

August 20, 2007

**MINUTES**

**TOWN OF PENNINGTON GAP  
COUNCIL MEETING  
August 20, 2007  
MUNICIPAL BUILDING**

**RECORD OF ATTENDANCE:**

**7:00 P.M.**

Mayor: Jimmy V. Smallwood  
Council: Larry Fish  
Keith Harless  
Connie P. Nunley  
Mike Reuille  
C. R. Wynn

Town Attorney: Donnie Williams  
Town Manager: Tina M. Rowe  
Town Clerk: Angela K. O'Dell  
Town Treasurer: Karen Maggard

Pennington Gap Police  
Dept.: Acting Chief Barry Cottrell  
Lane Engineering: Jeff Cochran

Powell Valley News: Louise Carver

Davenport & Company.: Tim Cole  
Sands, Anderson, Marks &  
Miller, P.C.: Dan Siegel  
TVA: Nicole Vachon

Citizens: Joyce Brewer  
Allen Brewer  
William Avery  
Ken Leichtenberg

1. Invocation was given by Larry Fish.
2. Larry Fish led the Pledge of Allegiance.

August 20, 2007

3. Mayor Jimmy V. Smallwood called the meeting to order at 7:00 p.m.
4. Larry Fish made a Motion to approve the Agenda with the following additions: .  
11E. Zoning, 11F. ARC Financing, 6A. William Avery. The Motion was seconded by C. R. Wynn with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye
5. Larry Fish made a Motion to approve the Council Meeting Minutes of 7/16/07 and C. R. Wynn seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye
6. Citizen's Recognition  
A. William Avery informed Council that he is the new owner of the Corbett Deaton property on Kentucky Street and Main Street. He asked about the parking lot located on this property which the Town's trash truck went through sometime back. Donnie Williams explained to Mr. Avery that, at the time of the accident, the Town's liability insurance was contacted. The insurance denies that the Town has any responsibility to the property owner. He said that he had told Mr. Deaton this, and advised him that he might want to contact his legal counsel. Therefore, if the statute of limitations has not run out, Mr. Avery has 2 options: 1) to repair the hole himself, or 2) to seek legal counsel and work with the Town's insurance.
7. Police Department  
A. Monthly Report was given by Acting Chief Barry Cottrell. He advised Council that the department is participating in "Check Point/Strike Force". DMV funds will cover all the overtime. He stated that one officer is at the Police Academy for 18 weeks, so there are only 4 active officers at this time.
8. Bond Refinancing - Ted Cole, of Davenport Co., Inc., explained the process of refinancing the bond loans with Carter Bank & Trust. He said the current loans are at 5% interest and the refinanced loan will be at 4.1% interest with a savings for the Town of \$442,699.00. The interest payments will continue to be due every 6 months. Sands, Anderson, Marks & Miller is the bond counsel and they are working with Rural Development and VRA. The

August 20, 2007

loan closing should take place the last week in August. Dan Siegel advised Council that this is a very good deal for the Town. The first real payment will be due March 2008. Larry Fish made a Motion to adopt the Resolution for this refinancing and authorize the Mayor to sign any and all necessary paperwork. The Motion was seconded by C. R. Wynn with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

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

A. Lane Engineering project(s) update - Jeff Cochran

1. Lee Theater Project - Tobacco Commission Grant - see attached report
2. Livesay & Burchette Buildings - see attached report
3. Transportation Enhancement Program - Sidewalk Project - see attached report

4. Pennington Gap Greenway - Nicole Vachon, of TVA, advised Council that the archaeological site that has been found on the Greenway site has been listed on the National Register. She stated that TVA cannot waive the results of the findings and shift even six inches. There are several agencies lined up to try to fund the Greenway. TVA's preferred route is the inland route. They are ready to look at the alignment, draw up the reciprocal easements and do the environmental assessment. Then there will be even more funding available.

Jeff Cochran said that he has checked on the cost to bring fill-in so that the river route could be used for the Greenway trail. The cost would be approximately \$30,000.00 more. The inland route would be 100 ft. away from the river at some points. When asked which route Lane Engineering would advise, Mr. Cochran said he would go with the inland route for cost and convenience. C. R. Wynn made a Motion to go with the inland route for the Pennington Gap Greenway project and Larry Fish seconded the Motion. Vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

5. Leeman Field DCR-VOF grant status - see attached report. Keith Harless said the installation cost for the hoods is incorrect, but he will check on it. Larry Fish made a Motion to approve the additional cost (up to \$3,600.00) for installation and for the Town Manager and Mayor to negotiate this cost and sign any necessary paperwork. The Motion was seconded by C. R. Wynn with vote as follows:

August 20, 2007

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

6. Red Hill Sewer - see attached report.

10. Town Attorney/Treasurer Reports

A. PPTRA Resolution - Karen Maggard explained to Council that the Town needs to do a Resolution adopting the current personal property tax relief for the year which is set at 64.8%. Larry Fish made a Motion to adopt the Resolution and Mike Reuille seconded the Motion. Vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

11. Public Works/Leeman Field/Misc

A. Monthly report was distributed for review.

B. VML Annual Meeting - Tina M. Rowe advised that the VML Annual Meeting will be held the week of the October Council Meeting. She asked if Council wishes to change the October meeting date to the 8<sup>th</sup> or the 22<sup>nd</sup>. Mayor Smallwood said to table this decision until the September Council Meeting.

C. Broadband Grant - Tina Rowe said that we are coming to the end of Phase 1 of the broadband grant. Council needs to decide if we want to continue with Phase 2, and if so, to seek additional funding. C. R. Wynn said that it was his understanding when the project began that there would be implementation of Phase 3. Now, they are being told differently. C. R. Wynn made a Motion to table this and allow Mrs. Rowe and himself to check with Andrew Cohill. Larry Fish seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

D. Health Fair at Leeman Field Oct. 12, 2007, 1:00 - 4:00 p.m. - Tina Rowe advised Council that Dr. Joe Smiddy will give free pulmonary evaluations at this Health Fair.

E. Zoning - Mrs. Rowe informed Council that the zoning committee has met with Dwayne Miller of Lenowisco. She said that Mr. Miller suggested changing the Comprehensive Plan, having a Public Hearing and then bringing this before Council.

F. ARC Financing - Mrs. Rowe has received information about 3 ARC grants which are available. ARC will fund an Asset -Based

August 20, 2007

Initiative and this application is due Sept. 26, 2007. She asked if Council wants her to pursue this funding for the ATV trail project. Larry Fish made a Motion to pursue funding and prepare an application by Sept. 26, 2007 as long as there are no matching funds required by the Town. Mike Reuille seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

12. Council Committee Reports

Mike Reuille reported for the Fire Dept. He said they went for the pre-paint inspection on the new fire truck on August 14, 2007. The truck should be ready by Sept. 21<sup>st</sup>.

C. R. Wynn suggested that the Town Treasurer concentrate on collecting some of the delinquent taxes. Donnie Williams said he would help with this when needed

Connie P. Nunley also suggested the Treasurer check on delinquent business licenses. Mrs. Nunley stated that, as a member of the Parks & Recreation Committee, she would like to report that the stable roofs at Leeman Field are looking better.

Larry Fish informed Council that he believes the Police Committee and Personnel Committee need to be deactivated. He also recommended that the Acting Chief bring a copy of any incident report to the Mayor's Office for filing. Larry Fish made a Motion to that effect and C. R. Wynn seconded that Motion. Vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

Donnie Williams said on behalf of his father, he would like to express appreciation to the Town Council for the use of Leeman Field Park for soccer practice and games. They had a very successful season.

13. Larry Fish made a Motion to approve the bills paid and to be paid. The Motion was seconded by C. R. Wynn with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

14. At 8:25 p.m., Larry Fish made a Motion to go into closed session pursuant to Va. Code

August 20, 2007

Section 2.2-3711A7 to discuss potential litigation within the locality. The Motion was seconded by C. R. Wynn with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

At 9:20 p.m., a Motion was made by Larry Fish to come out of closed session and C. R. Wynn seconded the Motion. Vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

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

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye
Mayor Jimmy V. Smallwood	Aye

A Motion was made by Keith Harless to give Joyce & Allen Brewer a 30-ft. right-of-way easement as discussed and one water and one sewer tap in exchange for the Town's sewer easement. C. R. Wynn seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

15. Keith Harless made a Motion at 9:21 p.m. to go into closed session pursuant to Va. Code Section 2.2-3711A1 for discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. Connie P. Nunley seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

August 20, 2007

At 9:30 p.m., Keith Harless made a Motion to reconvene regular session and Larry Fish seconded the Motion. Vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

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

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye
Mayor Jimmy V. Smallwood	Aye

Keith Harless made a Motion to donate the gym equipment from the Police Dept. to Lee High School. Larry Fish seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

16. Keith Harless made a Motion at 9:31 p.m. to go into closed session pursuant to Va. Code Section 2.2-3711A2 for discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or the negotiating strategy of the public body. The Motion was seconded by C. R. Wynn with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

At 9:45 p.m., Larry Fish made a Motion to reconvene regular session and Keith Harless seconded the Motion. Vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

August 20, 2007

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

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye
Mayor Jimmy V. Smallwood	Aye

17. A Motion to go into closed session pursuant to Va. Code Section 2.2-3711A1 for discussion, consideration, or interviews of prospective candidates for employment and assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of employees was made by Keith Harless at 9:46 p.m. The Motion was seconded by C. R. Wynn with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

At 10:03 p.m., Larry Fish made a Motion to go back into regular session. Keith Harless seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

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

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye
Mayor Jimmy V. Smallwood	Aye

Keith Harless made a Motion to appoint Larry Fish and Connie P. Nunley to the Leeman Field Caretaker Position Committee, for the purpose of interviewing, determining duties of the position and hiring a caretaker. C. R. Wynn seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye

August 20, 2007

Mike Reuille	Aye
C. R. Wynn	Aye

C. R. Wynn made a Motion that the Acting Police Chief, or Police Chief, when hired, report to Council through the Town Manager. Any major incident reports or problems within the department should be brought to the Town Manager, who would act as a go-between for the Police Dept. and the Town Council. Larry Fish seconded the Motion with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Nay
Mike Reuille	Aye
C. R. Wynn	Aye

The Motion passed with a vote of 4 - 1.

C. R. Wynn made a Motion to adjust Barry Cottrell's pay while he is Acting Police Chief to the equivalent what the former Acting Chief received and then, when he is no longer Acting Chief, that the pay will be reduced to his previous rate. The Motion was seconded by Larry Fish with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Nay
Mike Reuille	Aye
C. R. Wynn	Aye

The Motion passed with a vote of 4 - 1.

Mike Reuille asked the Town Manager to check on a recent incident regarding a robbery at BJ Motor Company. He wanted her to find out why the suspect's vehicle, and passenger were not searched.

A Motion was made by Larry Fish to re-advertise the position of Police Chief to include 5 years police experience and allow 1 year to obtain certification from the Police Academy. Any existing applications will be considered for this position. The Motion was seconded by Mike Reuille with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Nay
Mike Reuille	Aye
C. R. Wynn	Aye

August 20, 2007

15. Keith Harless made a Motion to adjourn. The Motion was seconded by Larry Fish with vote as follows:

Larry Fish	Aye
Keith Harless	Aye
Connie P. Nunley	Aye
Mike Reuille	Aye
C. R. Wynn	Aye

Time of adjournment: 10:25 p.m.

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MAYOR JIMMY V. SMALLWOOD

ATTEST:

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ANGELA K. O'DELL, TOWN CLERK

August 20, 2007