the Committee meeting notes and moved on to the disbursements.

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## 2) Committee Recommendations to Council

Recommend that Council approve the disbursements from July 19, 2011 to August 15, 2011 totaling \$279,263.12.

**ACTION: Councilmember Donahue made a motion to approve the disbursements from July 19, 2011 to August 15, 2011 as presented, seconded by Councilmember Umphlett; and carried unanimously.**

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

### A. Mary Ball Road CDBG Update

Town Manager Saunders reported that the Mary Ball Road Project continued to proceed almost on schedule. Mr. Saunders advised that the sewer line work was just a day or two from being completed. Mr. Saunders stated that they would be starting the water line any day now and bringing in a second crew. Mr. Saunders finalized by saying that the contractor still hoped to be finished by the end of September.

### B. VML Annual Conference

Town Manager Saunders stated that the VML Annual Conference was scheduled for October 2nd through the 5th in the west end of Richmond on Broad Street in Henrico County.

Town Manager Saunders advised that the remainder of his comments he would save until Closed Session.

## 7. Old Business

### Committee Appointments

Councilmember Nunn advised that Section 2-62 of the Town Code said that "the Mayor shall nominate members of all Council Committees and his nomination shall be conclusive unless objection is made by a Councilmember present, in which case the Council, if it so determines by vote, shall make such appointment". Mrs. Nunn stated that what the code was saying was that the appointments must be made in a Council meeting; otherwise, there would be no Councilmember present to make an objection. Mrs. Nunn advised that it was just a procedural issue but from now on the appointments should be made in a Council meeting, not just sent out whimsically. Mrs. Nunn told the Mayor that she knew he could not make the appointments in July because he had two new

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Councilmembers but noted that they should have been announced at this meeting. Mrs. Nunn advised secondly that the code was mute on whether or not the Mayor should appoint the Chairman and when the code was mute Robert's Rules of Order took precedence. Mrs. Nunn stated that under Robert's Rules of Order Committees elected their own Chairs. Mrs. Nunn said that maybe everyone was happy with the Chairs and appointments but added that this was the procedure and as local government things had to be done in the proper way. Mrs. Nunn stated that she would not accept the chairmanship of the Water/Sewer Committee under the current administration.

Mayor Booth advised Councilmember Nunn that he would make a note of that.

Councilmember Nunn stated that she would be happy to serve on the Committee but not as the Chair.

Mayor Booth said that he had noted her preference not to serve on the Water/Sewer Committee.

Councilmember Nunn reiterated that she would serve on the Committee but not as Chair.

Mayor Booth corrected his statement and asked Mrs. Nunn to excuse him. Mayor Booth said that he would be glad to make the Committee appointments during the meetings and, as a matter of fact, he could restate the Committees at this meeting if Council desired in order to offer the opportunity for objection. Mayor Booth said that he would like to raise the point that he believed that most of the Committee Members were approved at the beginning of this term in July 2010 and added that actually there was no approval required with the exception of the Committees that he actually placed himself on. Mayor Booth commented that it was his position that those Committee assignments were made in July 2010 for the term of Council which carried through until the next election.

Councilmember Nunn said that Committee appointments were made every year.

Mayor Booth replied that he did not know that the appointments had to be made every year and asked Town Attorney Stamm to weigh in on the issue.

Town Attorney Stamm replied that he would research it and report at the next meeting.

Mayor Booth said that it was his interpretation that the Committees were appointed for the term of Council.

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Town Attorney Stamm replied that historically appointments were made every July.

Councilmember Donahue stated that he would make a motion to reconfirm the Committee Chairs so that Councilmember Nunn would be comfortable.

Mayor Booth said that he would entertain the motion in a few seconds but wanted to finish his point and stated that they would wait for the opinion of the Town Attorney. Mayor Booth advised that he had been criticized in the local newspaper and criticized by Councilmember Nunn on numerous occasions for appointing himself to Committees. Mr. Booth stated that it had been said since he was an ex-officio member of all Committees, it was repetitive for him to appoint himself and used as a talking point of trying to make him look dumb. Mayor Booth said that he wanted to explain to everyone including Mrs. Nunn that what the distinction was between when he was an ex-officio member of a Committee and when he had actually placed himself on a Committee. Mayor Booth advised that when he placed himself on a Committee he was expected by others to be there. Mayor Booth said that as an ex-officio he simply would go at his leisure. Mayor Booth said that he was entitled to vote in either case. Mayor Booth said that there was no stupidity involved in placing himself on Committees and he knew exactly what he was doing and surely they could see the clear distinction that was made for when he served on a Committee as a full member versus ex-officio. Mayor Booth asked Mrs. Nunn if this was clearer for her now.

Councilmember Nunn replied that it had always been clear to her that Mr. Booth knew exactly what he was doing.

**ACTION: Councilmember Donahue made a motion that the Committee members and chairs be reaffirmed as of August 1, 2011.**

Councilmember Nunn advised that all she was saying was that in the future Committee appointments should be made during a Council meeting so that a Councilmember could have the opportunity to object as per the Town Code.

Councilmember Donahue asked Councilmember Nunn if she was saying that she was comfortable with the Committees as they were.

Councilmember Nunn replied that she was comfortable with the Committees but reiterated that she would not serve as the Chair for the Water/Sewer Committee.

Councilmember Donahue remarked that if Councilmember Nunn was comfortable with the Committees in place then he would withdraw his motion.

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Mayor Booth suggested that the discussion be set aside and they would find a new Chair for the Water/Sewer Committee.

## **8. New Business**

### **A. Appointment to fill Planning Commission seat**

Mayor Booth advised that two people had applied for the vacant seat but noted that the Planning Commission had voted unanimously to recommend Mr. Travis Abbott with a 6 to 0 vote. Mayor Booth noted that the second applicant Ms. Towner was present in the audience along with Mr. Abbott. Mayor Booth asked Ms. Towner if she wanted to address Council before a decision was made.

Ms. Ann Towner introduced herself and thanked everyone for allowing her to submit a letter of interest and noted that she would be very interested in serving on the Planning Commission in the future if the opportunity arose.

Mayor Booth stated that Council really appreciated her application.

Councilmember Nunn said that she thought it was an absolutely phenomenal thing that Ms. Towner with all of her experience would volunteer to serve on the Planning Commission and did not receive one single vote. Mrs. Nunn commented that it was beyond her comprehension.

Mayor Booth asked Mr. Abbott if he would like to address Council.

Mr. Travis Abbott stated that if he did get appointed he looked forward to helping the Town in any way that he could. Mr. Abbott advised that he would be happy to answer any questions that Council might have.

Mayor Booth asked Mr. Abbott to make it clear to Council what his occupation was since he had botched that up for him last time.

Mr. Travis Abbott said that Naval Station Norfolk in Norfolk VA was the largest navy base in the world. Mr. Abbott stated that he was a Lieutenant with an engine company and also served on the Hazardous Materials Response Team trained in chemical, biological, radiological and nuclear explosives. Mr. Abbott said that he served for 28 days in New Orleans after Katrina came through as a part of a rescue and recovery effort. Mr. Abbott finalized by saying that basically he was a fire fighter.

Councilmember Nunn asked Mr. Abbott if it was true that he had said during the last meeting that he worked 24 hours on and 24 hours off.

Mr. Abbott replied that was correct.

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Councilmember Nunn asked Mr. Abbott if he would be able to change his schedule in order to attend the Planning Commission meetings.

Mr. Abbott stated that he would.

Mayor Booth stated that he was ready to entertain a motion for the appointment to the vacant Planning Commission seat. This term will expire in September of 2014.

**ACTION: Councilmember Donahue made a motion to appoint Travis Abbott to fill the vacancy on the Kilmarnock Planning Commission, seconded by Vice-Mayor Smith; and carried unanimously.**

Mayor Booth congratulated Mr. Abbott and welcomed him to the Planning Commission.

B. Consideration of Planning Commission seats that would expire in September.

Mayor Booth advised that a few seats on the Planning Commission would expire in September and those individuals would require reappointment.

Councilmember Bouslough reported that the two seats belonged to Lindsay Gardner and Joan Gravatt.

Mayor Booth commented that Mrs. Gravatt was just sworn in to the Planning Commission and now was having to be reappointed. Mayor Booth asked if there was any discussion or action regarding the two reappointments. The reappointed terms will expire in September of 2015.

**ACTION: Vice-Mayor Smith made a motion to reappoint Joan Gravatt and Lindsay Gardner to serve on the Kilmarnock Planning Commission, seconded by Councilmember Bouslough; and carried unanimously.**

C. Personnel Matters

Mayor Booth called for a brief recess at 7:53 pm prior to the Closed Session Council returned from recess at 8:05 pm.

1) Enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (1) Personnel matter involving demotion, discipline or resignation of a specific

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employee.

**ACTION:** Councilmember Nunn made a motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (1) Personnel matter involving demotion, discipline or resignation of a specific employee, seconded by Vice-Mayor Smith; and carried unanimously.

Council entered into Closed Session at 8:06 pm.

Regular Meeting reconvened at 9:03 pm.

2) Certify Closed Session held IAW FOIA 2.2-3711(A) Para (1) Personnel matter involving demotion, discipline or resignation of a specific employee.

**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

Bouslough, Denis - yes

Donahue, Shawn – yes

Jones, Paul S. – yes

Nunn, Rebecca T. – yes

Smith, William L. – yes

Umphlett, Mae - yes

3) Action Item: Result of Closed Session

**ACTION:** Councilmember Nunn made a motion to uphold the decision made by Town Manager Saunders and that the Town Manager would have the full authority to deal with personnel matters in the Town, seconded by Councilmember Jones; and carried by a 5 to 1 vote in favor of the motion. (Councilmember Donahue opposed)

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Councilmember Nunn stated that she and Councilmember Bouslough were requesting a Closed Session at the next Council meeting to discuss letters written to the newspaper specifically the one written by Mayor Booth on August 11 which contained eight fabrications.

Mayor Booth advised Councilmember Nunn that he hoped that they got a chance to talk about hers because she had written far more than he had.

Councilmember Bouslough stated that the Closed Session was not going to be just for that but for the general demeanor of Council in general.

### **9. Council Comments:**

Councilmember Jones asked if a Vice-Mayor was supposed to be elected last month. Mr. Jones stated that he thought that the Vice-Mayor's term only lasted one year.

Mayor Booth stated that he thought the term was for two years and asked Town Attorney Stamm for his opinion.

Town Attorney Stamm replied that historically the Vice-Mayor's term lasted for one year and noted that it was just the way that Kilmarnock had done it.

Mayor Booth asked the pleasure of Council if they wanted to take care of this now or at the next meeting. Councilmember Donahue replied that he would like to take care of it at the next meeting because it was not on the agenda.

Mayor Booth asked that it be placed on the agenda for the next Council meeting.

### **10. Adjournment:**

**ACTION: Vice-Mayor Smith made a motion to adjourn, seconded by Councilmember Nunn; and carried unanimously.**

Meeting adjourned at 9:10 pm

Prepared by:

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

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

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