

Council Minutes
Special Called Meeting
July 27, 2015 – 6:30 p.m. – 502 Front Street E, Coeburn, VA

Attendees: Upon a roll call vote Veronica Buchanan, Jeff Kiser, Deventae Mooney, Jess Powers, and Sharon Still were present. Scott Brooks – Police Chief, Christy McCoy – Clerk/Treasurer, Russell A. Mullins – Town Manager and William Sturgill – Town Attorney was also present.

During roll call Jess Powers asked when the meeting was called. Mayor Kiser replied that the meeting was called and met all the guidelines according to the Town of Coeburn. The meeting was called twelve hours prior to being held and notice was given Friday, July 24, 2015. Veronica Buchanan asked Mayor Kiser to state the guidelines for a special meeting. Mr. Powers noted that he did not receive notice until July 27, 2015 at 5:50 p.m. Mayor Kiser confirmed with the police department that the packet was delivered. Answering Ms. Buchanan's question, the meeting was called in accordance with town code section §30.050 which states that the mayor or any member of Council may call a special called meeting of the Council, at any time after at least 12 hours written notice, with the purpose of the meeting stated therein, to each member served personally or left at his or her usual place of business or residence, or the meeting may be held at any time without notice, provided all members of the Council attend. Jess Powers asked if an email was sent out regarding the meeting. The mayor stated that an email wasn't a requirement. Chief Brooks verified a text message sent from Officer Randall Brickey that all packets were delivered July 24th.

Call to Order: Mayor Jeff Kiser called the special called meeting to order.

Business:

- a. Fiscal Year 2015/2016 Budget Review – Sharon Still ask Town Manager, Russell D. Mullins if he recalled that during a previous budget meetings she asked if there were any raises in the FY16 budget proposal. Mr. Mullins stated that he would like to get to the issue of two raises that were included in the budget. Ms. Still once again asked Mr. Mullins if he heard her ask him. Mr. Mullins referred to the audio of the minutes from the June budget meeting. He stated that indeed Ms. Still asked the question but an answer was never given. The conversation turned to a different topic before an answer was given. Mayor Kiser asked if any raises were given. Jess Powers reminded Council that they voted on raises for the VRS increase which was required. The mayor stated that he was aware of those increases but he asked if there were any additional raises within the budget. Mr. Mullins stated that specific personnel issues could not be discussed in public meeting. Mr. Kiser said that he did not want specific names. He asked again if there were any raises included in the budget that were not disclosed to

Council. Jess Powers stated that there were raises in the budget. Mr. Kiser asked if it was ever disclosed to Council. Mr. Mullins stated that the raise was included in the April 1st draft and every draft thereafter. Scott Brooks asked if he could clarify some of the questions that Council had. He stated that upon the beginning of the fiscal year a full time police officer quit unexpectedly. Upon the termination of the position he made an administrative decision, after talking with the town manager, to take the allocated salaries and give the police department raises. He stated that it increased the approved budget by \$1600. Mayor Kiser asked if the employee termination and raises took place after the budget was approved. Chief Brooks assured him that the terminated position and increases took place after the budget was approved. Mayor Kiser asked if everyone understood that the intention of Council was not to give pay raises. Ms. Still stated that she felt like she was lied to because individuals that were parties of the situation knew the raises were included in the budget and the parties did not speak up. She stated that she expected everyone that serves on the board to be honest and upfront. Mr. Mullins said he will take some of the blame but he stated that some of the blame is on Council for not asking the right questions. Mr. Kiser reminded Mr. Mullins that the salaries within the budget were split between water and general fund and that they were very hard to track. Mayor Kiser asked Mr. Mullins why the raises weren't disclosed to Council considering the financial situation that the town was facing. He stated that he felt like he was justified in giving the raise. The employee that received the raise didn't receive an increase with the rest of the employees the prior year. He stated that it was an oversight. The employee should have received a raise and didn't. Mr. Mullins read Section 4-8 from the employee handbook which stated the following: Merit increases, when appropriate, shall be based on an employee's performance including, but not limited to, personnel records, tardiness, performance and length of service and evaluation of services rendered. He also read section 1-4 which stated the following: Town Council shall be responsible for approving personnel policies. He also read section 1-5 which stated the following: Under the direction of Town Council, the Town Manager shall have responsibility for the administration of these policies.

Mayor Kiser read the Town of Coeburn ordinance §30-023 which states that the Council shall have full power to fix the salary of all persons employed by the town. Ms. Still suggested going back to the handbook and the code of ordinances and review them for inaccuracies. The town attorney stated that personnel policies were enforceable as written. He pointed out that section 4-8 states that salary merit should be awarded when deemed appropriate. The question that Council needed to ask was when is merit appropriate and when should it be discussed.

Christy McCoy, Treasurer, spoke up stating that she was the person that received the raise that was included in the budget. She apologized to Council but stated that she did not receive a raise last year when everyone else did. The town manager stated that he was supposed to put the raise in the budget and it was overlooked. Ms. McCoy clarified that her raise was 5% plus the 1% required

- by VRS. She stated that the total raise including taxes and benefits was an increase of \$2,899.73 per year.
- b. Proposed Changes to Fiscal Year 2015 / 2016 Budget – Sharon Still said she did not want to make any changes to the budget. Council didn't make any changes to the budget.
 - c. Personnel – Jeff Kiser made a motion to put a freeze on any and all hiring within the Town of Coeburn. If departments have positions that come open then they would be required to come before Council in closed session to discuss rehiring the position. Sharon Still seconded the motion. Veronica Buchanan asked when the freeze would be lifted. Jess Powers stated he felt like that would be micromanaging. Ms. Buchanan stated that Council was not appointed to manage every employee. They were appointed to manage the Chief of Police, Town Manager and Treasurer. If those departments have openings and it is within the allocated salary amount for the year, then it should be up to the department heads to hire their people. Drew stated that the personnel handbook under 3-3 stated that the town council has the responsibility for hiring and firing the Town Manager, Chief of Police, Town Clerk, Town Attorney and Town Auditor. The Town Manager has the responsibility for firing and hiring all other employees. The town manager stated that all hiring was done within the budget that Council passes. The attorney read section 1-6 of the personnel handbook which states: Each time a new full-time position should be established or a current full-time position abolished, the Town Manager shall submit his/her findings and recommendations to Council. Council shall determine whether the establishment and/or the abolition of a position is in order. He asked if everyone could agree that any vacant position should already be brought before Council. Everyone agreed on that according to section 1-6 of the handbook. Mr. Kiser asked Mr. Sturgill if according to section 1-6 Council should be informed of hiring. Mr. Sturgill stated that if a position is vacant or a new position is added Council should be made aware. However, he stated that Council shouldn't get involved in the hiring or firing of the individual. Council should be concerned with the positions as they effect the budget or the finances of the town. Contingent upon an agreement that Council would be 'kept in the loop' regarding all positions Mr. Kiser withdrew his motion.

Closed Session

Mayor Kiser made a motion to enter into closed session in accordance with Virginia Code §2.2-3711(A.1) for consultation of all departments specifically surround personnel as far as performance and status is concerned. Sharon Still seconded the motion. A roll call vote resulted as follows: V. Buchanan – Aye, J. Kiser – Aye, D. Mooney – Aye, J. Powers – Nay, S. Still – Aye. Mayor Kiser asked that Scott Brooks, Russell D. Mullins and Danny Jordan attend the meeting. Ms. McCoy did not attend the closed meeting. Council entered into closed meeting.

Immediately following the closed meeting, Christy McCoy, Clerk, read the "Certification of Closed Meeting", which is attached to these minutes and made a part hereof. A roll call vote certifying that only matters that were identified in the motion convening were discussed. The clerk conducted a roll call vote which resulted as follows: V. Buchanan – Aye, J. Kiser – Aye, D. Mooney – Aye, J. Powers – Nay, S. Still – Aye.

Jeff Kiser made a motion that town council instruct the town attorney to seek an Attorney General opinion surrounding the validity of two alleged contracts that were issued in June 2014 and specifically in regards to Virginia §15.2-1503: Tenure of officers and employees; suspension or removal. What the code says is that A. All appointments of officers and hiring of other employees by a locality shall be without definite term, unless for temporary services not to exceed one year or except as otherwise provided by general law or special act. B. Any officer or employee of a locality employed pursuant to subsection A of this section may be suspended or removed from office or employment in accordance with the provisions of §§ 24.2-230 through 24.2-238, if such sections are applicable. Otherwise, any such employee may be suspended or removed in accordance with procedure established by special act or by the governing body, if any. C. In case of the absence or disability of any officer or employee, the governing body or other appointing power may designate some responsible person to temporarily perform the duties of the office. He also provided Council with a copy of the Town of Coeburn charter and referred to §3.4 Powers of Council – The council along with the mayor shall make such rules as are necessary for the orderly conduct of their business not inconsistent with the laws of Virginia and shall have the powers in their discretion to appoint a vice-mayor, town manager, clerk, treasurer, town attorney, and a chief of police, who shall have such duties and shall serve at the pleasure of the council and shall be paid such compensation as the council may determine. Mayor Kiser also read an Attorney General's opinion that was issued on September 20, 2010. The opinion was in reference to Virginia Code §15.2-1503. The opinion was given in regards to employment contracts lasting longer than 1 year. Mayor Kiser repeated his motion and added that all information that shall be needed to render an opinion be provided to the Attorney General. Sharon Still seconded the motion. Jess Powers asked why this didn't come up during the time of the former town manager contract. Mayor Kiser said he was not aware of the code during that time. Sharon Still stated that she would like to know if municipalities can or can't issue contracts to employees. Veronica Buchanan stated that prior to the two contracts legal consultation was sought. Council was told that the contracts were legal. Jess Powers disagreed with the motion and said that it would cause more dissension within the town. Ms. McCoy conducted a roll call vote which resulted as follows: V. Buchanan – Aye, J. Kiser – Aye, D. Mooney – Aye, J. Powers – Nay, S. Still – Aye.

There was no further action from closed meeting.

Council Comments and Concerns:

Veronica Buchanan commented on the vote for the Attorney General's opinion. She stated that the contracts for the town manager and the chief of police were not made hastily or uninformed. Legal consultation was given prior to the contracts. Ms. Buchanan felt that by passing this Council didn't trust the decisions that were made previously. She stated that it was her opinion that the Attorney General's opinion was being done for personal political gain.

Deventae Mooney stated that he wasn't on Council when the contracts took place. However, he would like to know if they are legal and he is glad the town is pursuing the opinion.

Jess Powers agreed with Ms. Buchanan and stated that the current Council talked about full disclosure. However, he said that Council held meetings that everyone was not able to attend. He commented that this council says one thing and does another. He was really concerned with the direction that Council has taken. He stated that working relationships between the department heads and Council was being pushed to the limits.

Sharon Still addressed Ms. Buchanan. She stated that she didn't doubt Ms. Buchanan and she believed that an attorney's opinion was sought. However, there is nothing in writing from an attorney stating the validity of the contracts. She is asking for herself and her own peace of mind, not as a personal vendetta. She addressed Mr. Powers stating that budget meetings were held and he attended many of them. She stated that she felt like Mr. Powers was brought up to date before the final budget vote.

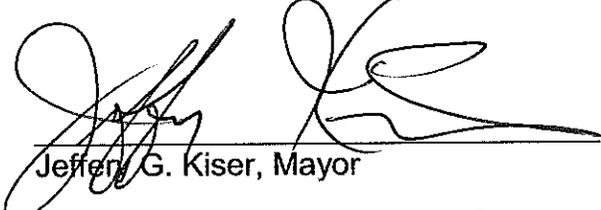
Jeff Kiser addressed Ms. Buchanan, stating that there was no doubt that legal advice was sought and he thinks that the former council members thought that it was a valid contract. However, he stated information changes and things come to light that weren't brought up before. Knowing about the statutory codes and attorney general's opinion that was presented he stated that he felt as if it's in the best interest of the town to find out the validity of the contracts.

Adjournment:

Jeff Kiser made a motion to adjourn the meeting. Deventae Mooney seconded the motion which resulted in all Ayes.

Respectfully Submitted,


ATTEST: Christy L. McCoy, Clerk


Jeffrey G. Kiser, Mayor