

**TOWN OF ABINGDON
REGULAR COUNCIL MEETING
MONDAY, MARCH 2, 2009
COUNCIL CHAMBERS - MUNICIPAL BUILDING**

A regular meeting of the Abingdon Town Council was held on Monday, March 2, 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
Mrs. Lois H. Humphreys
Mrs. Cathy Lowe
Mr. Jason N. Berry

Absent: Dr. French H. Moore, Jr.

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, Interim Dir., Parks and Recreation
Myra Cook, Dir. Of Tourism
Jim Cowart, Dir. of Econ. Dev/Grants Writer
John Dew, Dir. Of Public Services/Construction
Floyd Bailey, Dir. of Information Technology
Tony Sullivan, Chief of Police
Rob Case, IT Department
John McCormick, Asst. Fire Chief

Visitors: Emmitt Yeary, Col. John Bradley, Lee Saunders,
Lemont Dobson, Courtney Berry, and others.

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**B. PLEDGE OF ALLEGIANCE**

Maj. Lee Saunders led the Pledge of Allegiance.

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C. APPROVAL OF MINUTES

- February 2, 2009 Work Session Meeting
- February 2, 2009 Regular Meeting

March 2, 2009

Mrs. Lowe noted on page 21 of the work session, item #3, that she would like to have added that the request of the Virginia Highlands Festival was also denied because of safety issues and that one day of events at Latture Field had already been approved by the Town Manager.

Mr. Berry requested on page 28 of the regular meeting minutes under section K. Unfinished Business, that the words “the trees” be removed from the last sentence.

On motion of Mrs. Lowe, seconded by Mr. Berry, the Council approved the minutes of the February 2, 2009 work session meeting and the February 2, 2009 regular meeting as amended.

The roll call vote was as follows:

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|-----------------------|------------|
| Mr. Berry | Aye |
| Mrs. Lowe | Aye |
| Mrs. Humphreys | Aye |
| Mayor Morgan | Aye |

The motion carried.

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#### **D. PETITIONS AND PUBLIC HEARINGS – NONE.**

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E. CONSIDERATION OF ANY BIDS.

1. Consideration of bids for the Walden Road Pedestrian Improvement Project.

John Dew, Director of Public Services/Construction appeared before the Council members to report on the bids received by his Department for the Walden Road Pedestrian Improvement Project. Mr. Dew stated that the bid submitted by HS Construction III was non-conforming and non-responsive and recommended that bid be rejected per sections 12, 13, and 17 of the Instructions to Bidders in the Contract Documents. Mr. Dew recommended that the Council award the contract to the next lowest responsive bidder, W-L Construction and Paving, Inc. for base bid and Add Alternates for a total contract of \$406,428.57. Mr. Dew explained that the Town would be receiving revenue allocation funds from VDOT for this project and that the start time appeared to be in late March or early April.

On motion of Mrs. Humphreys, seconded by Mrs. Lowe, the Council rejected the bid submitted by HS Construction III as it was non-conforming and non responsive and awarded the contract for the Walden Road Pedestrian Improvement Project to the lowest responsive bidder, W-L Construction and Paving, Inc. for base bid and Add Alternates for a total contract of \$406,428.57.

The roll call vote was as follows:

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|-----------------------|------------|
| Mr. Berry | Aye |
| Mrs. Lowe | Aye |
| Mrs. Humphreys | Aye |
| Mayor Morgan | Aye |

The motion carried.

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At this time, Mrs. Lowe announced that the Council had selected Thursday, March 26<sup>th</sup>, 2009 at 5:30 p.m. to hold a public Pedestrian Input Meeting in the Council Chambers of the Municipal Building and encouraged everyone present to attend.

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F. REPORTS FROM THE TOWN MANAGER

1. Consideration of request from William King Regional Arts Center regarding the Fields Penn House.

Lemont Dobson, Executive Director of the William King Regional Arts Center, appeared before the Council members to report on changes he would like to initiate with regard to the Field Penn House. Mr. Dobson reported that he would like to have the Museum open more hours and on days that it is not currently open. Mr. Dobson provided some figures that he feels he would need in funding to support these additional hours of operation and asked the Council to consider this request during this years' budget process.

Mayor Morgan asked about Mr. Dobson's plans to increase visitation to the museum. Mr. Dobson responded that he would like to increase marketing efforts through the website, local publications as well adding signage and working with local cable providers for advertising.

Mr. Berry commented about Mr. Dobson's plans to increase visitation to the Fields Penn House.

Mrs. Lowe indicated that Mr. Dobson's proposal would be discussed during the upcoming budget work sessions.

Rick Humphreys commented on the "pairing" of advertising efforts on behalf of promoting tourism and attractions in the Town.

No action was required by the Council on this matter.

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**2. Presentation and update by the Veterans Memorial Park Foundation of Abingdon/Washington County, Virginia, Inc.**

Emmitt Yeary appeared before the Council members and presented Mayor Morgan with a framed print honoring “women in service”. Mayor Morgan thanked Mr. Yeary for all efforts on behalf of Veterans Memorial Park.

Col. John Bradley appeared before the Council members to report on the status of the Master Plan for Veterans Memorial Park. Col. Bradley also reported on a Peace Monument that the Foundation is planning and indicated that they had contacted sculptor David Spence about the project.

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

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3. Presentation of the award from Association for the preservation of Virginia Antiquities, Public Sector award.

Garrett Jackson, Director of Planning, appeared before the Council members to present Mayor Morgan with a framed award given to the Town by the Association for the Preservation of Virginia Antiquities. Mr. Jackson announced that the Town was the recipient of the Public Sector Award for our efforts in preservation of The Mustering Grounds site.

No action was required by Council on this matter.

4. Presentation and update on The Mustering Grounds Master Plan.

Rick Humphreys, member of The Mustering Grounds Committee appeared before the Council members to provide an update on the Master Plan. Mr. Humphreys updated the Council on Hill Studios who was contracted to do the Master Plan. Mr. Humphreys indicated that Hill Studios had not provided several components of the Master Plan and they were awaiting those so they could move forward. Mr. Humphreys reported that Mr. Jackson has again pursued the Battleground Preservation Grant and had spoken with Congressman Boucher to make him aware of the grant submittal. Mr. Humphreys provided information about the overall site plan for the property, plans for a terraced amphitheatre on the east side of the property, and plans for the garage and interpretative learning kiosk.

Mrs. Lowe inquired about plans for parking at The Mustering Grounds during large events and placement of the split rail fence along the south side of the property.

Mr. Humphreys reported on potential plans for a Heritage apple orchard on the property.

Mayor Morgan thanked Mr. Humphreys for his presentation and asked that he keep Council informed of their committees' progress.

No action was required by Council on this matter.

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**5. Update on efforts to upgrade the stream bank re-engineering and reforestation at The Mustering Grounds and along Wolfe Creek.**

Mr. Jackson, Director of Planning, addressed the Council members to provide information about investigating the potential of a habitat enhancement program along the Wolfe Creek stream that runs through the Mustering Grounds property. Mr. Jackson indicated that they may consider stocking the stream with trout as well as allowing grassy areas to grow along the creek instead of being mowed during the summer months. Mayor Morgan requested that Mr. Jackson keep the Council informed on this project as it develops.

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

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6. Presentation and update from the Tourism Advisory Committee.

This matter was heard by Council during the 6:30 p.m. presentations.

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**G. PASSAGE OF RESOLUTIONS**

- 1. Resolution of the Council of the Town of Abingdon, Virginia supporting a model 21<sup>st</sup> century rail “Steel Interstate” service in the I-81 corridors to demonstrate fast rail freight and passenger service to the nation.**

Henry McCarthy, resident of Hill Drive, asked the Council for their support of the resolution regarding interstate rail service along the I-81 corridors. Mr. McCarthy indicated that several neighboring localities had passed the resolution including Washington County, Virginia.

**On motion of Mr. Berry, seconded by Mrs. Lowe, the Council adopted the following resolution:**

**A RESOLUTION OF THE COUNCIL OF THE TOWN OF ABINGDON, VIRGINIA  
SUPPORTING A MODEL 21ST CENTURY RAIL “STEEL INTERSTATE” SERVICE IN  
THE I-81 CORRIDORS TO DEMONSTRATE FAST RAIL FREIGHT AND PASSENGER  
SERVICE TO THE NATION**

March 2, 2009

**WHEREAS**, Europe approaches numerous 21<sup>st</sup> Century “Steel Interstate” rail service concepts, no rail service in the United States offers this promise, exposing our nation to greater risk from petroleum depletion, cost increases, supply interruptions and economic competitiveness; and

**WHEREAS**, Steel Interstate rail provides reduced dependence on imported fuel, builds modal redundancy, enhances national security, and—when electrified—offers the U.S. opportunity to employ domestic renewable energy sources and efficiency to drive transportation; and

**WHEREAS**, Steel Interstate rail demonstrates vastly greater transportation through productivity over equivalent investment in costly interstate highway expansion; and

**WHEREAS**, Steel Interstate technology offers positive advantages for communities, the Commonwealth, other I-81 states, and the United States relating to cost, safety, economic growth, tourism development, decreased fuel consumption and greenhouse gas emissions, improved air quality and public health, varied freight and passenger service options, reduced financing and carbon cap and trade risk exposure; and

**WHEREAS**, forty-nine (49) Virginia and four (4) Tennessee governing bodies have previously voted support for improved rail service over massive widening of I-81; and

**WHEREAS**, no passenger rail and limited public bus service exists in this Corridor south of Staunton/Clifton Forge, west of Lynchburg/Danville, or north of Atlanta/Birmingham, despite efforts by dozens of local governing bodies and private groups in the Commonwealth to restore passenger rail service through the Trans Dominion Express; and

**WHEREAS**, Congress is considering investments in transportation, energy efficiency, fuel conservation, renewable energy, greenhouse gas abatement, and infrastructure as fiscal stimulus for the nation, and the Steel Interstate offers outstanding opportunity in all these areas;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Town of Abingdon, Virginia that the Council urgently petitions federal legislators to work in concert with representatives of other I-81 Corridor states to sponsor and secure passage of a federal transportation demonstration grant to assemble in the I-81 Corridor between Knoxville, Tennessee and Harrisburg, Pennsylvania, the pilot segment of 21<sup>st</sup> Century rail, the North American Steel Interstate System.

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

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

**The motion carried.**

At this time, Mr. Berry commented on a meeting he attended regarding rail service in Kingsport, Tennessee at Richard Venable’s office.

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March 2, 2009

2. **Resolution of the Council of the Town of Abingdon, Virginia to authorize Gregory W. Kelly, Town Manager, to execute all documents and amendments thereto between the Town and the Virginia Department of Transportation (VDOT) regarding the allocation agreement for the Walden Road Sidewalk Improvement Project.**

On motion of Mrs. Lowe, seconded by Mrs. Humphreys, the Council approved the following resolution:

A RESOLUTION OF THE COUNCIL OF THE TOWN OF ABINGDON, VIRGINIA TO AUTHORIZE GREGORY W. KELLY, TOWN MANAGER, TO EXECUTE ALL DOCUMENTS AND AMENDMENTS THERETO BETWEEN THE TOWN AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION REGARDING THE ALLOCATION AGREEMENT FOR THE WALDEN ROAD SIDEWALK IMPROVEMENT PROJECT

WHEREAS, Town of Abingdon and the Virginia Department of Transportation (VDOT) agreements are required for all VDOT Revenue Sharing Program projects which are designed, constructed and administered by the Town of Abingdon; and

WHEREAS, Town of Abingdon and VDOT agreements and amendments to said Town of Abingdon and VDOT agreements for all Revenue Sharing projects, after approval as to form by the Town Attorney, have to be executed by the Town; and

WHEREAS, the Revenue Sharing Program project for Walden Road Sidewalk Improvements was approved by the Town Council pursuant to Resolution Number 2008-03 ; and

WHEREAS, no official of the Town of Abingdon has formal authority, at present, to execute the Town of Abingdon and VDOT agreements and amendments to the Town of Abingdon and VDOT agreements for Revenue Sharing Program projects; and

WHEREAS, VDOT now requires the Council of the Town of Abingdon to authorize its Town Manager, Gregory W. Kelly, to execute the Town of Abingdon and VDOT agreements and amendments thereto regarding the allocation agreement for the Walden Road Sidewalk Improvement Project;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Abingdon does hereby authorize Gregory W. Kelly, Town Manager, to approve and execute, after approval as to form by the Town Attorney, all agreements and amendments thereto regarding the Walden Road Sidewalk Improvements, which were previously approved pursuant to Resolution Number 2008-03.

The roll call vote was as follows:

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| Mr. Berry | Aye |
| Mrs. Lowe | Aye |

Mrs. Humphreys Aye
Mayor Morgan Aye

The motion carried.

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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 - NONE**

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K. MATTERS NOT ON THE AGENDA

- **Virginia Highlands Festival Request**

On motion of Mrs. Lowe, seconded by Mr. Berry, the Council approved the Virginia Highlands Festival request to use Latture Field for their Youth Activities during the 2009 Festival on the conditions that they provide proper signage of the event, paying particular attention to parking, notify adjoining business owners in the area about the schedule of events, and make safety of the participants the top priority when scheduling the events.

The roll call vote was as follows:

Mr. Berry Aye
Mrs. Lowe Aye
Mrs. Humphreys Aye
Mayor Morgan Aye

The motion carried.

Mr. Kelly commented that sine the Highlands Festival had previously been given permission to use Veterans Memorial Park, they should be given the opportunity to use either location.

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- **Bleeding Canvas Matter**

At this time, Mayor Morgan indicated that several citizens in the audience were interested in the Town's position on a matter involving a business license for the Bleeding Canvas tattoo shop.

Mrs. Lowe asked if Mr. Jackson, Director of Planning, could come to the podium and provide some information about the matter.

Mr. Berry asked about the designation of Personal Services in the Town Code and its affect on zoning regulations.

Mr. Jackson provided information about how this matter came to the attention of this Department and his reason for denying a business license to Bleeding Canvas because they were not properly zoned to allow such a business in that area. Mr. Jackson informed Council that the owner of Bleeding Canvas, Jeremy Davidson, was informed about the decision to deny the license and given his 2 options for appeal. Mr. Davidson chose to appeal the matter to the Board of Zoning Appeals and indicated that matter was to be heard on March 20, 2009.

Mr. Kelly, Town Manager, informed the Council members that the interpretation of zoning matter was for consideration by the members of the Board of Zoning Appeals and if Mr. Davidson didn't agree with the decision of the BZA, his option was to appeal the matter to Circuit Court or apply to the Planning Commission for a rezoning of the property. Mr. Kelly indicated he felt that it was premature for the Council to ask the Planning Commission to consider the designation of Personal Services until the matter had been heard by the BZA.

Mrs. Lowe commented on the need to define the scope of the phrase "personal services".

Mr. Berry inquired why this question had arisen at this time with regard to the fact that another tattoo shop had been opened in that area for several years prior to the opening of the Bleeding Canvas. Mr. Jackson replied that he is now required, as Director of Planning, to review and sign off on all business licenses and make sure the businesses are in a properly zoned area and was acting in the scope of his duty to deny the business license.

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

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- **Cave House Craft Shop Matter**

Mayor Morgan recognized Donna Price with the Cave House Craft Shop. Mrs. Price updated the Council of the recent fall of the corner of the brick building located right next to the Cave House and its impact on the roof the building.

Mrs. Lowe asked Mrs. Price to specify what type of assistance she wished to get from the Town. Mrs. Price commented that she was wondering if the Town had any property that might be suitable for them to move the Craft Shop into. Mr. Berry and Mr. Morgan both commented that the Cave House had never been required to pay rent for as long as they had occupied the building and that was a benefit to the operation over the years.

Mrs. Lowe commented that the Council was aware of the building deterioration and indicated that the Council would be mindful of any ways they could assist the Cave House.

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At this time, Jeremy Davidson, owner of the Bleeding Canvas shop asked the Council if a change in zoning discussed earlier in the meeting during another agenda item would have any negative effect on his shop. Mrs. Lowe assured Mr. Davidson that all the steps in the process of his zoning determination would be adhered to.

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L. COUNCIL MEMBER REPORTS

- Mr. Berry announced that the Tourism Forum will be held on Monday, March 23rd at 7:00 p.m. at Barter Stage II and asked everyone to be on the lookout for an upcoming entrepreneur workshop.
- Mayor Morgan pointed out the list of announcements printed at the end of the agenda.

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At this time, Council took a five (5) minute recess.

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M. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

On motion of Mrs. Lowe, seconded by Mr. Berry, the Council went into closed session pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) for discussion and consideration of appointments to the Board of Building Code Appeals.

The roll call vote was as follows:

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|-----------------------|------------|
| Mr. Berry | Aye |
| Mrs. Lowe | Aye |
| Mrs. Humphreys | Aye |
| Mayor Morgan | Aye |

The motion carried.

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On motion of Mrs. Lowe, seconded by Mr. Berry, the Council reconvened in regular session.

The roll call vote was as follows:

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|-----------------------|------------|
| Mr. Berry | Aye |
| Mrs. Lowe | Aye |
| Mrs. Humphreys | Aye |
| Mayor Morgan | Aye |

The motion carried.

The Town Clerk, Cecile Rosenbaum, read the following certification to be adopted by the Council members:

WHEREAS, the Council of the Town of Abingdon, Virginia has convened in a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions set forth in the Virginia Freedom of Information Act; and

WHEREAS, Sec. 2.2-3712(D) of the Code of Virginia, 1950, as amended, requires a certification by the Town Council that such closed meeting was conducted in conformity with Virginia law; and

NOW THEREFORE, be it resolved, that the Council of the Town of Abingdon, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from an open meeting requirement by Virginia law were discussed in closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

The certification was as follows:

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|------------------|---------------------|
| Mr. Berry | I so certify |
| Mrs. Lowe | I so certify |

Mrs. Humphreys **I so certify**
Mayor Morgan **I so certify**

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At this time, Mayor Morgan announced the Council would consider the appointments to the Board of Building Code Appeals at the April meeting.

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Mayor Morgan declared the meeting adjourned.

Edward B. Morgan, Mayor

Cecile M. Rosenbaum, Town Clerk