

Minutes of a Special Called meeting of the Town of Saltville Town Council held on Thursday, April 17, 2008 at 7:00 P.M., at the Town Hall.

PRESENT: Steven W. Johnson, Town Manager
Christen W. Burkholder, Town Attorney

COUNCIL: Sabrena Ison, Danny Maiden, Todd Young, Neil Johnson, Bill Palmer,
Ron Orr

ABSENT: Jeffrey L. Campbell, Mayor

Town Manager called the meeting to order.

Town Manager requested two items to be added to the agenda. The first request was from the Saltville Elementary School for a monetary donation or a donated prize for a Fundraiser Night. This would help offset the cost for six students to take part in the Destination Imagination Global Tournament in Knoxville, Tennessee on May 24th.

The second item requested from the Town Manager was from the SIDA. This request is to start the necessary steps, to rezone the property known as the Shell Building, from M-1 to A-C.

Councilman Young made a motion to add the request from the Saltville Elementary School to the agenda. Councilwoman Ison seconded. Motion passed unanimously.

Councilman Young made a motion to add the SIDA request to the agenda. Motion carried 5-0-1, Councilman Palmer abstained.

Councilman Johnson had a request to add to the agenda pertaining to a \$250 bill from Bill Brickey that someone owes him. Councilman Maiden seconded. Motion passed unanimously.

Town Attorney requested to add Closed Session to the agenda to consult with legal counsel regarding actual and probable litigation in respect to the trail. Mr. Burkholder also stated, to consult with legal counsel regarding issues under Virginia Division Fence Law and to consult with legal counsel under Virginia Law of Zoning. Mr. Burkholder stated, these are all pursuant to 2.2-3711(A)(7).

Councilman Orr made a motion to add the request of the Town Attorney pertaining to Closed Session. Councilman Johnson seconded. Motion passed unanimously.

Town Manager opened the only sealed bid for the installation of sod at the pool area from South Star Distributors and will be working along with Planters & Designers, Inc. from Bristol. The bid is to install 12,500 sq. ft of sod to the designated area at the pool for \$10,350, and this includes material and labor.

Councilman Young made a motion to accept this bid for the installation of the sod. Councilman Palmer seconded. Motion passed unanimously.

Steven Johnson opened the five proposals for the mowing at the cemetery.

- 1) Willis Crusenberry - \$22,500 for the seven months with a monthly payment of \$3,750
- 2) Parks Landscape Service - \$30,960 also, this bid is broken in 12 payments of \$2,580 with other service that would be available with this contract
- 3) Justin Prater - \$1,500 per month
- 4) Harold McAllister - \$3,500 per month
- 5) Brown's Landscaping - \$4,000 per month

Councilman Orr asked if this requires an insurance policy submitted to the Town?

Chip Burkholder stated by saying the previous contract had this written in. Also, if you get somebody in and cannot do the job, you as Council can, terminate as long as it is written in the contract.

Councilman Young told the Town Manager to contact these individuals and make sure they know insurance is one of the requirements.

Councilman Orr said he didn't have a problem awarding the contract, as long as they know what we want them to do.

Councilman Young made a motion to accept the lowest bid from Justin Prater and if guidelines within in the contract cannot be met, proceed with the next lowest bidder as so, until these are met. Councilman Orr seconded. Motion passed unanimously.

Steven Johnson opened the sealed bids pertaining to the siding, soffit, roofing, and concrete pad for the picnic pavilion at the pro-shop. The bids are as follow:

- 1) Willis Crusenberry - \$30,000
- 2) Hunt's Construction - \$44,000
- 3) South Star - \$34,785

Councilman Young stated he would not vote because he does work with all three of these individuals that submitted proposals.

Councilman Maiden made a motion to accept the lowest bid on this project. Councilman Palmer seconded. Motion passed 5-0-1 with Councilman Young abstaining.

Councilman Orr stated "I was asked about the Town's lease with the Golf Club for what it covers for maintenance of the buildings."

Christen Burkholder said it had the same language as the previous contract. Mr. Burkholder read from the contract saying, the lessee agrees to pay all the cost including personnel, labor, and material for improvements, maintenance, and repairs related to the subject property.

Mr. Burkholder stated, the lease agreement can be modified if both parties are willing and proceed as a problem.

Councilman Maiden said the building and everything at the course belongs to the Town.

Mr. Burkholder stated, anything that two parties can agree on, can be made a part of the contract.

Councilman Orr said he wanted to make sure we can do what we needed to do.

Mr. Burkholder stated, that last phrase related to operation of the subject property is not related to improvements to the golf course.

Councilman Johnson said the reason it was going to be done was to give it a neat appearance.

Councilman Young said it is currently an eye sore right now.

Councilman Johnson said contrary to the internet and what everybody is saying the wave pool wasn't paying so they can repair the pro-shop.

Councilman Orr said from his stand point if we are not doing anything to make the operation different, then I don't think there's an issue. Also, we have a motion and a vote to accept the low bid.

Christen Burkholder said Mr. Smith got an answer from the Town's insurance carrier pertaining to the coverage issued by volunteer contractors. Mr. Burkholder said the answer is what I thought it would be, stating, we don't have worker's compensation coverage on volunteers that might be working for the Town. Mr. Burkholder said the Little League itself does not have worker's compensation, they have liability and have some limited accident benefit coverage. Mr. Burkholder said he thinks there's a tremendous problem using volunteers. Mr. Burkholder said a volunteer who is helping to build, or helping to do construction work is injured on the job, the Town would be potentially on the hook for worker's comp benefits. Mr. Burkholder said you have a wage issue because they are a volunteer and not getting a paycheck and you have also, the minimum wage of the Commonwealth. Also, you can get anything else you will get two-thirds of the average wage of the Commonwealth with lifetime medical. Mr. Burkholder said the Town does not have workers' comp. coverage to pick that up, but the Town would be in the position potentially of being an employer. Mr. Burkholder said you have liability coverage if somebody else gets hurt you have liability coverage two ways, which you have through the Town and through the Little League. Mr. Burkholder said if someone gets hurt doing our work on our job we don't have workers' comp. coverage for them.

Councilman Maiden asked what are they talking about on the hold harmless agreement on the e-mail to Mr. Smith?

Mr. Burkholder said that this will take some studying on my part, it's not a sure winner Mr. Maiden. Mr. Burkholder said the worker's comp law is mandatory and it is hard to get around and I would not feel comfortable telling you that a hold harmless agreement is going to hold up. Mr. Burkholder said if someone gets hurt and goes to the Work Comp Commission and I want two-thirds of my average wage and lifetime medical paid.

Councilwoman Ison said why can't we do it like we have done it before. Council gave the money to Little League and let them take care of it. Councilwoman Ison said she was a volunteer at the Little League and if she got burned doing the concessions, who will be responsible?

Mr. Burkholder said if you were to get burned in the concession stand, if you are anybody's employee you are an employee of the Little League. But, if you are improving a Town piece of property with town material I think you are more likely considered an employee of the Town. Mr. Burkholder said there is a risk here that cannot be removed, we have been lucky so far that

no one has been hurt.

Jeff Smith said the reason the item was put on the agenda was to get a response for our insurance carrier if volunteers are covered for the construction of the restrooms at the ballfields Councilwoman Ison said we should take the lowest bid that was opened at the April 8th Council meeting.

Councilman Palmer made a motion to accept the lowest bidder; which was in the amount of \$22,675 and verify they are responsible for all permitting. Councilman Johnson seconded. Motion passed unanimously.

Jeff Smith discussed the Permanent Pump And Haul Agreement and General Permit pertaining to the tank that will be used at the new restrooms that have been approved to be built.

Councilwoman Ison made a motion to approve the agreement and to authorize the Town Manager to sign the agreement. Councilman Young seconded. Motion passed unanimously.

Steven Johnson discussed the work that is being performed at the pool for Council to authorize the money to be transferred from the Dotson Wheel account.

Councilman Young made a motion to take the funds from the Dotson Wheel account. Councilman Maiden seconded. Motion passed unanimously.

Steven Johnson discussed the request from the Saltville Elementary School for a monetary donation for a fundraiser for the DI Team to travel to Knoxville, Tennessee.

Councilman Young made a motion to donate \$500 to Saltville Elementary School. Councilman Johnson seconded. Motion passed unanimously.

Councilman Orr said the SIDA met on April 10th, one of the things that was discussed since we are trying to negotiate the sale of the property is to rezone the 7.9 acres to Agriculture. Councilman Orr stated the SIDA voted to request to start the process of doing such.

Councilman Young made the motion to grant the request to start the process of rezoning the mentioned property. Councilwoman Ison seconded. Motion carried 5-0-1, Councilman Palmer abstaining.

Christen Burkholder said this is to be within the guidelines of 15.2-2204 of the Code of Virginia, also a motion needed to be made for the public hearing notice as well.

Sabrena Ison made a motion to advertize for the public hearing notice for the subject property. Councilman Orr seconded. Motion carried 5-0-1, Councilman Palmer abstaining.

Councilman Johnson discussed a bill from Bill Brickey for \$250 for the use of his vehicle whether the Town owes him or the contractor.

Councilman Young made the motion for the Town to pay Mr. Brickey in the amount of \$250. Councilman Ison seconded. Motion passed unanimously.

Councilman Johnson made a motion to enter Closed Session to consult with legal counsel regarding actual and probable litigation regarding the trail, to consult with legal counsel regarding issues under the Virginia Fence Law, and consult with legal counsel under Virginia's zoning regulations, all of these issues pursuant to 2.2-3711(A)(7), actual and probable litigation.

Upon returning to open session, the Town Manager took a roll call vote to certify that only matters identified in the motion to go into closed session were discussed during the closed session. Accordingly, each member present certified by responding "YES".

After a motion, duly seconded, the meeting adjourned.

MAYOR

CLERK