

May 9, 2011

**KILMARNOCK PLANNING COMMISSION
Monday May 9, 2011
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order

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

Denis Boslough, Vice-Chair
Steve Bonner
Sonja Headley

John Smith, Council Liaison
Dave Reedy

Members Absent:
Lindsay Garner

Staff Present:
Marshall Sebra, Zoning Administrator/Planning Director
Paul C. Stamm, Jr., Town Attorney

2. Recognition of Guests:

Vice-Chair Boslough welcomed Kilmarnock residents, business owners and guests.

Mrs. Jane Ludwig arrived and took over as Chair of the meeting.

3. Acceptance of the Agenda

Commission Member Steve Bonner stated that he would like to amend the agenda to include discussion regarding changing the by-laws to reflect new meeting date and time under New Business.

ACTION: Commission Member Reedy made a motion to accept the May 9, 2011 Planning Commission meeting agenda as amended, seconded by Vice-Chair Boslough; and carried unanimously.

May 9, 2011

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 April 11, 2011 Planning Commission Meeting.

ACTION: Commission Member/Council Liaison Smith made a motion to approve the minutes for the April 11, 2011 Planning Commission meeting as presented, seconded by Commission Member Reedy; and carried unanimously.

6. Commissioner Comments

Commission Member Bonner reported that at the last Town Council meeting there seemed to be some concern by one or two Councilmembers that the Planning Commission was not exhausting all means when trying to find interested persons and forwarding their names regarding Planning Commission vacancies. Mr. Bonner noted that all of this was reported in the local newspaper. Mr. Bonner advised that during the Council meeting there was an illegal motion on the floor regarding this issue which did not go through. Mr. Bonner commented that he was all in favor of advertising for vacancies on the Kilmarnock Planning Commission and made the following motion:

ACTION: Commission Member Bonner made a motion to advertise vacancies on the Kilmarnock Planning Commission by requesting that citizens indicate their interest by sending a letter to the Commission. After a two week period, the Commission would review those names during a committee or regular meeting to determine the person best suited to fill the vacancy and forward that name to Town Council for consideration, seconded by Vice-Chair Boslough;

Discussion:

Commission Member Bonner said that he was making this motion because of a statement made by one Councilmember regarding "rubberstamping" nominees forwarded to Council by the Planning Commission.

May 9, 2011

Commission Member Reedy was in favor of this motion.

Chair Ludwig called for the vote which was unanimous.

7. Old/Unfinished Business

There was no discussion under Old/Unfinished Business.

8. New Business

A. New Zoning Map

Zoning Administrator/ Planning Director Sebra stated that he had included a copy of the new zoning map in each Commission Member's packet. Mr. Sebra said the reason for the new map was because there had been five or six zoning changes which were not depicted in the old one. Mr. Sebra advised that the new map would be presented to Town Council at their next meeting for adoption.

B. Discussion of Sign Ordinance

Zoning Administrator/Planning Director Sebra advised that a staff report, the Town's current sign regulations and ordinance, as well as the regulations and ordinances of other jurisdictions for comparison were included in each Commission Member's packet. Mr. Sebra stated that the main reason this subject was placed on the agenda was because there seemed to be an issue with a new LED sign that was put up in Town. Mr. Sebra said that he received several phone calls from individuals who felt that this particular sign was not fitting or flattering the Town's image but noted that there was nothing currently in the Town's ordinance that restricted it and therefore a permit was issued.

Chair Ludwig asked if the extension cord from the sign that ran down the length of the sidewalk into the bowling alley window for power was approved as well.

Mr. Sebra replied that he didn't have any authority over electrical connections.

Commission Member Bonner commented that Walgreens, CVS, and Bank of Lancaster had similar signs. Mr. Bonner inquired as to who would handle complaints regarding the manner in which this particular sign was being powered.

Mr. Sebra replied that would fall under the duties of the county building inspector.

May 9, 2011

Commission Member Headley cited Section 54-454, subsection (2) which read: Signs advertising only the general business conducted within the premises upon which such signs were erected or displayed. Ms. Headley advised that the sign in question did not represent the business that it was displayed in front of but the bowling alley further down the street and asked if her interpretation of the ordinance was correct.

Town Attorney Stamm replied that the subject properties were all owned by the same person.

Zoning Administrator/Planning Director Sebra advised Commission Member Headley that would be a hard argument to win.

Chair Ludwig asked if VDOT would address the problem with the sign distracting drivers.

Mr. Sebra replied that the Town did not have control over VDOT regulations and if VDOT had a problem with the sign then they would have to address it.

Chair Ludwig commented that the Planning Commission had to do something with the sign ordinance.

Town Attorney Stamm warned not to make the ordinance so complicated that the Town would have to hire someone full time to deal with it. Mr. Stamm stated that Leesburg had a great sign ordinance and if the Planning Commission wanted something similar then they would have to convince the residents here that a city sign ordinance was needed.

Vice-Chair Bouslough asked how long the questionable sign been on display.

Mr. Sebra replied that he did not recall but advised that he could look at the permit and let him know.

Vice-Chair Bouslough told Mr. Sebra not to bother and added that he had just been curious. Mr. Bouslough said that the reason he had asked was because he had not even noticed the sign until today when he went out looking at signs in general. Mr. Bouslough commented that the sign was not so startling that it was intrusive because he hadn't even noticed it.

Commission Member Bonner advised that LED signs were the thing of the future.

May 9, 2011

Commission Member Headley advised that the sign did not bother her either but noted that it was in the Steptoe's District and just didn't fit into the ambiance.

Chair Ludwig was in agreement with Commission Member Headley.

Town Attorney Stamm advised there were no regulations regarding signs in the Steptoe's Overlay District. Mr. Stamm said that they would have to go back and recreate the overlay to include signs.

Commission Member Bonner stated that he went on line and looked at VA Beach. Mr. Bonner said that last year that area addressed the fact that many of their LED signs were huge. Mr. Bonner advised that they also addressed the color of the signs with the exception of the logo, and the speed of the signs resulting in the back-up of thirty applications and a lot of upset people. Mr. Bonner reiterated that LED signs were the future. Mr. Bonner commented that like Vice-Chair Bouslough, he had been oblivious to the sign in question.

Chair Ludwig reported that she had received twenty three complaints about the LED sign and felt that signs in the Steptoe's District needed to be addressed and asked how they should go about it.

Zoning Administrator/Planning Director Sebra replied that the sign ordinance needed to be amended to include a section regarding the Steptoe's Overlay District so that it could be protected.

Town Attorney Stamm advised that the Planning Commission was not going to be able to get rid of any of the signs that were already in that particular area.

Mr. Sebra said that the Planning Commission could work on language that they felt was appropriate, draft a document with the amendments and present it before a public hearing.

Commission Member Bonner suggested that Commission Members go on line and look at other localities to see what they were doing before the next Planning Commission meeting. Mr. Bonner said that this was a bad time to be telling people that they couldn't have certain signs since there was a recession going on. Mr. Bonner commented that Kilmarnock did have the nicest entertainment center in the Northern Neck and Middle Peninsula. Mr. Bonner wasn't sure how much should be addressed in this business climate but in the meantime, everyone could be getting information on what other localities were doing.

May 9, 2011

Town Attorney Stamm noted that he did not have any problem with changing part of the sign ordinance and commented that it would give some of the attorneys in Town some work when they try to convince the Town what it can and cannot have. Mr. Stamm stated that they could not be subjective. Mr. Stamm said that he did not think that Leesburg's ordinance had been to court or overturned but added that it did allow the use of electronic message boards except within the historical district.

Commission Member Bonner recalled one building in Town that had a drawing on the side of it and everyone tried to decide if the drawing should be considered as a sign or not.

Chair Ludwig reported that she received a conference call involving two people who said that with all of the money spent to bring the Town of Kilmarnock and the Steptoe's Overlay District to the condition that it was currently in, why was a tacky sign of that nature allowed.

Town Attorney Stamm suggested that Mrs. Ludwig call them back and tell them that it was because the code allowed it.

Chair Ludwig replied that she had already told them that.

Commission Member Headley suggested that a portion of Main Street in the Steptoe's District be segregated and those types of signs only be allowed discretely outside of that area.

Town Attorney Stamm advised the Planning Commission to pull together what changes they wanted to make and get it to Mr. Sebra. Mr. Stamm said that Mr. Sebra would get with him so he could make a draft of those changes.

Commission Member Bonner asked if the Town Council would be involved in the process.

Zoning Administrator/ Planning Director Sebra advised that the ordinance would have to be amended and presented at a public hearing at the Planning Commission level first.

Vice-Chair Bouslough asked for clarity and wanted to know if they were only concerned with the LED signs.

Zoning Administrator/Planning Director Sebra replied that was the only topic brought to his attention other than the illumination of signs but noted that the complaints offered an opportunity to go over the ordinance as a whole.

May 9, 2011

Vice-Chair Boslough asked Mr. Sebra if he had received complaints concerning the illumination of signs as well.

Mr. Sebra replied that he did receive a call from a citizen who was not a Town resident but who was concerned about a sign that had floodlights facing from the ground upward and was blinding to oncoming traffic at night. Mr. Sebra stated that the individual asked if the Town had anything within its ordinance to deal with that but noted there was not.

Commission Bonner asked Mr. Sebra if he had looked at the sign.

Mr. Sebra replied that he had and noted that it was a sign in front of a hair salon on South Main Street.

Town Attorney Stamm replied that he had been by there day and night with no problems.

Commission Member Bonner replied that those lights had just been put there because they had solar lights there before.

Zoning Administrator/Planning Director Sebra said that he did not think that the Town should be in the business of telling people how to do everything that they needed to do but there were other ways of doing things such as having the lights facing down instead of up.

Commission Member Bonner suggested that everyone take a month and make a point of looking at different localities instead of taking a shot in the dark.

Mr. Sebra said that he was just bringing this to their attention because these were some issues that had recently come up.

Vice-Chair Bouslough stated that he wasn't aware of any problems until he received his packet.

Mr. Sebra replied that there had not been any issues until this particular sign went up.

Commission Member Bonner asked if it was a product of who it was instead of what it was.

Commission Member Reedy said that he was wondering the same.

Mr. Bonner said if this was like the Irvington Road and Second Avenue situation then he didn't want any part of it.

May 9, 2011

Chair Ludwig stated that the calls she received were from citizens who found this particular sign extremely disagreeable and desecrating when driving through Town and just wanted to know why the Town had spent so much money on the Steptoe's District and then let that sign go up.

Town Attorney Stamm replied that the location of the sign was actually a block and a half outside the Steptoe's Overlay District.

Commission Member Headley said that she loved Calvin but suggested that everyone take a look at Main Street Chevron and the Cockrell's building. Ms. Headley commented that they didn't fit in on Main Street.

Chair Ludwig advised that the buildings were already there when the overlay was drafted.

Commission Member Bonner stated that he personally did not feel the need to bother people in this business climate unless something became a nuisance. Mr. Bonner said that he would not fault businesses right now if they had people out in the street with flags trying to get their attention.

Commission Member Headley stated that Town Attorney Stamm had said that they couldn't change what had already been approved but advised that they could be thinking forward.

There was a general consensus of agreement amongst Planning Commission Members with Commission Member Headley's statement.

Vice-Chair Ludwig advised that attached to the LED sign complaint was also a complaint that Mr. Bonner was using the side of his truck to display a sign and due to the size of the sign it was considered to be a billboard. Mrs. Ludwig stated that the complainant wanted to know what was going to be done about it.

Zoning Administrator/Planning Director Sebra advised that just like the LED sign there was nothing in the Town's ordinance that said Mr. Bonner couldn't do that. Mr. Sebra stated that was just one more issue in conjunction with flags and temporary signs that were going up every day. Mr. Sebra said that the Kilmarnock Beautification Project was underway trying to make Main Street pretty but noted that if there was no ordinance to stop the LED and such then it was going to be completely wiped out.

Commission Member Bonner stated that in regards to the sign on the side of the truck, it could not be regulated because then everyone who had a sign on their vehicle would have to be regulated. Mr. Bonner recalled that a certain vacuum repairman couldn't have a sign advertising his business in his front yard but could on his vehicle.

May 9, 2011

Vice-Chair Ludwig replied that it wasn't billboard size though and that had been brought up in the past.

Commission Member Bonner stated that he used to park that truck at Chris Stamm's office on Friday night and leave it until Sunday night. Mr. Bonner said that former Town Manager Lee Capps had a police officer come there and ticket the truck because it was on the sidewalk. Mr. Bonner advised that the police officer had asked Mr. Capps if he could just ask him to move it instead and Mr. Capps said no. Mr. Bonner stated that he called Roxy Moubray the next day and got the biggest letters he could get on that truck and then parked it where it was now with the landowner's permission. Mr. Bonner advised that he called Mr. Capps and thanked him because the truck had gotten more recognition where it was now than it ever had before. Mr. Bonner said that the lesson here was what happens when the when the Town tries to tell a person what they can do and tries to regulate. Mr. Bonner stated that they had to be careful about that. Mr. Bonner advised that he was not talking about himself, he was talking about everyone.

Zoning Administrator/Planning Director Sebra noted that for everything they had been brought up there were no regulations to deal with it. Mr. Sebra said that right now there were one or two people doing some things but what if next year there were ten to twenty people doing the same thing. Mr. Sebra stated that for example what if there were twenty businesses lining the street with their vehicles displaying signs including a big box store truck. Mr. Sebra asked how everyone thought that would look.

Commission Member Bonner commented that he looked at one business that had nine signs in their small yard but he was not going to single them out because he knew that they were trying to do business.

Mr. Sebra stated that one of his biggest problems was dealing with the temporary signs on every corner. Mr. Sebra said if it wasn't kept under control it would be like weeds growing. Mr. Sebra advised that there were two exemptions which was for the contractor who was working on the property and wanted to put up a pop cycle sign which he could leave up until he was finished and the for sale and rent signs. Mr. Sebra said that last year at this time, he went around and made up a list and then sent the property owners a letter which seemed to work out well. Mr. Sebra said that if the signs were not removed then he removed them himself. Mr. Sebra stated that these were just some points to initiate and stimulate discussion on what Planning Commissioners felt needed to be added or changed in the sign ordinance. Mr. Sebra said that the future can't be predicted but there where issues that the Town would be faced with such as flags. Mr. Sebra stated that most jurisdictions didn't prohibit flags but had restrictions regarding number and size. Mr. Sebra said that the last time the Town's ordinance had been revised was in 2007.

May 9, 2011

Commission Member Bonner recalled that Mr. Les Spivey and Mr. Fletcher Brown III used VA Beach's ordinances to revise the Town's code at that time. Mr. Bonner told the new members that the biggest thing the Planning Commission had done was to limit the size of signs on buildings. Mr. Bonner advised that a 1000 foot wide building could only have the same size sign as a building that was 50 feet wide. Mr. Bonner said that the biggest sign could only be 200 square feet total.

Chair Ludwig asked if anyone wanted to hold a special meeting to address the sign issues or if Commission Members wanted to bring their ideas to the next regularly scheduled meeting.

It was the general consensus of Planning Commission Members to continue the discussion regarding signage at the next regularly scheduled meeting.

Commission Member Bonner said that he was going on line and look at the signs manufactured by LED companies to get some ideas. Mr. Bonner advised that they were the mode of advertising now.

Zoning Administrator/Planning Director Sebra advised that he would have some examples of LED regulations at the next meeting.

C. Zoning Log Report

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

Commission Member Bonner commented that the Town was going to have a nice sign and noted that it cost \$3100.

Chair Ludwig inquired as to what sign.

Commission Member Bonner replied the sign that the Town was going to put on the Town Centre property, he guessed.

Commission Member Bonner laughed and inquired if the Town had gotten a permit.

Zoning Administrator/Planning Director Sebra replied that the Town did but in all reality they were exempt.

Commission Member Bonner inquired if the number of permits issued was picking up any.

May 9, 2011

Mr. Sebra replied that they were picking up a little but it was mostly with the same development and its new homes. Mr. Sebra commented that it wasn't a lot to really talk about.

Commission Member Bonner advised that Mr. Jones Felvey had right many homes in his development now.

Mr. Sebra replied that was the development that he was referring to earlier regarding permits.

Commission Member Bonner commented that it was building up quite nicely there.

Mr. Sebra advised that a new home went up over on Purcell Drive.

Commission Member Bonner added that Dr. Sutherland put up a new home on Walnut Court.

Mr. Sebra advised that the Mary Ball Road Project was in full swing and noted that the water/sewer part of the project was going great. Mr. Sebra noted that there was a little problem with the rehab regulations but he had them pretty much straight now.

Chair Ludwig asked if there was any more discussion on the zoning log report and if not she would move on.

D. Change in Kilmarnock Planning Commission's By-laws

ACTION: Commission Member Bonner made a motion that the by-laws of the Kilmarnock Planning Commission be changed to state that meetings would be held at 6:00 pm on the second Monday of each month, seconded by Commission Member Bouslough,

Chair Ludwig stated that the change was fine with her but the only issue was that the press would not be able to cover the meetings on that night.

Commission Member Bonner replied that was not their problem. Mr. Bonner said that the press stated at the last Council meeting that if the meeting had business of significance that they would have someone to cover it. Mr. Bonner advised that he did not think this was the stand of the local paper itself, the owners or the editor.

May 9, 2011

Chair Ludwig advised that the editor said right now he did not have enough reporters to cover the meeting but if something important was going on than a member of the Planning Commission could contact him.

Attorney Stamm advised that the editor gets a copy of the agenda so if they see something important they will know to come.

Zoning Administrator/Planning Director Sebra advised that it was a state law that he had to notify the local media each month of the meetings and provide a copy of the agenda.

Commission Member Reedy said that if the media wanted to cover it then they could make arrangements because the Planning Commission shouldn't have to work around them.

Chair Ludwig said that she just wanted to get this information out to all of the Planning Commission Members.

Commission Member Bonner advised that issue came up at the Town Council meeting with the press person there.

Zoning Administrator/Planning Director Sebra said that the press member present did not seem too upset about it.

Commission Member Bonner said that he wasn't upset about it either because that person's coverage was not that great anyway.

Chair Ludwig asked who was taking the minutes.

Town Attorney Stamm said that Mr. Sebra was.

Mr. Sebra advised that Joanie (the transcriber) was tied up on some other things and he was recording it for her.

Commission Member Reedy commented that it was all on tape.

Commission Member Bonner laughed and jokingly told Planning Commission Members that the tape had everything that was said.

Mr. Sebra laughed and advised them not to say anything bad.

Chair Ludwig said that she had not said anything bad other than calling Mr. Bonner a "bunny fu- fu" earlier.

Commission Member Reedy asked Chair Ludwig if she was ready for the vote.

May 9, 2011

Chair Ludwig called for the vote which was unanimous.

Chair Ludwig said that it was official and the meetings would be held on the second Monday of the month at 6 pm.

Commission Member Bonner advised that he was digging these 6 pm meetings and jokingly said that sometimes they have 4 hour meetings.

Chair Ludwig said that this summer if she was lucky and had any clients that the Vice-Chair might have to take over a few meetings.

Mr. Bonner advised Chair Ludwig that he did not know that she was in White Stone now.

Chair Ludwig said that she would give him a card and asked if anyone wanted to make a motion to adjourn.

9. Adjournment

Action: Commission Member/Council Liaison Smith made the motion to adjourn, seconded by Commission Member Reedy; and carried unanimously.

Meeting adjourned at 6:45 PM

Prepared by:

Joan N. Kent

Jane Ludwig, Chair