

## Onley Town Council Minutes of January 3, 2011

VIRGINIA: At a Regular Monthly Meeting of the Onley Town Council held at the Onley Fire & Rescue Building on the 3rd day of January, A.D., 2011:

Members Present: Billye D. Custis, Mayor  
Teresa Marshall, Vice - Mayor  
Billy Chance  
Dawn Dize  
Lance Eller  
Ned Finney

Staff Present: Cela Burge, Town Attorney  
Walter Marks, OPD Officer- In- Charge  
Jamy Salazar, Treasurer  
David Engelhart, Zoning Administrator

Absent: William Ferguson

### Call to Order

The Regular Monthly Town Council meeting was called to order by Mayor Custis at 6:30pm. Mayor Custis asked to speak on several matters before the meeting began. The first being trash pick-up. This week the Eastern Shore experienced what the news is calling a "50 year storm". This was an act of God and Waste Management has apologized for not picking up garbage last week. Everything will be picked up tomorrow. Town Decals will be ordered next week at a cost of .22 each. We will be ordering less than what has been ordered in previous years since we have quite a few left over. The idea of moving our paid EMT's to Onancock has come up again. She has asked the Fire Company to prepare a petition in favor of keeping the paid EMT's in Onley for residents to sign. The Neighborhood Watch has agreed to help with acquiring signatures. Mayor Custis stated that she has been told that some citizens as well as some Council members have been complaining about things that are happening in Onley. She asked that anyone with a complaint or even just a comment contact her or the Town Office so that any such issues can be addressed. She maintains that there has and always will be an "open door policy". Mayor Custis concluded by stating that she feels that if anyone is in a public service position for the money – they need to resign.

In the absence of Mr. Ferguson, an invocation was given by Dawn Dize. The Pledge of Allegiance to the Flag was led by Dawn Dize.

### Adoption of Agenda

**Motion: To adopt the agenda by Ned Finney and seconded by Teresa Marshall. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

### Consideration of Minutes

**Motion: To approve the Minutes of the December 6, 2010 Regular Monthly Council by Lance Eller and seconded by Dawn Dize. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

Ms. Burge asked Ms. Salazar to attach a copy of the Resolution regarding removal of Onley Beverage Inc. from Pump & Haul Agreement. Ms. Salazar stated that she has done so.

Mr. Finney stated that on the December 20, 2010 minutes, Staging for White Truck was in two places and asked to have one removed. Mr. Strautz pointed out that there was no vote listed under the motion to purchase the Ford Explorer from Sheehy Ford.

**To approve the Minutes of the December 20, 2010 Recessed Council Meeting with changes by Teresa Marshall and seconded by Lance Eller. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

## Department Reports

### Police Report & Schedule

**Motion: To approve the February 2011 Police Schedule by Lance Eller and seconded by Teresa Marshall. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

Mayor Custis stated that the 2003 Ford CVPI was sold for \$1,109.00 – the highest bid received.

Mayor Custis stated that the gun safe (acquired in the trade for three Glock 27s) has been delivered and that there is still one Glock 27 left to sell.

The radio and lights for the new car were delivered to Sheehy Ford today. They will be installed and the car should be ready for pick up next week.

### Treasurer's Report

Ms. Salazar pointed out that the Cash Account Balance sheet now reflects the CD that was closed at Shore Bank as well as the new Money Market account that has been opened at Suntrust.

**Motion: To pay the Payables by Lance Eller and second by Teresa Marshall. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

### Zoning

Mr. Engelhart's report was given later in the meeting. He was outside speaking with a resident about an issue in Town.

### Attorney's Report

Ms. Burge stated that she has been working on several items. Kerry Anderson's appointment to the Board of Zoning Appeals expired on December 31, 2010. He will continue to serve until another appointment is made. Even though Judge Tyler has retired and the Eastern Shore is without a Chief Judge, Council will still need to make a recommendation for an appointment to the Court in this matter. Charter Communications has submitted to the Town a revised or a new Franchise Agreement. Ms. Burge has asked Ms. Salazar to get the file together since the original one was before her time as Town Attorney. She will go over the agreement and make a recommendation to Council at the next meeting. She stated that Mr. Nicolls has appealed the decision of the General District Court to the Accomack County Circuit Court. The appeal date has been set for February 7.

She added that in the matter of the warrant in debt action against Officer James Wenzel, a court date has been set for January 28.

The Planning Commission is working on revising the Zoning Ordinance and there are some requested language changes by the Department of Conservation & Recreation in the Chesapeake Bay Department for Phase 3 requirements. She has notified Shawn Smith and asked her to identify any particular language that they are interested in changing. She will report back on this after hearing from her. Finally, she spoke to the matter of a zoning inquiry for an Internet Café. Dale Taylor contacted Ms. Burge at her office about performing Zoning clearance on the business that she would like to open at Four

Corner Plaza. She advised Council not to make comments but to allow the process to unfold and to allow the staff to “do what they are suppose to do” once the Special Use Permit application is in place.

### Old Business

Mr. Finney stated that he and Mr. Eller met today to discuss the property at 25571 East Main Street and they will report to Council next month.

There was no Grant Coordinator’s Report since it is still very early in the month and there have been no changes since last month.

The newsletter should be ready next week so everyone should prepare to help with delivery.

All of the appliances in the garage have been donated to Lighthouse Ministries except for the washing machine. They did not want this item. The Christmas decoration was donated to Bloxom.

Mayor Custis stated that a date needs to be set for a Public Hearing for 2010-2011 Budget Amendment, the Idea of a Golf Ordinance & the Nuisance Removal Ordinance.

**Motion: To hold the Public Hearing for 2010-2011 Budget Amendment, the Idea of a Golf Ordinance & the Nuisance Removal Ordinance before next month’s meeting on February 7 at 6:00pm by Lance Eller and seconded by Teresa Marshall. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

Mayor Custis stated that we have still been unable to get a third proposal for a website but since it will be less than \$500.00, Council can make a decision from the two that we have. Ms. Salazar stated that the first proposal is from Laurie Dryden located in Exmore. She will construct the site for \$250.00 with quarterly updates to be done at \$50.00 per quarter with the first year’s updates to be done for free. The other proposal is from EAS Website Design. They will construct the site for \$400.00 with quarterly updates at a cost of \$60.00.

**Motion: To accept the website proposal from Laurie Dryden to construct a website by Lance Eller and seconded by Ned Finney. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

Mayor Custis presented Council with three estimates for an outdoor message center.

**Motion: To purchase a one side cedar outdoor message center sign with a post at a cost of \$489.00 by Ned Finney and seconded by Teresa Marshall. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

### New Business

Mayor Custis stated that Don Bowling’s term on the Planning Commission expired on August 31, 2010. Mr. Bowling has agreed to serve another term.

**Motion: To appoint Don Bowling to the Planning Commission for another term by Lance Eller and seconded by Dawn Dize. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

Mayor Custis stated that Kerry Anderson has agreed to serve another term on the BZA.

**Motion: To recommend Kerry Anderson to serve as a BZA member for another term by Teresa Marshall and seconded by Lance Eller. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

Mayor Custis read a letter from Charter Communications asking the Town of Onley to sign a Franchise Agreement since the last one that they have expired August 10, 1999. Ms. Burge stated that she is not sure but that a revision may have been done in 2005 possibly with Falcon and not Charter. Ms. Burge will look into this.

Mayor Custis stated that the Fire Company grant money was received last week in the amount of \$7,200.00.

**Motion: To issue a check to the Onley Fire Company in the amount of \$7,200.00 to pass through the grant money by Lance Eller and seconded by Ned Finney. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED  
Mayor Custis encouraged everyone to come out and support the Fire Company.

### Public Participation

Don Strautz asked Council to hold up the current newsletter to let people know about the website and the message center that is coming. He also asked how residents will know to check the website for updates. Mayor Custis stated that the website will be updated each quarter and the combination of the message center sign and the website should serve that purpose.

John Dennis urged everyone to continue to fight to keep the paid EMT's in Onley. He also expressed a need for the Fire Company to acquire the 501c3 status.

Mr. Eller asked to speak as a citizen and not as a Council member. He expressed great concern for Mr. Ferguson's absences at the meetings. He stated that he feels that it is Council's duty to the Public to ask for Mr. Ferguson's resignation. Mayor Custis stated that she has spoken with Mr. Ferguson about this matter and he has stated that he is considering resigning his position but his mind is not made up. He has personal issues and is trying to juggle family and work.

**Motion: To ask for the resignation of Billy Ferguson from the Onley Town Council in the form of a letter by Teresa Marshall and seconded by Ned Finney. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

### Zoning

Mr. Engelhart stated that he has just received a Special Use Permit application for an Internet Café to be located in the old Bullfeathers location at Four Corner Plaza. Mr. Engelhart explained that this is sweepstakes supported which some people consider gambling, however the Attorney General's Office does not. Mr. Engelhart explained to the applicant that everyone has the right to apply but that a Public Hearing will need to be held. Mr. Engelhart said that Mr. Hall is trying to keep the Plaza full by bringing in businesses that compliment Walmart instead of trying to compete with them. Ms. Burge stated that she has been researching this topic and will continue to do so. She also advised Mr. Engelhart that his first step is to acquire a complete application. She also advised him that this does not need to go before the Planning Commission - but it can. Mr. Engelhart stated that he would appreciate any guidance from Ms. Burge. Ms. Burge recommended that the Planning Commission take a look at it at their January meeting and get back to Council for the February meeting.

### Council Comments

Mr. Chance had no comment.

Ms. Dize had no comment.

Mr. Eller had no comment.

Ms. Marshall had no comment.

Mr. Finney stated that he was sorry that Council had to ask for Mr. Ferguson's resignation however he feels that one's responsibility as an elected official should be taken very seriously.

**Motion: To adjourn at 7:42p.m. by Lance Eller and seconded by Ned Finney. Vote:** Chance-yes; Dize-yes; Eller-yes; Ferguson-absent; Finney-yes; Marshall-yes. MOTION PASSED

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Jamye Salazar, Treasurer

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Billye D. Custis, Mayor