

March 27, 2013

**KILMARNOCK TOWN COUNCIL
Monday, March 27, 2013
Town Hall
Kilmarnock, VA**

Special Meeting Minutes

1. Call to Order:

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

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

William L. Smith
Howard Straughan
Mae P. Umphlett

Staff Present:

Tom Saunders, Town Mgr.
Paul C. Stamm, Jr., Town Attorney
Cindy Balderson, Town Clerk
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.

2. Acceptance and Approval of Agenda

ACTION: Councilmember Straughan made a motion to accept the March 27, 2013 Town Council special meeting agenda as presented, seconded by Councilmember Donahue;

Mayor Booth called for the vote which was unanimous.

3. First Public Comments and Presentations:

Mayor Booth invited members of the public to speak and to limit their comments to three minutes per person

Mr. Leslie Spivey of 58 East Church Street, Kilmarnock and former Councilmember, stated that he was worried if this meeting had proper public notice. He then acknowledges that Councilmember Gravatt was in attendance after having a

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procedure done in Richmond. Mr. Spivey said that he wanted to respectfully disagree with what the people of the Town think about the purchase of the property. Once you explain to them about the parking etc. they say it is a good idea and that the new building is such a better building than the present one. Mr. Spivey states that he thinks the Town should buy every piece of vacant property in Kilmarnock to have control over it and to make sure it gets developed in a proper manner. Mr. Spivey emphasizes that the Town should spend more time thinking about the future, significantly the plan for water. Mr. Spivey also comments that he thinks the Town should co-operate more with Lancaster County and the other two Towns in the County. Mr. Spivey then closes his comments saying that The Council needs to stop fighting amongst themselves and worry about the future.

4. Old Business:

Mayor Booth states that this meeting was called due to matters related to the purchase of the 1 N. Main Street as a Town Hall. Councilmember Smith has concerns about the Terms and Agreement of the contract that was not approved by this Council. Councilmember Smith called to inquire about "rent" after reading an article in the newspaper. He was informed that the "rent" was part of the contract and this was the first time he had ever heard the word "contract" mentioned regarding this purchase. He then requested that all Councilmembers be sent a copy of the contract. On the 3rd page of the contract, it states in bold that the contract is subject to approval by the Council. Councilmember Straughan asks how many contracts the Town enters in to without Council approving them. Councilmember Straughan commented that he regrets that it has come about like this and explains the procedure the Town Centre Committee took in purchasing the building at 1 N. Main. Councilmember Smith continues with his concerns about the \$5000.00 deposit had not been made so contract is not valid. Councilmember Smith continues to explain that the due diligence runs out on Sunday and the meeting was rushed to meet that deadline. Councilmember Donahue stated that Council had not had a chance to review contract after ratification, and he felt it was all done "behind the scenes", meaning his concern was with disclosure. Councilmember Straughan commented that the purchase of the building might not have been done perfectly but it was done properly. He continued saying that no one had any intentions to slight any one at any time and was handled with the best of intentions. Councilmember Nunn agreed and reiterated how the Town Centre Committee was given the authority by Council to negotiate the sale. Councilmember Smith stated that he was not questioning any ones intentions but there was such a rush or urgent need in purchasing the property that he felt that some of the details of the contract may have been overlooked. Mr. Stamm said that we have a good, legally binding contract. He also stated that since he is not presenting the lease tonight, it does not need to be discussed. Mayor Booth stated that he was having a problem with grasping which contract draft he should be looking at and clarification on the actual lease agreement. Mr. Stamm commented that he has just received a lease agreement and was not happy with it and they could not discuss that because the special meeting was called about the contract. Mayor Booth asked for any other discussion on this issue. Councilmember Umphlett requested clarification that the motion was to accept the contract, and the

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issuance of the \$5,000 deposit. Mayor Booth said that was correct. Councilmember Smith requested clarification that the Town would not be taking possession of the building on April 1. Mr. Stamm replied that since Frank Burke is out of town, everyone will be notified of the possession date, once it has been determined when he speaks with Burke upon his return.

**ACTION: Councilmember Nunn made a motion to approve
The contract as it is written and the Town make a
\$5000.00 deposit. Seconded by Councilmember
Straughan**

Mayor Booth called for the vote which was 4 to 2 in favor of. The motion passed.

Mayor Booth stated he would have some comments to make regarding the passed motion. But he wanted to ask if there were any further comments or discussion from the public.

Mr. Bob Willie stated that when the motion was made in the past for purchase of property by the town that they did have to say where the money was coming from and that it had not been done with this issue.

Mayor Booth thanked Mr. Willie for his comment. He said since there were no other public comments and Mr. Stamm had no comments, he would be making his comments in reference to the motion which was passed. His concerns included that he felt that information regarding the purchase was not available to all council members, and that some information may have been suppressed. He was concerned that a contract was signed on February 7 before the February 25th Council meeting. He was also concerned about details of the early possession lease and the notation on the contract draft regarding the five parking spaces at 1 South Main Street.

Mayor Booth then said he would entertain any comments regarding his concerns. Councilmember Gravatt said that the owners of 1 South Main St. would be lucky to get the appraised value for that property if it ever comes up again.

Councilmember Nunn explained that once the sale of 1 South Main St. fell through, they dismissed it. Negotiations on 1 North Main St. then began. On February 7, Frank Burke and Tom Saunders signed an offer, which according to the Code of Virginia must be documented. The offer could not become a contract until after the February 25 Council meeting, in which it was voted on. The offer became a contract on March 1. She also noted that the town has no plans to purchase the property at 1 South Main St.

Councilmember Gravatt moved to adjourn the meeting, and Councilmember Nunn seconded, but Mayor Booth responded that he had not entertained a motion yet.

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Mayor Booth commented regarding the offer made for the property at 1 South Main St. He said he had information that Town Center Committee offered \$400,000, to which Councilmembers Gravatt and Nunn both replied there was no such offer and no such record of offer.

Councilmember Smith stated that for the record, his concern regarding the appraisal was that it should've been done prior to the town having made an offer on the property to assess what a fair market price would be. Once the subject of appraisal came back to Admin/Finance Committee, they felt it would be a waste of the town's money at this point, because the price had already been agreed upon. Councilmember Straughan agreed, adding that the only reason they did not do the appraisal was because advice was given that purchasing the building at that price was the most cost effective for the town.

MOTION: Councilmember Smith made a motion to adjourn. Seconded by Councilmember Umphlett. All were in agreement. Meeting adjourned at 8:05 pm

Prepared by:

Prepared by:

Raymond C Booth, Jr., Mayor

Cindy Balderson, Clerk