

December 20, 2010

**MINUTES**

**TOWN OF PENNINGTON GAP  
COUNCIL MEETING**

**December 20, 2010  
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/  
Acting Town Manager: Karen Maggard  
Town Consultant: Paul Spangler – Absent  
Town Attorney: Charles Slemper, III  
Town Clerk: Angela K. O’Dell  
Chief of Police: Barry Cottrell  
PG Police Dept.: Richard Parsons  
Lee Theatre Committee: Roberta Smallwood  
Joyce Martin

The Lane Group: Jeff Cochran  
PG Fire Department: Chief James Skidmore  
Powell Valley News: Louise Carver

Citizens/Attendees: Rev. Tim Cradic, Pennington Gap Church of God of Prophecy  
Donna Shackleford and daughter, Shannon  
Tom Phillips  
Mr. & Mrs. Ed Lambright

1. Invocation was given by Rev. Tim Cradic, Pennington Gap Church of God of Prophecy.
2. The Pledge of Allegiance was led by Rev. Tim Cradic.

3. Mayor D. R. Carter called the meeting to order at 7:00 p.m.

4. Larry Holbrook made a Motion to approve the Amended Agenda 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

5. A Motion to approve the Minutes for the 11/15/2010 Council Meeting was made by Jimmy

Smallwood and seconded by Gary McElyea. 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. Lee Theatre Committee – Faye Bocock was unable to attend the meeting so the committee was represented by Roberta Smallwood and Joyce Martin. Mrs. Smallwood stated that the Lee Theatre Committee was informed at the beginning of the project that there was no money available for purchasing the mural or the marquee. The committee conducted fund raising projects and raised \$39,004.84. She noted that there is an additional

\$2400.00 to be added to that figure. The committee respectfully requests Council approval

for a withdrawal from those funds for stucco work on the wall near Pennington Pharmacy.

There is currently work being done on a 32' X 60' mural which represents Lee County and the Crooked Road to be placed on that wall. Mayor Carter asked the town attorney if written permission would be required from the owners of Pennington Pharmacy. Mr.

Slemp

said this would definitely be a good idea. Mayor Carter advised that Fred Woliver could work with the attorney to obtain proper legal permission. Terry Pope stated that the

Council

was previously informed that the Lee Theatre Committee had pledged \$25,000.00 in order

to pursue grant funding. He said no one remembered such a pledge, but even after that amount is deducted, the committee still has over \$16,000.00 available for their use. After

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the bid amounts for stucco were discussed, Terry Pope made a Motion to approve the lowest bid of \$14, 240.00 from J. Mark Wall & Ceiling, LLC for Dryvit to prepare the wall near Pennington Pharmacy for the new mural. 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

B. Tom Phillips - 2011 Veterans Day Parade – Mr. Phillips advised that the 2011 Veterans Day Parade has been scheduled for November 12, 2011 between 10:00 a.m. and 4:00 p.m. He said the local veterans have requested that the Town set aside a section of property at Leeman Field for a veteran’s memorial. He has made some contacts and a piece of military equipment will be donated to set up at the park. At this time he is not sure what type of equipment would be donated, but it would be something appropriate to represent the veterans. Terry Pope stated that, though he feels the memorial would be a worthwhile project, it may not be a good time to choose the location. In the near future there will be some work done to make things more cohesive at Leeman Field and use the property to its best advantage. Mr. Phillips said if the Council will just give approval to the project, he can requisition for the equipment. This would allow some time for decisions regarding the location. Mayor D. R. Carter made a Motion to approve a veteran’s memorial at Leeman Field Park with the location to be decided after consultation. 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

7. Police Department

A. Mayor D. R. Carter presented a plaque to Donna Shackleford in memory of her husband, Gary, a Town police officer who recently passed away. He said there would be another plaque placed at the Police Dept. in honor of Sargent Shackleford. Mayor Carter

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expressed his sincere sympathy and gratitude to Mrs. Shackelford and her daughter. Donna Shackelford stated that she appreciated all the kindness and generosity she had received from the Town.

He Chief Barry Cottrell reported that there are currently five (5) officers working. introduced Richard Parsons, the newest officer hired. Chief Cottrell also advised that the Town has purchased one in-car camera and a radar unit with grant funds. The Police Dept. will disburse donated gifts to local children on December 22<sup>nd</sup> and 23<sup>rd</sup>. He informed Council that the Police Dept. will have a drawing to give away lost and found bicycles, and that they are working with Pennington Middle School on a new incentive program. Mayor Carter commended all Town employees involved during an Old Dominion Power Co. outage recently. He said Town employees helped control traffic from 11:00 a.m. until 6:00 p.m. one day to allow Old Dominion to make repairs.

officers Terry Pope asked if the police officers would be giving warning tickets at the new handicapped parking spaces until residents had time to adjust. Chief Cottrell said the are not giving any tickets for the handicapped parking yet. Larry Holbrook said he had a request from L. T. Stewart for extra police patrolling on Hospital Drive and Willow Road since there had been some burglaries recently.

building B. Fire Dept. Report – Chief James Skidmore reported that the work on the is complete except for guttering. He said the department responded to a total of 21 calls last month with 215 man hours. Jimmy Smallwood asked if the Pennington Gap Fire Dept. is obligated to respond to accidents without knowing the severity of the accident. Chief Skidmore said the dispatcher evaluates the need according to information received from someone at the scene. This is the only method available. When asked if Lee County provides any financial assistance to the department, Chief Skidmore said they receive \$9,500.00 per year from the County and additional funds of approximately \$4,000.00 per year from state funding.

Mayor Carter suggested the Fire Dept. reactivate the Santa visit for local children. He also requested that Council be given a copy of business meeting minutes for the Pennington Gap Fire Department, and a list of all new officers elected.

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

A. Project Updates – Jeff Cochran

1. Lee Theatre Structural Auditorium Design – see attached report. Mr. Cochran said they hope to advertise for bids for the theatre work in January 2011.
2. DCR – Recreational Trails Program grant – see attached report. 3. Pennington Gap Greenway – see attached report.

Terry Pope asked about the sidewalk problem in front of Mark's Alignment. Mr. Cochran advised that he is talking with Juanita Wells, with VDOT, about the idea The Lane Group has for a solution.

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

A. Mayor Carter stated that the Council meeting dates for January and February need to be changed to January 18, 2011 and February 22, 2011, respectively. Larry Holbrook made a Motion to change the dates and Terry Pope 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

B. Board of Zoning Appeals – Mayor Carter advised that he sent letters to current Board members requesting suggestions for nominations. Larry Holbrook made a Motion to reappoint Ernie Roberts to the Board of Zoning Appeals upon his acceptance. 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

Mayor Carter advised the Clerk to contact Mr. Roberts and send a letter of appointment if he accepts.

C. Adoption of Flood Plain Ordinance – After a brief discussion, Jimmy Smallwood made a Motion to adopt the Flood Plain Ordinance and authorize any necessary signatures.

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

D. ADT Security proposal for Water Treatment Plant – Council was given a quote

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who  
and  
he  
Terry  
from ADT for security for the water plant. Keith Harless stated that he knows someone  
installs security systems for local businesses. The businesses buy their own equipment  
he installs it for them. The cost for this is only about \$9.00 per month. Mr. Harless said  
would have this person contact Gary Garrison at the water plant and give him a quote.  
Gary McElyea made a Motion to table this item until additional quotes are obtained.

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

taxes.  
Carter  
Town  
unless  
there is a mutual agreement.

E. Delinquent taxes, business and professional licenses – Council discussed the  
action to be taken regarding delinquent accounts. Karen Maggard said she would like to  
obtain an accurate list and have liens recorded on property with delinquent real estate

She advised that she feels the list needs to be refined before taking any action. Mayor

asked about local businesses who owe delinquent business license taxes. He asked the

Attorney if it is legal to withhold payment for services to offset delinquencies on business  
license taxes. Attorney Slempp said the Town cannot withhold payment for services

there is a mutual agreement.

newspaper.

Mr. Slempp advised that this is legal, but the Treasurer would need to make sure the list is  
accurate to avoid legal problems. Keith Harless made a Motion to table this subject until

the  
delinquent list is researched and refined. 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

F. Delinquent water bills – Karen Maggard advised Council that most towns do

not  
the

allow any delinquency to carry over on the water bills. If the bill is not paid when due, customer is given a warning period and the water service is disconnected. She said with the current system, most customers have exceeded their deposit amount before their water is disconnected. Various solutions were discussed by Council. Keith Harless made a Motion

to direct the Town Attorney to review the current ordinance with the Town Treasurer and make a recommendation. 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

G. Bridge naming update – A Motion to adopt the resolution and authorize the

Mayor

to sign 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

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

more

A. Howard Street closing update – Mr. Slemp advised Council that he needs time to research this issue.

sale

B. Flea Market/Yard Sale update – Mr. Slemp asked if the Town requires a yard

would

permit. He was advised that Council did away with that permit years ago. He said it be necessary to have a valid business license. Mrs. Maggard said the owner of the flea market/yard sale does have a valid business license with the Town. Council discussed the possibility of having flea markets and yard sales in one area of Town only. Gary McElyea made a Motion to contact Mr. Atwood, owner of the old Payless Grocery property in Town, regarding using that area for a common flea market/yard sale location. 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

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Terry K. Pope                   Aye  
Jimmy V. Smallwood           Aye

11. Council Member Reports

hard           Terry Pope expressed his appreciation to all the Town employees who worked so hard during the inclement weather.

                  Gary McElyea said he has heard several complaints stating that the handicapped parking spaces in Town are illegal and not up to standard. He said Tim Dye has checked with VDOT and the designated parking spaces must be 9 ft. wide and have standard signs.

                  Mayor Carter advised that there have been complaints about the 2-hour parking limits also. He said this has been a Town ordinance for years and just needs to be enforced. Mayor D. R. Carter expressed his appreciation to Town employees for their work during the recent bad weather.

12. Jimmy Smallwood made a Motion to approve the bills to be paid and Keith Harless 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 8:50 p.m., Keith Harless made a Motion to go into closed session pursuant to Va. Code Section 2.2-3711A1 for assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of employees. 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

                  A Motion was made at 10:08 p.m. by Keith Harless to reconvene regular session. Terry Pope 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

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 drop the Interim Town Manager title from Karen Maggard's position effective January 1, 2011 and to remove the compensated salary.

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 increase the Mayor's monthly expense amount by \$200.00 since he will be assuming extra duties. 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

Council discussed with Attorney Charles Slemple the possibility of seeking a civil lawsuit against the previous occupant of the modular home at Leeman Field Park. The lawsuit would be to recover expenses to repair damages to the house.

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

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Terry K. Pope	Aye
Jimmy V. Smallwood	Aye

Time of adjournment: 10:15 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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