

TOWN OF CUMBERLAND GAP  
BOARD OF MAYOR AND ALDERMAN  
JUNE 1, 2015  
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The Board of Mayor and Alderman met in regular session on June 1, 2015 with Mayor McGaffee calling the meeting to order at 7:00 p.m. at the Town Hall building, 330 Colwyn, Cumberland Gap, TN. After the Pledge to the Flag, Mayor McGaffee called for a roll call of the Board Members. Board Members answered as follows: Susan Bain-here; Chuck Coffey- here; Teresa Fuson- here; Jerry Hopson -here; John Ravnum-here; Phillip Waller-here.

Mayor McGaffee called for approval of the minutes. Jerry Hopson made a motion to the approve minutes, with a second by Chuck Coffey. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson -yes; John Ravnum-yes; Phillip Waller-yes.

Mayor McGaffee next called for the Financial Report. Town Recorder, Linda Moyers, reported the balances of all the accounts. Mayor McGaffee called for a motion to approve the Financial Report. Chuck Coffey made a motion to approve the financial report, with a second by John Ravnum. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson - yes; John Ravnum-yes; Phillip Waller-yes.

Mayor McGaffee directed the meeting to approval of the bills. Susan Bain made a motion to pay the bills, with a second by Teresa Fuson. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson -yes; John Ravnum-yes; Phillip Waller-yes.

Mayor McGaffee directed the meeting to the committee reports:

**Planning & Zoning**

The Planning & Zoning Commission met in special called session on May 20, 2015 to discuss a possible variance for the rental, owned by John Ravnum, located at the back of 521 Colwyn Ave. with an address of 522 Pinnacle Alley. The Planning & Zoning Commission allowed the rental to be rented as a residence for one year ending June 30, 2016. They granted the variance with the following conditions:

- 1) The rental area will be inspected by a licensed building inspector and found to be able to be rented as a residence.
- 2) The front of the same physical building opening onto the public street at 521 Colwyn Ave. will be maintained as a commercial space and that this commercial space is larger than the 522 Pinnacle Alley rental space.
- 3) This is only being allowed because the rental (522 Pinnacle Alley) is not located directly on a street. It has access only from the back of Festival Park (a nonpublic non vehicle area) and Pinnacle Alley (an alley not a street).
- 4) This is only being allowed for one year ending on June 30, 2016.

According to a letter written from licensed building inspector, Barron Kennedy the property has a basic amenities necessary for either occupancy (small office or small efficiency apartment). The letter also states he does not have the authority to issue an

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occupancy permit for this property but suggest that such permit be issued once local policies allow usage as an apartment or office.

John Ravnum commented that he contacted town building inspector, Don Bryant, but was unable to reach him. Don stated there was no need until the board changed the policies allowing the change in occupancy.

Town attorney, Jimmy Estep, stated that a variance cannot be granted for a year, either it is granted or not, permanent or temporary. It can be granted temporarily with an expiration date of one year. Once a variance is granted for an ordinance it is expected by someone else asking the same. The attorney commented that while the variance would not legally change the ordinances, the board would be under pressure to grant other request.

John Ravnum read a letter of intent from someone who is interested in opening a business in the building in question; however the business would not open until June 2016.

Jerry Hopson read and summarized the below sections of the Cumberland Gap Municipal Code.

- 14-502 Uses Permitted- list the permitted uses of the Commercial District
- 14-503 Special Exceptions- special exemptions can be granted if it meets the same character of the permitted uses
- 14-305 Historic District- The town's largest commercial buildings are characterized by a horizontal division in two (2) district zones. The zone at the street level is designed for public uses, such as stores or banks, while the upper zone is designed for more private spaces, such as offices or apartments.
- 14-1205 Variances- The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under the zoning regulations. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

Jerry Hopson stated in his opinion, the change from commercial district to residential use is not the same general character & once a variance is granted the door is opened to anyone else who may want to place a residence in the commercial district.

John Ravnum discussed the specific conditions in which the planning & zoning commission granted the variance. He felt that with those conditions in place it wouldn't affect any other request made as a result of this decision.

Several of the board felt by granting this variance it would be a violation of the ordinances. There was some discussion about reviewing and changing portions of the ordinance.

Susan Bain made a motion to grant the variance for one (1) year, with a second by Teresa Fuson. Mayor McGaffee called for a roll call vote. Board members voted as follows:

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Susan Bain-yes; Chuck Coffey-no; Teresa Fuson- yes; Jerry Hopson -no; John Ravnum-  
can't vote; Phillip Waller-no.

There will be a special called planning & zoning meeting at 7:00 on June 8, 2015. The  
purpose of the meeting is to discuss possible zoning changes.

**Finance**

John Ravnum commented that several revenues are down and finances need to be  
watched closely.

**Law and Order**

There was nothing to report.

**Historical**

The next meeting of the Historic Zoning Commission will be on Tuesday July 7, 2015.

**Streets**

There was nothing to report.

**Parks and Recreation**

At last month's meeting the board decided not to continue reserving Berkau Park due to  
insurance purposes. Anyone who has an event in the park would be required to provide  
their own liability insurance, but general use should be covered by the town's insurance.  
According to the attorney, the town is involved in it when it is scheduled, planned and  
called an event, but if you are using it as a member of the general public you don't have  
that.

There was some discussion and concerns regarding the hold harmless form required to be  
signed by event sponsors if the special events ordinance is passed later tonight. One event  
sponsor stated he did not want to sign the form because he felt that he would be taking  
responsibility of liability that should belong to the town, for example if someone fell in a  
pothole on the city street during his event. The recorder explained that the form was  
reviewed by the insurance company and an MTAS consultant and changes were made  
based on their recommendations. When asked for his opinion, the town attorney approved  
the form.

**Tourism/Events**

Upcoming events include:

Artist Co-op Art Festival- June 6, 2015

25 E Yard Sale- June 4-6, 2015

Cumberland Mtn. Music Show- June 6, 2015

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Genealogy Jamboree- June 11-13, 2015

White Lightning Trail Festival- June 26-27, 2015

**Water**

There was nothing to report.

**Sewer**

There was nothing to report.

**Fire Department**

There was nothing to report.

**OSHA Safety Director**

There was nothing to report.

**Litigation**

Several delinquent sewer accounts were heard in court on May 13, 2015.

Mayor McGaffee called for OLD BUSINESS.

**Title 17 (Refuse and Trash Disposal)**

No other changes were discussed. An ordinance will be drafted.

A resident is asking for a bear proof trash can to be placed on her property. The town is checking to see if they can be placed on private property.

**Ordinance 4- 2015- An Ordinance to Amend the Cumberland Gap Municipal Code, Title 7 (Fire Protection and Fireworks)**

Jerry Hopson made a motion to pass the ordinance on second and final reading, with a second by Chuck Coffey. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson - yes; John Ravnum-yes; Phillip Waller-yes.

**Ordinance 5- 2015- An Ordinance to Amend the Cumberland Gap Municipal Code, Title 12 (Building Codes)**

This ordinance adopts the 2012 edition of the International Building Codes.

Susan Bain made a motion to pass the ordinance on second and final reading, with a second by Jerry Hopson. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson - yes; John Ravnum-yes; Phillip Waller-yes.

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**Ordinance 6-2015- An Ordinance to Amend the Cumberland Gap Municipal Code, Title 20**

The board had a copy of the ordinance and forms with changes based on the insurance company's and MTAS attorney recommendations. The recorder asked to have the town attorney's recommendation on record. He stated that he has reviewed it and thinks it is a proper amendment to the ordinance and should be required.

There was some discussion concerning the following on the hold harmless form:

1. Event sponsor(s) do hereby agree to indemnify and hold harmless Town for and from any and all claims of every nature whatsoever for personal injury and damages to property, for and from occurrences upon property owned by Town arising out of participation in Event sanctioned activities.

One event sponsor had a problem with the statement "from any and all claims of every nature whatsoever". What if someone tripped over a brick in the park while walking from one booth to another? Shouldn't that fall under the towns insurance? The attorney responded by saying the event sponsor would be liable and that's why they are required to get insurance. Their (event sponsors) insurance would cover it because it arose out of participation in the event. By signing the hold harmless form the event sponsor(s) are agreeing they are responsible for the event and they agree to hold the town harmless for any injuries as result of their event. Their protection is the insurance that will cover in an event of that liability.

By signing the form the event organizer felt they were taking over the town's liability for not repairing the streets and sidewalks. The attorney commented that the town has comparative negligence, meaning if the town is aware of the defect then the town will have responsibly for that negligence act. If someone is injured as a result of their participation in the event sanctioned activity, such as crossing the street from one booth to another, then it would fall under the sponsors insurance.

The attorney said that it would make it difficult to defend if the town doesn't do what it needs to do and what the insurance company wants you to do. Legally the town needs to adopt the ordinance but be reasonable on enforcement. When asked it reasonable enforcement mean lighted, the attorney said no he's not saying that.

Chuck Coffey made a motion to pass the ordinance on second and final reading, with a second by Teresa Fuson. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson - yes; John Ravnum-no; Phillip Waller-yes.

**Citizens Comments**

There some questions about the legislation that allowed liquor by the drink in town. The attorney and the mayor both stated that they don't fully understand the regulations and are looking into it. The result is that Cumberland Gap is allowed those possibilities

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subject to Alcoholic Beverage Commission (ABC) approval to do certain things with alcoholic beverages. The town has to figure out what those things are, including what the roles and positions of the ABC, the state, county and Cumberland Gap are.

Mayor McGaffee called for NEW BUSINESS:

**Ordinance 7-2015- An Ordinance Adopting the Annual Budget and Tax Rate for the Fiscal Year Beginning July 1, 2015 and ending June 30, 2015**

Jerry Hopson made a motion to pass the ordinance on first reading, with a second by Susan Bain. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson -yes; John Ravnum-yes; Phillip Waller-yes.

**Announcements**

Town Hall will be closed on the following days:

Monday June 8, 2015; Friday June 12, 2015; Monday June 15- Friday June 19, 2015

Special Called Planning & Zoning- Monday June 8, 2015 @7:00 pm

Monday June 29, 2015

Public Hearing for Budget @6:00 pm

Followed by special called meeting for second reading of budget

Followed by planning meeting

With no other business to come before the board, Jerry Hopson made a motion to adjourn, with a second by Susan Bain. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- yes; Jerry Hopson -yes; John Ravnum-yes; Phillip Waller-yes.