

October 13, 2009

**KILMARNOCK PLANNING COMMISSION
Tuesday October 13, 2009
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order

Chairman Booth called the regular meeting to order at 7:00 pm with the following members present:

Raymond Booth, Chair
Dave Reedy
William Smith

Claudia Williamson, Vice-Chair
Jane Ludwig
Rebecca Nunn, Council Liaison

Members Absent:
Steve Bonner

Staff Present:
Tom Saunders, Town Manager
Marshall Sebra, Assistant Town Manager/ Planning Director
Paul C. Stamm, Jr., Town Attorney
Joan N. Kent, Transcriber

2. Recognition of Guests:

Chairman Booth welcomed Kilmarnock residents, business owners and guests. Mr. Booth also welcomed newly appointed Council liaison, Mrs. Rebecca Nunn.

3. Acceptance of the Agenda

ACTION: Vice-Chair Williamson made a motion to accept the October 13, 2009 Planning Commission meeting agenda as presented, seconded by Commission Member Smith; and carried unanimously.

4. Public Forum

Chairman Booth opened the public forum by inviting members of the audience to voice their concerns or ideas in regards to planning issues. Each speaker was limited to 3 minutes.

There were no participants in the public forum.

5. Minutes: Approve, Correct or Amend the Minutes for the September 8, 2009 Planning Commission Meeting.

ACTION: Commission Member Reedy made a motion to approve the minutes for the September 8, 2009 Planning Commission meeting as presented, seconded by Commission Member Smith; and carried unanimously.

6. Public Hearings

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 numbers 23A-21-3A and 23A-21-16. The property is currently zoned R-1 (Low Density Residential) and C-1 (General Commercial).

1. Description of Rezoning and Developer Presentation

Assistant Town Manager/ Town Planner Sebra reported that the subject property was currently zoned C-1 and R-1. Mr. Sebra said that it was the request of the landowner and developer, Mr. Mel Benhoff, to have it rezoned to PUD. Mr. Sebra noted that in addition to the public hearing being advertised in the local newspaper, each adjacent property owner was sent notification. Mr. Sebra advised that a staff report along with a copy of the rezoning application and the notes from the last meeting regarding the PUD were included in each Commission Member's packet. Mr. Sebra had also prepared a location map, which he had included in the packet and the developer had provided each Commission Member with a detailed binder on the proposed PUD. Mr. Sebra noted that it was the Planning Commission's responsibility to make a recommendation to Town Council within 100 days following the presentation of the application. Mr. Sebra advised the Planning Commission that they could recommend approval of the plan as presented, approval of the plan with revisions, or recommend disapproval of the plan altogether. Mr. Sebra stated that he took the liberty of providing each Commission member with a checklist to follow while they were reaching their decision. Mr. Sebra turned the floor over to Mr. Benhoff and his associates to give a presentation on the proposed PUD respectively named Kilmarnock Glen.

Mr. Mel Benhoff stood and introduced himself and then introduced his architect, Mr. Tom Tingle, who gave the presentation on Kilmarnock Glen.

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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 describing Kilmarnock Glen as a pedestrian friendly, traditional neighborhood development, which would be located within walking distance of 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 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 mix use area, which would be serviced by Town water and sewer. Mr. Tingle began addressing the seven items that were on the checklist provided to Commission Members by Assistant Town Manager Sebra beginning with the entrance to the development. Mr. Tingle said that they proposed that the main entrance would be off of Irvington Road with a secondary entrance coming in off of School Street. Mr. Tingle stated 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 for a single-family dwelling, 5700 to 6900 for 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 yard would emphasize the traditional neighborhood development with front porches facing the sidewalk and the street. Mr. Tingle advised 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 allowed trees to be planted along the streets, and a sidewalk. Mr. Tingle said that they were proposing that some of the interior streets remain private. Mr. Tingle stated that they had originally proposed three entrances to Kilmarnock Glen but was

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asked by VDOT to remove one 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 without having to expand the right of way. Mr. Tingle noted that they thought they could make the entrance work without having to take down any telephone polls. 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 2 and half acres located at the north end of 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 per acre and a 100-foot buffer. In regards to recreational amenities, 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 homeowner's association. Mr. Tingle said there would be pocket parks, which were 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 had to be made to the pump station that they would tie into. Mr. Tingle stated that they were open to assisting the Town with getting the system up and operating better. Mr. Tingle advised 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 run off 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 RVS Boats etc. Mr. Tingle advised that the subcommittee would take care of exterior home and yard maintenance. In summary, Mr. Tingle stated that it was an exciting project for them and that the blended styles and price points would be the strength that would make it work. Mr. Tingle and Mr. Benhoff entertained questions.

Commission Member/ Council Liaison Nunn asked if Northern Neck LLC had planned to have a right turn lane heading west on Irvington Road at the main entrance of Kilmarnock Glen.

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Mr. Blair Wilson responded by saying that VDOT had not required them to put in a right turn lane after they reviewed the data collected during the traffic impact study but did suggest a 50 foot radius instead.

Mrs. Nunn asked Mr. Wilson if he was aware of the new law that went into effect requiring any development located on Route 200 or Route 3 within the Northern Neck that contained multiple driveways to have a right turn lane.

Mr. Wilson said that he was not aware of any such law but would definitely check into it.

Mrs. Nunn replied that she had spoken with VDOT on a different matter earlier in the day and was informed by them that this had gone into effect as of today.

Mr. Wilson stated that there was a possibility that VDOT had planned to honor the 50-foot radius since they had already given them preliminary approval after reviewing the traffic impact study.

Mrs. Nunn commented that traffic coming from the west would appear to be turning into the exit lane instead of the entrance lane if they followed the arrow.

Mr. Wilson responded by saying that what Mrs. Nunn was looking at was a pavement marking plan that showed how the lanes would be delineated so that it facilitated the left turning movement and allowed the through traffic movement in either direction.

Mrs. Nunn commented that the study showed a forty percent delay.

Mr. Wilson replied that was specific to the School Street and Irvington Road intersection and was possibly based on 2029 traffic generation.

Mrs. Nunn advised that it was based on 2015 traffic generation. Mrs. Nunn stated that she lived off of Walnut Avenue which was a half of block from where the entrance to Kilmarnock Glen was going to be and noted that she now had to wait up to four minutes sometimes to be able to turn onto Irvington Road. Mrs. Nunn said that with Kilmarnock Glen traffic it would increase to over five minutes. Mrs. Nunn noted that this was a concern for the 38 people who lived in her community and for the residents of Irvington Road.

Mr. Wilson stated that they had a discussion with VDOT concerning this, and the entrance to Kilmarnock Glen was pushed further to the

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east to increase the offset distance. Mr. Wilson advised that they would take this concern into account with the entrance design.

Mrs. Nunn wanted to verify that the buffer would be 100 feet.

Mr. Benhoff assured Mrs. Nunn that there would be a 100 foot vegetated buffer.

Mrs. Nunn said that Mrs. Clingan was unable to attend the meeting because she had hurt her shoulder, but both she and Mr. Dunaway were both concerned about the entrance and wanted the lighting to be at the back of their property line.

Mr. Benhoff stated that he had been having extensive conversations with Mrs. Clingan and Mr. Dunaway and was willing to work with both of them.

Mrs. Nunn said that the Planning Commission and Council needed to know how much this development was going to cost the Town. Mrs. Nunn advised that residences cost municipalities money. Mrs. Nunn noted that the tax rate for residential property was a lot lower than that of commercial property and commercial properties typically used fewer Town services. Mrs. Nunn said that the more residential taxes collected meant more cost for the Town. Mrs. Nunn stated that with the influx of residences, the Town would have higher school and traffic costs and that the addition of the 423 proposed homes would generate a 50 percent increase in existing houses in Town.

Mr. Benhoff responded by saying that Mrs. Nunn was talking about a tax base that was going to increase due to the influx of homes but was assuming that there were going to be increased costs to the Town that went along with them. Mr. Benhoff said that if Kilmarnock Glen became a retirement type of community then the residents would use very little of the public services and would be big tax contributors.

Mrs. Nunn replied that typically in Virginia each acre of residential property cost the municipality that it was located in approximately \$1200 over and above the amount of taxes collected.

Commission Member Ludwig asked Commission Member Nunn what municipalities she was quoting from.

Mr. Tingle replied that on the average, Mrs. Nunn was correct. Mr. Tingle advised that he had been working on James City County's Comprehensive Plan for the past nine months and confirmed that the \$1000 to \$1200 average was true. Mr. Tingle advised that the biggest impact regarding residential development was school-aged children, which was the highest cost to

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a municipality followed by fire, police, etc. Mr. Tingle stated that what Mr. Benhoff was saying was that the numbers would flip over due to a couple of things, one being the cost of the house and the other being the age of the occupants. Mr. Tingle said that without the school-aged children there would not be the same cost impact.

Mrs. Nunn said that the school board had received a letter saying that there were going to be school-aged children and wanted to know if they were able to accommodate them.

Mr. Tingle replied that when looking at planned developments, it was not healthy to say that they wanted everybody 55 years of age and above. Mr. Tingle said that it was a much healthier approach to have some mix of families but the reality was there were going to be more empty nesters and older folks. Mr. Tingle advised that the other thing that localities were starting to look at was the fact that when you have houses close to a commercial area, those rooftops helped the businesses survive.

Mrs. Nunn said that she had reservations because in Kilmarnock as in every community the tax dollars paid for salaries, utilities, insurance, office supplies, maintenance of town vehicles and machinery, which were ongoing everyday expenses. Mrs. Nunn advised that the Town of Kilmarnock's biggest expense was its water and sewer system because it was not self-sufficient and every month funds had to be transferred even though the rates had been raised, but not enough in her opinion. Mrs. Nunn stated that in 2010, the state had mandated that the system had to be self-sufficient or the Town would not receive any federal funding.

Mr. Benhoff interrupted Mrs. Nunn by asking her if additional hook-ups to the water/sewer system wouldn't make it more sufficient.

Mrs. Nunn said that she was getting to that and continued by saying that the problem with water/sewer system was that it had been neglected and a band-aid had been put on it when it required major surgery. Mrs. Nunn stated that the Town had to go back now and fix a bunch of stuff that wasn't fixed to begin with. Mrs. Nunn advised that the mandates that the Town had to meet cost a lot of money and was coming out of reserve accounts funded by taxes. Mrs. Nunn noted that the Town paid for special events, holiday decorations, street cleaning, landscaping, and the trolley, community grants for the fire department and rescue squad and planning and engineering. Mrs. Nunn said that the School Street water and sewer lines were already operating near capacity but noted that they had outlived their life expectancy. Mrs. Nunn continued by saying that in order for the Town to supply water and sewer to 423 new homes or even to 16 additional homes, new pipes and a lift station would have to be put in and asked Mr. Benhoff if he was going to pay for that.

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Mr. Benhoff replied that he had not agreed to pay for anything because they were still researching the situation.

Mrs. Nunn advised Mr. Benhoff that the Town was not going to pay for it.

Commission Member Ludwig intervened by saying that all of these issues had been discussed at great lengths during the initial meetings between Mr. Benhoff and the Planning Commission. Mrs. Ludwig advised that there were grants available to assist with these matters. Mrs. Ludwig said that the county was losing a lot of people who were 55 and older because there were no quality single or multi-family homes available within walking distance to Kilmarnock. Mrs. Ludwig advised that persons of that age were moving to Williamsburg and the VA Beach area. Mrs. Ludwig recalled that when the Planning Commission first met with Mr. Benhoff, it was with great enthusiasm because of what he was bringing to the Town. Mrs. Ludwig said that she had never known any developer who expected the Town to accommodate them with an entire sewer system for nothing. Mrs. Ludwig said that she did fully expect Northern Neck LLC to be cooperative and noted that the project would give the Town a much larger tax base.

Mrs. Nunn commented that the tax base would come with a cost to the Town of \$1200 per residence.

Mrs. Ludwig replied that people also had to pay \$250,000 to buy something nice and asked Mrs. Nunn if she wanted the people to move to Williamsburg.

Mrs. Nunn commented that she didn't care.

Mrs. Ludwig replied that she did care.

Mrs. Nunn commented that was fine.

Mrs. Ludwig said that she would like to find a nice house close to Town herself.

Mrs. Nunn stated that her problem with all of this was that they were talking about a 50 percent increase, which would change the whole complexion and personality of the Town.

Mrs. Ludwig said that if a Town didn't grow, it would die.

Mrs. Nunn said that she wanted to finish her statement and complimented Mr. Benhoff on all that he had done, but noted on the traffic study for 2015, that the entrance to Kilmarnock Glen had received the letter E, in 2023

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and 2025, it had received the letter F. Mrs. Nunn noted that she probably wouldn't still be around by then but that other people would still have to deal with it.

Mr. Benhoff replied that he had drove around Kilmarnock for the past 5 or 6 years, and noted that fortunately Mrs. Nunn had the bypass road on her side of Town.

Mrs. Nunn stated that she was talking about getting out on Irvington Road from Walnut Avenue.

Mr. Benhoff replied that there was no indication of loss of service from the traffic analysis that he had received.

Mr. Wilson intervened and stated that there was a decline from E to F in service in the later years but noted that the decline occurred in both a build and no build situation. Mr. Wilson advised that if the property were not developed, the intersection that Mrs. Nunn was referring to would degrade to the level F anyway due to the projection of traffic growth.

Mrs. Nunn remarked if that were so, then how come Main Street always remained at the level B.

Mr. Wilson replied that the level of service was an indicator of what was expected as far as delays. Mr. Wilson noted that each intersection was analyzed and at some intersections there was not enough traffic in any of the conditions to warrant delay. Mr. Wilson advised that the study itself was a tool to help determine what the actual impact of the project was on the infrastructure. Mr. Wilson said that if that intersection went to level F then it wasn't necessarily because of the project and that was why there was a build and no build condition done. Mr. Wilson stated it was a baseline in determining whether the project was the factor that pushed the intersection to that level of service with increased delay. Mr. Wilson advised that the project did not do that in this specific case.

Mr. Tingle said that the study actually showed that the intersection at Harris Road was pushed from level B to level A with the project.

Mr. Wilson said that the delay amounted to approximately 1.4 seconds.

Mrs. Nunn stated that the problem was that nobody abided by the 35 mph speed limit and in order to make a left turn from Walnut onto Route 200, it took about 4 minutes and with the extra 40 percent it would take about 5 1/2 minutes to make the turn.

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Commission Member Ludwig said that she would have to get out of Third Avenue.

Mrs. Nunn advised Mrs. Ludwig that she had several ways to get out of Third Avenue while there was only one way to get out of Walnut. Mrs. Nunn said that her main concern was that there would be a 50 percent increase in residences, which in her opinion would change the quaintness and personality of the Town.

Mr. Benhoff stated that he felt that Kilmarnock was almost at a tipping point and asked Mrs. Nunn had she walked down Main Street and looked at all of the businesses that had folded up.

Mrs. Nunn replied that she had.

Mr. Benhoff said that he felt there needed to be a little more critical mass in the Town to make it vibrant and bring it back. Mr. Benhoff advised that his project would be phased in over the next twenty years not all at once.

Mrs. Nunn asked how many homes would be built during the first phase.

Mr. Benhoff replied that the first phase consisted of about 17 individual homes.

Commission Member Ludwig reiterated that if the Town didn't grow, it would die.

Mrs. Nunn retorted that she knew that.

Chairman Booth intervened and stated that he would like to move the meeting forward and asked if there were any questions from the audience.

Mr. Tom Fletcher, who was seated in the audience, stated that he had only heard discussion concerning the primary entrance on Irvington Road and asked if there would be any other entrances.

Mr. Tingle replied that there would be an additional entrance to the development from School Street.

Mr. Fletcher asked if the storm sewer, which was located in the area of the Irvington Road entrance, would be taken into consideration because it already had a tendency to flood with heavy rain.

Mr. Wilson responded by saying most definitely.

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Mr. Carter Harding who was seated in the audience asked about the storm sewer across from Third Avenue.

Mrs. Fletcher replied that it was part of the same storm drain that her husband had asked about. Mrs. Fletcher stated that VDOT had promised to maintain it but they never did.

Mr. Wilson advised that the project would help that situation with the improvements that they would have to make in order to meet VDOT's current drainage requirements.

Mr. Fletcher asked if the utilities would be under ground.

Mr. Benhoff replied that they would.

Mrs. Fletcher asked if the fitness center was included in phase 1.

Mr. Benhoff replied that it was not. Mr. Benhoff said the fitness center would be built during phase 3 or 4.

Ms. Audrey Thomasson, reporter for the Rappahannock Record, asked Mr. Benhoff what the price range of the homes would be.

Mr. Benhoff replied that they were flexible at this point and the price would be market driven. Mr. Benhoff said that he hoped to break ground in 2010.

2. Chairman Booth opened the public hearing.

3. Chairman Booth asked for public comments.

A. Mrs. Virginia Henry of Clark Lane in Kilmarnock VA stated that she had been a member of the Planning Commission and had helped to put the Town's PUD ordinance in place. Mrs. Henry said that Mr. Benhoff had done an excellent job in following the guidelines of the ordinance. Mrs. Henry felt that Mr. Benhoff should be applauded and that the Town should be thrilled to have the opportunity to approve this development.

B. Mr. Forest Henry of Clark Lane in Kilmarnock stated that he had known Mr. Benhoff for over 5 years and had seen some of his other projects in the Baltimore area as well as here. Mr. Henry said that Mr. Benhoff paid a lot of attention to details and was considered to be a high quality developer. Mr. Henry assured the Planning Commission that anything Mr. Benhoff did would be an asset to the Town.

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C. Ms. Joan Sulenski of 98 Eubank Drive in Kilmarnock VA asked Mr. Benhoff if the first phase did not sell would he abandon the rest of the project.

Chairman Booth advised Ms. Sulenski that this time was for comments only and that Mr. Benhoff was no longer entertaining questions.

Ms. Sulenski stated that she had concerns about what would happen if the homes did not sell and stated that she also had concerns about the architectural design.

Chairman Booth advised Ms. Sulenski that she was welcomed to come to the Town Office and look at the proposed designs.

D. Mr. Jeff Marnien, Director of the Lancashire Nursing Home, stated that he was very excited to see this project coming into Town because it would be good for the businesses and local contactors.

4. Chairman Booth closed the public hearing.

5. Chairman Booth asked for Commissioner's comments and/or action.

Commission Member Smith stated that the Planning Commission had a meeting with Mr. Benhoff in November of last year and he addressed the issues that they had. Mr. Smith commended Mr. Benhoff on the amount of work that he had done and noted that he was very thorough.

Commission Member/ Council Liaison Nunn stated that the main concern expressed to her by residents was the assurance of a hundred foot buffer, which she felt had been addressed. Mrs. Nunn stated that she was playing devil's advocate and was worried about the complexion of the Town. Mrs. Nunn said that she would not object to any motion that was made in regards to the rezoning.

ACTION: Commission Member Ludwig made a motion to recommend to Council that the property listed on the Tax Map as parcel numbers 23A-21-3A and 23A-21-16 be rezoned from R-1 and C-1 to PUD, seconded by Vice-Chair Williamson; and carried unanimously.

Chairman Booth called for a 5-minute recess at 8:20 pm.
Chairman Booth called the meeting back to order at 8:25 pm.

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

1. Description of proposed ordinance.

Assistant Town Manager/ Town Planner Sebra advised that the staff report regarding the text amendment change was included in each Commission Member's packet. Mr. Sebra advised that request for the text amendment was derived from the September 21, 2009 Council meeting. Mr. Sebra said that staff and the Town Attorney had worked out the wording and that he would entertain any questions that Commission Member's had.

Vice-Chair Williamson stated that she wondered how the Town would equally use the ordinance rather than specifically use it and thought that was going to be a difficulty.

Mr. Sebra replied that sometimes it would be very subjective.

Council Liaison/ Commission Member Nunn stated that she served as the Chairman of the Streets Committee last year and received constant complaints about the same properties over and over again.

2. Chairman Booth opened the public hearing.

3. Chairman Booth asked for public comments.

a. Mr. Larry McGlamary of 41 Claybrook Avenue, Kilmarnock VA, started by saying that his comments would not be directed against any one person nor was he going to name specific properties. Mr. McGlamary stated that he felt that being a good citizen should not have to be forced on someone and that people should treat people in a manner, which they wished to be treated. However, Mr. McGlamary said that there were properties in Kilmarnock that were being neglected by choice. Mr. McGlamary stated that if someone were unable to take care of a property for a specific reason, then that would be a little more understandable. Mr. McGlamary said that when home, property and surroundings were neglected just because someone didn't care about those living in the immediate area then there was no excuse for the behavior. Mr. McGlamary stated that he, for one, had complained and sent pictures to Town Council and the police department in hopes that the present laws would be enforced. Mr. McGlamary advised that some action was taken in a half-hearted attempt in his neighborhood but since that time, things had gotten worse and the person just seemed to be thumbing his nose at everyone. Mr. McGlamary said that in his neighborhood specifically, there was one home that looked like a dumping site and another that looked like a construction lay down yard with junk debris, heavy equipment, piles of dirt, construction materials, piles of limbs,

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abandoned vehicles, mowers and other items. Mr. McGlamary felt that if getting into their pocket books was the only way to make people take care of their homes then he definitely recommended it.

b. Mr. John Paul Hanbury, Warden for Grace Church located at 303 Main Street, Kilmarnock VA, stated that he was not going to be specific either but felt that Commission Members knew where the church was located in relation to a piece of property that was a dumping ground. Mr. Hanbury said that the children from the Learning Center had to go past this piece of property everyday to get to the church playground and he felt that it set a bad environmental and ecological example. Mr. Hanbury said that it was very sad that one piece of property could bring down a whole neighborhood. Mr. Hanbury stated that the church resided in a sweet little neighborhood and he would like to see it stay that way. Mr. Hanbury noted that it was unfortunate that this particular property was abandoned but it needed to be cleaned up. Mr. Hanbury said that he had spoken to the owner about it but saw very little progress until recently and thought that was due to the pending ordinance. Mr. Hanbury stated that he applauded the Planning Commission for moving forward with the ordinance and noted that a lot of money had been invested to make the Town look good and there was a need to make sure that property owners within the Town supported that effort.

c. Mrs. Joan Sulenski of 98 Eubank Street, Kilmarnock VA, stated that she was not opposed to things looking nice but was a little offended by the language in the proposed ordinance and thought it to be subjective. Mrs. Sulenski said that some of her neighbors were in the Lancashire Nursing Home and others were ill and couldn't take care of their property. Mrs. Sulenski stated that she felt the Town had reasonable staff that could go out and access these situations. Mrs. Sulenski thought that daily fines and liens placed on properties was a little too harsh. Mrs. Sulenski wondered why the whole Town had to be subjected to the ordinance because of a few people. Mrs. Sulenski thought that maybe there was another way to handle this issue and thought that maybe these people needed help. Mrs. Sulenski said that she had been coming to Kilmarnock for 18 years and it had always seemed to be a welcoming place but she felt that the ordinance would change that. Mrs. Sulenski stated that the proposed ordinance read very seriously in regards to taking people's property, etc. Mrs. Sulenski wished the language in the ordinance could be a little less severe. Mrs. Sulenski said that she didn't want to live in a policed town and noted that no one was going to people's houses on the waterfront telling them that they had too much stuff in their yard.

Council Liaison/ Commission Member Nunn replied that she had people to tell her that they had complained about certain properties for over 20 years with no avail because the ordinance that the Town had was not strong enough to do anything about it. Mrs. Nunn said that there were people who could not even sit out on their own decks because of the property next to them.

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Mrs. Nunn stated that Mrs. Jones was seated in the audience and she had pictures of what Mrs. Jones was forced to look at. Mrs. Nunn said that Mrs. Jones was 86 years old and wanted to leave her property to her daughter but her property value had gone to nothing because of the garbage next to her.

Mrs. Sulenski replied that situation was unfortunate for Mrs. Jones but stated that this was America. Mrs. Sulenski said it would be different if it were unsafe.

Mrs. Nunn stated that it was unsafe.

Mrs. Sulenski replied than the ordinance should be written with that in mind and not everyone should have to be subjected to it. Mrs. Sulenski said that it had to be specific.

Mrs. Nunn replied that the citizens, who were already abiding by it, didn't care about the ordinance because it would never apply to them. Mrs. Nunn stated that there were approximately five or six properties that the Town was unable to do anything with because the current ordinance didn't have enough teeth in it.

Mrs. Sulenski advised that the Town of Warsaw didn't have an ordinance and wondered how they dealt with this type of problem. Mrs. Sulenski asked what if she decided to put a pink flamingo in her yard, what would happen.

Mrs. Nunn replied that would be fine.

Mrs. Sulenski said that someone in her neighborhood might be offended by it.

Mrs. Nunn said that it didn't matter because it wasn't trash, debris or causing a safety issue.

Chairman Booth stated that he wanted to move forward with the meeting noting that the 3-minute limitation had expired.

d. Mrs. Betty Jones of Claybrook Avenue, Kilmarnock VA, stated that she would like to thank Mrs. Nunn for all that she had done. Mrs. Jones said that she wanted something done about the property next to her because now her trees were dying and she felt it was do to the leaking gasoline, etc.

4. Chairman Booth closed the public hearing.
5. Chairman Booth asked for Commission Member's discussion and/or action.

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Council Liaison/ Commission Member Nunn stated that she while serving as the past Chairman of the Streets Committee and the Town of Kilmarnock had received constant complaints about the same properties over and over again. Mrs. Nunn said that some citizens had told her that they had been complaining for over twenty years with nothing being done. Mrs. Nunn stated that when some yards had debris including construction material, old shutters, roof tiles, junk cars, outboard motors, old bicycles, air tanks, old fire extinguishers, paint cans, old lawn mowers and the like piled up and in some cases spread out in their yards, in addition to being an eyesore, it also brought down the property value of the immediate neighbors. Mrs. Nunn continued by saying that, messy yards and horrible looking businesses could deter other businesses from locating within the Town. Mrs. Nunn said that everyone, especially those of high profile, should take pride in their properties and make them look as good as possible. Mrs. Nunn noted that there were houses that were literally falling down, roofs that were caved in, houses with big holes in them, yards with fence overgrowth, piles of cut branches and leaves lying in yards, and sheds that are full of materials that attracted vermin. Mrs. Nunn advised that this was detrimental to both health and safety not to mention a fire hazard. Mrs. Nunn said that if people didn't have enough pride or concern for their neighbor's feelings, then it became incumbent upon the Town to put the teeth into an ordinance and ensure that the properties were cleaned up so that all in the Town could live in peace and tranquility enjoying their homes. Mrs. Nunn advised that the Town of Kilmarnock had spent several million dollars on the Main Street project and yet all of the good that was done on Main Street faded when one drove out of the Steptoe's area and saw some of the commercial buildings that were falling down with old cars and trucks everywhere and no fence or natural barrier to mask them from Route 3, which was a state highway. Mrs. Nunn stated that one had to drive less than a block off of Main Street onto some of the side streets and avenues in Town to see debris, trash, exercise equipment, a piano, a refrigerator, a shed full of debris, a fence that was falling down on a backyard full of junk. Mrs. Nunn asked what was the purpose of spending all of that money on Main Street if the citizens were not going to take care of their personal real estate. Mrs. Nunn advised that the ordinance proposal was drafted for the homeowner, who was not taking care of their property, to receive a letter from the Town advising him or her to clean up their yard and for each day over the 10 day period that it wasn't cleaned up, a \$50 fine would be imposed. Mrs. Nunn continued by saying that if by the 15th day, the yard had not been cleaned up, then the Town would go in to clean it up and bill the owner. Mrs. Nunn said that if the owner refused to pay the Town, then the Town could place a lien against the property. Mrs. Nunn stated that if several problem properties had one owner, than each offense would be treated separately. Mrs. Nunn advised that continued offenses could result in a fine not to exceed \$3000 within a 24-month period. Mrs. Nunn said that she encouraged the Planning Commission to lend its full support and recommend the ordinance to Town Council. Mrs. Nunn passed around photographs of problem properties to

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Commission Members. Mrs. Nunn read a letter from Mr. and Mrs. Burke of 830 Keith Avenue, Kilmarnock VA who were in support of the ordinance.

Commission Member William Smith asked if the ordinance would address the deterioration of buildings.

Assistant Town Manager Sebra replied that it would not. Mr. Sebra said that the County Building Inspector enforced unsafe and condemned properties.

ACTION: Commission Member Reedy made a motion to recommend to Council that the text amendments to the Town of Kilmarnock's Nuisance Ordinance; Section 18-70, Removal of trash, garbage, similar materials from property be adopted as presented; seconded by Commission Member Ludwig; and carried unanimously.

7. Commissioner Comments

There were no Commissioner comments.

8. Old Business/ Unfinished Business

A. Town of Kilmarnock Comprehensive Plan 2011, Chapter 2.

Assistant Town Manager Sebra advised that the Planning Commission had been working on revising Chapter 2 of the Comprehensive Plan. With other items that have been going on, not much has been done. Mr. Sebra explained that he started this review early so the Town would not be too rushed and would continue to work on updating the plan.

B. Chesapeake Bay Local Assistance Board Compliance Evaluation

Assistant Town Manager Sebra advised that the Town has now completed all five of the conditions required by the Department of Conservation and Recreation, Chesapeake Bay Local Assistance Board. A copy of the septic tank pump out notification was included in the Commissioner's packets.

C. Mary Ball Road grant project newsletter

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Assistant Town Manager Sebra stated that a copy of the letter was included in each Commission Member's packet and has been sent to all property owners within the grant study area to keep them informed.

D. Permit Log

Assistant Town Manager Sebra stated that a copy of the permit log was included in each Commission Member's packet.

E. Resolution for Kilmarnock Post Office to extend it hours.

Assistant Town Manager advised that a copy of the resolution was included in each Commission Member's packet.

9. New Business

A. Chesapeake Bay Restoration Fund Grant

Assistant Town Manager Sebra advised that he had submitted an application for grant money from the sale of Chesapeake Bay license plates, to do a restoration and educational project on Town property. The application was for constructed wetlands on the Town treatment plant site. Mr. Sebra advised the Planning Commission that he would give an update if the grant was awarded.

10. Adjourn

ACTION: Vice-Chair Williamson made a motion to adjourn, seconded by Commission Member Smith; and carried unanimously.

Meeting adjourned at 8:50 PM

Prepared by:

Joan N. Kent

Raymond Booth, Chair