

June 20, 2011

**MINUTES**

**TOWN OF PENNINGTON GAP  
2011-2012 BUDGET AND ADOPTION OF VIRGINIA STATE CODE  
June 20, 2011  
6:30 p.m.**

**TOWN OF PENNINGTON GAP  
COUNCIL MEETING  
PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENT,  
FLEA MARKET ORDINANCE AND WATER BILL  
ORDINANCE AMENDMENT  
June 20, 2011  
MUNICIPAL BUILDING**

**RECORD OF ATTENDANCE:**

**6:30 p.m.**

Mayor: D. R. Carter  
Council: Keith Harless  
Larry W. Holbrook  
Gary McElyea  
Terry K. Pope  
Jimmy V. Smallwood

Town Treasurer: Karen Maggard  
Town Consultant: Paul Spangler  
Town Attorney: Charles Slemper, III  
Town Clerk: Angela K. O'Dell  
Police Department: Sgt. Bryan Young

The Lane Group: Jeff Cochran

PG Fire Department: Chief James Skidmore  
Powell Valley News: Louise Carver  
Lee Theatre Committee: Fay Bocoock

Citizens/Attendees: Rev. Timothy Cradic  
Mike James – Lee Co. IDA Director  
Larry Mosley – Lee Co. Board of Supervisors  
Cameron Thompson – Lee High Tennis Team  
Larry Beavers – Mid-State Equipment Co.  
Rachel Bower

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Laura Zuber  
Terry Hilton  
Selena Light  
C. D. Oliver

At 6:30 p.m. Mayor D. R. Carter opened the Public Hearing for the 2011-2012 Budget and adoption of the Virginia State Code for public comment. There was no public comment to be heard. At 7:02 p.m., the Council meeting was called to order.

1. Invocation was given by Pastor Timothy Cradic, Church of God of Prophecy.
2. The Pledge of Allegiance was led by Pastor Timothy Cradic, Church of God of Prophecy.
3. Mayor D. R. Carter called the meeting to order at 7:02 p.m. He also opened the public hearing for comment regarding the Zoning Ordinance Amendment, Flea Market Ordinance, and the Water Billing Ordinance Amendment.
4. Terry Pope made a Motion to approve the Agenda with the addition of 6.B - Cameron Thompson - Lee High Tennis Team, 6C. Fay Bocoock - Lee Theatre Committee, and 6D - Terry Hilton. The Motion was seconded by Jimmy Smallwood with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

5. A Motion to approve the Minutes for the 5/16/2011 Council Meeting with one correction which was made on page 9 was made by Larry Holbrook and seconded by Terry Pope. Vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

6. Citizen's Recognition

A. Mike James, Lee Co. IDA Director – Mr. James addressed Council regarding the lighting of the Great Stone Face Rock. Larry Mosley stated that he would like to see a committee seated consisting of both town and county officials and citizens. If the Council wishes to set up a committee, they can contact Dane Poe and this project can progress. He

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said the Co. Tourism Director also serves the Town of Pennington Gap and the county hopes

to hire a Tourism Director soon. Currently, Mr. James serves as Tourism Director also.

Mayor Carter said Council has been committed to supporting the re-lighting of the Great Stone Face since October. He gave Mr. Mosley a copy of the October Town Council

Minutes for that meeting. When asked how many people should be on the committee, Mr.

Mosley suggested 2 Council members, 2 Board of Supervisor members and the County Administrator.

Mr. James stated that he has a couple of retail stores interested in locating in this area. Terry Pope said grant funding for renovating the caboose has been discussed and he thinks this would be beneficial for area tourism.

Gary McElyea advised that he has visited the new Heartwood Center in Abingdon, Virginia. He feels it would be good for Lee County to have a brochure available there.

B. Cameron Thompson – Lee High Tennis Team – Cameron Thompson addressed

Council regarding the need for resurfacing at the Leeman Field tennis courts. He said the Lee High tennis team won the district and regional championships this year, and ranked second best in the state of Virginia. Since there is limited space at Lee High, some tennis players practice at Leeman Field. Mr. Thompson said the courts at Leeman Field have

never been surfaced; they are asphalt. It would be in the best interest of the community to surface

the courts. Keith Harless said he has checked into the price for surfacing and it would be approximately \$1,000.00 to \$1,500.00. Cameron Thompson said there are different levels

of surfacing and it would be wise to make a solid investment rather than trying to do it cheaply.

Mayor D. R. Carter said there could be some money in the contingency fund for such

a project. He said he would like to talk with tennis coach, Bill Turley about it. He also asked

if tennis team members would be willing to assist with the labor. Mr. Thompson said he thought he could get some members to help.

C. Fay Bocoock – Lee Theatre Committee – Mrs. Bocoock read a letter from the Lee Theatre Committee regarding their discontent with the handling of the project by the engineers. A copy of Mrs. Bocoock’s statement is attached to these minutes.

Mayor Carter advised her that the Town has advertised for bids for Town engineering services and this will be discussed at the July meeting.

D. Terry Hilton -- Mr. Hilton addressed Council regarding the proposed

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Amendment

to the Zoning Ordinance. He asked exactly what the amendment would mean to citizens. Attorney Slemp explained the setback requirements and changes in the language of the current Zoning Ordinance. When Mr. Hilton asked how he was supposed to know what is

stated in the Zoning Ordinance, Mayor Carter advised that he is free to view or receive a copy of the ordinance at any time. Mr. Hilton said he had an issue with a structure which was placed on Town property prior to the adoption of any zoning laws. He said that he disagrees with what Council has decided regarding zoning.

7. Police Department

A. Monthly Report - Officer Bryan Young presented the May report to Council. There are currently six (6) active officers; Chief Cottrell is still on sick leave. There were 198 calls dispatched, 49 summonses with 8 taken into custody. The department is continuing foot patrol at Pennington Middle School, Leeman Field and the downtown streets.

He has attended Neighborhood Watch meetings at Lee Terrace. He also advised that 2 officers will be attending radar class tomorrow.

B. Fire Dept. Report – Chief James Skidmore reported that the department responded

to 11 calls in May. There were 50 3/4 man hours spent with 32 man hrs. in testing and 26 hours in business meetings. Mayor D. R. Carter asked about fuel costs and reminded that he has not received receipts for fuel purchased in Duffield recently.

Terry Pope showed Chief Skidmore a sketch of the proposed fire dept. building improvements. Mr. Skidmore said the biggest problem now is getting the fire vehicles in and out of the parking bays.

7. Water Plant & Distribution System/Sewer Plant & Collection System/Engineering Projects

A. Project Updates – Jeff Cochran

1. Lee Theatre Structural Auditorium Design – see attached report. Terry Pope stated that, on June 9<sup>th</sup>, Sandra Graham requested the bid accepted be no higher than 1.45 million dollars. If Council accepts that figure as a bid amount, it will be the low bid. It is not a good idea to be giving out figures.

2. DCR – Recreational Trails Program grant – see attached report.

3. Pennington Gap Greenway – see attached report.

4. St. Charles Water Authority contract and fees – Mayor D. R. Carter stated that he

had invited members of the St. Charles Water Authority to attend the meeting in order to negotiate their contract with the Town. No representative is present. The Mayor said

Fred

Woliver has reported that the sewer plant has not received anything from St. Charles for at least 15 days. He requested The Lane Group give him an analysis regarding cost estimates

in order to discuss the contract.

Mayor Carter also said that Congressman Griffith's office has requested a cost estimate on repair of the old siren in Town. Fred Woliver has said the wiring and

switches

need to be replaced.

9. Administrative Report and Council Action – Mayor D. R. Carter/Karen Maggard

A. Discussion re: purchase of new garbage truck – Larry Beavers, Mid-State Equipment, had recently brought a garbage truck from St. Paul for the Town employees to try out. The driver was pleased with the truck. Mr. Beavers said there would be a couple of additional costs to his previously quoted price. The back-up camera would be an additional \$700.00 and it would cost \$630.00 to upgrade to LED lights. The final cost of the new truck would be \$111,299.00.

B. Adoption of the 2011-2012 Budget and the Virginia State Code – A Motion was made by Terry Pope to adopt the 2011-2012 Budget with the appropriation of funds in the amount of \$111,299.00 for purchase of a new garbage truck from Mid-State Equipment. Gary McElyea seconded the Motion with vote as follows:

- Mayor D. R. Carter                   Aye
- Keith Harless                        Aye
- Larry W. Holbrook                 Aye
- Gary McElyea                        Aye
- Terry K. Pope                        Aye (Abstain from voting on item 74)
- Jimmy V. Smallwood               Absent from vote

A Motion was made by Gary McElyea to adopt the Va. State Code and seconded by Larry Holbrook. Vote as follows:

- Mayor D. R. Carter                   Aye
- Keith Harless                        Aye
- Larry W. Holbrook                 Aye
- Gary McElyea                        Aye
- Terry K. Pope                        Aye
- Jimmy V. Smallwood               Absent from vote

C. Mayor D. R. Carter informed Council that Attorney Slemph has expressed that he would prefer not to file civil suit for delinquent taxes. He suggested the Town look into hiring an outside firm which focuses on collections on a larger scale. Mayor Carter said the Lee Co. Treasurer has given him the name of the company they use and he hopes to have them attend the July Council meeting. A Motion was made by Mayor D. R. Carter to have the Clerk contact Taxing Authority Consulting Services, P.C. and request a presentation at the July 18, 2011 Council meeting. Larry Holbrook seconded the Motion with vote as follows:

- Mayor D. R. Carter                   Aye
- Keith Harless                        Aye
- Larry W. Holbrook                 Aye
- Gary McElyea                        Aye

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Terry K. Pope                      Aye  
Jimmy V. Smallwood              Aye

10. Town Attorney Reports – Charles H. Slemph, III

Mayor D. R. Carter closed the public hearing for the Zoning Ordinance Amendment, Flea Market Ordinance and Water Billing Ordinance Amendment.

A. Adoption of Zoning Ordinance Amendment -- Town Attorney, Charles Slemph, III, read the sections affected by the proposed amendment to the Zoning Ordinance. A Motion was made by Gary McElyea to change the wording in Section 2.3 from 25 ft. to 10 ft. from the property line. Terry Pope seconded the Motion with vote as follows:

Mayor D. R. Carter              Aye  
Keith Harless                      Nay  
Larry W. Holbrook              Aye  
Gary McElyea                      Aye  
Terry K. Pope                      Aye  
Jimmy V. Smallwood              Aye

Terry Pope made a Motion to adopt the amendments to the Zoning Ordinance regarding

setback regulations. The Motion was seconded by Gary McElyea with vote as follows:

Mayor D. R. Carter              Aye  
Keith Harless                      Nay  
Larry W. Holbrook              Aye  
Gary McElyea                      Aye  
Terry K. Pope                      Aye  
Jimmy V. Smallwood              Aye

B. Adoption of Flea Market Ordinance – After a brief discussion, Larry Holbrook made

a Motion to adopt the Flea Market and Yard Sale Ordinance with a change regarding sidewalk

sales and no limit to the number of yard sales per year. The Motion was seconded by Gary McElyea with vote as follows:

Mayor D. R. Carter              Aye  
Keith Harless                      Nay  
Larry W. Holbrook              Aye  
Gary McElyea                      Aye  
Terry K. Pope                      Aye  
Jimmy V. Smallwood              Aye

After further discussion, Gary McElyea made a Motion to amend the penalty for noncompliance from a Class I misdemeanor to a fine of up to one hundred dollars (\$100.00).

Terry Pope seconded the Motion with vote as follows:

Mayor D. R. Carter              Aye  
Keith Harless                      Nay  
Larry W. Holbrook              Aye

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Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

It was mentioned that the Town Attorney should make sure the Town Council has the authority to set fines and penalties. Council stated they would like to have the attorney research the subject further before a decision is made. Gary McElyea made a Motion to withdraw his earlier Motion, and to table this item for further legal review before adopting the proposed ordinance. That Motion was seconded by Terry Pope with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Nay
Larry W. Holbrook	Aye
Gary McElyea	Aye

Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

C. Adoption of Water Billing Ordinance Amendment – Larry Holbrook made a Motion

to adopt the amendment to the Water Billing Ordinance as read to be effective as of the August water billing. The Motion was seconded by Keith Harless with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

D. Discussion of 1% reassessment on Town real estate – After a brief discussion, Terry Pope made a Motion to table this item for further information from the Town Attorney.

Jimmy Smallwood seconded the Motion with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

11. Council Member Reports

Terry Pope said he was concerned about a local business which has a critical need for parking spaces for their customers. He believes there should be some way the Town can help them with this problem. Mayor D. R. Carter said this has been discussed before. There is a Quitclaim Deed to prove that the Town of Pennington Gap owns the property used by the business for parking. He said Mr. Davis refused to remove the cars from Town property and some of the vehicles had been parked there a very long time. Mr. Pope said he would

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merely

like to see some amicable solution worked out between the Town and Davis Transmission.

Terry Pope advised Council that the Town has acquired the former Fletcher’s Dry Cleaning property, Jimmy Warner property and the Jack Hall property. This would be an excellent location for enlarging the Fire Department facilities. A Motion was made by Terry Pope to study the property and specifics for adding on to the Fire Dept. building. He included in the Motion that, any new building or additions to the Fire Hall would be placed on that property. Jimmy Smallwood seconded the Motion with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

Mayor D. R. Carter advised Council that the Town now owns the Jack Hall rental property near the Fire Department building. There would be \$400.00 per month rental money to go into the Town treasury.

Gary McElyea advised Council that he had attended the grand opening of the new Heartwood Center in Abingdon. He was very impressed and feels it would be beneficial to the

Town to have some type of brochure or other tourism information there. Mr. McElyea said the ATV Mud Bog event on National Trails Day was enjoyable. A Motion was made by Gary McElyea to have an ATV Mud Bog during the July 4<sup>th</sup> Celebration at Leeman Field. Terry Pope seconded the Motion with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

Larry Holbrook stated that he thinks Council does need to work out some type of parking solution with Davis Transmission as discussed earlier. After a discussion of

the pros and cons of the situation, Jimmy Smallwood made a Motion that the Town remove or cover the “No Parking” signs on North Main Street. The Motion was seconded by Terry Pope with vote as follows:

Mayor D. R. Carter	Nay
Keith Harless	Aye
Larry W. Holbrook	Abstain
Gary McElyea	Nay
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

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The Motion passed with a vote of 3 - ayes, 2 - nays, and 1 - abstained. Keith Harless

said he believes the 2-hour parking rule should be enforced at this location.

Town Consultant, Paul Spangler, advised that the Town could pass an ordinance requiring any vehicle housed, garaged or parked within the Town limits to have a state inspection sticker and be registered in the state.

Karen Maggard, Treasurer, stated that Virginia Retirement System has contacted her

regarding offering long term care insurance to employees or select family members. This would be at no cost to the Town, but simply an offer to employees. Larry Holbrook made a Motion to allow VRS to make this offer to employees. The Motion was seconded by Terry Pope with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

A Motion was made by Mayor D. R. Carter to advertise for a Public Hearing to be held on July 18, 2011 at 7:00 p.m. regarding the Food and Merchandise Vendor's Licenses. Terry Pope seconded the Motion with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

12. Keith Harless made a Motion to approve the bills paid and to be paid and Larry Holbrook seconded the Motion. Vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

13. &

14. At 10:15 p.m., Keith Harless made a Motion to go into closed session pursuant to Va. to Va. Code Section 2.2-3711A7 to discuss potential litigation within the locality and pursuant to Va. Code Section 2.2-3711A1 for assignment, appointment, promotion, salaries, disciplining, or resignation of employees. The Motion was seconded by Terry Pope with vote as follows:

Mayor D. R. Carter	Aye
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Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

A Motion was made at 11:25 p.m. by Terry Pope to reconvene regular session. Keith Harless seconded the Motion with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

Roll call was taken to verify that nothing was discussed during closed session other than the issue stated:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

A Motion was made by Terry Pope to hire Thrower, Blanton & Associates as Town auditors according to the advertised contract. The Motion was seconded by Keith Harless with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

A Motion was made by Terry Pope to hire Jack Hurlbert as an engineering consultant to conduct a concept design analysis at a rate of \$60.00 per hour. The Motion was seconded by Jimmy Smallwood with vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

Terry Pope made a Motion to proceed with legal action if the Town does not receive a response from property owners by July 15, 2011 regarding the encroachment issue. The Motion was seconded by Jimmy Smallwood with vote as follows:

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Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

15. A Motion to recess until the Organizational Meeting on July 1, 2011 at 10:00 a.m. was made by Keith Harless and seconded by Jimmy Smallwood. Vote as follows:

Mayor D. R. Carter	Aye
Keith Harless	Aye
Larry W. Holbrook	Aye
Gary McElyea	Aye
Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

Time of recess: 11:30 p.m.

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MAYOR D. R. CARTER

ATTEST:

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ANGELA K. O'DELL, TOWN CLERK

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