

TOWN OF SCOTTSVILLE

Town Council
Regular Session
Monday, May 19, 2014
Victory Hall
401 Valley Street
Scottsville, Virginia

Mayor
Jesse B. Grove III

Town Council
Nancy E. Gill
R. Daniel Gritsko
Jeannette E. Kerlin
Elizabeth M. Knotts
Robert E. O'Halloran
Ronald L. Smith

MINUTES

1. CALL TO ORDER – Mayor Grove called the meeting to order at 7:01 p.m.
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. ROLL CALL of Town Council – Town Clerk Amy Moyer called the roll. Ms. Gill, Mr. Gritsko, Ms. Kerlin, Ms. Knotts, Mr. O'Halloran, and Mr. Smith were present. Also in attendance was Town Administrator George Goodwin.

Mayor Grove invited guests to speak at this time.

Scottsville District Supervisor Jane Dittmar congratulated the reelected council members and said that Mr. O'Halloran will be missed. Ms. Dittmar commented that she recently read *Scottsville on the James*, noting that Albemarle County was founded in Scottsville on September 4, 1744, and the upcoming anniversary should be marked by a resolution and celebration. She spoke about the rich heritage of Scottsville, which served as the epicenter of the county, then encompassing what is now five counties. The Board of Supervisors recently recognized the 50th anniversary of the Albemarle County Service Authority, honored its clerk for Municipal Clerks Week, and celebrated its public servants. The Board of Supervisors approved the Boys and Girls Club lease, and the club plans to open in June. Board members are looking at the county's policy on cell towers and how to balance protecting the viewshed with the need for service. The broadband task force continues to meet. The water protection ordinance will be amended to meet current state regulations. Ms. Dittmar encouraged the town to comment on the county's comprehensive plan review and make sure that it coordinates with the town's comprehensive plan. Ms. Dittmar would like to bring Helen Cauthen of the Central Virginia Partnership for Economic Development to tour Scottsville. She noted that the Thomas Jefferson Planning District Commission also has a new director. Ms. Dittmar added that they are looking to a meeting between town and county leadership to discuss understandings between the town and county.

Jack Jouett District Supervisor Diantha McKeel addressed the council, noting that she has visited other meetings, schools, and concerts here, but this is her first time in this room. She said that Allen Hale is the new chair of the Thomas Jefferson Planning District Commission.

4. CONSENT CALENDAR

- 4.1. Approval of Agenda
- 4.2. Financial Report for April 2014
- 4.3. Minutes – Working Session of December 9, 2013
- 4.4. Minutes – Regular Session of December 16, 2013

Mayor Grove asked for the addition of two items to the agenda: authorization for an arts grant application and a police officer candidate interview. Mr. Gritsko moved to suspend the rules to add these items. Ms. Kerlin seconded the motion, and a roll call vote was conducted.

Ms. Gill	<u>Yes</u>	Mr. Gritsko	<u>Yes</u>	Ms. Kerlin	<u>Yes</u>
Ms. Knotts	<u>Yes</u>	Mr. O'Halloran	<u>Yes</u>	Mr. Smith	<u>Yes</u>

The motion passed 6-0.

Upon a motion by Mr. O'Halloran, seconded by Ms. Kerlin, the consent calendar and amended agenda were adopted.

5. MAYOR'S REPORT

Mayor Grove reported that he is pleased with the way this year's farmers' market is going, with a full complement of vendors and more applying, and the two managers are doing a terrific job. Ms. Knotts agreed that everyone is very pleased.

Mayor Grove reported that he has continued to work with the Tourism Committee on Van Clief Nature Area planning and access issues. The Town Council considered noise issues at the work session, in particular whether the town needs a criminal noise ordinance, as opposed to the zoning ordinance, for enforcement by town police. Mayor Grove is working with the town attorney on the noise ordinance and will present a new draft at next month's work session. The long-awaited VDOT presence is about to occur, if not this week then next week, with paving of Valley, East Main, and Jackson, striping, and crossbars for the crosswalks. The police are now in radio communication on their portable radios through the new transmitter on the tower across the river, but the car radios have not been reprogrammed yet.

6. PUBLIC FORUM

Harold Freeman addressed the council, commenting that this is the same noise issue he has been dealing with since last fall. Mayor Grove stated that the agenda includes an appropriation for a decibel meter to measure noise and that will allow the town to enforce the zoning ordinance that it now has as well as any new ordinance. Mr. Freeman asked what kind of new ordinance they are talking about. Mayor Grove replied that this ordinance differs from what the town has now because it is enforceable by the police, not the zoning administrator; it addresses noise from restaurants and places of entertainment; it also addresses shouting and yelling, cars and other vehicles with loud mufflers, automobiles playing extremely loud amplified music, and other items of that sort; and a violation of that

ordinance would result in a summons and misdemeanor, with escalating fines and a public service requirement. Mr. Freeman commented that his issue is not with all the other noises, it is all to do with one business in town, the noise amplifies as it goes up the hollow, and that problem will not be corrected until the town stops them from playing and makes them build a sound barrier to block the noise. Mr. Freeman said he was told the issue would be corrected by this spring.

Mayor Grove stated that he is also disappointed about that, as the brewery management told him that something would be done by March and it did not happen, but the brewery has retained a sound engineer who has discussed several ideas. He personally thinks the real answer is to keep the amplification down.

Mr. Freeman stated that they also need a barrier, and it was so loud in his house Friday night that he went down and confronted them. He said the people in the houses behind Doug's Maytag probably cannot hear their TVs even with the door shut, and people in this town should not have to put up with that. Mr. Freeman encouraged the Town Council to look out for the citizens of the town.

Mr. Goodwin noted that the brewery's sound engineer is scheduled for the ARB meeting on May 29 to discuss sound baffling solutions. Mr. Gritsko commented that he appreciates Mr. Freeman's concerns, and they as a council are trying to address these concerns and ensure a peaceful place to live. Mr. Freeman continued to express frustration with the situation and lack of results. Mr. Gritsko noted that the brewery was under different management, with whom the town was in the process of working on this, and now they have to start again with the new management. Mr. Freeman pointed out the low turnout in the recent election and commented that people have lost interest and trust in the Town Council. Mr. Gritsko said that this is being addressed on an ongoing basis, and it takes time to address the issue correctly. Mr. Freeman said that looking at noise overall is more complicated, but the Town Council should deal with this problem first. Mr. Gritsko replied that to fairly deal with this issue they have to deal with sound on a larger level and quantify it, measure it, and enforce it.

Mayor Grove stated that when they legislate on noise, they have to legislate for everyone, not just one business, so that everyone is treated equally and fairly, and that is what they are trying to do. They thought they had worked out a voluntary program with the brewery, but with new management it has not happened. The plan at this point is to acquire a decibel meter that will enable the town to enforce its ordinance, consider a new criminal ordinance, and then enforce the ordinance once the proper levels are set.

Mr. Freeman noted that he does not want to hear the music at all.

Bob Chambless spoke regarding the appropriation for the decibel meter. Mr. Chambless commented that he is fairly fiscally prudent, the draft noise ordinance has been sent back to the next working session, and the current noise ordinance does not have actually have decibel ratings. Mayor Grove clarified that the town's zoning ordinance does include decibel levels. Mr. Chambless recalled that there was discussion of whether to include octave bands. Mayor Grove said the zoning ordinance does include octave bands but he anticipates that his draft

will not have octave bands. Mr. Chambless suggested tabling the appropriation of \$500 for a decibel meter, because a \$100 decibel meter is enough for decibel levels, but the meter may cost upwards of \$2,000 to accurately measure octave bands. Mr. Chambless felt it would be better to know what the ordinance will specify before purchasing a meter so that they spend the appropriate amount of money.

Mayor Grove commented that the ordinance needs to specify decibel levels that are permissible, and the only way to intelligently do that is to experiment with a decibel meter to gain an understanding of what is acceptable and not acceptable so that they may write that level into the ordinance. As for the price, they will get the one that seems right in the town administrator's judgment, which may cost considerably less than \$500.

Mr. Chambless remarked that his concern is purchasing a tool that is not quite effective to report the levels in the ordinance that is eventually determined, and the free phone app is accurate to within a decibel or two. Mayor Grove replied that the ordinance requires calibration, so the telephone app will not work, but the app gives good guidance. Ms. Kerlin commented that she agrees with Mr. Chambless, and she would rather see the price and vote down to the penny if it is needed.

Joey Vagus stated that there are two ways to stop sound – distance and mass. He explained that our bodies are made to hear 1 kHz, that is the peak of human hearing, and if he screams anywhere in town chances are you will hear it pretty well. Mr. Vagus said that if the town has a noise ordinance in place it will be easy to single out anyone you do not like. With a noise ordinance, he cannot stand on the edge of his property and yell to his wife to bring him his rake without breaking the law. If a police officer does not like him, this gives the officer an opportunity to single him out, just like the brewery is being singled out. Mr. Vagus said he has complained multiple times about the Dollar General and nothing has been done; they still come Wednesday mornings and are as loud as can be. He hopes that the Town Council is honest and fair about the ordinance. He can appreciate and understand where Mr. Freeman is coming from. He loves all kinds of music, but the alternative band this weekend was absolutely annoying; but so are the trucks idling in front of his house at 5:00 a.m., the ambulance shrieking through town even with no one on the streets, and the motorcycles with no baffles, and nothing was done. Mr. Vagus commented that this is a mixed use community with both commercial and residential, and sometimes when you make money you have to make some noise, and sometimes when you live in a mixed community neighborhood you have to deal with noise. This means that he has to deal with the Dollar General, the singer with the horrible falsetto, and the motorcycle coming through, and if it is that bad he can move somewhere else. Two things stop sound – distance and mass – and he believes the burden should not be put on the business or anyone the community, but rather on the person who is complaining. If it is too loud, build a wall. Mr. Vagus stated that it is not fair to put the burden on one person and single them out unless it is scientific. The SPL meter available at Radio Shack is straightforward and simple, and the burden can be put on the person who is complaining to provide tangible information and say that yes, it is 100 dB in his house.

Mayor Grove commented that they understand his point of view, and there is always tension in a mixed use community with businesses and places of entertainment close to residences.

That is why the Town Council has taken quite a bit of time to wrestle with these issues. Mayor Grove asked Mr. Vagus and Mr. Freeman to look over and give their views on the draft ordinance.

Ms. Knotts asked Mr. Vagus about his professional training. Mr. Vagus replied that he is an audio engineer, his education is in the recording arts, and he is currently employed by The AV Company as an A1.

7. PUBLIC HEARING ON FISCAL YEAR 2015 BUDGET

Mayor Grove opened the public hearing on the Fiscal Year 2015 Budget. No one from the public rose to speak, and the hearing was closed. The budget will be placed on the June regular session agenda for adoption.

8. APPROPRIATION OF \$500 FOR PURCHASE OF DECIBEL METER

Mayor Grove stated that \$500 is an allowance amount, and he suspects it will cost less. Mr. Goodwin said he can purchase a Radio Shack model in the \$250 range that can be calibrated. Mayor Grove remarked that he thinks it is needed to enforce the existing zoning ordinance and to decide what the limits are in any new ordinance in an intelligent fashion by testing levels at various points in town. Mayor Grove has looked at around ten different town ordinances, and they vary a lot with 75 decibels as the high end and some as low as 55 decibels.

Mr. Gritsko asked about measuring at a distance from the property line versus from the dwelling. Mayor Grove said that some instances are from the property line, some are across the property line, and some are inside the dwelling. Mr. Gritsko asked the distance is from the brewery to Mr. Freeman's house. Mr. Goodwin said it can be heard all the way to the cemetery. Mr. Smith added that Friday night it was very clear at High Meadows until either Mr. Freeman visited or Mr. Goodwin called and then volume dropped in half.

Ms. Knotts asked about research on how decibel meters stand up in court. Mayor Grove replied that there was a flurry of legal activities about five years ago because many towns used a reasonable man standard that was ruled too subjective, so now ordinances use either decibel measurements or the plainly audible standard. Ms. Knotts asked about training and whether the measurements are taken by a sound engineer. Mayor Grove said the ordinances are generally enforced by a police officer or a town official. Mr. Smith commented that the decibel meter calibration and certification would be similar to what is required for radar.

Mr. Gritsko moved to appropriate \$500 for the purchase of a decibel meter. Mr. O'Halloran seconded the motion.

Ms. Kerlin commented that she feels they are rushing this; she would like to wait to see what the ordinance says. Mayor Grove reiterated that he wants levels to decide the limits. Ms. Kerlin said she has offered the use of a decibel meter.

Ms. Knotts asked Officer Ron Morris for comments. Officer Morris commented that this falls to the police chief, but to his knowledge the county has done away with the decibel meter. Chief Robert Layman stated that he talked with Captain Jenkins and Major Lance, and the county has written a new ordinance that has withstood the scrutiny of the Supreme Court without a decibel meter. Mayor Grove said he believes they use the plainly audible standard. Chief Layman stated that he believes this was because of the availability of a decibel meter with 100-plus officers, and when town officers answer noise calls for the county they use the plainly audible standard.

Mayor Grove commented that from a law enforcement perspective the real answer should be that, if excessive noise is being made, the officer asks to have it toned down or stopped and the person causing the sound does so, and that is what happens nine times out of ten. He said that they are dealing with a situation where they have repeat offenses in the face of a lot of concern having been expressed for a long time.

Mr. Smith agreed that the first thing is to ask them to turn it down. He would favor this expenditure if the town immediately enforces the zoning ordinance on the books and if they pass an ordinance for law enforcement officers to issue summonses for excessive noise.

Mr. Gritsko stated that there is an urgency to have something in place this weekend, as self-policing has failed, and he asked if Ms. Kerlin could lend her unit. Mayor Grove noted that the unit needs to have been calibrated by a specialist within the past year. Ms. Kerlin commented that she sympathizes with Mr. Freeman, but sound travels in a valley and mass stops sound. Ms. Kerlin commented that at one point the brewery wanted baffles. Mayor Grove said the engineer is working on this. Mr. Goodwin commented that they also considered cypress trees but unfortunately they would create a dam, noting that there are a lot of people coming to town on the weekends. Ms. Kerlin stated that Mr. Freeman will not get relief until the sound is stopped. Mr. Goodwin said they stop getting complaint calls once the music is below 70 decibels.

Officer Morris remarked that when people complain it is loud, it is getting louder and louder, and sometimes they have to ask multiple times for the music to be turned down because they do not have the authority to require it. He said it also Tequila Sunrise and Tavern on the James, not just James River Brewing, and he can hear people screaming and hollering and loud music from inside the police department, but he cannot legally make them stop.

Mayor Grove asked to bring discussion back to the narrow issue of whether to buy a decibel meter, rather than the broader issue of whether to have a noise ordinance. Mr. O'Halloran commented that it would not hurt to have one on loan to conduct the initial tests and then come back to vote in June to buy one if necessary. Mr. Smith agreed that a borrowed meter is sufficient for now to compile facts and figures, and one can be purchased later if an ordinance passes. Mr. Goodwin asked if the borrowed meter will be available on weekends; Ms. Kerlin will ask. Mr. Gritsko and Mr. O'Halloran concurred with amending the motion to appropriate the funds only if a meter cannot be obtained on loan. Ms. Knotts asked that meter readings and complaints be logged; Mayor Grove agreed. Ms. Gill asked if there were any complaints on Saturday. Mr. Goodwin replied yes, there were two complaints.

A roll call vote was then conducted.

Ms. Gill	<u>Yes</u>	Mr. Gritsko	<u>Yes</u>	Ms. Kerlin	<u>No</u>
Ms. Knotts	<u>Yes</u>	Mr. O'Halloran	<u>Yes</u>	Mr. Smith	<u>Yes</u>

The motion passed 5-1.

9. AUTHORIZATION TO SUBMIT APPLICATION FOR VIRGINIA COMMISSION FOR THE ARTS TOURING ASSISTANCE GRANT

Ms. Gill explained that this grant from the Virginia Commission for the Arts would cover half of the \$600 artist fee for the August concert. The matching funds would come from the Arts and Culture Committee. Mr. Smith moved to authorize the grant application. Mr. Gritsko seconded the motion, which was unanimously approved.

10. REPORTS OF CHARTERED COMMITTEES, PLANNING COMMISSION, AND ARCHITECTURAL REVIEW BOARD

Planning Commission: The commission did not meet in May.

Architectural Review Board: Mr. O'Halloran reported that the ARB had no official business at its May 1 meeting but heard a report from Steven Biss, the legal representative of the owner of 561 Valley Street, who seeks a comprehensive plan from James River Brewing for its development and the adjacent grounds. The new design guidelines should be ready at the next meeting, at which the board will also consider the Dollar General sign application. Steven Meeks emailed a report on 135 Warren Street, and the ARB expects to see continued progress on the restoration of this building. The owner of 440 Valley Street has applied for a building permit and will receive a 90-day letter to begin restoration work. The ARB next meets May 29, and Mayor Grove plans to attend to discuss the process by which the ARB makes its findings regarding repair and maintenance issues.

Town Maintenance Committee: Ms. Knotts reported that the Scottsville Volunteer Rescue Squad has a desperate need for volunteers and drivers. Mr. Goodwin has ordered tee shirts for town employees. The committee is concerned about timely maintenance and identified a list of areas in need of attention, such as line painting and shrubbery trimming at the Town Hall parking lot, removal of overgrowth at Mink Creek behind Lucky's, a comprehensive plan for maintenance at Canal Basin Square, mulching and weed spraying, removal of abandoned cars, landscape maintenance at the Butterfly Garden and Bruce Park, etc.

Public Safety Committee: Ms. Kerlin reported that the police storage shed is 90 percent done. She noted that the alley between Gibson Carpet and Dena Radley's building has been fixed.

Tourism Committee: Mr. Gritsko reported that there have been several meetings on VCNA. Mr. Goodwin related that the cell tower road will be repaired and re-graveled from the

highway to the tower. Mr. Gritsko reported that Lydia Wilson designed a new brochure, the sunrise photo contest has been extended to July 15 to include the Fourth of July and Jammin' on the James, and Scottsville will welcome guests from the Young African Leaders Initiative hosted by the Presidential Precinct on June 28.

Arts and Culture Committee: Ms. Gill reported that she plans to have five members as the top tier of the committee, which will work with community liaisons on a communications system to promote events. The first Jammin' on the James concert is June 1 at 5:00 p.m. Batteau Festival is June 18.

11. TOWN ADMINISTRATOR'S REPORT

Mr. Goodwin reported that drainage problems were found at the Scottsville Museum and Jackson Street after several good rainstorms. Lindsay Street is at least smoother now. Fluvanna Council officials will be here June 3 to discuss storm drainage issues on that side of town. During recent pumping operations, 16.9 million gallons were pumped from town drainage, mainly Mink Creek, out to the river. Mr. Goodwin came down at 2:30 a.m. during the recent rain, at Ryan Bruce's request, to prevent building materials stored behind James River Brewing from going down the creek and posing a hazard. Mr. Goodwin received a request that the photo contest accept non-digitized prints. He hopes water line and gas line work on Valley Street will be finished before the paving next week. Mr. Goodwin thanked Nancy Bruce for planting the flower boxes.

12. CLOSED SESSION FOR POLICE OFFICER INTERVIEW

Ms. Knotts moved that this council now meet in closed session for personnel matters to interview and consider police officer candidates, as permitted by Code of Virginia Section 2.2-3711(A)(1). Mr. Gritsko seconded the motion. The motion was approved, with Ms. Gill, Mr. Gritsko, Ms. Kerlin, Ms. Knotts, Mr. O'Halloran, and Mr. Smith voting in favor and none against.

Upon returning to open session, Ms. Gill moved to adopt a resolution certifying the closed session. Ms. Knotts seconded the motion. The motion was approved, with Ms. Gill, Mr. Gritsko, Ms. Kerlin, Ms. Knotts, Mr. O'Halloran, and Mr. Smith voting in favor and none against. The following resolution was adopted:

WHEREAS, this council convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712(D) of the Code of Virginia requires a certification by the council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, be it resolved that the council hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed, or considered in the meeting to which this certification applies; and (2) only such public business matters as

were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting to which this certification applies.

13. ADJOURNMENT – The meeting was adjourned at 8:50 p.m.