

**KILMARNOCK TOWN COUNCIL
Monday, April 15, 2013
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order:

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

Raymond C. Booth, Jr., Mayor
Emerson Gravatt, Vice-Mayor
Rebecca T. Nunn

William L. Smith
Howard Straughan
Mae P. Umphlett

Members Absent:
Shawn Donahue

Staff Present:
Tom Saunders, Town Mgr.
Paul C. Stamm, Jr., Town Attorney
Cindy Balderson, Town Clerk
Joan Kent, Transcriber
Michael S. Bedell, Chief of Police

Mayor Booth welcomed Kilmarnock residents, business owners, and guests and then led the recital of the Pledge of Allegiance. Mayor Booth recognized former Mayor Mike Robertson who was seated in the audience.

Councilmember Nunn requested a moment of silence for the people who lost their lives or were injured during the Boston Marathon bombings.

2. Acceptance and Approval of Agenda

ACTION: Vice-Mayor Gravatt made a motion to to accept the April 15, 2013 Town Council meeting agenda as presented, seconded by Councilmember Nunn; and carried unanimously.

3. Approve, Correct, or Amend the Minutes of the March 18, 2013 Regular Town Council meeting and the Minutes of the March 27, 2013 Special Town Council meeting.

ACTION: Councilmember Straughan made a motion to accept the March 18, 2013 Regular Town Council meeting minutes as presented, seconded by Councilmember Nunn; and carried unanimously.

Councilmember Nunn requested a change on page three of the March 27, 2013 Special Town Council Meeting Minutes regarding a statement she made. The word “contract” was used as opposed to “offer” and then the “offer” became a “contract” on March 1st.

ACTION: Councilmember Nunn made a motion to accept the March 27, 2013 Special Town Council meeting minutes with the above amendment, seconded by Councilmember Straughan; and carried unanimously.

4. Public Comments and Presentations:

Mayor Booth invited members of the public to speak on any matter with the exception of scheduled public hearings and to limit their comments to three minutes per person.

Former Mayor Mike Robertson addressed Town Council regarding the potential purchase of 1 North Main Street as a Town Hall. Mr. Robertson recalled the purchase of the current Town Hall when he served on Council noting that the Town had outgrown the old one on School Street. Mr. Robertson said that when he became Mayor in 2002, he asked the Town Manager at that time to clean it up, paint it, and make it look presentable in order to project a certain image he felt was necessary for the Town. Mr. Robertson stated during his term as Mayor, Mr. Charles Chase and Mr. Shawn Donahue were considering purchasing and developing the 9 acre lot and he advised Council at that time that the Town should purchase it for a future municipal site but he was overruled. Mr. Robertson felt that the 9 acre lot was a great opportunity for the Town to put its municipal building in the center of Kilmarnock and run the streetscape up to School Street. Mr. Robertson said the lot would allow the Town to have a common area and hold events like Irvington does but noted that it was not going to happen at the building they were purchasing on Main Street. Mr. Robertson stated that the Town could have had “a shining light on the hill” that everyone could be proud of. Mr. Robertson commented that the Town spent \$500,000 a long time ago for a piece of property that was still just sitting there. Mr. Robertson asked Council to think before they purchased 1 North Main Street even though it was a nice building and to build what was needed at the 9 acre lot.

Councilmember Umphlett called a Point of Order noting that Mr. Robertson had exceeded the three minute speaking limit.

Mr. Robertson finalized by saying that the Town could have their “shining light” on the 9 acre lot.

Mayor Booth commented that he often allowed people to run over the three minute limit and gave Mr. Robertson extra time out of consideration since he was once the Mayor.

Mr. Les Spivey of 54 East Church, Kilmarnock VA stated that the Town could still use the 9 acre lot for public functions but most importantly, the Town could control its development because they owned it. Mr. Spivey said that the streetscape could still be brought up to School Street but it would cost millions of dollars to move the utilities. Mr. Spivey advised that someday when the economy was better the Town could build the Town Hall desired on the 9 acre lot adding that 1 North Main Street would probably be worth a lot more then than it was today. Mr. Spivey thought that the purchase of 1 North Main Street was a good idea at this time.

Mrs. Sandy Meadows of 197 Walnut Street, Kilmarnock VA wanted to thank certain members of Council and Mayor Booth who supported a petition that was circulated around Town during the past three weeks in opposition of the 1North Main Street purchase. Mrs. Meadows noted her passion and love for the Town and wanted the people to be a part of what changes took place. Mrs. Meadows felt that the people had been dishonored and had been ignored by Council for too long. Mrs. Meadows advised that a small group took a lot of their personal time to speak with citizens and business owners and see what they wanted. Mrs. Meadows added that a great deal of work went into the petition. Mrs. Meadows stated that her group was accused of misinforming people but assured everyone that was not the case and often informed people to contact Councilmembers with their questions. Mrs. Meadows said that her focus was to be an advocate for the tax paying citizens in Town and found it to be a fact finding adventure. Mrs. Meadows explained that the most frustrating part was when citizens told her that they were afraid to sign the petition for fear of being retaliated against. Mrs. Meadows presented the petition to Council showing that 379 taxpayers (businesses and residents) did not want 1 North Main Street to be purchased for a Town Hall. Mrs. Meadows said that the signatures on the petition were citizens standing up and stating that they were ready for a change and would do whatever possible to make that happen. Mrs. Meadows gave custody of the petition to Mayor Booth.

Mayor Booth stated that he would review the petition and share it with the necessary parties.

5. Planning Commission Report: Shawn Donahue, Council Liaison

There was no meeting held in the month of April.

6. Committee Reports:

A. Water/Sewer Committee: Councilmember Nunn, Chair

1) Report from April, 2013

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

Councilmember Nunn reported that the Committee discussed the status of the replacement sewer main on Dogwood & Chase Streets. Mrs. Nunn stated that the delivery of the Wiggins Avenue pump station backup generator would take another 30 days. The Town Manager had reported that he was not aware of any progress concerning remedies to the sewer access problems on South Main Street and along Augusta Street. Mrs. Nunn said that the Committee agreed to recommend changes in payroll allocations to the Water/Sewer and Public Works categories. The staff reported that most areas were working normally with the exception of one pump in the School Street lift station which was being investigated.

2) Committee Recommendations to Council

There were no recommendations made to Council.

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

1) Report from April, 2013 meeting.

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

Councilmember Nunn gave the report in lieu of Councilmember Donahue's absence.

Councilmember Nunn stated that the Committee was given an update regarding maintenance on Chilton Street noting that gravel was placed in the potholes and smoothed over. Mrs. Nunn advised that communication was underway with an individual who had a hole from a sunken meter on their property which had to be covered with a barrel for safety purposes. Mrs. Nunn stated that the Committee discussed returning to organic mulch at the playground and removing the rubber mulch due to replacement cost. Mrs. Nunn advised that they also discussed the FY14 budget for public works operations and the CIP. The Committee decided to recommend to VDOT after a request from Springwood

Subdivision, that they become part of the publicly maintained roadways. Mrs. Nunn reported that signage for the Dog Park Main Street entrance and a cleanup reminder was underway. Mrs. Nunn said that landscape beds would be created at the Town lot sign and the Dog Park sign. Mrs. Nunn stated that staff had started soliciting feedback from tenants on potential entrance sign styles for Technology Park. It was decided to hang ten flower baskets throughout Main Street during Memorial Day weekend. Mrs. Nunn said that the center islands and beds landscaping was targeted for the week of May 5th and the trolley season was scheduled to start on May 3rd. Mrs. Nunn advised that the playground had been prepared for spring usage. Mrs. Nunn finalized by saying that the public had voiced concern over the 2 hour parking limit on Main Street being exceeded.

2) Recommendations to Council

Recommend that staff be directed to remove the rubber mulch at the playground and to replace with it with organic mulch.

ACTION: Councilmember Nunn made the motion to direct staff to remove the rubber mulch at the playground and replace it with organic mulch, seconded by Councilmember Straughan; and carried unanimously.

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

There was no meeting held.

D. Emergency Preparedness Committee: Councilmember Umphlett, Chair

1) Report from April, 2013 meeting.

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

Councilmember Umphlett advised that the Committee discussed the budget needs for FY14 and directed staff to assess back up power needs at 1 North Main Street to enable police, phone, and computing efforts to continue in the event of a significant power outage.

2) Recommendations to Council

Recommend that Council direct staff to seek an electrical assessment for backup power at 1 North Main Street.

ACTION: Councilmember Nunn made a motion to direct staff to seek an electrical assessment for

**backup power at 1 North Main Street,
seconded by Vice-Mayor Gravatt; and
carried unanimously.**

E. Town Centre Committee: Councilmember Straughan, Chair

1) Report from April, 2013 Meeting

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

Councilmember Straughan reported that the Committee continued discussion on action items for the Town Hall property at 1 North Main Street. The Committee also discussed exterior signage for the building. Mr. Straughan stated that Committee discussed furniture and wallpaper replacement in the building as well.

2) Committee Recommendations to Council.

There were no recommendations made to Council.

F. Economic Development Committee: Vice-Mayor Gravatt, Chair

1) Report from April, 2013 meeting.

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

Vice-Mayor Gravatt reported that the Committee was briefed on presentations from the RFP for Marketing/branding the Town. Mr. Gravatt advised that the Committee had decided on two and have asked for a financial proposal on Phase 1 from both.

2) Committee Recommendations to Council

There were no recommendations made to Council.

G. Administration/Finance Committee: Councilmember Straughan, Acting Chair

1) Report from April, 2013 meeting.

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

Councilmember Straughan was appointed by the Committee to serve as acting chair. Mr. Straughan advised that the Committee reviewed the draft of the FY14 budget and agreed to forward the proposed budget with changes they made to Council. Mr. Straughan reported that there would be no tax increases for citizens in fact they would see their real estate tax decrease by 16%. Staff provided an update on the new municipal software installation. Mr. Straughan advised that the Committee was recommending Mei-Li Beane of 127 East Church Street for appointment to the Board of Zoning Appeals to fill the vacant position left by the resignation of Mr. Bob Wille. Mr. Straughan advised that the Committee agreed to recommend the adoption of a text change in the Town's Employee Manual to allow part-time employees who average 32 or more hours per week to be eligible for health insurance. The Committee went into Closed Session in accordance with FOIA 2.2-3711(A) (1) for consideration of a personnel matter.

2) Committee Recommendations to Council

a. Recommend that Council approve the disbursements from March 19, 2013 to April 15, 2013 totaling \$38,638.25 and a debt service payment of \$186,125.00

ACTION: Councilmember Straughan made a motion to approve the disbursements from March 19, 2013 to April 15, 2013 in the amount of \$38,638.25 and debt service payment of \$186,125.00, seconded by Vice-Mayor Gravatt ; and carried unanimously.

b. Recommend that Council appoint Mrs. Mei-Li Beane to the vacant seat on the Board of Zoning Appeals.

ACTION: Vice-Mayor Gravatt made a motion to advertise the vacancy on the Board of Zoning appeals, seconded by Councilmember Umphlett; and carried unanimously.

c. Approve a text change in the Town's Employee Manual to allow part-time employees who average 32 hours per week or more to be eligible for the health insurance benefit.

ACTION: Councilmember Straughan made a motion to approve a text change in the Town's Employee Manual to allow part-time employees who average 32 hours or more per week to be eligible for the health insurance benefit, seconded by Councilmember Nunn; and

carried unanimously.

d. Submit proposed budget for upcoming fiscal year to a public work session on April 22 and an advertised public hearing with the first reading at the May 20 Council meeting.

ACTION: Councilmember Nunn made a motion to submit proposed budget for upcoming fiscal year to a public work session on April 22 and an advertised public hearing with the first reading at the May 20th Town Council meeting, seconded by Vice-Mayor Gravatt; and carried unanimously.

e. Closed Session

1) Enter into Closed Session as allowed by FOIA 2.2-3711(A) Para (1) Personnel to discuss performance evaluations for the Town Manager and Town Attorney.

ACTION: Councilmember Straughan made the motion to enter into Closed Session FOIA 2.2 -3711(A) Para (1) to discuss personnel issues particularly performance evaluations for the Town Manager and the Town Attorney, seconded by Councilmember Umphlett; and carried unanimously.

Mayor Booth called for a 10 minute recess prior to entering into Closed Session at 7:55 pm.

Council entered into Closed Session at 8:05 pm.

Regular meeting reconvened at 8:20 pm.

2) Certify Closed Session held IAW FOIA 2.2-3711(A) Para (1) Personnel to discuss performance evaluations of the Town Manager and Town Attorney.

Town Manager Saunders made a statement certifying that during the Closed Session which just concluded that nothing was discussed except the mater or matters (1) specifically identified in the reason to convene in Closed Session and (2) lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information Act cited in that reason. The statement was supported by a roll call vote.

Booth, Raymond C. Jr., -yes

Gravatt, Emerson -yes

Nunn, Rebecca T. – yes
Smith, William L. - yes
Straughan, Howard – yes
Umphlett, Mae P. – yes

Councilmember Nunn reported that both the Town Manager and Town Attorney received good evaluations.

7. Old Business

There was no discussion under Old Business.

8. New Business

There was no discussion under New Business.

9. Comments

A. Public Comment

There were no additional public comments.

B. Town Attorney- Paul C. Stamm, Jr.

No comments were made.

C. Mayor- Raymond C. Booth, Jr.

No comments made

D. Council

Vice-Mayor Gravatt gave a rundown of the purchase of the 9 acre lot from the Christopher family and why it was important for land and property acquisitions to be done in closed session. Mr. Gravatt read the minutes from 2002 to 2003 to obtain the information. The first discussion concerning the Christopher property was during a Council meeting on November 18, 2002 and the subject was brought up by Mayor Robertson. That discussion was that the property was for sale in the amount of \$436,000. Councilmember Fletcher Brown made a motion for the Mayor and Town Attorney to look into the purchase of the property and the motion died for the lack of a second. After further discussion at the meeting, Councilmember Fletcher Brown made a second motion to form a committee to look into the purchase of the property which also died due to the lack of a second. At the December 16, 2002 meeting, Councilmember Brown made a motion to have the Town Attorney negotiate a 90 day option with the Christophers' so they would hold off on selling of the property, which was passed unanimously. The Council

appointed a Committee of Councilmember Gerald Sellers, Jean Luttrell, Edward J. Davis, Sr., Fred Swaffin, Gary Wilkins, Les Spivey, and Jane Ludwig to investigate the potential purchase. At the January 2003 Council meeting, Mayor Robertson had a public meeting to solicit input on the purchase of the Christopher property. There was a lengthy discussion initiated by him on whether or not the Committee would present their report that night. Councilmember Sellers and Mr. Spivey stated that they had two meetings, one with business owners and residents to obtain their input and the other meeting was for the Committee to discuss the issue. Councilmember Sellers reported that the final consensus of the Committee by a 4 to 2 vote was to purchase the property. Clarification was made by the Committee that the property would not be developed right away but held for later determination. Councilmember Jones asked six questions, one of which was if the Committee had looked at the Edgar Brown property on the corner which was adjacent to the Christopher property. The response was that the developer had a verbal contract on that property which Shawn Donahue said was true. Other persons who spoke at that meeting were Jack Blount, Betty Kaye Crandall, Shirley Bellows, Les Spivey, Shawn Donahue and Mr. Gravatt himself. Mr. Donahue then made a proposal that if the Town purchased the Christopher property and they did not decide what to do with it within a year, he would purchase it from them as long as the Edgar Brown property went with it because he had heard that a developer was already looking at that property. Mayor Robertson replied that it was a fair offer by Mr. Donahue to the Town and his only concern was that the people would need to know the long range plan. Council went into Closed Session and when they came out, Councilmember Brown made a motion to have the Town Manager and Town Attorney negotiate the contract with the Christophers to purchase the 9 acre lot for \$436,000 and the Hintons to purchase the Edgar Brown corner lot for \$150,000. The motion died for the lack of a second. In February nothing happened. At March Council meeting in 2003, Councilmember Bob Wille made a motion to purchase the Christopher property for \$525,000 out of the General Fund and provide a \$5,000 deposit. The motion was seconded by Councilmember Brown and Councilmembers Wille, Brown, and Jones voted in favor of with Russell, Sellers voting in opposition. Vice-Mayor Christopher abstained. The motion carried with a 3 to 2 vote in favor of. The Town Attorney noted that another meeting had to be held for the second approval of the purchase. A special meeting was held on March 21, 2003 with the same results. Mr. Steve Bonner asked why the amount was \$525,000 instead of the original \$426,000. The Town attorney replied that was the amount that the Town had decided to offer. Councilmember Russell stated that the purchase did not include the Edgar Brown property. It became public knowledge that the Town wanted to purchase the Christopher property in 2002. Mr. Gravatt said that one thing that came out of the Committee meetings was that the Town needed to get control of that property before a developer did. Knowing that the Town was interested in purchasing the Christopher property, developer Charles Chase purchased the Edgar Brown property on March 14, 2003 from the Hintons for \$157,000 knowing that it would increase in value. His purchase came three days before Council voted to purchase the Christopher property. The Town could not purchase the Brown property from

Mr. Chase due to the price he wanted for it. Mr. Chase sold the Brown property a year later for \$225,000 making a profit of \$68,000 in one year. Mr. Gravatt advised that was why Shawn Donahue wanted the corner lot in his deal with the Town because he already knew that Charles Chase was going to buy it and wanted the Town to deal with Mr. Chase instead of him. During this same time, a developer from Norfolk was looking at the Christopher Property for a K-Mart and offered them \$525,000 but the deal fell through. Because of this the property owner Johnny Christopher became upset with Mayor Robertson and the Norfolk developer knocking on his door everyday so he took the property off of the market. After talking with the community, business leaders and his family, Johnny Christopher decided to offer the property to the Town for \$525,000. Mr. Gravatt said that because the land acquisition became public knowledge, the Town lost the Brown's corner lot and paid \$90,000 more for the Christopher property. Mr. Gravatt continued by saying that without public input back in 2002, the Town could have purchased the Christopher property and the Brown property for a total of \$586,000 which was only \$61,000 more than what the Christopher property alone was purchased for. Mr. Gravatt stated that there was no mention of keeping the entire property as green space. There was a design done by the Mayor showing 1.5 acres in the center as green space for Town events. Mr. Gravatt emphasized that this was why property acquisitions must be done in closed Session.

E. Town Manager – Tom Saunders

Town Manager Saunders reported that the software update was half way finished but was going well so far. Citizens would be presented with an entirely different bill in May and June and a letter from him explaining them. Mr. Saunders also encouraged anyone who had an interest in the FY14 budget to attend the meeting next Monday night at 5 pm.

10. Adjournment

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

Meeting adjourned at 8:28 pm

Prepared by:

Joan N. Kent

Raymond C Booth, Jr., Mayor

Cindy Balderson, Clerk