

March 21, 2011

**MINUTES**

**TOWN OF PENNINGTON GAP  
COUNCIL MEETING**

**March 21, 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 Slemper, III  
Town Clerk: Angela K. O'Dell  
Chief of Police: Barry Cottrell – arrived at 9:00 p.m.  
Police Department: Richard Parsons – arrived at 8:20 p.m.  
Bryan Young – arrived at 9:00 p.m.  
Dustin Lane – arrived at 9:00 p.m.

The Lane Group: Jeff Cochran  
Thrower & Blanton, P.C.: Brian Blanton  
PG Fire Department: Chief James Skidmore  
Powell Valley News: Louise Carver

Citizens/Attendees: Evelyn Miller  
Anthony Robbins  
Jessee Griffith

1. Invocation was given by Jessee Griffith.
2. The Pledge of Allegiance was led by Jessee Griffith.
3. Mayor D. R. Carter called the meeting to order at 7:02 p.m.

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4. Gary McElyea made a Motion to approve the Agenda with the addition of 9J. Pro-Art Association donation request. 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

5. A Motion to approve the Minutes for the 2/22/2010 Council Meeting was made by Jimmy Smallwood 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	Aye

6. Citizen's Recognition

A. Evelyn Miller addressed Council regarding her request to purchase the Town owned property adjoining her house at 126 Burke Street. She advised that her mother, Mrs. Martha Ricker, kept the property cleaned up and mowed for several years prior to her

death in November 2010. Ms. Miller is interested in purchasing the property so that she can build a garage with a right of way off Leona Street. She stated that she is a proud homeowner and would only like to improve the looks of the property. She hopes Council will give her request fair consideration since she has financed improvements to the Town owned property. Jimmy Smallwood stated that there are certain procedures before any

Town property can be sold; first, the property would need to be appraised. Ms. Miller said she is willing to pay for any needed appraisal/survey. Mayor D. R. Carter informed Ms.

Miller that the process is very complicated and slow-moving. Terry Pope said the Council needs

to be extra careful in matters like this, so as not to set a precedence. Terry Pope made a Motion to table this request until April 18, 2011 and allow time for the Town Attorney to research. 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

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Terry K. Pope                   Aye  
Jimmy V. Smallwood           Aye

30,           B. Audit Report – Brian Blanton, from Thrower & Blanton, P.C., gave the June 2010 audit report. Mr. Blanton stated that it was a clean audit with a total revenue of \$1,294,359.00 and total expenditures of \$1,233,379.00. He made a few minor recommendations regarding separation of duties and state grant agency reconciliations. Council was given an opportunity to submit questions to Mr. Blanton. Larry Holbrook made a Motion to accept the audit report as presented 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

7. Police Department

A. Monthly Report – Mayor Carter advised that this would be discussed during closed session.

B. Fire Dept. Report – Chief James Skidmore reported that the department responded to 8 calls this month. There were 49.5 man hours with an additional 272 man hours for training and meetings. He advised that one former member of the department, Bill Snavelly, has passed away. Chief Skidmore said one truck is currently out of service. Mayor Carter reminded all department heads to cut down on fuel use as much as possible due to the rising costs.

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

A. Project Updates – Jeff Cochran

Mayor D. R. Carter stated that he has requested that Bobby Lane attend the April Council meeting.

1. Lee Theatre Structural Auditorium Design – see attached report.
2. DCR – Recreational Trails Program grant – see attached report.
3. Pennington Gap Greenway – see attached report.
4. Sidewalk problem near Mark’s Alignment – Terry Pope asked Mr. Cochran if he had any more information regarding this subject. Mr. Cochran said he is checking on

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are grant funds to help with the project which would cost approximately \$27,000.00. There

a couple of funding possibilities the Town could check into for upcoming projects:

DEQ, which is a 100% loan and the application would be due July 1<sup>st</sup>

DHCD, which is 100% grant and income-based.

during Mayor Carter asked Mr. Cochran if he has a cost analysis which could be used

negotiations with St. Charles and Dryden for their wholesale water contracts. Mr. Cochran

said he would get some figures from Karen Maggard so he could prepare this.

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

for A. Delinquent taxes, business and professional licenses – publication update – Mayor D. R. Carter advised that notification of publication has been made and the dates

Gary publication in the Powell Valley News are April 13<sup>th</sup> and 16<sup>th</sup>. A Motion was made by

taken McElyea to notify delinquent business license applicants that if the delinquency is not

care of within 30 days the Town will cease to do business with them until it is paid.

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

that B. Discussion re: purchase of new garbage truck – Mayor D. R. Carter advised the superintendent must obtain more bids for this.

C. Budget Workshops – The workshop for the water fund is scheduled for April 18, 2011 at 6:00 p.m.

made D. July 4<sup>th</sup> celebration date – Mayor D. R. Carter advised Council that Jonesville and St. Charles have planned their celebrations for Monday, July 4<sup>th</sup>. Gary McElyea

a Motion to have the July 4<sup>th</sup> celebration on Saturday, July 2, 2011. 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

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E. Larry Holbrook made a Motion to advertise for the pool manager position and lifeguard positions, and for the Town to continue to manage the pool concessions. 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

F. Delinquent water bills – Mayor D. R. Carter asked the Town Attorney to draw up a proposed amendment to the current Town Ordinance and present it at the April Council Meeting. Terry Pope made a Motion to table this item until next month. 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

G. Discussion of Lee Co. PSA sewer rates – Mayor D. R. Carter informed Council that the last rate increase was in 2006. He plans to begin negotiations soon.

H. Spring Clean-Up Week – Larry Holbrook made a Motion to approve Spring Clean-Up Week and advertise for the date Tim Dye chooses. 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

I. Discussion of rental space in Municipal Building – Mayor D. R. Carter said there are offices upstairs that need to be cleaned. The Police Department is running out of storage space, so this may be a solution. Attorney said this matter could be discussed during closed session.

J. Pro-Art Association donation request – Terry Pope made a Motion to approve the Town's donation of \$2,000.00 to the Pro-Art Association for the 2011-2012 Budget. The Motion was seconded by Jimmy Smallwood. 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

Mayor Carter informed Council that Fred Woliver has checked on the prices for a pool robot. With the trade-in, the new robot would cost \$4400.00. Terry Pope made a Motion to approve the purchase of the new robot 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

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

A. Yard Sale and Flea Market Ordinance update – Attorney Charles Slemph III informed Council that the Town of Clinchco is going to adopt a Yard Sale Ordinance similar

to the one the Town is reviewing. The proposed version could be adjusted as Council desires. He said the police department would have to enforce the Ordinance if it were adopted. The proposed Ordinance allows 2 yard sales per year with a permit. There was a brief discussion. Terry Pope mentioned checking with Mr. Atwood in Coeburn regarding

using his property as a designated area for flea markets. Attorney Slemph said he would try to talk with Mr. Atwood before the next Council meeting.

B. National Trails Day - June 4, 2011 – Attorney Slemph advised Council that the current liability insurance will not cover a mud bog at Leeman Field. Karen Maggard said

the current policy has a “racing exclusion”. Keith Harless said he had checked with a local insurance agent and there is a “spectator’s insurance”. This would not cover participants, and it could be purchased at approximately \$400.00 per event. Terry Pope made a Motion

to table this subject until the Treasurer could check with the insurance company further.

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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

Town's Attorney Slempp advised Council that Michelle Warner's appointment to the Zoning Appeals Board has been approved and all the paperwork completed.

#### 11. Council Member Reports

Terry Pope reported to Council that the Lee Theatre Committee would like to set up their own bank account with the money they raised through fund raising. These funds could be used for heating, cooling, windows, etc. A Motion was made by Terry Pope to allow the Lee Theatre Committee to place the \$35,000.00 they have raised in a separate bank account with no ties to the Town and to use the money at their discretion. 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

Mr. Pope also informed Council that the Treasurer found \$5000.00 in the budget which had been allocated for the RV Park at Leeman Field.

Gary McElyea reported that he attended The Crooked Road board meeting recently.

He learned that any event must be active for 2 years before it can be placed on their annual agenda. He feels the Town should be working on some event to represent us with The Crooked Road so that when the theatre is complete we will already be established. He suggested Council members submit ideas for events at the April Council meeting. He also reminded them that events must have some connection to the music of our heritage.

Larry Holbrook inquired who regulates speed limits for the streets in Town. Mayor Carter said the state regulates the speed for state-owned streets. Mr. Holbrook said

Oakwood Avenue has a lot of traffic and speeders. After a brief discussion, the Mayor instructed the Town police to patrol the area more frequently.

Mayor D. R. Carter informed Council that Officer Richard Parsons will be attending radar certification classes soon. He also discussed the purchase of a passenger van to

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to be used to haul inmates who are on work duty for the Town. Terry Pope made a Motion advertise that the Town is seeking to purchase a used passenger van, and to allow the purchase of a van at a cost of \$4,000.00 or less. 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

water Mayor Carter advised that he had received a response to a recent letter sent to customers with multiple connections to one meter. The customer has agreed to comply with the Ordinance. He also presented a bid for cameras and extensive security at the Water Plant for Council review. Larry Holbrook made a Motion to table this item until more information can be received. 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

Groundbreaking Mayor Carter reminded Council that they are invited to attend the Ceremony for the new Emergency Room at Lee Regional Medical Center on March 22, 2011.

12. Keith Harless 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 9:30 p.m., Mayor D. R. Carter made a Motion to go into closed session pursuant to Va. Code Section 2.2-3711A1 for assignment, appointment, promotion, salaries, disciplining, or resignation of employees and pursuant to Va. Code Section 2.2-3711A6

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for discussion or consideration of the investment of public funds where competition or bargaining is involved,

where, if made public initially, the financial interest of the governmental unit would be adversely affected. 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 at 11:37 p.m. by Keith Harless to reconvene regular session. 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

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

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: 11:40 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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