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KILMARNOCK PLANNING COMMISSION
Monday July 11, 2011
Town Hall
Kilmarnock, VA

Regular Meeting Minutes

1. Call to Order

Chair Ludwig called the regular meeting to order at 6:00 pm with the following members present:

Jane Ludwig, Chair	Raymond Booth, Council Liaison/Mayor
Denis Bouslough, Vice-Chair	Lindsay Gardner
Steve Bonner	Dave Reedy

Staff Present:

Marshall Sebra, Zoning Administrator/Planning Director
Joan N. Kent, Transcriber

2. Recognition of Guests:

Chair Ludwig welcomed Kilmarnock residents, business owners and guests.

3. Acceptance of the Agenda

ACTION: Commission Member Bonner made a motion to accept the July 11, 2011 Planning Commission meeting agenda as presented, seconded by Vice-Chair Bouslough; and carried unanimously.

4. Public Forum:

Chair Ludwig 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 June 13, 2011 Planning Commission Meeting.

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ACTION: Vice-Chair Bouslough made a motion to approve the minutes for the June 13, 2011 Planning Commission meeting as presented, seconded by Commission Member Gardner; and carried unanimously.

6. Commissioner Comments

Commission Member Bonner stated that he would like for the Planning Commission to take the lead, be professional as possible, just be themselves and do the good job that they do.

Chair Ludwig stated that they were professionals and were appointed to serve the Town. Mrs. Ludwig said that they have and will continue to do a good job. Mrs. Ludwig commented on how much Claudia Williamson was missed but vowed that they would continue to do her good work to the best of their ability.

Commission Member Bonner recognized Mayor Booth as the new Council Liaison.

Chair Ludwig advised the audience that Mayor Booth would be serving as the liaison between the Planning Commission and the Town Council for a while and added that she was happy to have him on board.

Council Liaison/ Mayor Booth stated that he felt privileged to be there with such a fine group of people and added that a better group couldn't be found anywhere. Council Liaison/ Mayor Booth said that on behalf of the majority of Council and himself, he wanted to compliment the Planning Commission on the very thorough and good job that they do for the citizens of Kilmarnock.

Chair Ludwig thanked Council Liaison/ Mayor Booth and stated his compliments were appreciated.

7. Old/Unfinished Business

A. Sign Ordinance Review

Zoning Administrator/Planning Director Sebra advised that a staff report and the proposed sign ordinance amendments were included in each Commission Member's packet. Mr. Sebra stated that during the past few meetings, Commission Member's had discussed the sign ordinance and the aspects of amending and adding to it. Mr. Sebra continued by saying that at the last meeting, they discussed drafting an ordinance to prohibit animated signs within the Steptoe's District at least and defining electronic sign boards. Mr. Sebra said that the code that he had come up with to be added and the proposed sign ordinance amendments were in the staff report on pages 5, 10,

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and 11 in red font. Mr. Sebra stated that he defined animated signs and electronic message boards and made a distinction between the two since the Planning Commission felt that electronic message boards should be allowed. Mr. Sebra advised that there was a version A and a version B under animated signs which all fell under the commercial district section within the sign ordinance. Mr. Sebra said that he defined animated signs as any sign employing actual motion, illusion of motion, and/or rotation by electrical or mechanical means including a conspicuous and intermittent variation in illumination. Mr. Sebra advised that version A would prohibit the use of that type of sign in the Steptoe's District but would allow it within the rest of the commercial district. Mr. Sebra said that he included the aspects of size, setback, height, and added that it could not be arranged or depicted to imitate any traffic signal such as stop or caution. Mr. Sebra added that the sign would have to be approved by VDOT. Mr. Sebra advised that version B simply prohibited animated signs in all districts which was his recommendation. Mr. Sebra said that he defined electric message signs as any sign that automatically displayed changing characters of text and/or numbers on a lamp bank or through mechanical means e.g. electrical or electronic time and temperature units. Mr. Sebra stated that this separated the two signs and allowed businesses such as Walgreens and the banks to continue doing what they were doing. Mr. Sebra felt that when something like this was added to the ordinance that there should be certain guidelines and regulations placed on it so that the signs were not huge, sitting in the wrong place creating an obstruction or any other type of hazard. Mr. Sebra stated that sections A-F specified that there would be no more than one sign per business, the sign should not change messages more than every five seconds, the sign should not project beyond the established set-back line, the sign should not be anymore than twenty-four square feet and not exceed the height of ten feet above grade, and not imitate any public authority signage. In regards to illumination, Mr. Sebra said that he added that no sign should be illuminated in such a manner that it directed lighting onto a public street, highway, sidewalk, or adjacent premises to cause glare or reflection that might constitute a traffic hazard or nuisance. Mr. Sebra finalized by saying that he did feel that it was important for these amendments to be made to the Town's Sign Ordinance and reiterated that he was recommending that animated signs be prohibited in all districts.

Commission Member Bonner asked if a public hearing would be necessary for the amending the ordinance.

Zoning Administrator/ Planning Director Sebra replied that it would.

Commission Member Bonner stated that he had been in Newport News earlier in the day and saw two signs that really looked nice. Mr. Bonner advised that one was at the RV place and the other was at the Philips gas place. Mr. Bonner stated that they were approximately 3x6 feet and were made by the same company. Mr. Bonner said that the signs were eye catching and did not

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look bad at all. Mr. Bonner inquired as to whether or not existing signs would have to comply with the new ordinance or if they would be grandfathered.

Zoning Administrator/ Planning Director Sebra replied unless it was specifically stated otherwise. Mr. Sebra said that sometimes when localities adopted or amended certain codes they could stipulate that the entire locality had to conform to the ordinance within a certain time frame. Mr. Sebra advised if not specified than whatever was out there prior to the adoption of the amendments would be allowed to remain.

Chair Ludwig felt that it should be specified that no existing sign of this nature be grandfathered and that the sign owners had to conform by whatever date the amendments were passed.

Commission Member Bonner asked Mr. Sebra if there were any existing signs that would not conform under the proposed amendments.

Zoning Administrator/ Planning Director Sebra replied that there was the one sign which was discussed by the Planning Commission last month.

Commission Member Bonner asked in what manner did that sign not conform.

Mr. Sebra replied that it was animated with scroll and text.

Vice-Chair Bouslough advised that as he recalled, the Town Attorney indicated that if the Planning Commission tried to do something with that sign then it would open the Town up for legal issues and asked Mr. Sebra if he remembered the conversation.

Mr. Sebra replied that he did. Mr. Sebra advised that the only reason that he said that they could make this distinction was because he had reviewed so many sign ordinance's from different localities within the past weeks and had seen where some of them had specified that everyone had to comply by such and such a date.

Commission Member Gardner asked what size signs did Walgreens and CVS have.

Mr. Sebra guessed that the Walgreens' sign was probably 4' x 6'. Mr. Sebra advised that the numbers he put in the proposal were based on what he had seen in the other locality's ordinances and were not specific to Kilmarnock therefore, the Planning Commission could change it to whatever they saw fit.

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Commission Member Gardner replied that she felt that size was reasonable.

Commission Member Bonner suggested that it be specified per side because of marquis signs. Mr. Bonner, using himself as an example, asked if he wanted to put a 4' x 6' sign in front of his business that said "Kilmarnock Antique Gallery" on both sides and then he added "Hours 10 to 5 Daily" with "Sale Going On Now" how could he make it work. Mr. Bonner asked if the word "sale" could blink off and on.

Zoning Administrator/ Planning Director Sebra told Mr. Bonner that first of all he was maxed out on his square footage for signs which generated laughter. Mr. Sebra advised that an electronic message board, animated sign or any type of sign within the sign ordinance fell under the total 200 square foot limit which would count towards anything else he had on the business or property. Mr. Sebra told Mr. Bonner that if he switched to a message board than it could be up to 24 square feet regardless of the text that he put on it.

Commission Member Bonner asked if he replaced his existing 4' x 8' ply board sign with an electronic sign could he base it on the square footage that he already had since he would be replacing an existing sign which was permitted.

Mr. Sebra replied that it would have to comply with the ordinance by meeting the total square footage.

Commission Member Reedy advised that the size of the sign would have to be what was allowed under the new ordinance even if a business was remodeling.

Mr. Sebra replied that was correct.

Chair Ludwig asked if they should allow businesses a total of 90 days to conform.

Commission Member Gardner asked if the entire sign had to be 24 square feet or just the electronic part.

Mr. Sebra replied that as a general rule electronic signs were not going to be any bigger than they actually needed to be so the 24 square feet would be for the entire board minus the poles, etc.

Chair Ludwig stated that writing could be put on both sides of the sign.

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Mr. Sebra stated that was correct because he did not count both sides when he looked at square footage.

Vice-Chair Bouslough stated as if to get clarification that CVS was considered to be one sign and the brick apparatus holding it was not considered to be part of the sign.

Mr. Sebra replied that was correct.

Commission Member Bonner said that it had to be restricted to 10 feet.

Mr. Sebra said that the reason he chose that size was because he had seen it in other ordinances and it was in the Town's ordinance that freestanding signs were required to be no higher than 10 feet.

Council Liaison/ Mayor Booth advised that he was not involved in the previous discussion regarding the sign ordinance but noted that it was his assumption that due to the newness of these types of signs that they were not addressed at all in the Town's current ordinance and asked Mr. Sebra if that was correct.

Mr. Sebra replied that it was.

Council Liaison/ Mayor Booth stated that he hated to see ordinances piled on and on and felt that the Town had plenty of regulations as it was but noted that in this instance the fact that these new types of signs were not addressed, it made sense that they should be. Mayor Booth said that one of the problems that he had with the review of the sign ordinance in this instance was that it seemed to be directed at one person and one sign. Mayor Booth stated that with all of that aside, he did feel that this was something in which policy had to be created for. Mayor Booth respectfully disagreed with any thoughts of eliminating the existence of grandfathering. Mayor Booth said that he felt that any sign appropriately permitted by the code that had existed in the past should be grandfathered which to him made the most sense and was done in most cases and would protect the Town from liability.

Chair Ludwig stated that a great deal of money had been spent on revitalizing the Town and creating the Steptoe's District to make it a walking, historical place which needed to be preserved. Mrs. Ludwig said then came the problem with little blink, blink signs. Mrs. Ludwig stated that the review of the ordinance was not leveled at one particular person but it was the sign that made all of them realize that there was nothing pertaining to those types of signs in the Town's ordinance. Mrs. Ludwig advised that people came down to the Northern Neck and Kilmarnock for second homes or to move to a quiet, sweet, historic town for its surroundings and didn't expect to see blinking signs in the area. Mrs.

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Ludwig said that being in the real estate business she knew this first hand because she has had heard comments from people she had shown property to. Mrs. Ludwig advised that these people loved what Kilmarnock had done on Main Street but wanted to know if the blinking signs were going to be allowed. Mrs. Ludwig finalized by saying that these types of signs were just not in the flavor of the Steptoe's District.

Commission Member Bonner said that he did not think that there would be blinking signs.

Chair Ludwig replied "scrolling" then.

Commission Member Bonner advised that the ordinance stated no scrolling or blinking but for every five seconds as not to disrupt traffic and added that even the state couldn't trump them on that.

Chair Ludwig replied that there were different guidelines created by the state for certain districts.

Commission Member Bonner said that he too did not think that there should be a bunch of flashing and all of that, but noted that Mr. Sebra had covered all of it in the amendments to the ordinance that he has presented.

Zoning Administrator/ Planning Director Sebra noted that it was covered regardless of which version was chosen under animated signs. Mr. Sebra advised that the Planning Commission needed to look more at the specifics of what he had written, whether or not to allow animated signs, and if allowed what type of regulations did they want to place on them. Mr. Sebra stated that adding to what Chair Ludwig had previously said, he told Commission Members that when they were reviewing the ordinances to ask themselves if they had protected the public health, safety, and welfare of Kilmarnock, did it fit with current trends, and if they protected the future of the Town. Mr. Sebra said that no specific one incident needed to be harped on and asked if the current ordinance was somewhat outdated, confusing to understand or did it have conflicting sections. Mr. Sebra stated that it was an opportunity to look at the ordinance as a whole and not just amend a little piece here and there. Mr. Sebra told Planning Commission Members that he would take the amendments in any direction that they saw fit or if they felt that they needed more review time then they could take it.

Vice-Chair Bouslough asked what the process was for the public hearing.

Zoning Administrator/ Planning Director Sebra replied that a final draft of the ordinance would be created and then the public hearing would be advertised in the newspaper. Mr. Sebra said that after the public hearing, their

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recommendation would go to Town Council who would also hold a public hearing and then would either approve or deny the amendments to the ordinance.

Commission Member Bonner asked Mr. Sebra if a letter could be sent to every business in Town notifying them that the Planning Commission was going over this issue and requesting their input before the public hearing.

Mr. Sebra replied that he could certainly do that but stated that he would lean more towards an email blast because then the Town would not have to pay the postage. Mr. Sebra advised that was above and beyond what the Town was required to do because a public notice in the local newspaper was certainly sufficient. Mr. Sebra reiterated that he could send out an email blast.

Commission Member Bonner said that he would like for the email to be worded in a way so that the businesses could give their constructive criticism.

Mr. Sebra commented that reaching out for the businesses input was a good thing to do.

ACTION: Commission Member Bonner made a motion to send an email blast to all Town businesses regarding the proposed amendments to the Town's Sign Ordinance for their consensus, seconded by Commission Reedy; and carried unanimously.

Commission Member Bonner commented that Zoning Administrator/ Planning Director Sebra had done an excellent job.

Chair Ludwig agreed with Mr. Bonner.

Vice-Chair Bouslough stated that for the record that he concurred with Mayor Booth regarding his comments on the grandfathering issue. Mr. Bouslough said that it was discussed during a previous Planning Commission meeting and the Town Attorney had indicated that it could open up a problematic area.

Zoning Administrator/ Planning Director Sebra replied that during any code revision it was important to consider a person's vested rights.

B. Recommendation of Candidate to Fill Kilmarnock Planning Commission Vacancy

In regards to the process, Chair Ludwig stated that her thoughts were to take one name at a time and discuss that person, then move on to the

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next. Mrs. Ludwig commented that if any Commission Member had a different way in which they thought it should be handled then she was open for suggestions.

There were no suggestions made by Commission Members.

Chair Ludwig advised that the first candidate was Ann S. Towner. Mrs. Ludwig said that she did not have the privilege of knowing Ms. Towner and asked the other Commission Members if they did.

Commission Member Reedy asked Commission Member Bonner if he knew her parents because her letter stated that they had lived in Kilmarnock for 30 years.

Commission Member Bonner replied that he did not.

Council Liaison/ Mayor Booth asked Vice-Mayor Smith who was seated in the audience if Ms. Towner was Reverend Sibley Towner's daughter.

Vice-Mayor Smith replied that he did not know her but stated that he was told earlier in the day that she was.

Council Liaison/ Mayor Booth said that he did not know her personally but commented that she seemed to have an outstanding résumé. Mayor Booth commented that she had apparently been in the area for a couple of years.

Chair Ludwig asked if there were any comments from Commission Members concerning what they had read in Ms. Towner's letter.

There were no comments.

Chair Ludwig stated that her thoughts were that she admired Ms. Towner's credentials but felt that she was over qualified for the position and could possibly be set in her ways about how things needed to be done. Mrs. Ludwig asked Commission Members to make that a consideration as they reviewed the candidates.

Commission Member Bonner asked how long Ms. Towner had lived in Town.

Chair Ludwig replied that she had lived in Town for approximately two years.

Commission Member Gardner commented that Ms. Towner had relocated to Virginia in 2007.

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Commission Member Reedy stated that she didn't move to Kilmarnock until 2009.

Chair Ludwig continued with the next candidate which was Mrs. Joan Gravatt.

Commission Member Bouslough asked if anyone knew her which generated laughter.

Several Commission Members spoke up and said that everyone knew Mrs. Gravatt.

Commission Member Reedy advised that Mrs. Gravatt had been very active in the community.

Chair Ludwig jokingly commented that everyone knew her except for Vice-Chair Bouslough. Mrs. Ludwig stated that Mrs. Gravatt taught school for many years and had actually taught her children. Mrs. Ludwig added that Mrs. Gravatt was also a neighbor of hers and had been a business owner.

Vice-Chair Bouslough asked if Mrs. Gravatt was a current business owner.

Commission Member Bonner replied that Mrs. Gravatt used to be a business owner in Town.

Chair Ludwig said that Mrs. Gravatt was interested in the growth and development of Kilmarnock which was the reason that she wanted to join the Planning Commission.

Commission Member Reedy said that Mrs. Gravatt would take the job very seriously.

Vice-Chair Bouslough asked what business did Mrs. Gravatt own.

Commission Member Bonner said that Mrs. Gravatt had a dress shop in Town called Amanda's. Mr. Bonner added that her husband was the Human Resources Director at the hospital and had put in for appointment to Town Council.

Commission Member Reedy commented that Mr. Gravatt had served several terms on Council before.

Commission Member Bonner felt that the fact that Mr. Gravatt had put in for Town Council should be taken into consideration.

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Chair Ludwig agreed.

Vice-Chair Bouslough asked if Mr. Gravatt's first name was Emerson.

Chair Ludwig replied that it was.

Vice-Chair Bouslough stated that he knew Mr. Gravatt.

Chair Ludwig advised that the next candidate was Mr. Travis Abbott.

Commission Member Bonner asked what Mr. Abbott was doing for a living.

Council Liaison/ Mayor Booth replied that he knew Travis Abbott and noted that he had lived in Kilmarnock all of his life. Mayor Booth thought that Mr. Abbott was 35 years old and had a good job with Newport News Fire Department. Mayor Booth advised that Mr. Abbott had indicated that his job would not represent a conflict. Mayor Booth said that when the position was advertised in the newspaper, he received a call from Mr. Abbott asking what he had to do to apply. Mayor Booth said that he thought Mr. Abbott would make a fine Planning Commission Member and at the end of the discussion would probably be his choice.

Commission Member Bonner commented that Alan Abbott was Travis Abbott's father.

Mayor Booth said that Mr. Abbott appeared to have a great deal of interest in the community. Mayor Booth noted that he was well rooted and had been here all of his life.

Chair Ludwig stated that Mr. Abbott was in the down to earth part of the community and grew up here. Mrs. Ludwig thought he would be an excellent choice.

Chair Ludwig advised that Mei Li Beane was the next candidate up for discussion.

Commission Member Bonner stated that he met her one time at a meeting he thought.

Chair Ludwig stated that Mrs. Beane had five children whom she home schooled, taught violin, and had a music ensemble that she played throughout the area. Mrs. Ludwig commented that everything that she knew

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about Mrs. Beane was good but noted that she did not know what her political beliefs were.

Commission Member Bonner recalled that he did know Mrs. Beane because she was one of the ladies who started the Kilmarnock Playground.

Chair Ludwig said that Mrs. Beane had called her and stated that she would like to be considered for the position. Mrs. Ludwig commented that if it came down to Mrs. Beane or Mr. Abbott, she would vote for Abbott.

Chair Ludwig asked Planning Commission Members if there were any other comments on the candidates.

There were none.

Chair Ludwig asked if anyone wanted to make a motion regarding one of the candidates.

ACTION: Commission Member Bonner made a motion to recommend to Council that Mr. Travis Abbott fill the vacancy on the Kilmarnock Planning Commission,

Vice-Chair Bouslough wanted clarification on what the process was going to be.

Chair Ludwig advised that in her personal opinion and what had been done in the past as well as in other organizations was that each of the candidates would be voted on and the one with the most votes would be recommended to Council for appointment.

Commission Member Bonner suggested that they could just go around the table instead of voting on each one. Mr. Bonner laughed and said that he would prefer to be out of it altogether.

Chair Ludwig told Commission Member Bonner that he couldn't do that and wanted to know if there was a second to the motion.

Commission Member Gardner stated that she just did not know Mr. Abbott and there was no information there other than his address and what other Commission Members around the table knew about him. Ms. Gardner said that just made her feel odd.

Commission Member Bonner gave the reasons why he had reached his conclusion. Mr. Bonner advised that the first person discussed, Ms. Towner, was very qualified but he felt that she needed to reside in Kilmarnock a

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little longer than she had. Mr. Bonner said that he had commented to Commission Member Gardner that Ms. Towner would be a good candidate but it would be like putting someone on her board who had run a library in Chicago and came down here saying hey I got a bunch of good ideas or saying this was the way that we used to do it. Mr. Bonner stated that he felt the candidate should be acclimated to the local area. Mr. Bonner continued by saying that as far as Mrs. Gravatt was concerned, she had been a life time friend of his. Mr. Bonner stated that her husband had been put up for appointment to Town Council and he didn't think that the Planning Commission should have anything to do with his chances of getting in there. Mr. Bonner said that if Joan was on the Planning Commission and the name Gravatt came up a couple of times, it might work against Emerson or it might work for him. Mr. Bonner continued on and said that he did not know Mrs. Beane that well but he knew that she had something to do with the Kilmarnock Playground and the revision of an ordinance in Town. Mr. Bonner commented that he knew Travis Abbott and his family. Mr. Bonner said that he didn't think that Travis had lived anywhere else other than Kilmarnock and he would be in tune with what was needed in Town. Mr. Bonner finalized by saying that he was only one person and the rest of the Commission could do what they wanted.

Council Liaison/Mayor Booth advised Chair Ludwig that he wanted to second the motion that was on the floor.

Discussion:

Chair Ludwig asked Planning Commission Members if wanted to go through the rest of the names or stop with Mr. Abbott.

Commission Member Reedy stated that as far as experience went he wanted to back Joan Gravatt. Mr. Reedy said that Mrs. Gravatt had a business in Town at one time and knew what was going on in the area.

Commission Member Bonner agreed with Mr. Reedy.

Chair Ludwig revisited what Commission Member Bonner had said earlier regarding the potential conflict if Mrs. Gravatt was appointed to the Planning Commission and Mr. Gravatt was up for Council appointment.

Commission Member Reedy said that should not be considered and noted that Mr. Gravatt's potential appointment to Council was not their business.

Commission Member Gardner said that she thought they needed to choose the best candidate for the Planning Commission position and didn't think the fact that Mr. Gravatt had applied for Council appointment should be considered.

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Vice-Chair Bouslough agreed with Commission Member Gardner.

Chair Ludwig stated that there had been so much conflict that they were just trying to be neutral in everything that they did. Mrs. Ludwig added the words "neutral towards the positive" and that was why she was voting for Mr. Abbott.

Commission Member Bonner said that this was why he didn't want to vote and added that he didn't want to be pegged as anyone that did anything.

Chair Ludwig called for the vote regarding the motion on the floor.

Vice-Chair Bouslough asked for clarification in that if everyone voted for Mr. Abbott then that would be it and there would be no other votes.

Council Liaison/ Mayor Booth commented that everyone had been discussed and added that what would be required would be a majority in Mr. Abbott's favor.

Commission Member Bonner said that each Planning Commission Member could write their candidate of choice on a piece of paper.

Chair Ludwig thought that was a good idea.

Commission Member Bonner commented that everyone was trying to be so above board and accurate so that there would be no criticism.

Council Liaison/ Mayor Booth stated that he felt the motion on the floor needed to be dealt with.

Commission Member Bonner withdrew his previous motion.

Council Liaison/ Mayor Booth withdrew his second to the motion.

Commission Member Bonner laughed and said that this was going to be an open secret ballot.

Commission Member Gardner and Commission Member Reedy both stated that they didn't feel like they had to write their choice down.

Commission Member Bonner said that was fine and said they would start on their end of the table and for them to just voice their choice.

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Commission Member Reedy voted for Mrs. Joan Gravatt.

Commission Member Gardner voted for Mrs. Joan Gravatt.

Commission Member Bonner voted for Mr. Travis Abbott.

Chair Ludwig voted for Mr. Travis Abbott.

Vice-Chair Bouslough voted for Mrs. Joan Gravatt.

Council Liaison/Mayor Booth voted for Mr. Travis Abbott.

The vote was tied with 3 in favor of Mrs. Joan Gravatt and 3 in favor of Mr. Travis Abbott.

Commission Member Bonner recommended that both names be forwarded to Council.

It was the general consensus of the Planning Commission to submit Mrs. Joan Gravatt and Mr. Travis Abbott to Town Council as candidates for the vacant position.

ACTION: Commission Member Reedy made a motion that Mrs. Joan Gravatt and Mr. Travis Abbott be recommended to the Town Council as candidates for the vacant Planning Commission position, seconded by Commission Member Gardner; and carried unanimously.

8. New Business

A. Review of Ordinance Chapter 18, Penalties for Repeat Offenders

Zoning Administrator/ Planning Director Sebra advised Planning Commission Members that a staff report had been prepared and was included in each of their packets. Mr. Sebra said that at the June 20th Town Council meeting, the Council recommended that the Planning Commission review the penalties for repeat offenders in Chapter 18 as it related to grass violations, inoperable vehicles, and nuisances. Mr. Sebra advised that he had given each Commission Member a copy of Chapter 18 to review. Mr. Sebra asked Council Liaison/Mayor Booth if he would provide Commission Member's with a little insight on what Council wanted to achieve.

Council Liaison/ Mayor Booth advised that it frustrated him as well

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as other Councilmembers such as his good friend Mrs. Nunn when repeatedly grass stood a foot and a half tall and the only time it seemed to get cut was when the property owner received a letter from the Town Office. Mayor Booth said that it seemed that the people who necessitated these letters from the Town Office were repeat offenders. Mayor Booth stated that something needed to be done and although he couldn't remember the exact result of the vote in Council regarding this issue, he did recall that it received the support of Mrs. Nunn and he thought the vote was unanimous. Mayor Booth advised that teeth needed to be put into some of the ordinances and added that the people receiving the letters were still skating by because they only cut their grass every two months when they got the letter from the Town Office and in the meantime it was just an ongoing eyesore. Mayor Booth finalized by saying that what Council wanted to do was beef up the penalties in order to bring these people into compliance.

Zoning Administrator/ Planning Director Sebra advised Planning Commission Members that the request seemed to be specific to the weeds and wild growth section of Chapter 18. Mr. Sebra explained that what the Town currently did was to send a notice of violation to the property owner requiring that the grass be cut within 5 to 10 days. Mr. Sebra said that the notice stated the actual section of the Town Code being violated and the repercussions if they did not comply. Mr. Sebra advised that if a property owner received one notice within the year of the growth season and then it happened again that same year the Town could have the grass cut at their expense without notice. Mr. Sebra stated that currently there were no penalties associated with this other than an administrative fee placed on the bill that went out to the property owner. Mr. Sebra said that if the bill was not paid then it was attached to their Town taxes and if the Town taxes were not paid then a lien was placed on their property. Mr. Sebra commented that it was a long drawn out process just to get someone to cut their grass. Mr. Sebra noted that some improvement could be made along the lines of defining the violation by attaching a numerical figure to how tall undesirable growth actually was because as of now it was based on his discretion. Mr. Sebra said that if it was a regular lawn that was not being maintained then that would give him a specific limit to work with. Mr. Sebra said that the ordinance could be a little more clearer and defined than it was. Mr. Sebra referred Commission Members to that section of Chapter 18 for their review.

Vice-Chair Bouslough asked Mr. Sebra how often he had to send out invoices to people who did not cut their grass or weeds.

Zoning Administrator/ Planning Director Sebra advised that he had done it a few times but noted that it usually didn't get that far because he would make contact with the violator and discuss the issue with them. Mr. Sebra said that the notice went out when he couldn't make contact and if he still didn't hear anything from the violator then he proceeded with the enforcement action.

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Chair Ludwig asked Mr. Sebra for his opinion on what height would make this a detrimental issue or a nuisance.

Mr. Sebra replied that he had seen some ordinances that stated 12 inches was considered detrimental or a nuisance. Mr. Sebra said that Johnson grass and things like that was a noxious weed that shouldn't be allowed to get to seed. Mr. Sebra admitted that improvements could be made to 18-33 regarding penalties and subsequent violations in order to make it sting a little.

Vice-Chair Bouslough asked if the Town Attorney had weighed in at all with his thoughts regarding penalties.

Mr. Sebra replied not for this particular section because it was pretty fresh and added that if Mr. Stamm had been there he may have had a few comments or recommendations. Mr. Sebra said that under nuisances in Article III, Section 18-70 it was not too long ago the section regarding the removal of trash was amended to beef up the penalties. Mr. Sebra suggested that Planning Commission Members take a look at that to get ideas.

Commission Member Gardner asked if those penalties were effective now.

Mr. Sebra replied that they were.

Commission Member Reedy asked if Town Staff checked for violators or waited until a complaint was received to go out and inspect the property.

Mr. Sebra advised that they liked to be as proactive as possible but noted that they could not be everywhere so most of it was complaint driven.

Council Liaison/ Mayor Booth stated that most of the time it was a reaction that was triggered by complaint but not all of the time. Mayor Booth said that in regards to Chair Ludwig's remarks about the height of the grass, he thought that Mr. Sebra went out of his way to be very fair to the property owners and had not cited anyone who had grass less than 18 inches high. Mayor Booth commented that 12 inches would be quite an increase in standard. Mayor Booth advised that he would be a little hesitant to specify a certain height but would be more inclined to have it left to the discretion of the Town Manager or his agent. Mayor Booth thought that the Town Office Staff would apply common sense to this issue and gave the example that if he or a Planning Commission Member went on vacation and it rained everyday making their grass 14 inches tall before they could get back to cut it. Mayor Booth gave another example of Officer Dawson seeing certain people obeying the law and driving okay and then one day sees this same person who is late for work zooming down the highway, he might just look the other way because he knew that this person was generally

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law abiding. Mayor Booth said that the same common sense approach needed to be applied to the height of someone's grass because there could be reasons, of sickness, vacation, etc. involved. Mayor Booth stated that in specifying a particular height he feared what would happen would be that people in violation would be running around with a ruler measuring everyone else's grass saying that his grass was two inches shorter than the lot on the other side of Town. Mayor Booth reiterated that he felt the standard should be the discretion of the Town Manager or his agent.

Chair Ludwig stated that the reason she brought up the height issue was because she received a call from a person asking why they were being cited for their grass and being told by the Town that it had to be cut when the person living three doors down from them had grass much higher than theirs.

Commission Member Bonner told Chair Ludwig to refer the complaint to Mr. Sebra.

Chair Ludwig replied that she did.

Commission Member Bonner said that Mr. Sebra needed something with teeth when he went to someone's house for tall grass.

Commission Member Reedy agreed that Mr. Sebra needed something to back him up.

Commission Member Gardner asked Mr. Sebra if he had reviewed ordinances from other Towns.

Mr. Sebra replied that he had but advised that it wasn't an important key to this ordinance. Mr. Sebra said there were various ways to look at each situation for example if the tall grass was not next to a dwelling then it might not be considered as detrimental or a nuisance. Mr. Sebra noted that in the other ordinances where height was specified there were other factors that went along with it. Mr. Sebra stated that he did not really examine those ordinances in any depth.

Chair Ludwig asked Mr. Sebra what factors were attached to the penalties in the ordinances that he reviewed.

Mr. Sebra replied that he had not done enough research regarding the penalties to give an informed overview.

Chair Ludwig asked what the cost to the Town was when a violator's grass had to be cut for them.

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Mr. Sebra replied that the Town hired a company to do it and he attached an administrative fee in order to cover some in house cost.

Vice-Chair Bouslough said that there was an administrative cost, the fee that the contractor charged to cut the grass and wanted to know if Planning Commission Members wanted to add a graduating fee for a penalty to that. Mr. Bouslough said that the second offense should be doubled and third offense tripled.

Planning Commission Members were in agreement with Vice-Chair Bouslough.

Commission Member Reedy stated that the wording should read consecutive offense.

Council Liaison/ Mayor Booth wanted to impeach the fact that the current amount of \$35 covered administrative cost. Mayor Booth said that the Town had an expensive staff and added not to say that they were not worth what they were being paid but this involved a lot of staff's time which was valuable and took them away from other Town business. Mayor Booth felt the administrative fee should not be excessive but biting so repeat offenders would take notice.

Commission Member Gardner agreed that the administrative fee was not enough but suggested that they should look at the penalty set forth in the removal of trash section and if Mr. Sebra felt that it was working then it could be applied here. Ms. Gardner continued by saying that if Mr. Sebra felt that too needed changing then the two sections should be consistent regarding the penalties.

Commission Member Bonner said that something was definitely needed because there were some yards that only looked good for a few days after the person had received notice to cut it and then went right back to being an eyesore. Mr. Bonner felt that it hampered Mr. Sebra's abilities if he did not have a firm set of rules to go by. Mr. Bonner said that he also agreed that the administrative fee was too low and should be reconsidered.

Chair Ludwig asked for a starting point for a first offense noting that it would have to be itemized to include the cost of the actual grass cutting, cost to staff and penalty.

Council Liaison / Mayor Booth asked if the penalty could be lumped into the administrative fee.

Chair Ludwig replied that it could be.

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Commission Member Bonner advised that to have a set amount for cutting the grass would be counter-productive because there were some lots in Town where it would be cheaper for the violator to have the Town do it.

Commission Member Gardner felt that they needed to get legal counsel as to whether or not they could combine the cost of cutting the grass with the penalty or if they had to be kept separate.

Zoning Administrator/ Planning Director Sebra advised that it was not a problem to separate the two.

Commission Member Gardner felt that they should be separated and the violator should know that the penalty was what was getting them.

Commission Member Bonner asked if notice was sent by certified mail.

Mr. Sebra replied that the first notice was but the subsequent notices didn't have to be. Mr. Sebra said that for stickier situations that might end up in court he sent a notice certified mail and first class.

Council Liaison/ Mayor Booth stated that he thought that the reason they were discussing separating the penalty from the administrative fees was because when they got into repeat offenses there would be a graduating penalty based upon the number of incidences and asked if that was a correct assumption.

Multiple Planning Commission Members replied that it was.

Vice-Chair Bouslough stated that in theory the administrative fee would be the same each time.

Chair Ludwig asked Planning Commission Members to come up with the prices.

Commission Member Gardner said that \$50 was what they had for a first offense regarding the removal of trash and asked if that was punitive enough.

Commission Member Bonner joking said that they wouldn't want to offend a first time offender.

Commission Member Reedy asked what about the cost to get it cut.

Commission Member Gardner said it would be the actual cost charged by the contractor.

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Council Liaison/ Mayor Booth asked Planning Commission Members what they thought would be good for an administrative fee. Mayor Booth said that he would say that a violator should have to pay the actual cost of mowing, as much as a \$75.00 administrative fee and a penalty of as much as \$100 for repeat offenders. Mayor Booth stated that obviously the Town Attorney would have to view the legalities but he really wanted to see some teeth put into the ordinance because quite frankly the offenders were mostly people who could afford to cut their grass but just didn't attend to it. Mayor Booth advised that this was not being done to pick on the downtrodden but when it was all added up what they had was a community that did not look as good as it should.

Commission Member Bonner asked Mr. Sebra who cut the grass when the Town needed someone to do it.

Mr. Sebra replied that it was the same person on the Town's books who was contracted to do the Town's lawn care. Mr. Sebra said that it could be done in house but he felt that staff already had enough to do.

Commission Member Bonner advised that would open them up to liability and felt it was best to let the contractor deal with it.

Zoning Administrator/ Planning Director Sebra said that the administrative fee was something that he and other members of staff came up with very quickly when they were trying to put together an invoice. Mr. Sebra advised that at the time there really wasn't anything in place and noted that he was glad this was being fixed so when approved by Council staff would have something to go by. Mr. Sebra felt that it should be strong enough to deter offenders so once they got hit with it they wouldn't want to get hit with it again.

Commission Member Bonner thought that the administrative fee should start at \$50.00 and noted that it could always increase if necessary. Mr. Bonner said that they should make the penalty what the offender remembered.

Vice-Chair Bouslough felt the administrative fee should be closer to \$75.00 because of the staff's time involved.

Commission Member Bonner replied that if \$75.00 could be justified that was fine with him.

Vice-Chair Bouslough felt that it was justified because of all that was involved and added that it probably took staff a good two hours to deal with this sort of issue.

Mr. Sebra said that the Town could definitely account for a \$75.00 administrative fee.

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Vice-Chair Bouslough stated that they needed to be realistic here because they were not trying to do somebody a favor. Mr. Bouslough said that they needed to talk it over, come up with a fee and a graduated penalty for multiple offenses then run it by the Town Attorney and put it into a package as a recommendation to Council.

Commission Member Bonner said that he had no problem with a \$75.00 administrative fee, a \$75 penalty for a first offense, and for it to be doubled for a second offense and so on.

Commission Member Gardner asked if they should set an enumerated administration fee or just state that there would be an enumerated administration fee set by staff so that if it ever needed to be changed than staff could do it without having to amend the ordinance.

Mr. Sebra said that there was no standing policy stating what the administrative fee should be and felt that it would be beneficial to have a set fee.

Chair Ludwig stated that if the administrative fee had to be addressed again within a year then so be it because that was why they were there.

Commission Member Bonner felt that Mr. Sebra should review this issue like he did the sign ordinance and present his thoughts regarding this at the next Planning Commission meeting. Mr. Bonner said that would make them miss this summer's mowing season but he felt that everyone was too indecisive.

Chair Ludwig stated that she felt that they could reach a decision.

Mr. Sebra stated that the recommendation could go before Council within two months which would be in time for the fall growing season.

Chair Ludwig asked if everyone agreed on a \$75.00 administrative fee.

Commission Member Gardner stated that she still didn't feel that the administrative fee should be enumerated and that staff should decide what it would be. Ms. Gardner said that it just made more sense to her for the long term. Ms. Gardner advised that she did feel that the Planning Commission should set the penalty.

Council Liaison/Mayor Booth stated that perhaps Town Attorney Stamm could give them some guidance on this.

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There was general conversation amongst multiple Planning Commission Members regarding their thoughts on the issue.

Zoning Administrator/Planning Director Sebra advised that what came to his mind when he thought about a set administrative fee was that all violations were different in some aspect and could require the collaboration of multiple members of personnel. Mr. Sebra felt that a \$75.00 administrative fee would be good and could possibly be wrapped into the penalty.

Commission Member Bonner advised that took care of the administrative fee so he was moving on to the penalty which he thought should start at \$75 and double with the second offense.

Council Liaison/ Mayor Booth stated that maybe it should just be another \$75 for the second offense and then double it on all subsequent offenses because they didn't want it to get up to hundreds or thousands of dollars.

Commission Member Bonner said that if they just kept hitting the violators with \$75.00 each time that was kind of steep within itself.

Commission Member Gardner stated that the trash removal ordinance said it was \$200 for the second offense.

Commission Member Bonner said that was a little steep.

Commission Member Gardner stated that maybe they needed to revise that ordinance as well. Ms. Gardner continued by saying that the ordinance read that if the penalties reached \$3000.00 in a twelve month period then it could be a class 3 misdemeanor in the event that three civil penalties had previously been imposed on the same defendant.

Commission Member Bonner said that he knew someone who inherited a home in Virginia but lived in California and was having to go through trying to get things done from a distance. Mr. Bonner stated that it wasn't easy.

Council Liaison/ Mayor Booth asked Commission Member Gardner if people could eventually go to jail if they didn't cut their grass which generated laughter.

Commission Member Gardner replied that if they didn't remove their trash they could which generated more laughter.

Council Liaison/ Mayor Booth stated that since they were talking about repeat offenses, had a time line had been established for the grass cutting season or did the ordinance just state within one year.

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Mr. Sebra replied that the ordinance stated that the mowing season was from March 1st to December 1st.

Council Liaison /Mayor Booth asked if anything had been set for trash removal.

Mr. Sebra replied that ordinance just stated one year. Mr. Sebra advised that he would put information together for the Planning Commission regarding these ordinances and present it to them at their next meeting.

Chair Ludwig stated that she would like to formally ask Mr. Sebra to do what he had done regarding the sign ordinance for this issue and how he felt it should be handled regarding the penalties and other figures since he had a handle on it in his mind.

Mr. Sebra replied that he would.

C. Zoning Log Report

A copy of the zoning log report was included in each Commission Member's packet.

9. Adjournment

Action: Commission Member Reedy made the motion to adjourn, seconded by Vice-Chair Bouslough; and carried unanimously.

Meeting adjourned at 7:25 PM

Prepared by:

Joan N. Kent

Jane Ludwig, Chair