

September 19, 2011

MINUTES

TOWN OF PENNINGTON GAP

**COUNCIL MEETING
September 19, 2011
MUNICIPAL BUILDING**

RECORD OF ATTENDANCE:

6:00 p.m.

Mayor: D. R. Carter
Council: Keith Harless – Absent
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
Marie Jones
Police Department: Officer Matthew Lawson
Vaughn & Melton: Andy Miles
PG Fire Department: Brian Skidmore

Powell Valley News: Louise Carver

Citizens/Attendees: Pastor Brian Allen – Circle of Faith Ministries

1. Invocation was given by Pastor Brian Allen, Circle of Faith Ministries.
2. The Pledge of Allegiance was led by Pastor Brian Allen, Circle of Faith Ministries.
3. Mayor D. R. Carter called the meeting to order at 6:00 p.m.
4. Jimmy Smallwood made a Motion to approve the Agenda with the addition of Item #14 Closed Session pursuant to Va. Code Section 2.2-3711A1. The Motion was seconded by Terry Pope with vote as follows:

| | |
|--------------------|--------|
| Mayor D. R. Carter | Aye |
| Keith Harless | Absent |
| Larry W. Holbrook | Aye |
| Gary McElyea | Aye |
| Terry K. Pope | Aye |
| Jimmy V. Smallwood | Aye |
5. A Motion to approve the Minutes for the 8/15/2011 Council Meeting was made by Larry Holbrook and

seconded by Jimmy Smallwood with vote as follows:

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

6. Citizen’s Recognition

A. Jerry Parsons – Ground Zero Music Venue – not present.

7. Police Department

A. Monthly Report – Officer Matthew Lawson gave the report in the absence of Chief Bryan Young. He informed Council that Officer Keith Turner resigned on September 13, 2011. The department had 224 calls dispatched and 17 summonses. The total vehicle miles for the month was 5,730 at a fuel cost of \$1785.00. Jimmy Smallwood asked about the 30 mph speed limit in a section of Town and there was a brief discussion. The speed limits are set by VDOT.

B. Fire Dept. Report – Brian Skidmore reported that the department responded to 8 calls, one of which was a haz-mat call. There were 45 ½ man hours, 30 hours for business meetings, 24 hours truck maintenance, and 18 hours in building maintenance. Mr. Skidmore advised Council that the Fire Dept. responded to a chlorine leak at the water plant on September 18, 2011. There was a rupture on the stem of one of the new cylinders. The department had the spill contained in 1 ½ hours. Wise County Haz-Mat Team evaluated the leak and advised that the situation was resolved. Two sets of turn-out gear were ruined from the chlorine exposure and will need to be replaced. Mr. Skidmore said the spill was minimal – only 70 lbs. leaked out of a 2,000 lb. cylinder.

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

A. Project Updates – Andy Miles, Vaughn & Melton

1. Lee Theatre Structural Auditorium Design – Andy Miles advised that there are grant funding possibilities through DHCD’s Industrial Revitalization Funds. The maximum award is \$600,000.00 and applications can be submitted from September 9, 2011 through December 31, 2011. A Motion was made by Terry Pope to approve the Resolution necessary to apply for the Industrial Revitalization funds. Jimmy Smallwood seconded the Motion with vote as follows:

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

2. DCR – Recreational Trails Program grant – Gary McElyea said he would discuss this later during Council Member Reports.

3. Pennington Gap Greenway – Andy Miles advised Council that he met with Martha Podren of TVA and was brought up-to-date on this project. Ms. Podren told him as far as she knew the funding is already in place for this project. A Motion was made by Gary McElyea to sever all ties with The Lane Group provided it does not interfere with or hinder any ongoing projects. Terry Pope seconded the Motion with vote as follows:

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

Mr. Miles recommended the Town notify all funding agencies of the change in

engineering firms. Attorney Slemp was directed to make sure a letter was sent to all agencies involved. Mr. Miles said he would also like to set up a workshop with Council to discuss current funding projects within.

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

A. Returned check fee increase – Mayor D. R. Carter made a Motion to set the returned check fee at \$50.00. After a brief discussion with the Town Attorney, the Motion was tabled until the October meeting by Mayor D. R. Carter.

B. Publish delinquent business licenses – Karen Maggard distributed an updated list of delinquent business licenses to Council. After a brief discussion, a Motion was made by Terry Pope to publish a list of businesses with a delinquent business license. Jimmy Smallwood seconded the Motion with vote as follows:

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

The Motion passed with a vote of 4-1 with one absence. Attorney Slemp advised Council that a public notice should be given before the publication. Council decided to check into basing tax on net income instead of gross receipts in the future.

C. Update concerning Taxing Authority Consulting Services – Karen Maggard advised that she sent information to John Rife, but he requested the files in a different format. It would be very difficult to generate the format he requested. Mayor Carter recommended Mrs. Maggard have Marie Jones assist her in providing the information as requested.

D. Lovelady D.A.R. Resolution – Mayor Carter had the clerk read the statement provided by the D.A.R. in remembrance of the tragedy of September 11, 2001. Jimmy Smallwood made a Motion to approve the Resolution as presented and Gary McElyea seconded the Motion. Vote as follows:

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

E. Discuss eviction letters to tenants who are not paying rent in Municipal Building – Mayor D. R. Carter advised Council that two sections upstairs had been rented in the past and those areas still contain supplies which belong to the previous tenants. One of the tenants was a Council member and the other was someone who gave kickboxing lessons. Mayor Carter said rent has not been received from either tenant for years. He suggested the Town Attorney give the tenants formal notice that the tenancy has been terminated and a time frame to remove any items. A Motion was made by Terry Pope to direct the attorney to proceed with a certified letter of eviction and check into the necessary steps. Jimmy Smallwood seconded the Motion with vote as follows:

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

The Motion passed with a vote of 3-2, with one absence.

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

Attorney Slemp said he had nothing to discuss in open session.

11. Council Member Reports

Terry Pope reported that the Leeman Christmas Fantasy committee had approached him regarding a section of lights used for the New Year’s celebration which is in need of some bulb replacement. The total cost of this would be \$1800.00. The committee had requested the Town provide the funds for the bulb replacement. Karen Maggard advised that there was some money budgeted for the lights project. Jimmy Smallwood said that money could be used for this request.

Gary McElyea advised that the Recreational ATV Trail has been delayed because of a problem with easements. About 20 easements on the original request were not approved. Dane Poe and Cynthia Waymack advised him there should be no problem getting the easements approved. The funding agency has requested that one person be designated as a contact person to keep up with all funds spent, receipts and balances. With proper documentation, a percentage of the funds spent will be reimbursed to the Town. Mr. McElyea made a Motion to appoint Marie Jones as the designated contact person for this project. The Motion was seconded by Larry Holbrook with vote as follows:

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

Larry Holbrook suggested office employees give their names when answering the Town phone.

Mayor D. R. Carter reported the fire department building has been painted. He said the caboose at Pennington Middle School is being painted, and some repair work is being done on the municipal building. Mayor Carter also advised Council that the outside of the sewer plant sludge house is being stuccoed and inmate labor is doing painting at the plant.

He has been advised that St. Charles Water & Sewer Authority has negotiated a contract to receive septic dumping from a local company. This will be monitored to make sure the Town’s system is not damaged.

The meter located in the Poor Valley area appears to have been tampered with and this is being closely monitored. The water department employees are also watching for residents stealing Town water.

Mayor Carter said he feels progress has been made in the last 15 months. He is pleased with the Town staff and thinks the Town is doing well. It is his hope that the local “gossip columns” will be lenient.

12. Gary McElyea made a Motion to approve the bills paid and to be paid and Jimmy Smallwood seconded the Motion. Vote as follows:

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

13,14. At 7:51 p.m., Jimmy Smallwood 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, pursuant to Va. Code Section 2.2-3711A1 for assignment, appointment, promotion, salaries, disciplining, or resignation of employees. The Motion was seconded by Larry Holbrook with vote as follows:

| | |
|--------------------|-----|
| Mayor D. R. Carter | Aye |
|--------------------|-----|

September 19, 2011

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

A Motion was made at 9:16 p.m. by Larry Holbrook to reconvene regular session. Terry Pope seconded the Motion with vote as follows:

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

A Motion was made by Terry Pope to approve the payment of an amended invoice from Bob Childress for \$2,640.00. The Motion was seconded by Larry Holbrook with vote as follows:

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

16. A Motion to adjourn was made by D. R. Carter and seconded by Gary McElyea. Vote as follows:

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

Time of adjournment: 9:18 p.m.

MAYOR D. R. CARTER

ATTEST:

ANGELA K. O'DELL, TOWN CLERK

September 19, 2011