

April 18, 2011

MINUTES

**TOWN OF PENNINGTON GAP
COUNCIL MEETING**

**April 18, 2011
MUNICIPAL BUILDING**

RECORD OF ATTENDANCE:

7:00 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 – Absent
Town Attorney: Charles Slempl, III – Absent
Town Clerk: Angela K. O’Dell
Police Department: Richard Parsons
Bryan Young

The Lane Group: Bobby Lane

PG Fire Department: Chief James Skidmore
Powell Valley News: Donna Lock

Citizens/Attendees: Rev. Joel Campbell
Evelyn Miller
Mike Reuille
Jack McClanahan – Regional Recreation Authority
Michael Wampler – Spearhead Trails
Rita McCann, James Miller, Jeff Rowlett – Lee Co. Chamber
of Commerce

1. Invocation was given by Pastor Joel Campbell, First United Methodist Church.
2. The Pledge of Allegiance was led by Pastor Joel Campbell, First United Methodist Church.

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3. Mayor D. R. Carter called the meeting to order at 7:02 p.m.
4. Larry Holbrook made a Motion to approve the Agenda and the Motion was seconded by Gary McElyea 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 3/21/2011 Council Meeting with one correction was made by Gary McElyea 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. Jeff Rowlett addressed Council on behalf of the Lee Co. Chamber of Commerce. He advised that the Chamber has sponsored the Lee Co. Tobacco Festival for several years and would like to redirect that sponsorship. Membership is down for the Chamber, and the members feel it would be better for them to concentrate more on the local businesses. The Chamber of Commerce was actually set up to promote and assist local businesses, but so much time is spent on the Tobacco Festival there is little time left for this. They are hoping to transfer sponsorship of the festival to another organization or a town. Since the activity is held in Pennington Gap, it would be simple for the Town to take over the sponsorship. Mr. Rowlett advised that the Tobacco Festival has become a profitable event, with proceeds generating approximately \$700.00 profit last year.

James Miller stated that he has written an outline of the committees and procedures involved in conducting the festival. The Chamber of Commerce is willing to assist the new sponsor this year.

After a brief discussion, Terry Pope made a Motion to table this subject until the

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May Council meeting so that Council can have time for further consideration. The Motion

was seconded by Larry Holbrook 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 |

Rita McCann advised that the directors of each event usually oversee that particular event, so the Town would only need to spearhead the activity.

Mayor B. Robert Anderson of Experience Works was unable to attend the meeting.

D. R. Carter informed Council that the agency would like to place workers (age 55 and older)

in the Town to do various labor. The workers would be allowed 20 hours per week. There

was one stipulation in the agreement which Mayor Carter said he would want to omit: the Town would be obligated to hire the worker if a position became available. Larry Holbrook

made a Motion to authorize the Mayor to accept the workers and sign any needed paperwork

without a guarantee to hire. 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 |

Spearhead C. Spearhead Trails – Michael Wampler, Interim Executive Director of

Trails, addressed Council regarding activities at Leeman Field on June 4, 2011 for National

Trails Day. He stated that Spearhead Trails is still not funded at an operational level although

Towns and Counties have contributed to the project. He said the project requested a \$500.00

donation from the Town of Pennington to assist with planning costs.

Mr. Wampler said that he spoke with Gary McElyea regarding the Town's plans

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for

celebrating National Trails Day. He understood that liability insurance has posed a problem,

and said the insurance could possibly be provided by the Recreational Authority.

Terry Pope asked about the possibility of state funding for the Spearhead Trails project and Mr. Wampler said it would not be available in 2012. He said once a trails system

begins to be built, user permits would generate revenue for operational funds within 5 years.

Capital building funds would need to come from some other source. Mr. Wampler also introduced Jack McClanahan, chairman of the Regional Recreational Authority. Mr. McClanahan emphasized the many uses of a trail in this area; it would not just be used

for

ATVs, but also horses, walking trails, bikes, etc. He explained the multitude of possibilities

with a Spearhead Trail and stated that more local enthusiasm would generate more federal

funding.

Terry Pope made a Motion to pursue activities at Leeman Field for June 4th, National

Trails Day, contingent upon liability insurance being provided by the Regional Recreational

Authority. Larry Holbrook 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 |

Keith Harless made a Motion to revise the policy for Leeman Field Park to allow the use of ATVs there on June 4, 2011, and Gary McElyea 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 |

D. Evelyn Miller street request – Terry Pope advised Council that he viewed the property in question. The Lee Co. Commissioner’s Office could not give definite information as to who owns a portion of the property at this time. It may be that Ms. Miller already owns the property about which she is inquiring. Mr. Pope asked that she

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allow a little more time for investigation regarding this matter.

asked E. Mike Reuille – old airport water line – Mr. Reuille advised Council that on October 11, 2008 he purchased part of the property at the old airport. At that time he asked to have water reconnected to the old line. Eventually, a new water line was installed on the property now known as Flat Top Hill Road. The installation of this line was approved in the 2009-2010 budget. Mr. Reuille stated that the ditches were left uncovered and the right of way was blocked by the Town. He cleared the right of way on his own time and at his own expense. He said the Town of Pennington Gap provided water to the old airport for years. After a state investigation, it was determined that no wrong-doing was involved in the installation of this water line.

Mike Reuille requested that the water line be connected and water supplied to that property within the next 30 days. He stated that if this is not done, he will pursue a legal suit against the Town.

to Mayor D. R. Carter informed Mr. Reuille that it was a conflict of interest for him to vote on the budget for 2009-2010 knowing that a water line to his property was included in that budget. He stated that the Minutes for that Council meeting included an “aye” vote from Mike Reuille on that item, along with two “nay” votes from other members. He directed Mr. Reuille’s attention to the Town Code Section 175-2A which states that: “The Town has the right to refuse service if it determines that it is not economically feasible...” Mayor Carter said it did not seem feasible to spend that much money to provide water to property with only four (4) signed user agreements. He also stated that the water line being discussed was not metered, not engineered or inspected by the Health Department. He advised that the County sold Mr. Reuille the property without water. The Town has a right to choose where a water meter is installed. He requested Mr. Reuille provide a map of the right-of-way. He said the water line is out of the corporate limits of Town and would bring very little revenue to the Town of Pennington Gap.

Mike Reuille said he has the same legal rights to public ownership as any other citizen. Water was previously provided to the property by the Town. Terry Pope advised that water was provided to the airport in the past because it was for public access, not private.

represented. F. Terry Hilton - Zoning permit request – Mr. Hilton was not present nor represented.

7. Police Department

A. Monthly Report – Officer Bryan Young reported that the department is now operating with 6 full time officers. Nathan Kennedy will be graduated from the Academy on May 13, 2011, and Keith Turner is the newly hired officer. He said the Police Dept. has received 6 cameras with video and audio capacity funded from a DMV grant. The force has conducted a school lock-down recently at Pennington Middle School. They continue to patrol at Leeman Field Park, and are doing clean-up work at the Police Dept. building.

Council discussed a problem with traffic on back streets near Pennington Middle School and the need for speed observation in this area.

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

to 9 calls this month. There were 62.5 man hours with an additional 224 man hours for training and meetings. He said that he has spoken with Tim Dye regarding painting the building. Mayor Carter stated that the surplus property (2 trucks) needs to be sold. A

Motion

was made by Gary McElyea to sell any surplus property owned by the Fire Dept. The

Motion

was seconded by Larry Holbrook 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 |

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

A. Project Updates – Bobby Lane

1. Lee Theatre Structural Auditorium Design – see attached report. Bobby Lane reviewed a tentative list of cost reduction options which could provide a savings of \$679,763.00. Once this list is finalized with C & T Construction, it could be reviewed

with

the Lee Theatre Committee. Mr. Lane said there was an option of concentrating on the

work

in the auditorium and foregoing the 2nd and 3rd floors as a possible Phase II of the project.

This could make the theatre available for use at an earlier date. Gary McElyea asked if another phase would interfere with operation of the theatre until that work is complete.

Mr.

Lane said everyone would have to work together to minimize interference. Terry Pope said if the project is implemented in 2 phases the Town would not be able to attract a national

performance. Such a performance would require at least 500 seats. He stated that the

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Town was led to believe this would be a \$1,000,000.00 project and the bids were all over \$2,000,000.00.

Bobby Lane said the engineers “just plain missed” on the bid projections and he apologized for this. He said they are not accustomed to doing theatre projects. Rural Development is aware that the engineers went over budget. The contractor, engineers, and theatre committee must get their act together before going to Rural Development.

Jimmy Smallwood stated that the Lee Theatre Committee felt as if they were ignored during the design planning. Mr. Lane assured this would not happen again. Mayor Carter said he would like for Mr. Lane to meet with the committee, personally, more often. Terry Pope set a tentative date for Mr. Lane to meet with the committee on Friday, April 29, 2011.

2. DCR – Recreational Trails Program grant – see attached report.
3. Pennington Gap Greenway – see attached report.
4. Sidewalk problem near Mark’s Alignment – Bobby Lane said he would have

to get with Jeff Cochran regarding this item. Mr. Cochran was going to check for VDOT funding.

Mayor D. R. Carter asked Mr. Lane about I & I problems coming out of St. Charles.

He said the sewer lines are in the river and a lot of the caps have blown off. Mr. Lane said the manholes are instream and were constructed with water tight caps, but they may have deteriorated over time. He will check on this problem.

9. Administrative Report and Council Action – Mayor D. R. Carter/Karen Maggard
- A. Bid opening - passenger van – Mayor D. R. Carter opened 2 bids as follows:
Discount Motors – 2004 Chevrolet Express with 87,000 miles – \$5300.00
Yvonne Arwood – 2000 Chevrolet 1500 LS with 61,000 miles – \$4000.00
A Motion was made by Jimmy Smallwood to purchase the 2000 Chevrolet at the lowest bid of \$4000.00. 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 |
| Jimmy V. Smallwood | Aye |

B. Discussion re: new garbage truck – Larry Holbrook made a Motion to table this subject until further information is obtained. Gary McElyea seconded the Motion with

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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 |

C. Delinquent water bills – Ordinance Amendment – Jimmy Smallwood made a Motion to review the proposed amendment with the Town Attorney and make a recommendation for Public Hearing and advertisement at the next meeting. 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 |
| Jimmy V. Smallwood | Aye |

D. Delinquent business license publication – Mayor D. R. Carter asked Council if they would like a list of delinquent business licenses published. He said this Council is dedicated to the citizens. He said it is only fair to expect all citizens to pay taxes and

the

Council is dedicated to the collection of these taxes. A Motion was made by Mayor D.

R.

Carter to direct the Treasurer to prepare a list of business license delinquencies for publication. The Motion was seconded by Larry Holbrook 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 |

Keith Harless stated that he would like for the list to be as accurate as possible before publication.

E. National Trails Day - June 4, 2011 – This item was discussed earlier in the meeting. Terry Pope made a Motion to allow use of the Town’s backhoe for preparation and Jimmy Smallwood seconded the Motion. Vote as follows:

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

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Pope said Fred Woliver has agreed to work on an entranceway from the Lee Theatre building to the Williams building which would be handicap accessible. A Motion was made by Terry Pope to allow the purchase of lumber and supplies at a cost not to exceed \$2,000.00 for the handicap accessible entrance from Lee Theatre to the Williams building. Larry Holbrook 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 |

Terry Pope made a Motion to approve the use of \$1250.00 to conduct a motel study in the Town. The Motion was 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 |

Mr. Pope informed Council that he is still working on a solution to the request made by Gloria Miller and Larry Fish regarding a Town street. There is the possibility that Stanberry Street could be improved (made a one-way street) and some traffic problems in that area could be resolved.

A Motion was made by Terry Pope to pursue more information regarding the three (3) lots adjacent to the Fire Dept. Building and to purchase those lots at a cost not to exceed \$50,000.00 if possible. Jimmy Smallwood seconded the Motion with vote as follows:

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

The Motion passed with a vote of 5- ayes and 1- nay.

Gary McElyea said he had received a complaint regarding the need for a street sign on North Cecil Street. Mayor Carter said he would have Tim Dye check on this.

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Keith Harless stated that the Town needs to do something to support local businesses.

The Town's resources need to be used to encourage business in some way, possibly a billboard or the Town web-site.

Larry Holbrook informed Council that he would like to see the Town Beautification

Committee reinstated. He had received suggestions regarding hanging baskets and other ways to make the Town look more appealing. Terry Pope made a Motion to reinstate the Beautification Committee and allow Larry Holbrook to chair the committee and select up to five (5) members. 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 |
| Jimmy V. Smallwood | Aye |

Mayor D. R. Carter stated that Paul Spangler advises that the Town needs to schedule

two (2) public hearings for the 2011-2012 budget. A Motion was made by Mayor D. R. Carter to schedule public hearings for the 2011-2012 budget on May 16, 2011 at 7:00 p.m.

and June 6, 2011 at 12:00 noon and to advertise for these hearings. 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 informed Council that Town Clerk Angela O'Dell was to be presented her 20 year service pin for employment with the Town. Mrs. O'Dell has been employed with the Town since March 5, 1991. She was commended for her dedication.

Mayor D. R. Carter said he is working on a problem with the parking lot of the old Lee Ford Motor Co. property on Main Street. He is checking on Town ownership.

After being advised that the contracts for auditor and engineer will expire this year,

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Gary McElyea made a Motion to advertise for bids for these positions. 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 |

Mayor Carter said this should be advertised in the Powell Valley News, Kingsport Times News, Coalfield Progress and VML publications.

12. Terry Pope made a Motion to approve the bills to be paid and Jimmy Smallwood 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. At 10:45 p.m., Keith Harless made a Motion to go into closed session pursuant to Va. Code Section 2.2-3711A7 to discuss potential litigation within the locality. The Motion was seconded by Gary McElyea 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 at 11:00 p.m. by Keith Harless to reconvene regular session. 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 |

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 |

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| | |
|--------------------|-----|
| Larry W. Holbrook | Aye |
| Gary McElyea | Aye |
| Terry K. Pope | Aye |
| Jimmy V. Smallwood | Aye |

letter
of Gary McElyea made a Motion to direct the Town Attorney to send a certified to a property owner in Town advising that they are in violation of the encroachment law of the State of Virginia.

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 |

14. A Motion to adjourn 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 adjournment: 11:20 p.m.

MAYOR D. R. CARTER

ATTEST:

ANGELA K. O'DELL, TOWN CLERK

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