

**TOWN OF ABINGDON  
REGULAR COUNCIL MEETING  
MONDAY, AUGUST 3, 2009  
COUNCIL CHAMBERS - MUNICIPAL BUILDING**

A regular meeting of the Abingdon Town Council was held on Monday, August 3, 2009 at 7:30 p.m. in the Council chambers of the Municipal Building.

Mayor Morgan called the meeting to order and welcomed everyone in attendance.

**A. ROLL CALL**

Members of Council Present: Edward B. Morgan, Mayor  
Dr. French H. Moore, Jr., Vice Mayor  
Mrs. Lois H. Humphreys  
Mr. Jason N. Berry

*Absent:* Mrs. Cathy Lowe

Administrative/Town Staff: Gregory W. Kelly, Town Manager  
Cecile M. Rosenbaum, Town Clerk  
Deborah Icenhour, Town Attorney  
Mark Godbey, Town Treasurer/Dir. Of Finance  
Jim Smith, Dir. Of Wastewater Operations/Town Eng.  
Garrett Jackson, Dir. Of Planning  
Kevin Worley, Dir. of Parks and Recreation  
Myra Cook, Dir. Of Tourism  
Jim Cowart, Dir. of Econ. Dev/Grants Writer  
John Dew, Dir. Of Public Services/Construction  
Rob Case, IT Department  
Kimberly Kingsley, Litigation Assistant  
John Holbrook, Patrol Officer

Visitors: Jay Porterfield, LB Atkins, Courtney Bledsoe, Mike Owens, Matt Bundy and others

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**B. PLEDGE OF ALLEGIANCE**

John Holbrook, Patrol Officer led the Pledge of Allegiance.

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**C. APPROVAL OF MINUTES**

- July 6, 2009 Regular Meeting

**On motion of Mrs. Humphreys, seconded by Dr. Moore, the Council approved the minutes of the July 6, 2009 regular meeting as presented.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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#### **D. PETITIONS AND PUBLIC HEARINGS**

- 1. Public Hearing and Appeal from Board of Architectural Review – Pursuant to 8-12-1 of the Zoning Ordinance of the Code of the Town of Abingdon, Mary Dudley Porterfield, owner and Jay Porterfield, authorized representative, 10453 Old Mill Road, P.O. Box 187, Glade Spring, Virginia 24340, have noted an appeal to the decision of the Abingdon Board of Architectural Review on July 1, 2009, denying their application for a Certificate of Appropriateness to disapprove application for demolition of structure located at 279 East Main Street, Tax Map No.13(1)69 in the Old and Historic District of the Town of Abingdon.**

Mayor Morgan asked Garrett Jackson, Director of Planning, to explain the need for the public hearing regarding an appeal from the Board of Architectural Review by Mary Dudley Porterfield. Mr. Jackson explained that the Mrs. Porterfield is the owner of the property where The Cave House Craft Shop is located as well as the small house next door known as “The Little Cave House”. Mr. Jackson indicated that the small house had experienced severe deterioration over the years and is, at present, threatening to fall into the larger Cave House building next door. Mr. Jackson reported that Jay Porterfield, designated representative of Mrs. Porterfield, had filed for a Certificate of Appropriateness for the demolition of the “The Little Cave House” and this matter was heard by the Board of Architectural Review. The BAR denied the Certificate for demolition on the basis that the owners had not exhausted all measures of saving the structure. Mr. Jackson explained that Mr. Porterfield then filed an appeal of the decision of the BAR and that is now before the Town Council to hear the appeal and that a public hearing is required as part of the appeal process.

Mayor Morgan declared the public hearing open and asked if anyone wished to speak to the matter.

Jay Porterfield, representative of Mary Dudley Porterfield and resident of 417 Old Mill Road, Glade Spring, VA appeared before the Council members to ask for their consideration of his appeal of the decision of the BAR. Mr. Porterfield explained that Mrs.

Porterfield does not have the funds available to make the repairs to “Little Cave House” and any funds available for use on the main Cave House building.

Dr. Moore noted that the main Cave House building was also in great need of repair and asked whether the owner was making plans to have those repairs done in the near future.

Mr. Porterfield commented that he did want to put any funds toward the main Cave House structure and further indicated that his mother was honoring his father’s wishes by allowing the current tenants, the Cave House Craft Shop, remain in the main building. Mr. Porterfield indicated that the owner was not interested in selling the main Cave House structure.

Mr. Berry questioned the extent of the deterioration of the small Cave House and commented that it could possibly fall before the structural repairs could take place. Mr. Berry also expressed concern for the safety of the visitors to the main Cave House building. Mr. Berry and Mrs. Humphreys both questioned Mr. Porterfield as to whether the owner would be willing to sell the “Little Cave House” and put the proceeds toward repairs to the main building. Mr. Porterfield responded that he would ask Mrs. Porterfield.

Mayor Morgan asked if anyone else present wished to speak to the matter and Mike Owens, member of the BAR, came forward. Dr. Owens commented that the structure was located in the historic district, had documented historic significance and asked that the Council consider preservation of the structure.

Steve Jett, 334 Court Street, Abingdon, VA came forward and commented that he hoped the Council would consider the integrity and historic importance of the structure. Mr. Jett recommended the Council members consider setting aside a fund to assist with distressed properties.

Mayor Morgan declared the public hearing closed after hearing no further comments.

Mayor Morgan invited Deb Icenhour, Town Attorney, to explain the options available to Council in considering this request. Mrs. Icenhour reported that the Council had three (3) options available and they were:

- Affirm the decision of the Board of Architectural of Review denying the Certificate of Appropriateness for demolition of the “Little Cave House” structure.
- Reverse the decision of the BAR.
- Modify in whole or in part, the decision of the BAR (pursuant to Town of Abingdon Zoning Ordinance, §8-13-2).

Mrs. Icenhour further commented that should the Council decide to uphold the decision of the Board of Architectural Review, the owner, Mary Dudley Porterfield, was entitled to appeal the decision to the Washington County Circuit Court and noted that she would have thirty (30) days from the date of the action to note the appeal.

**On motion of Mr. Berry, seconded by Dr. Moore, the Council affirmed the decision of the Board of Architectural Review, thereby denying the requested certificate of**

**appropriateness for demolition and proposing in the alternative that the owner attempt to sell the property known as "The Little Cave House" by developing a plan for ascertaining fair market value and marketing the property for a period of twelve (12) months, to begin running once the plans are approved by Council, as set forth per the Code of Virginia §15.2-2306 and pursuant to the Zoning Ordinance of the Town of Abingdon, Appendix B, §8-12 – §8-13. The Council further noted that if, after the aforementioned twelve (12) months have expired, there is no bona fide or binding contract for purchase on the property, the owner may reapply to the Board of Architectural Review for a Certificate of Appropriateness, per the process outlined in §8-9 of the Town's Zoning Ordinance.**

Mrs. Icenhour noted that she, along with Town staff, would be willing to assist Mrs. Porterfield with securing an appraisal and developing a marketing plan and noted that the 12 month period of time would begin after both had been reviewed by Council.

At this time, Dr. Moore commented on the Porterfield's generous donation over the years by allowing the Cave House Craft Shop to do business in the Cave House building with virtually little to no compensation.

Mayor Morgan commented that the Cave House Craft Shop has provided all the maintenance and repairs to the property since they have been doing business there.

Mr. Kelly, Town Manager, requested that Town building officials be allowed on the property to assess its structural soundness.

At this time, Mayor Morgan acknowledged the motion before Council and the second and asked the Clerk to call the roll.

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

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- 2. Public Hearing – Proposed conveyance of a preservation easement to the Virginia Department of Historic Resources from the Town of Abingdon. Property is The Muster Grounds, located at 702 Colonial Road, Abingdon, Virginia (Tax Map No. 017-1-37). This easement is being conveyed to constitute (i) a “qualified conservation contribution” as defined in IRC §170(h)(1) and (ii) a qualifying “interest in land” under the Virginia Land Conservation Incentives Act of 1999 (§58.1 *et. seq.* of the Code of Virginia, (1950) as amended.)**

Mayor Morgan asked that Town Attorney, Deb Icenhour, to explain the proposed conveyance of a preservation easement from the Town of Abingdon to the Department of Historic Resources.

Ms. Icenhour explained that the Town would be conveying a preservation easement consisting of 8.8 acres in order to protect the historic integrity of the Town owned property known as The Muster Grounds. Ms. Icenhour indicated that this easement was the final step in securing a \$200,000 grant from the Department of Conservation and Recreation for the Muster Ground property. Ms. Icenhour indicated the public hearing was necessary as required by State Code in order to give the public an opportunity to comment on the Town's proposed action of this publicly held property.

Dr. Moore commented that a member of the Fulkerson family, who has historic family history ties to the property, and an engineer, had expressed his desire to assist with the water issues on the property by making changes to the topography of the land. Mayor Morgan commented that it was his understanding that the water issues could be handled by deepening the stream. Ms. Icenhour commented that the Department of Historic Resources would support a method that would have the least amount of disturbance to the property.

Mayor Morgan declared the public hearing open and asked if anyone present wished to speak to the matter.

Courtney Bledsoe, 493 Russell Road, Abingdon, Virginia inquired if the historic home on the property, referred to as Retirement, would now not be sold by the Town. Mayor Morgan responded that the house was a part of the preservation easement and there were no present plans to sell the house.

Garrett Jackson, Director of Planning and member of The Muster Grounds committee commented that the committee had discussed plans for the house and indicated a main goal was to increase parking at the site. Mr. Jackson explained that bids had gone out for Phase I of renovation of the garage on the property which is located behind the house.

Ms. Bledsoe commented that the Tourism Advisory Committee would like to be involved in the plans for the house as they are addressed.

Rob Case, 300 Rose Street, Abingdon, Virginia commented that his fiancé' had looked at several locations in Abingdon for an upcoming wedding and her favorite location thus far was The Muster Grounds property.

Mr. Berry inquired if the \$200,000 grant funds could be used to reduce the debt on the property.

**On motion of Dr. Moore, seconded by Mrs. Humphreys, the Council authorized the Town Manager, Greg Kelly, to enter into the Preservation Easement to the Virginia Department of Historic Resources from the Town of Abingdon for the property known as The Muster Grounds and located at 702 Colonial Road, Abingdon, and consisting of approximately 8.8 acres.**

**The roll call vote was as follows:**

**Mr. Berry**            **Aye**  
**Mrs. Humphreys**   **Aye**  
**Dr. Moore**           **Aye**  
**Mayor Morgan**      **Aye**

**The motion carried.**

*Mayor Morgan noted that he had spoken with Council member Lowe prior to the meeting and she had expressed her agreement with the preservation easement.*

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**E. CONSIDERATION OF ANY BIDS - NONE**

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**F. REPORTS FROM THE TOWN MANAGER**

**1. Presentation and consideration of Planning Commission Annual Report.**

Matt Bundy, Chairman of the Planning Commission, appeared before the Council members to review the annual report of the Planning Commission. Mr. Bundy noted several items that the Planning Commission had reviewed and commented the most significant item was the review and revision of the current zoning ordinance definitions.

*No action was required by Council on this matter.*

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**2. Presentation and consideration of a Town partnership with Virginia Highlands Community College for the creation of a regional Period Garden/Arboretum.**

Mayor Morgan noted that David Matlock, representative from Virginia Highlands Community College was not able to be present at the meeting and asked that it postponed to the regular September Council meeting.

*No further action was required by Council on this matter.*

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**3. Review and consideration of Proposed Ordinance of the Council of the Town of Abingdon to Repeal, Amend and Reenact the Code of Ordinances of the Town of Abingdon, Virginia by adding to Chapter 66, Article II, and enacting Sections numbered 27 through 31, relating generally to the Old and Historic District, Tax Abatement Incentives.**

Mayor Morgan asked Mrs. Icenhour, Town Attorney, to provide an explanation of the proposed Ordinance and the process needed for approval of the Ordinance. Ms. Icenhour commented that Council and Planning Commission had expressed interest in providing tax abatement incentives for homeowners residing in the Town's Historic District. Ms. Icenhour noted that the process for the adoption of the ordinance required that it be reviewed and commented on by the Planning Commission and that they hold a public hearing to hear comments on the proposed ordinance. After Planning Commission review, it would go before the Council for adoption after the Council holds its required two (2) public hearings. Mr. Kelly, Town Manager, added that this is a requirement because it is a proposed ordinance that deals with the issue of tax.

**On motion of Mr. Berry, seconded by Mrs. Humphreys, the Council agreed that the proposed Ordinance to Repeal, Amend and Reenact the Code of Ordinances of the Town of Abingdon, Virginia by adding to Chapter 66, Article II, and enacting Sections numbered 27 through 31, relating generally to the Old and Historic District, Tax Abatement Incentives be referred to the Planning Commission for review and consideration with the instruction that they hold a public hearing and after such, refer the matter to Council with a recommendation.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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**4. Review and consideration of Proposed Ordinance of the Council of the Town of Abingdon to Repeal, Amend and Reenact the Code of Ordinances by adding to Appendix B, Article 8A, Sections Numbered 1 through 8 and Relating Generally to the Creation of the Downtown Abingdon Arts and Cultural District.**

Mayor Morgan asked Mrs. Icenhour, Town Attorney, to provide an explanation of the proposed Ordinance and the process needed for approval of the Ordinance.

Ms. Icenhour indicated that this Ordinance was much like the preceding Agenda Item #3 in that it was a proposed Ordinance dealing with tax incentives, but this one is for businesses located within the designated Arts and Cultural District. Ms. Icenhour commented that this Ordinance was now possible because of a recently adopted 2009 House Bill #1735 which authorized any locality, by ordinance, to create an arts and cultural district and to provide incentives for its support.

Mr. Jackson, Director of Planning, commented that the boundaries were indicated on the maps included in the Council packet and that they included the location of the Cinemall and the Black's Fort area to the current Pratt Farm driveway. Mr. Jackson further commented that the approval of this Ordinance would add two (2) additional definitions to the Zoning Ordinance definitions and those are *qualified arts* and *qualified business*.

**On motion of Dr. Moore, seconded by Mr. Berry, the Council agreed that the proposed Ordinance to of the Council of the Town of Abingdon to Repeal, Amend and Reenact the Code of Ordinances by adding to Appendix B, Article 8A, Sections Numbered 1 through 8 and Relating Generally to the Creation of the Downtown Abingdon Arts and Cultural District be referred to the Planning Commission for review and consideration with the instruction that they hold a public hearing and after such, refer the matter to Council with a recommendation.**

The roll call vote was as follows:

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|----------------|-----|
| Mr. Berry      | Aye |
| Mrs. Humphreys | Aye |
| Dr. Moore      | Aye |
| Mayor Morgan   | Aye |

The motion carried.

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**5. "Go Green" Committee Reorganization and consideration of appointments.**

**On motion of Mrs. Humphreys, seconded by Dr. Moore, the Council approved the following appointments to the "Go Green" Committee:**

- **Sarita Moore, Wolfe Creek Wastewater Treatment Facility**
- **Kevin Worley, Director, Parks and Recreation**
- **Kevin Sigmon, Town Arborist**
- **Tonya Triplett, Convention and Visitors Bureau**
- **Tenille Montgomery, Town Manager's Office**
- **Nick Safay, Appalachian Sustainable Development**



- **Sherrie Leab, The Nature Conservancy**
- **Carol Doss, Upper Tennessee River Roundtable**

**The roll call vote was as follows:**

**Mr. Berry           Aye**  
**Mrs. Humphreys   Aye**  
**Dr. Moore           Aye**  
**Mayor Morgan     Aye**

**The motion carried.**

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**6. Consideration of establishment of Fairview at Abingdon Foundation Advisory Committee.**

Mr. Kelly, Town Manager, reported the Fairview property was located on Hillman Highway and that Judy and Jim Moore had deeded two (2) acres of land to the Town and leased an additional twenty (20) plus acres. Mr. Kelly commented that the Council had discussed the use of the property while at their July retreat meeting and it was the consensus of the Council that the creation of an Advisory Committee to oversee the activities and use of the property would be the most beneficial means of reaching the full potential of the historic property.

**On motion of Mr. Berry, seconded by Dr. Moore, the Council appointed the following members to the Fairview at Abingdon Foundation Advisory Committee:**

- **Vicky Hall**
- **Lois Humphreys**
- **Garrett Jackson**
- **Jim Cowart**
- **Henry McCarthy**
- **Jim Moore**
- **Nick Safay**

**The roll call vote was as follows:**

**Mr. Berry           Aye**  
**Mrs. Humphreys   Aye**  
**Dr. Moore           Aye**  
**Mayor Morgan     Aye**

**The motion carried.**

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**7. Consideration of rescheduling of September Council work session and regular meeting to Tuesday, September 8<sup>th</sup>.**

**On motion of Dr. Moore, seconded by Mr. Berry, the Council approved the rescheduling of their regular September Council meeting from Monday, September 7, 2009 to Tuesday, September 8, 2009 at 7:30 p.m.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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**G. PASSAGE OF RESOLUTIONS – None.**

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**H. FIRST READING OF ORDINANCES – None.**

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**I. SECOND READING OF ORDINANCES – None.**

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**J. UNFINISHED BUSINESS.**

**K. MATTERS NOT ON THE AGENDA**

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**L. COUNCIL MEMBER REPORTS**

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**M. MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

1. *Virginia Highlands Small Business Incubator*

**On motion of Dr. Moore, seconded by Mrs. Humphreys, the Council appointed Carl Mallory to the board of the Virginia Highlands Small Business Incubator.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Abstain</b>	<i>(Mr. Berry noted he is the Director of the Incubator)</i>
<b>Mrs. Humphreys</b>	<b>Aye</b>	
<b>Dr. Moore</b>	<b>Aye</b>	
<b>Mayor Morgan</b>	<b>Aye</b>	

**The motion carried.**

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2. *Dunn's Meadow Steering Committee*

**On motion of Mrs. Humphreys, seconded by Dr. Moore, the Council appointed the following members for second terms on the Dunn's Meadow Steering Committee:**

- **Blair Keller**
- **Joella Barbour**
- **Riley Clark**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

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3. *Industrial Development Authority Board*

**On motion of Mr. Berry, seconded by Mrs. Humphreys, the Council appointed John Buckland to fill the unexpired term on the Industrial Development Authority Board.**

**The roll call vote was as follows:**

**Mr. Berry           Aye**  
**Mrs. Humphreys   Aye**  
**Dr. Moore           Aye**  
**Mayor Morgan     Aye**

**The motion carried.**

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At this time, Mayor Morgan noted the announcements and upcoming events listed on the Agenda.

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Mayor Morgan recognized citizen, Richard McBeth, of Empire Drive in Southview Estates. Mr. McBeth indicated that he understood that there may be plans being developed for a connecting road from Stonybrook development to Southview Estates. Mr. McBeth commented that he was opposed to this because of the increase in traffic and further noted that the residents of Southview were currently experiencing difficulty turning off Empire Drive onto East Main Street.

Mr. Kelly, Town Manager, commented that he was unaware of any plans for a connecting road at this time.

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Mayor Morgan declared the meeting adjourned.

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Edward B. Morgan, Mayor

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Cecile M. Rosenbaum, Town Clerk