

Minutes of a regularly scheduled meeting of the Town of Saltville Town Council held on Tuesday, April 8, 2008 at 7:00 P.M., at the Town Hall.

PRESENT: Jeffrey L. Campbell, Mayor
Steven W. Johnson, Town Manager
Christen W. Burkholder, Town Attorney

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

Mayor Campbell called the meeting to order, giving the invocation and leading in the pledge of allegiance.

Councilman Orr made a motion to approve the March 11th, March 18th continued meeting, and the March 25th, 2008 minutes with the amendments he and Councilman Palmer has stated. Councilman Palmer seconded. Motion passed unanimously.

There were five (5) citizens signed up for Citizen's Time.

Shirley Ann Bailey, Clinchburg, said y'all are quick to judge people the other day. Ms. Bailey said, I figured y'all owe me and my family an apology and especially the papers. Ms. Bailey told Council this is because all the charges were acquitted. Also, Ms. Bailey said she would like to say something to Mr. Surber, I would appreciate if you would stay in the Town of Saltville. Ms. Bailey stated to Mr. Surber, you are the Chief-of-Police of the Town of Saltville, not Clinchburg. Ms. Bailey said, Mr. Campbell I thank you can find him something to do here, there's plenty do in this Town. so I'll appreciate it if I don't see him 15 times a day at my place.

Janice Orr, 548 Campbell Drive, Saltville. Ms. Orr told Council, I have handed you a visitor's report from the Museum and I want you to see that our attendance has increased. Ms. Orr said she would also like to thank the Town and especially the Police Department for the assistance they gave us during our celebration on Saturday. Ms. Orr said they had 300 or so people to attend the opening of the Museum. Ms. Orr stated, they were thrilled, everyone seemed to be so commentary, satisfied, and very proud of the Museum's accomplishments and vision that has taken place with the expansion. Ms. Orr said she certainly appreciated all those folks who had attended. Ms. Orr said they had so weather problems with their intentions of being outside and under a tent. at the last minute we had to change the plans. Ms. Orr stated, it makes me feel no good coming before you and finally say, it is over pertaining to the completion of the project, but things to see and to propel to the future is an ongoing task.

Ms. Orr told Council, I don't know if this is the time or not to address under you Old Business pertaining to the agreement with East Tennessee State University, stating that Byrum Geisler could not be in attendance tonight. Ms. Orr said it was my understanding that the concerns from Council were discussed with Mr. Burkholder and had with the issues that Council had been resolved. Ms. Orr said she apologized to you, because I feel like the lack of communication, or perhaps the misunderstanding that was created, was partly my fault. Ms. Orr said she did not realize that Council did not have a copy of the agreement until after the fact and this would have made matters better if they had gone over this before hand.

Carolyn Holman, Marion, Virginia, I had a question or two I wanted to ask about the financial dealing that I certainly don't understand. Ms. Holman stated, since I have been threatened with a massive law suit by an official of the Town, if I ask anymore questions or discuss anymore questions in any manner I probably won't ask until I hear back from the Attorney Generals Office. Ms. Holman said I do have one question about the wave pool, the marketing survey made to determine if there would be enough usage to justify the cost of the pool. Ms. Holman stated, if so, I would like to see if this survey was released to the public and personally would like a copy as well.

Kenneth Harris, 505 Cruesenberry Hollow Road, Saltville. Mr. Harris said Sunday he had a problem. His neighbor was throwing grass in the road. Mr. Harris said he talked to Steven and Jackie, they came over and took care of it. Mr. Harris stated he was here tonight to thank both of them.

Joe Pafford, Old Mill Road, Glade Spring, Virginia. Mr. Pafford asked Council, "Y'all have the right-of-way of the trail, who is going to maintain the fence around the right-of-way"? Mr. Pafford told Council, "Y'all bought the right-of-way and the fence around it as well, which there's a lot of fence up there needs to be repaired."

Mayor Campbell replied by saying, we will look into this and get back to you.

Steven Johnson told Mayor Campbell that he had two items that needed to be added to the agenda. The first item was the sealed bids pertaining to the surplus sale and the second item is the two appointments to the Saltville Health Center Commission.

Councilman Young made a motion to add the two items requested from the Town Manager to the Agenda. Councilman Johnson seconded. Motion passed unanimously.

NEW BUSINESS

Steven Johnson discussed a request from Michael Smith to purchase section a of property owned by the Town, located on River Road. Mr. Johnson told Council the section of property that is requested is in their packets.

Barry Loupe was present and discussed in further detail on the exact location of the property that he and Michael Smith is wanting to purchase.

Councilman Johnson made a motion to refer this request to the Land Management Committee for a recommendation within the Land Sale Policy. Councilman Maiden seconded. Motion passed unanimously.

Jeff Smith discussed the amount of CD's that the Town has from the sale of railroad material along with the dollar amount remaining in the rails-to-trail checking account. Mr. Smith also told Council what was remaining to be purchased and installed such as the trailer to haul the bobcat and signage along the required location. Mr. Smith said it may come to a point that one CD may have to be liquidated to finish the remaining work and once the work is completed by a CD with the remaining. Mr. Smith stated, we can wait to see when this liquidation will need to transpire.

Councilman Johnson said we'll go ahead and take action tonight encase monies are needed before the meeting to proceed with the trail.

Councilman Maiden made a motion to liquidate one CD to finish the remaining work on the trail. Councilwoman Ison seconded. Motion passed unanimously.

Mayor Campbell opened the only sealed bid that was submitted to locate the caboose from its present location to the shed at the Old Museum. The bid is as follows:

Advance Products and Services, Bristol, Virginia in the amount of \$5,500.00

Councilman Young made a motion to accept the bid on relocating the caboose, on the contention, proof of insurance is submitted to the Town. Councilwoman Ison seconded. Motion passed unanimously.

Mayor Campbell opened the two sealed bids that were submitted pertaining to the bathroom at the softball fields. The bids are as follows:

1) Price Construction, Glade Spring - \$22,675.00

2) Hunt's Construction, Saltville - \$28,000.00

Councilman Maiden told Council, he was approached by the Little League Organization. Ms. Nutter told him if the Town would furnish the materials this labor would be done by Little League volunteers.

Councilman asked if she was going to get the builders permit and other permits that are required?

Councilman Maiden replied by saying, Ms. Nutter said she would take care of it all.

Councilman Maiden told Council, she has got the approval from the Health Department for the tank.

Councilman Orr asked if they were going to purchase the tank and if any idea of the dollar amount this is associated with all the materials?

Councilman Maiden said at this time I have not reached it.

Councilman Young said the rule of thumb, around half of the cost of building any structure is labor cost. Councilman Young said his only concern is liability.

Councilwoman Ison said that the Little League has an insurance policy.

Town Attorney said this organization may not have worker's comp for volunteer labor. Mr. Burkholder said he sees a real liability issue if a volunteer would get hurt it may come back on the Town.

Councilwoman Ison said Little League has their own insurance.

Mr. Burkholder replied by saying, do they have worker's comp?

Councilwoman Ison said she wasn't sure at this time, but their volunteers take care of needed items now.

Mr. Burkholder said if they have no paid employees he would bet they have no worker's comp. Mr. Burkholder stated, if someone would get hurt on that job, the Town may be exposed and put into the position that the claim for the Town being the statutory employer. Mr. Burkholder said the Little League would be the subcontractor.

Councilman Maiden asked if we can table this until we can research this some more?

Mr. Burkholder said it would be worth asking the question to the Town's insurance carrier if a claim is filed would a volunteer be entitled to worker's comp. coverage under our policy.

Councilman Young said this project needs to move forward, but I do not want to put the Town in jeopardy on a liability claim.

Steven Johnson told Council, I'm asking permission to have a Special Called meeting next week to take care of the other advertisement that is running in the paper.

Jeff Smith told Council he would get the information from our insurance carrier and forward it back to the Town Attorney.

Councilman Maiden made a motion to table this until the called meeting next week. Councilwoman Ison seconded. Motion passed unanimously.

Councilman Johnson said he would go along with this until next week, if this is not worked out, he will suggest to take the lowest bid so any more time won't be wasted.

Jeff Smith discussed the bid from the landfill that is in excess of \$10,000. Mr. Smith said this was from the disposal of demolition material at the wave pool that was not put into the contract. Mr. Smith stated to Council, the remaining amount that is in the wave pool account at this time is for the construction of the pool and nothing more.

Councilman Maiden made a motion to pay for this out of the Dotson Wheel account, when the revenues come in from the sale of timber, reimburse this account. Councilwoman Ison seconded. Motion carried 5-1, Councilman Orr voting against, stating he could not understand why the Town is having to pay.

Steven Johnson discussed the burned out house, referring to the one that is located on Government Plant Road. Mr. Johnson said he had sent several letters to the owner pertaining to the condition of the property to the property. Mr. Johnson asked the Council for guidance on taking care if this unsafe and unsightly property.

Councilwoman Ison said this is definitely a safety issue, if a child would wonder into this burnt out house I would hate to think what may happen.

Councilman Young asked Mr. Burkholder what the Town needs to do to take care of this problem.

Mr. Burkholder said I'm sure we have local ordinances in Town pertaining to the removal of such structures. Also saying, this would be an added expense of public funds. Mr. Burkholder said it sounds like there are two issues, not cutting the grass and a burned out structure. Mr. Burkholder said cutting the grass is one thing, but you still have the nuisance problem of the structure. Mr. Burkholder told Council, this sounds like it has landlord liability all over this property.

Councilman Young made a motion to condemn this property, the way I feel it is an eyesore and is to close too our schools and have it removed.

Councilwoman Ison said she wasn't sure we need to go this route first, I think we should notify them with an opportunity to take care of this matter in a timely manner.

Councilman Maiden said his fear was, this is close to the school and children travel up and down this road and it is a accident ready to happen.

Councilman Johnson asked Chief Surber if we can put caution tape around this property.

Mr. Surber replied by saying, if we legally can go on private property.

Councilman Young made a motion to condemn this property. Councilman Maiden seconded. Motion carried 5-1. Councilwoman Ison voting against.

Steven Johnson discussed the hanging baskets throughout Town. Mr. Johnson said he had talked with Toby Haynes at the High School and he is willing to have them ready in May.

Councilwoman Ison made a motion to purchase the hanging baskets. Councilman Young seconded. Motion passed unanimously.

Mayor Campbell opened the sealed bids pertaining to the surplus sale that was added to the agenda.

- 1) Zaria Parks - \$50.00 for the short swimming pool slide
- 2) Rusty Nutter - \$25.00 # 18 brush hog
- 3) Kevin Tolbert - \$20.00 #17 salt spreader, \$10.00 #18 brush hog
- 4) David Thomas - \$101.00 #18 brush hog

Councilwoman Ison made a motion to accept the highest bid for each of the mentioned items. Councilman Young seconded. Motion passed unanimously.

Steven Johnson discussed the second item added to the agenda. Mr. Johnson stated two individuals were reappointed to the Saltville Health Center Commission. They are Roger Smith and Norman Phillips and this would need action from Council for these two individuals.

Councilwoman Ison made a motion to approve these two reappointments. Councilman Young seconded. Motion passed unanimously.

Steven Johnson discussed the Town Manager's Report. Mr. Johnson gave an update on the Downtown Revitalization, Sidewalk Improvement Project and discussed the first pool sponsor, which is New China Kitchen. Mr. Johnson told Council the project is now \$40,000 short of construction and Thursday Night a meeting of the SIDA has been scheduled to work on trying to come up with the shortfall.

Mike Taylor of the Downtown Management Team gave Council an in-depth discussion on the dollar amount pertaining to the negotiations to get the cost at the level to start the project.

OLD BUSINESS

Christen Burkholder told Council that he and Byrum Geisler conferred about the agreement with ETSU. Mr. Burkholder said yesterday he sent him a new version of the agreement. Mr. Burkholder said language was put in to satisfy Councilman Johnson to insure we own it. Mr. Burkholder read from the agreement, in such time as our Museum as the technical capabilities. Also, Mr. Burkholder said a version came from ETSU with some language that he was troubled with. Mr. Burkholder told Council that this language has since been removed and the proposed final version is what was handed to Council. Mr. Burkholder stated there is a lurking potential problem that was addressed by some language that was removed. Mr. Burkholder said there was an Act in the Code of Tennessee that says if you have claim against a State Agency, which ETSU would be an employee of a State Agency, you would have to go to a Claims Commission. Mr. Geisler told him, if there was an expiring graduate doctoral candidate who picks up the artifact, takes off somewhere with it, we will have to go to Nashville in order to be addressed. Mr. Burkholder said within the agreement, it states the parties are silent as to jurisdiction as to what law governs this agreement. Mr. Burkholder told Council, it is my recommendation, that the Town of Saltville or the Foundation either one be the last party, be the last party to sign and do it here in Virginia. Mr. Burkholder said Virginia Law Rules state it is the last act in forming the contract, so if it takes place in Virginia we are in better real position than if ETSU signs last in Tennessee. Mr. Burkholder said it states the Town retains title to all artifacts that are recovered and does not automatically renew itself only for one successfully five year period.

Councilman Orr said one thing everyone needs to understand, we as a Town do not have the expertise to do what ETSU is about to provide here. Councilman Orr said we should be very appreciative of this, because this puts us in a position to get that kind of activity going, which we had no means of such.

Councilman Johnson made a motion to approve the contents of the agreement and to authorize the execution. Councilman Palmer seconded. Motion passed unanimously.

Steve Surber discussed the Mutual Aid Agreement with Washington County and the letter that was sent to Lucy Phillips, Washington County Attorney. Mr. Surber said the biggest thing that helps us is the investigation part on this mentioned agreement. Mr. Surber stated if we are doing a investigation in Washington County, we are able to go without someone from Washington County if we have a signed agreement. Mr. Surber told Council this does exclude the trail; which Sheriff Newman said it was the Town of Saltville's property and it will be up the Town to Police it. Mr. Surber stated, this is why you see me from time to time along with other patrolman in this area. Mr. Surber said the Town has a large investment in the trestle that is moving forward and it is up to his department to look over the tax payers of Saltville's

investment. Mr. Surber said they have been instructed to patrol and will be patrolling more when the wet areas are taking care of.

Councilman Young made a motion to decline this mentioned agreement. Councilman Maiden seconded. Motion carried 5-0-1, Councilman Johnson abstained.

Steve Surber discussed the conversation he had with Shannon Williams on the radio frequency. Mr. Surber said Mr. Williams assured him that Eddie Louthian with the Saltville Rescue Squad knows about this and is in agreement with this. Mr. Surber said the Fire Department can use it the way that they are presently doing.

Councilman Orr made a motion to get this in writing from the Rescue Squad before steps are taken. Councilman Young seconded. Motion passed unanimously.

Terry Hunt asked during questions and comments if it would be wise for someone to be on hand during the digs when ETSU doing the activities? Also, Mr. Hunt told Council of the public hearing that is scheduled for Monday, April 14th at 7:00 P.M. pertaining to Battlefield Preservation.

Christen Burkholder said it states in the agreement cataloging of such finding will be documented.

Councilman Maiden made a motion to go into Closed Session, Code of Virginia, Section 2.2-3711(A)(7) to discuss actual and probable litigations regarding rails-to-trail issues, Section 2.2-3711(A)(7) to consult legal counsel on the proposed timber contract, and the Code of Virginia, Section 2.2-3711(A)(1) to discuss personnel issues with the Police Department.

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

Councilman Maiden made a motion to approve the timber contract. Councilman Young seconded. Motion carried 5-1. Councilman Orr voting against.

After a motion, duly seconded, the meeting adjourned.

MAYOR

CLERK