

November 16, 2009

**KILMARNOCK TOWN COUNCIL  
Monday, November 16, 2009  
Town Hall  
Kilmarnock, VA**

**Regular Meeting Minutes**

**1. Call to Order:**

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

Dr. Curtis H. Smith, Mayor  
Paul Jones, Vice-Mayor  
Randy Moubray

Barbara Robertson  
Rebecca Nunn  
Howard Straughan

Members Absent:

John A. Smith

Staff Present:

Tom Saunders, Town Mgr.  
Marshall Sebra, Town Planner/Asst. Town Mgr.  
Paul C. Stamm, Jr., Town Attorney  
Susan Cockrell, Comm. Dev. Strategist  
Jackie Blencowe, Town Clerk  
Joan Kent, Transcriber  
M. S. Bedell, Chief of Police

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

**2. Acceptance and Approval of Agenda**

Mayor Smith requested that the agenda be altered to allow a brief closed session following Number 5 (Public Hearing- A) in order for Council to discuss a real estate issue.

**ACTION: Councilmember Straughan made a motion to accept the agenda for the November 16, 2009 Town Council meeting as amended, seconded by Councilmember Robertson; and carried unanimously.**

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

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**Council Meeting held October 26, 2009.**

**ACTION: Councilmember Nunn made a motion to approve the October 26, 2009 Regular Town Council Meeting Minutes, seconded by Councilmember Straughan; and carried unanimously.**

**4. Public Comments and Presentations**

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

**A. Public Comments**

1) Mr. Rick Moss, owner and operator of Savannah Joe's Restaurant in Kilmarnock, VA, addressed Council in regards to a complaint made by a Town resident at a previous meeting regarding noise coming from his place of business. Mr. Moss confirmed that he owned a business located in the commercial district, which was in close proximity to the homes of some Town residents, and stated that once in a while those residents may have been exposed to some music drifting from Savannah Joe's in addition to the sirens from rescue squads, fire departments, and all other noises that one could expect to hear if they resided within the Town limits. Mr. Moss stated that he had been offering entertainment on weekends for a period of five years and had received a lot of positive feedback from his patrons. Mr. Moss advised that he had always abided by the guidelines set forth in the noise ordinance and noted that he usually ended the entertainment at 10:25 pm just to be sure that he fell within the specified curfew. Mr. Moss stated that his business was not a public nuisance as was suggested by the resident at a previous meeting. Mr. Moss said that on Friday evenings, April through October, he provided music, a buffet, beer, and wine. Mr. Moss advised that Savannah Joe's was not a drinking establishment but one that provided entertainment. Mr. Moss said that his establishment was family oriented and that was the atmosphere that he had intended to create and noted that some parents did allow their children to bring bikes or skateboards with them on the weekends. Mr. Moss said that when he provided entertainment he usually stood behind the soundboard and monitored the decibel meter. Mr. Moss noted that the wind had a lot to do with what direction the music was carried in. Mr. Moss said that in five years of running his business, he only had to ask two people to leave due to minor misconduct. Mr. Moss advised that each of his employees had completed an alcohol awareness course offered by the State of Virginia in regards to alcohol sales. Mr. Moss commented that he was proud of his establishment and felt that it helped in keeping business at the south end of Town. Mr. Moss said that some of the big-name bands drew patrons from other jurisdictions who ate at other Town restaurants and stayed at the hotel. In finalizing, Mr. Moss stated that he had been in this type of business for over

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twenty-five years and had learned that he couldn't please everyone all of the time and, if he thought it would help, he would take Mr. Lane a piece of pie and an apology card.

2) Mr. Les Spivey of East Church Street in Kilmarnock, VA, stated that he read the letter to the editor in the local newspaper regarding Savannah Joe's and said that he had never seen any drug dealing there and, as a matter of fact, he had never seen any drug dealing period. Mr. Spivey said that the person who claimed to see the drug dealing should have called the police and not come before Council complaining that the music at Savannah Joe's was initiating drug activity and kids playing in the parking lots. Mr. Spivey commented that kids had always played in the parking lots around Town and if he saw them get out of hand he simply walked over to them and asked them to stop whatever it was that they were doing. Mr. Spivey said that the gentleman who had the problem with drug activity and mischievous children should have addressed those issues while they were in progress. Mr. Spivey said that he, like many of the Councilmembers, frequented Savannah Joe's along with other parents, grandparents, and children. Mr. Spivey stated that he did not understand why this particular individual felt the way that he did about an establishment that benefited the Town by bringing in business and paying taxes just because the music was a little loud on Friday nights. Mr. Spivey finalized by saying that maybe that individual should move.

Vice-Mayor Jones advised that he went by Savannah Joe's every Friday night and did not see any problems there. Mr. Jones stated that last Friday night he was around Claybrook and Roseneath and was more annoyed by a barking dog than he was by the music coming from Savannah Joe's.

Mayor Smith advised Mr. Moss that one of the issues brought before Council was that his entertainment was bleeding over to Sunday afternoons.

Mr. Moss replied that once in a while during the summer he did have music from 1 to 4 pm on Sundays.

Vice-Mayor Jones asked if that was only on special occasions.

Mr. Moss replied that some of the time it was. Mr. Moss said that he tried having entertainment on Sunday afternoons but found that it didn't work out that well.

Councilmember Nunn replied that the way the ordinance was written, Mr. Moss could have entertainment seven days a week if he wanted to.

Mayor Smith replied that he understood that but noted that one of the complaints was in regards to not having peace and quiet on that particular day.

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## B. Presentations

Planning Commission Report: Councilmember Nunn, Council Liaison

Councilmember Nunn stated that the November Planning Commission meeting was cancelled.

## 5. Public Hearing:

A. Request by Northern Neck LLC to rezone approximately 112 acres of property located behind homes north of Irvington Road and behind establishments west of School Street, Kilmarnock, VA, to PUD (Planned Unit Development). The request pertains to Tax Map and parcel number 23A-21-3A and 23A-21-16. The property is currently zoned R-1 (Low Density Residential) and C-1 (General Commercial).

1) Mayor Smith opened the public hearing.

2) Mayor Smith asked for Staff Comments.

Assistant Town Manager/Town Planner Sebra advised that the public hearing had been properly advertised and that the adjacent property owners had been notified. Mr. Sebra said that a copy of the Planning Commission's recommendation regarding this matter was included in each Councilmember's packet. Mr. Sebra introduced Mr. Benhoff, his associates, and Mr. Tom Tingle who gave the presentation on Kilmarnock Glen.

3) Developer Presentation

Mr. Tingle stated that he was the architect for the proposed PUD, Mr. Benhoff was the developer and property owner, Mr. Blair Wilson was the consulting civil engineer, and Mr. Zack Lett was the landscape architect. Mr. Tingle advised that there were other team members involved but they were not able to be present. Mr. Tingle began by describing Kilmarnock Glen as a pedestrian friendly, traditional neighborhood development which would be located within walking distance of the Steptoe's District, Main Street businesses and School Street businesses. Mr. Tingle stated that Northern Neck LLC had envisioned the development as a blend of low maintenance housing styles occupied by empty nesters, retirees, and families. Mr. Tingle said that the project would provide an opportunity for folks who already lived in the area to downsize without having to leave Lancaster County. Mr. Tingle said that the site was chosen because it was a 112-acre piece of property located within the Town limits with ridges along the high levels that had been timbered over the years, and wooded ravines that were natural buffers. Mr. Tingle described it as a blend of traditional neighborhood living

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that was seen in small towns and urban areas with rural views. Mr. Tingle said that, according to the Town's Comprehensive Plan, the property was identified as a planned mixed use area which would be serviced by Town water and sewer. Mr. Tingle stated that the main entrance to the PUD would be off of Irvington Road with a secondary entrance coming in off of School Street. Mr. Tingle advised that they were proposing a blend of different housing styles which would consist of single story detached homes backing up to the existing homes on Irvington Road, townhouses, duplexes, apartments and active adult condominiums. Mr. Tingle continued by saying that there would be a community center, clubhouse, pool and a tennis court. Mr. Tingle advised that the lot sizes ranged from 8000 to 8200 square feet for a single-family dwelling, 5700 to 6900 square feet for a two-family dwelling, and a half-acre lot for a multi-family dwelling. Mr. Tingle stated that the commercial site on the property was a little over 2.6 acres, which if subdivided would meet the minimum requirements of 4300 square feet. Mr. Tingle said that the common open space or green space was 47 percent but with the addition of the yards, it was in excess of 60 percent. Mr. Tingle stated that there would be a network of trails leading to School Street and sidewalks on all of the public streets throughout the community. Mr. Tingle advised that they were requesting one modification to the Town's PUD requirements, which was a 15-foot yard setback instead of the required 20-foot yard setback because they felt that the shallow front yards would emphasize the traditional neighborhood development with front porches facing the sidewalks and the streets. Mr. Tingle stated that the primary streets in the development would be VDOT right of way which meant a 50-foot right of way, 24 feet of pavement, curb and gutter, a strip of land that would allow trees to be planted along the streets, and a sidewalk. Mr. Tingle said that they were proposing for some of the interior streets to remain private. Mr. Tingle stated that they had originally proposed three entrances to Kilmarnock Glen but were asked by VDOT to remove one of them because of an offset with Cralle Court. Mr. Tingle said that they changed that entrance to pedestrian access only. Mr. Tingle stated that they were proposing a left turn lane at the main entrance on Irvington Road. Mr. Tingle advised that there was enough pavement already there so they would not have to expand the right of way and they could make the entrance work without having to take down any telephone poles. Mr. Tingle said that they would try to minimize the impact on each side of Irvington Road. Mr. Tingle advised that they had a full traffic impact analysis done by a transportation group from Yorktown which had been reviewed by VDOT. Mr. Tingle said that in regards to parking spaces they were proposing two parking spaces per multi-family dwelling unit, and four parking spaces for the single family and two family dwelling units. Mr. Tingle stated that all of the units would have alley loaded or courtyard garages. Mr. Tingle advised that there would be one story, two story, and three story dwellings designed in the traditional Tidewater and Northern Neck styles with large windows and front porches facing the street. Mr. Tingle said that the commercial area was a little over two and a half acres located at the north end of the property which would intersect with existing businesses on North Main Street. Mr. Tingle advised that the gross density was just under 3.8 dwelling units per acre and noted that they were trying to keep density along Irvington Road lower than that with 2.7 dwelling units

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per acre and a 100-foot buffer. In regards to recreational amenities, Mr. Tingle said that there would be trails, a clubhouse, a pool, and a tennis court with talk of leasing some space to an outside wellness, fitness operator with possible public access if approved by the homeowners association. Mr. Tingle said there would be pocket parks which are small parks with gazebos or common park spaces. As far as public utilities, Mr. Tingle advised that they would be using the Town's water and sewer system. Mr. Tingle said that Mr. Wilson had been working with Town Manager Saunders in regards to the current capacity of the sewer system and understood that improvements might have to be made to the pump station that they would tie into. Mr. Tingle stated that it was early in the project and the engineering for the sewer had not been done as of yet. Mr. Tingle advised that it was not known if ultimately there might have to be a pump station built as part of the property, but he envisioned it would be phased in as they saw what their needs were. Mr. Tingle stated that an environmental group had surveyed the property for wetlands and sensitive areas. Mr. Tingle said that they were proposing wet ponds on the property but also investigating low impact development to slow runoff into the streams. Mr. Tingle stated that the homeowners association would take care of the neighborhood in regards to ownership, maintenance, insurance for common open spaces, recreational amenities, landscaping of the public right of ways, architectural standards, and storage of recreational vehicles, boats, etc. Mr. Tingle advised that the subcommittee would take care of exterior home and yard maintenance. Mr. Tingle stated that one concern voiced during the Planning Commission meeting was what fiscal impact the residential development would have on the Town and county. Mr. Tingle said that the project was geared towards an age-targeted community such as empty nesters and retirees, although they were not excluding families, so he felt that the fiscal impact would be minimal. Mr. Tingle stated that research regarding school impact was conducted using other Virginia localities and what was found was that usually the impact was higher with single-family detached homes and manufactured homes but less with multi-family homes. Mr. Tingle advised that the development would generate significant fees such as water and sewer tap fees totaling 4 million dollars when the project was built out. Mr. Tingle said that there would be zoning fees for all of the homes and commercial buildings, and in addition there would be an estimated \$120,000 to \$130,000 in real estate taxes for the Town as well as \$190,000 to \$200,000 in water and sewer fees at the current rate. Mr. Tingle advised that the development would generate over \$500,000 for Lancaster County in real estate taxes and that over time the development would help support the businesses in Town. Mr. Tingle finalized by saying that he and Mr. Benhoff would entertain any questions that the public or Council might have.

Mr. Mel Benhoff advised that this public hearing was just for approval to rezone the 112 acres. Mr. Benhoff said that there were eight phases to the development and that each phase would require a site plan. Mr. Benhoff stated that he would like to address the proffers and sewage issues at each site plan submission.

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Councilmember Nunn asked Mr. Benhoff if he had checked into the new law that came into effect requiring any development containing multiple driveways located on Route 200 or Route 3 within the Northern Neck to have a right turn lane.

Mr. Blair Wilson responded on behalf of Mr. Benhoff by saying that he had checked with VDOT and they were in compliance with the access management regulation that Councilmember Nunn was referring to.

Mr. Tingle asked Mr. Wilson if it would be safe to say that what was being proposed in regards to entrances and configurations was based on VDOT's comments after the traffic impact study was completed.

Mr. Wilson replied that was correct.

Councilmember Nunn commented that she read the entire impact analysis and noted that the street had received an F.

Mr. Wilson advised that they were not seeking any variance or waiver because they conformed to the regulatory requirements.

Councilmember Nunn stated that Mr. Tingle had said that the Town's water and sewer system had the capacity to support the development and commented that the Town's water and sewer system didn't even have the capacity for the 17 houses proposed in the first phase. Mrs. Nunn said that she served on the Water/Sewer Committee and advised that the School Street lines had already outlived their life expectancy and wouldn't be able to handle anything additional. Mrs. Nunn advised Council to proceed with caution on this matter and to add triggers in case the phases were not finished in a certain period of time. Mrs. Nunn stated that Mr. Benhoff did not want to put in the infrastructure necessary for the project.

Mr. Benhoff replied that he never said that.

Councilmember Nunn stated to Mr. Benhoff that he did say that at the Planning Commission meeting.

Mr. Benhoff replied that what he said was that he would not agree to anything until he knew what it was and the cost involved.

Councilmember Nunn stated to Mr. Benhoff that if he were to build the development at the edge of Town where there were no existing pipes, then he would have to put in his own infrastructure at his own expense and then deed it to the Town. Mrs. Nunn advised Mr. Benhoff that he was going to have to do that in this case as well.

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Mr. Benhoff said that he understood that.

Mr. Tingle stated that all of the pipes going into the development would be deeded back to the Town but noted that Mrs. Nunn was correct in the fact that they did not have to build two miles of water and sewer to get to the site because it was already in the Town.

Councilmember Nunn replied that the Town was not obligated to make it work for them and stated that they would have to put in a lift station.

Mr. Blair Wilson advised that he had spoken with the Town's consultant, Mr. Rosenbaum, and what they had envisioned to happen was that approximately 40 homes would actually gravity feed to the School Street station. Mr. Wilson confirmed that there was some question as to the capacity of the School Street station, but the Wastewater Management Incorporated Study did not necessarily discuss the impact of Kilmarnock Glen on it. Mr. Wilson said there had been an assumption made by that consultant that the entire project would have its own pump station and all the flows would be collected within the development and pumped up to the Wiggins Avenue Station. Mr. Wilson stated that the study showed that improvements would have to be made to the Wiggins Avenue Station but that Kilmarnock Glen had no impact on the School Street Station. Mr. Wilson said that however, they did want to get the first phase running into the School Street Station if it had sufficient capacity to handle the flow. Mr. Wilson advised that the issue of capacity was multifaceted by way of dry weather flow versus wet weather flow. Mr. Wilson stated that the Water/Sewer Committee was not going to grant approval for a project that increased discharge to an inadequate pump station. Mr. Wilson advised that they wanted to work mutually with the Town.

Councilmember Nunn said that before Council voted on the rezoning, she felt that they should know whether or not water and sewer could be provided and what the developer's plans actually were in regards to infrastructure.

Mayor Smith stated that it was his understanding that water and sewer issues would be addressed at each site plan submission.

Councilmember Nunn replied that the rezoning was for the whole thing. Mrs. Nunn once again cautioned Council to be very careful.

Vice-Mayor Jones asked Councilmember Nunn if she was saying that the School Street lines could not handle the extra flow at this time.

Councilmember Nunn replied that was what she was saying.

Mr. Blair Wilson said that in his discussion with the Town's consultant, the station had adequate capacity but the issue was with the age of the equipment.

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Councilmember Nunn asked Town Manager Saunders to address this issue.

Town Manager Saunders stated that understandably Mr. Benhoff was not keen on having to do a lot of engineering before the property was rezoned because it was an expensive endeavor. Mr. Saunders said that at the same time, by him not having done so, there were a lot of unanswered questions. Mr. Saunders stated that he did not think that it was unreasonable to do things the way Mr. Benhoff was doing them and that Council might have to move forward with trust that staff would hold their feet to the fire and make them do the right thing or Council could require that the engineering be done prior to the rezoning. Mr. Saunders said that in regards to School Street, the issue was the age of the mechanics not the capacity. However, Mr. Saunders thought that Wiggins Avenue was another story and that flow couldn't be added without an immediate upgrade. Mr. Saunders advised that Mr. Wilson and Mr. Rosenbaum were working on a plan to develop the engineering data that was needed. Mr. Saunders stated that flow meters had been ordered and they would be put into place and monitored over the next several months so that Council could receive better answers to their questions.

Mr. Benhoff stated that he was willing to work with the Water/Sewer Committee at every step. Mr. Benhoff advised that he did not think that they could engineer the whole system at this stage because they really didn't know what they were going to run into with each phase of the project.

Councilmember Nunn replied that the Town didn't know either but stated that the Town was responsible for the people's money, which was not going to be used for a private project. Mrs. Nunn said that it was her opinion that the engineering needed to be done before Council made a decision on the rezoning.

Mayor Smith replied that just by granting the rezoning Mr. Benhoff was not receiving permission to do whatever he wanted because the Town would have to approve each site plan.

Councilmember Nunn said that if the rezoning was approved, then she felt that triggers should be applied in case a phase was not completed in a specific period of time. Mrs. Nunn asked Mr. Benhoff if he was bonded.

Mr. Benhoff replied that he would be bonded by phase.

Mayor Smith commented that the Town couldn't legislate the economy.

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Councilmember Nunn replied that this development was the biggest thing that Council ever had to deal with and she just wanted to be sure that they made the right decision.

Assistant Town Manager/Town Planner Sebra stated that it was important to know that this was a preliminary development plan and that Mr. Benhoff would have to come back before Council for a final plan approval.

4) Mayor Smith asked for public comments.

a. Mr. Les Spivey from East Church Street, Kilmarnock, VA, stated that he would like to point out something that was left out of the revenue summary. Mr. Spivey advised that the project would create some business, property and license tax from all of the contractors that worked on the site, which he felt would turn out to be a significant number. Mr. Spivey stated that he at one time had served on the Kilmarnock Planning Commission and on the Water/Sewer Committee and advised that the problems with the Wiggins and School Street stations were not new and had been there for a long time. Mr. Spivey said that most of the problem was directly related to the massive water infiltration into the system that had never been resolved and would have to be resolved one way or another whether Kilmarnock Glen was built or not. Mr. Spivey said that all of the problems with pump stations, sewer lines, and leaking water pipes that bubble up in the street would have to be repaired anyway. Mr. Spivey continued by saying that the Town was receiving a wonderful present from Mr. Benhoff of about 4 and a half million dollars over the years which could help with all of those problems.

Councilmember Nunn commented that she thought the problems needed to be fixed before twenty years. Mrs. Nunn added that she was not against the project but just wanted all of the questions answered before a decision was made.

b. Mrs. Virginia Henry, who owns property on Clark Lane in Kilmarnock, VA, stated that she also had served on the Kilmarnock Planning Commission and helped to create the existing PUD ordinance which she felt that Mr. Benhoff had followed every step of the way. Mrs. Henry reminded Council that this public hearing only dealt with the rezoning of the 112 acres and nothing else at this time.

Councilmember Nunn advised that she understood that.

Mrs. Henry stated to Councilmember Nunn that she was acting as if she was approving the site plan for the project but in order for Mr. Benhoff to go forward with the engineering, which was very costly, the rezoning had to take place first. Mrs. Henry said that the project was going to allow the Town to have the revenue that it needed to make the improvements. Mrs. Henry

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finalized by saying that she hoped Council would approve the project when the time came.

Councilmember Straughan asked Town Manager Saunders and Assistant Town Manager Sebra for their opinion.

Town Manager Saunders advised that Mr. Sebra had included a staff report in each Councilmember's packet which showed his recommendations and requirements for approval. Mr. Saunders stated that he recommended that the rezoning be approved with those conditions but noted that the decision was entirely up to Council

c. Mr. Lee Lindsey stated that his family owned a farm on Waverly Avenue, and he had a few concerns. Mr. Lindsey said that this was a very big project and when closely examined it appeared to be almost a town within the Town. Mr. Lindsey felt that the issues with the sewer went beyond the pipes to the treatment plant, which was close to his family's place. Mr. Lindsey had concerns that the extra capacity would increase the noise at the treatment plant, not to mention the impact on the environment. Mr. Lindsey asked Council to keep in mind that during moderate to heavy rains the capacity at the treatment plant was exceeded by approximately 100,000 gallons a day. Mr. Lindsey said that the thought of 400,000 gallons of discharge going down the creek by his house was a little concerning.

5) Mayor Smith closed the public hearing.

Mayor Smith stated that the Planning Commission had recommended with a unanimous vote that the rezoning be granted.

6) Mayor Smith called for Council discussion and/or action.

**ACTION: Councilmember Robertson made a motion to grant the request by Northern Neck LLC to rezone approximately 112 acres of property pertaining to Tax Map and parcel numbers 23A-21-3A and 23A-21-16 from R-1 and C-1 to PUD subject to the conditions as recommended by Town staff in the Council packet, seconded by Councilmember Straughan; and carried unanimously.**

Mayor Smith called for a 5-minute recess at 7:55 pm.  
Council was called back into session at 8:00 pm.

**\*Closed Session on disposition of publicly held real property moved from**

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later in meeting per Council action

**\* Enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (3) Real Estate.**

**ACTION:** Councilmember Moubray made the motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (3) Real Estate to discuss the disposition of publicly held real property because discussion in open meeting would adversely affect the Town's bargaining position. Motion was seconded by Councilmember Straughan; and carried unanimously.

Council entered into Closed Session at 8:01 pm.  
Regular Meeting reconvened at 8:30 pm.

**\* Certify Closed Session held IAW FOIA 2.2-3711(A) Para (3) Real Estate.**

**ACTION:** Councilmember Robertson made a motion to certify that the Closed Session was held IAW FOIA 2.2-3711(A) Para (3) Real Estate and nothing was discussed except the matter/s identified in the motion to convene in Closed Session. Motion was seconded by Councilmember Nunn; and carried unanimously by roll call.

Jones, Paul S. – yes  
Moubray, Randy – yes  
Nunn, Rebecca T – yes  
Robertson, Barbara – yes  
Straughan, Howard – yes  
Smith, Dr. Curtis H. – yes

**ACTION:** Councilmember Moubray made a motion for the Town Manager to enter into negotiations with the Northern Neck Free Health Clinic regarding their purchase of Town property located at 115 DMV Drive, Kilmarnock, VA, seconded by Councilmember Nunn; and carried unanimously.

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## **5. Public Hearings: (Continued)**

B. Text amendments to the Town of Kilmarnock's Nuisance Ordinance; Section 18-70, Removal of trash, garbage, similar materials from property.

- 1) Mayor Smith opened the public hearing.
- 2) Mayor Smith asked for staff comments.

Assistant Town Manager/Town Planner Sebra advised that a copy of the amendments to the ordinance was included in each Councilmember's packet.

- 3) Mayor Smith asked for public comments.

a. Mrs. Fannie Clingan of 326 Irvington Road in Kilmarnock, VA, stated that she had asked the owners of a neighboring property many times to keep the grass cut, limbs picked up and the leaves cleaned up. Mrs. Clingan said that she appreciated the fact that the owners had removed some of the debris such as an old refrigerator and cars. Mrs. Clingan was in support of the amendment to the ordinance.

- 4) Mayor Smith closed the public hearing.
- 5) Mayor Smith asked for Council discussion and/or action.

**ACTION: Councilmember Nunn made a motion to accept the text amendments to the Town of Kilmarnock's Nuisance Ordinance; Section 18-70, Removal of trash, garbage, similar materials from property as presented, seconded by Vice-Mayor Jones; and carried unanimously.**

## **6. Committee Reports**

A. Water/Sewer Committee: Councilmember Smith, Chair

Report from November 5, 2009 Meeting was deferred due to Councilmember Smith's absence.

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

- 1) Report from November 5, 2009 meeting.

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Councilmember Robertson stated that the committee thanked the master gardeners, Kiwanis, and the playground moms for the plantings at the Kilmarnock playground. Mrs. Robertson said that staff had started putting up the holiday banners and that the committee made a decision to place the new holiday tree in front of the Palmer Building.

2) Vice-Mayor Jones stated that he wanted to re-establish the seasonal decoration cash prizes that the Town once gave the residential winners and made the following motion:

**ACTION: Vice-Mayor Jones made a motion that the 1<sup>st</sup> place winner of the residential seasonal decoration contest receive a cash prize of \$100, second place winner receive a cash prize of \$75, and the 3<sup>rd</sup> place winner receive a cash prize of \$50, seconded by Councilmember Straughan; and carried unanimously.**

C. Police/Public Safety Committee: Vice-Mayor Jones, Chair

Report from November 10, 2009 meeting.

Vice-Mayor Jones reported that a copy of the monthly police report and a copy of the committee meeting notes were included in each Councilmember's packet. Mr. Jones thanked Chief Bedell and staff for their quick response to the ABC store when it was broken into. Mr. Jones stated that Police Officer Kevin Dawson was being certified as a General Instructor so that he could provide some in-house training to other officers without them having to travel to the academy in Fredericksburg.

D. Emergency Preparedness Committee: Councilmember Smith, Chair

Report from November 10, 2009 meeting was deferred due to Councilmember Smith's absence.

E. Economic Development Committee: Councilmember Nunn, Chair

1) Report from October 14, 2009 meeting.

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

Councilmember Nunn stated that the committee discussed the improvement of the Town's website. Mrs. Nunn said that they also discussed the possibility of establishing loft type living on Main Street by offering incentives to

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property owners within the enterprise zone. Mrs. Nunn advised that the Kilmarnock Chamber of Commerce and the Lancaster Chamber of Commerce were considering a possible merger.

2) Town Manager Saunders advised that there was a copy of a resolution in support of an amendment to the Northern Neck Enterprise Zone in each Councilmember's packet and asked for Council's approval.

**ACTION: Councilmember Nunn made a motion to approve the Resolution for Amendment to the Northern Neck Enterprise Zone as presented, seconded by Councilmember Straughan; and carried unanimously.**

F. Town Centre Committee: Councilmember Nunn, Chair

Report from October 14, 2009 meeting

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

Councilmember Nunn stated that the committee had asked Town Manager Saunders to look into the price of a shell steel building and noted that Councilmember Moubray actually had one of those buildings and was able to provide a lot of information. Mrs. Nunn said that the committee wanted to check into the cost for a 6,000 square foot shell with an imitation brick front and pillars to be put on the property where the existing Town Hall was located. Mrs. Nunn suggested that they could do like Habitat for Humanity and ask for volunteers to finish the inside. Mrs. Nunn said that she had also mentioned the possibility of 72 North Main Street because it was next to the municipal parking lot.

G. Administration/Finance Committee: Councilmember Straughan, Chair

1) Report from November 6, 2009 meeting.

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

2) Committee Recommendations to Council

Recommend that Council approve the disbursements from October 26, 2009 to November 16, 2009.

**ACTION: Councilmember Nunn made a motion to approve the disbursements from October 26,**

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**2009 to November 16, 2009 as presented,  
seconded by Vice-Mayor Jones; and carried  
unanimously.**

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

- A. Security cameras at major intersections are being investigated.
- B. The Town's financial auditors were here on November 12<sup>th</sup> and 13<sup>th</sup>.
- C. The Town received an award for the Main Street Project.
- D. The tree lighting is scheduled for 5:30 pm at the Palmer Building on Tuesday November 24, 2009.
- E. The holiday parade is scheduled for December 11, 2009 at 7:00 pm
- F. Citizen's complaint regarding Savannah Joe's Restaurant

Town Manager Saunders stated that his investigation revealed that Mr. Moss had abided by all of the regulations set forth in the Town Ordinance. Mr. Saunders said that did not mean that the business wasn't a nuisance to its neighbors-- it just meant that rules and procedures had been followed by the restaurant owner.

G. Citizen's complaint regarding Springwood Development

Town Manager Saunders reported that he had spoken with Mr. Moody concerning his report of property damage caused by Springwood Development, and he had also spoken with the developer Mr. Jones Felvey. Mr. Saunders said that both men had gotten together for a discussion with one another but he had not been apprised of the outcome.

H. Businesses displaying items on Town sidewalks.

Town Manager Saunders advised that the ordinance read that there had to be a clear 5-foot linear path on the sidewalks and that so far all of the businesses seemed to be in compliance.

**8. Old Business**

There was no discussion under Old Business.

Mayor Smith called for a brief recess at 8:55 pm.  
Council was called back into session at 9:00 pm.

November 16, 2009

**9. Enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (3) Real Estate**

**ACTION:** Councilmember Robertson made the motion to enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (3) Real Estate to discuss the acquisition of real property for public purposes because discussion in an open meeting would adversely affect the Town's bargaining position. Motion was seconded by Councilmember Nunn; and carried unanimously.

Council entered into Closed Session at 9:01 pm.  
Regular Meeting reconvened at 9:07 pm.

**10. Certify Closed session held IAW FOIA 2.2-3711(A) Para (3) Real Estate**

**ACTION:** Councilmember Robertson made a motion to certify that the Closed Session was held IAW FOIA 2.2-3711(A) Para (3) Real Estate and nothing was discussed except the matters identified in the motion to convene in Closed Session. Motion was seconded by Councilmember Straughan; and carried unanimously by roll call.

Jones, Paul S. – yes  
Moubray, Randy – yes  
Nunn, Rebecca T. – yes  
Robertson, Barbara – yes  
Smith, Dr. Curtis H. – yes  
Straughan, Howard – yes

**11. New Business**

Action item: Based on items discussed in Closed Session

**ACTION:** Councilmember Nunn made a motion to purchase 60 acres +/- adjacent to the Tech Park from the Simmons family for \$400,000, seconded by Councilmember Straughan; and carried unanimously.

**12. Council Comments**

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Mayor Smith announced there would be a holiday gathering at his home on Sunday, December 20, 2009 for staff and elected and appointed officials of the Town.

### **13. Adjournment**

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

Meeting adjourned at 9:10 pm.

Prepared by:

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Joan N. Kent

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Dr. Curtis H. Smith, Mayor

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Jacqueline L. Blencowe, Clerk