

Onley Town Council Minutes of March 7, 2016

VIRGINIA: At a Regular Monthly Meeting of the Onley Town Council held at the VVA Building, 25534 East Main Street, on the 7th day of March, A.D., 2016:

Council Members Present: Jack Pierson, Mayor
Ned Finney, Vice-Mayor
John Dennis
Dawn Dize
Matt Hart
Susan Rillo
Don Strautz

Staff Present: John Pavlik, Zoning Administrator
Jamy Salazar, Treasurer
John Spivey, Chief of Police
Michael Sterling, Town Attorney

Call to Order

Mayor Pierson called the meeting to order at 6:30pm. He then stated that he is not feeling well so Vice-Mayor Finney will be conducting the meeting tonight.

Invocation & Pledge of Allegiance

The invocation was given by Dawn Dize and the Pledge of Allegiance was led by John Dennis. At this time, Vice-Mayor Finney introduced Michael Sterling, the new Town Attorney. Mr. Finney then asked Council to add Item (E.) Discussion of Moving the Polling Location under New Business and move it to the beginning of the meeting, just after the adoption of the agenda.

Adoption of Agenda

Motion: To adopt the agenda with the change by Don Strautz and seconded by Matt Hart.

Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

At this time, Vice-Mayor Finney introduced Patricia White from the Accomack County Registrar's Office. Ms. White stated that Laura Belle Gordy asked her to come to the meeting and explain what they are proposing. She stated that they are proposing that the voting location be moved from the fire house for several reasons. There is very limited parking, handicapped accessibility is an issue and the overall area is just not really suitable for a polling place. There are 372 registered voters in the Town of Onley and 919 registered voters in the entire precinct. She stated that this decision will only involve the general elections, the special elections and the primaries. It will not change where local elections are held. She concluded by stating that the procedure is to have an ordinance drawn by the County Attorney. It will be advertised in the local papers for two weeks, followed by a Public Hearing, and then the Adoption will go forth and they will notify the registered voters in the precinct. The two new locations that are being considered are Nandua Middle School & Nandua High School. Ms. Gordy and the Town Council thanked Ms. White for coming to the meeting.

Consideration of Minutes

Ms. Salazar stated that some people may have minutes that contain an error on page 4 incorrectly stating the Mayor's name. She has a corrected page four for anyone who needs a new one and she asked Council to consider that correction before adopting the minutes.

Motion: To adopt the minutes of the February 8, 2016 Regular Monthly Meeting with the correction if necessary by Don Strautz and seconded by Dawn Dize. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

Department Reports

Police Report & Schedule

Chief Spivey stated that he recently met with his officers to see if they feel we need to go back to an eight-hour rotation to maintain coverage being that they are short an officer at this time. They agreed that ten-hour seems to be working and he will re-visit that matter should the need arise.

Motion: To approve the April 2016 schedule by Susan Rillo and seconded by Matt Hart. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

Motion: To rescind the motion to repair the 2009 Dodge Charger by Ned Finney and seconded by Susan Rillo. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED. A copy of the motion from the June 8, 2015 meeting will be attached to the minutes.

Chief Spivey provided Council with some information pertaining to the 4th Circuit Court of Appeals Taser Policy. He spoke on this matter for several minutes and explained that Council needs to approve making some changes to the Town's Taser Policy. These changes will be made by himself and Mr. Sterling to make sure that the town is in compliance. They will get back to Council for the final approval once the changes have been made. Mr. Sterling suggested making a motion to approve the policy change now to comply with the decision in the Armstrong v. Village of Pinehurst case subject to legal review and approval so that the Police Department can put this policy into effect immediately instead of waiting for approval from Council.

Motion: To have Chief Spivey and the Town Council confer with each other about changing the Taser Policy and implementing any changes based on the 4th U.S. Circuit Court of Appeals on Armstrong v. Village of Pinehurst's decision by Don Strautz and seconded by Matt Hart. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

Chief Spivey stated that the Town of Onley's Police Department does not have a hiring policy. He has been working on a preliminary policy that contains seven steps for hiring. He presented it for Council's review and ultimate approval at a later date. He explained the steps of the process and asked for some direction from the Town Attorney as well as the Town Council. At this time, Ted Bliss commented that it might be a good time to implement Chief Spivey's work on the hiring policy for the Police Department to any and all hiring done by the town. Debbie Bliss asked if Council will have a Public Hearing on the new hiring policy and, if not, how will the public have input on the matter. Mr. Sterling commented that there is rarely public input for policy and procedure changes. He did state that draft documents can be created. Ms. Bliss asked if the draft documents will be posted on the town's website. Chief Spivey stated that while policies are public record and accessible to the public, it has not been our practice to post such things on our website. Mr. Sterling added that he cannot think of any town that posts police policies or procedures on their website; it is not typically done.

Chief Spivey asked Council to consider the possibility of advertising for a new police officer that has not been trained/certified. Mr. Finney stated that we have tried that before and haven't had much luck. He added that there is too much "down time", meaning time without an officer, as well as the fact that the officer can graduate, work here for a few months and move on. After much discussion on this topic, no decision was made.

Treasurer's Report

Ms. Salazar gave her report at this time. She pointed out that the \$125,000.00 CD has been purchased from BB&T per Council's request at last month's meeting.

Mr. Dennis asked if the auditors are coming soon. Ms. Salazar stated that they have confirmed that they will be at the April meeting to present the audit and she does have copies of the audit at the office if anyone is interested in having one.

Motion: To Pay the February 2016 Payables by Don Strautz and seconded by John Dennis. Roll Call

Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

Attorney's Report

Mr. Sterling said that he had nothing to report having just started but he did say that he splits his time between the Norfolk/Virginia Beach area and the Eastern Shore so he is very grateful for the opportunity to work with the Town.

Zoning Administrator's Report

Mr. Pavlik read his report into the minutes. A copy of this report will be attached. In the matter of the Cozens property, Mr. Strautz stated that he feels this matter has gone on for some time now and we may need to push the envelope with him a bit. Mr. Pavlik agreed and said that he would like to confer with the attorney on this matter.

Public Works

Ms. Salazar stated that there was a delay in trash pickup on February 15th due to the ice and inclement weather. She added that beginning the following Monday, a mechanical arm was implemented on the trash truck so they will be picking up later in the day instead of early morning. It also means that they will only be picking up items that are inside the container. Mr. Simpson and his crew have been picking up limbs in town in response to several requests from residents – one on the corner of Caroline and Pennsylvania and another on E. Main Street. They have been picking up a lot of litter including a sofa that was left in the road. The storm drains have been checked regularly and everything seems to be going very well.

Planning Commission Report

Ms. Siglin stated that there was no meeting of the Planning Commission this past month due to inclement weather.

Old Business

In the matter of the new Town Office, Mayor Pierson stated that he realizes this item has been tabled but Mr. Strautz has acquired some information on metal buildings that he would like each Council Member to see. He asked that each one stop by the town office and look at the information. Mr. Strautz added that he feels that they are quality buildings and wants to look at them as an option since the Morton Company seems to be very accommodating. Ms. Bliss stated that a project this size needs to be bid by law so why are we looking at a building if we have to bid it anyway. Mayor Pierson assured her that we are aware of that and we have been very careful to do things properly; however, we have to decide what kind of building that we want before we can proceed.

Mr. Finney stated that in the past we have discussed the possibility of purchasing the lot across from the Town Office for the purpose of a town park. He would like to re-visit that discussion again since the property owner, Matt Hart, has said that he has been approached by others about purchasing the property but he would like to see the town purchase it for the purpose of a park. Ms. Dize said that she feels we should have two to three appraisals done before we act on this since the property owner is a Council Member. Mr. Strautz said that he is not really interested in beginning another project when we can't seem to make progress on building a new Town Office. Ms. Dize agreed. Ms. Rillo added that she understands Mr. Strautz's concern; however, she does not want the Town to lose out on the sale of the

property. She feels it would be beneficial to the Town and residents to purchase the property. At this time, Mr. Finney polled Council asking if they even want to proceed with pursuing the acquisition of the property. The poll was as follows: Hart-abstain; Rillo=yes; Dize=yes; Dennis=no; Strautz=no; Finney=yes. Mayor Pierson stated that he is not in favor of pursuing the property.

Mayor Pierson asked Mr. Hart if he has a dollar figure in mind. Mr. Hart stated that it would be up to Roy Cowan since he holds the mortgage on the property and he will be the one to sign off on the deal. At this time, Mr. Sterling stated that Mr. Hart should be speaking as a resident and not a Council Member – he should recuse himself from Council and only speak about this matter as a Council Member. Mr. Hart agreed and stated that he is speaking as a resident. Mr. Dennis stated that he is very concerned about the cost of playground equipment as well as the liability coverage. Mr. Sterling said that the town may be able to acquire a grant for the purchase of equipment. Billye D. Custis asked Mr. Sterling if the town would need to hold a public hearing before purchasing property. Mr. Sterling stated that she is correct depending on the circumstances. Rose Pierson asked if Council is considering a playground or a park because they are potentially two different things. In the matter of purchasing the property for the purpose of a playground or park, Mr. Sterling stated that there are quite a few steps that the town will need to go through to make it happen. He suggested that the first step might be acquiring an appraisal.

Motion: To look at the possibility of purchasing the lot across from the Town Hall, owned by Matt Hart, at fair market value and in that process have an appraisal done on the property by Susan Rillo. There was no immediate second to the motion.

At this time, Ms. Dize stated that she would have made the motion for a survey and appraisal but not to purchase the property. Ms. Rillo stated that her motion was to consider the possibility of purchasing pending the outcome of the appraisal – not to purchase at this time. Ms. Rillo withdrew her previous motion at this time.

Motion: To have the Cowan lot owned by Riptide Real Estate surveyed and appraised by Dawn Dize and seconded by Susan Rillo. Roll Call Vote: Hart-abstain; Rillo=yes; Dize=yes; Dennis=no; Strautz=no; Finney=yes. MOTION PASSED

New Business

Mr. Finney stated that the door frame and the door on the back of the office needs to be replaced. Mr. Finney stated that we only have one bid from Garry Gibbons in the amount of \$550.00. We will need to acquire two more bids before a decision is made.

Motion: To have the Spring Clean-up April 4th-10th with pick up beginning April 11th by Dawn Dize and seconded by Ned Finney. Roll Call Vote: Hart=yes; Rillo=yes; Dize=yes; Dennis=yes; Strautz=yes; Finney=yes. MOTION PASSED

Council will meet on Monday, April 11th at 6:30pm to begin discussion of the 2016-2017 budget.

Ms. Salazar stated that it is almost time to begin mosquito spraying and Michael Scott did drop an unsolicited proposal by the office in the amount of \$3,600.00 for spraying twice a week using the Town's equipment or his equipment. Ms. Salazar asked Mr. Sterling if this is something that we need to advertise to solicit bids. Mr. Sterling stated that based on the population of the town, we are not required to by State law; however, some towns do so anyway. Ms. Salazar stated that the Town does have its own procurement policy as well. Council decided to wait to make any decisions on this matter until next month's meeting.

Public Comments

Billye D. Custis stated that when George Bennett was Chief of Police, several police policies were adopted by Council but she does not know what happened to them. She stated that we have sent three candidates for training in the last few years and they all left within the first year. We were reimbursed by two of those people but one "stiffed us". She expressed concern that the Closed Session tonight says

there will be a discussion of the Personnel Policy because she does not believe that is a closed session item unless it is specific to an individual and, also, the Personnel Policy is based on the Town Charter. She added that we do have a procurement policy and anything that is not in the budget over \$500.00 needs approval of the Council.

Rose Pierson signed up to speak but stated that she did not wish to at this time.

Deborah Bliss signed up to speak but stated that she did not wish to at this time.

Walter Marks signed up to speak. Mr. Marks was no longer in attendance.

Nancy Kluis signed up to speak in case there were questions about moving the voting location. There weren't any at this time.

Council Comments

Mr. Hart thanked everyone for coming and asked for their support in the upcoming election. He stated that he is hopeful that we can bring forth a park adding that growing up in Wachapreague, he loved riding his bike to play in the park and he wants that for the children of Onley. He thanked Chief Spivey for his work on the hiring policy.

Ms. Rillo thanked everyone for coming. She also thanked Chief Spivey for his work on the hiring policy as well as the Taser Policy, adding that the town is a business of sort and that it needs policies and procedures to make it run well.

Ms. Dize agreed with Mr. Hart and Ms. Rillo. She thanked everyone for coming and added that she believes Billye D. Custis is correct in that we have implemented policies in the past and she is wondering what happened to them. She thanked Chief Spivey for his work on the policies. She welcomed Mr. Sterling and stated that she looks forward to working with him.

Mr. Dennis thanked everyone for coming. He said that he is not running for re-election for four reasons although three of them he will not discuss. He added that his workload is growing and he just does not have the time.

Mr. Strautz stated that he is not against a park, he is actually in favor of it, but we are not very good at setting committees and making things happen. He feels that we need to focus our attention on building a Town Office before taking on another project.

Mr. Finney thanked Mr. Dennis for serving. He welcomed Mr. Sterling. He thanked the other Council Members and the employees, adding that he still stands behind Chief Spivey and he knows that Chief Spivey did what he was supposed to do.

Closed Session

Motion: To go into Closed Session at 8:43pm in accordance with Section 2.1-344-A of the Code of Virginia of 1950, as amended for the purpose of Paragraph 1: Discussion or Consideration of Personnel Matters pertaining to the Police Department, specifically related to an internal investigation involving the hiring of a police officer; and the discussion of Personnel Policy by Don Strautz and seconded by Susan Rillo. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

Open Session & Certification of Closed Session

Motion: To return to Open Session at 8:53 by Don Strautz and seconded by Ned Finney. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

A roll call vote was taken immediately after reconvening in Open Session, at which time each member certified by his/her vote whether only the matters previously disclosed were discussed during Closed Session: Pierson-yes; Dennis-yes; Dize-yes; Finney-yes; Hart-yes; Rillo-yes; Strautz-yes.

Chief Spivey stated that at last month's meeting there was some question as to whether or not a background check was run on Joel Addison. Chief Spivey has confirmed that there is documented proof that those checks were done. He has done a visual verification at the ACSO as well as contacting the State in regards to this matter. The State has confirmed that on December 28, 2014, Chief Spivey ran a criminal history check and a driving history on Mr. Addison. There was no information pertaining to a protective order given to Chief Spivey at that time. On the day of the accident, January 21, 2016, Sergeant George Bennett ran the same checks and it produced a copy of that protective order. Chief Spivey stated that had he seen that document back in December 2014 containing the protective order, he would never have hired Mr. Addison. He then explained a change in the hiring policy that will ensure that this does not happen again. Chief Spivey stated that based on his conversations with Jon Poulson, Council may need to make some changes to the Personnel Policy pertaining to how involved they want to be with the hiring practices and the disciplinary process. The Council may also want to make some changes to the Town Policy enabling the Police Department's Policy. At this time, Chief Spivey stated that he is the Chief of Police and, therefore, he takes full responsibility for the situation with Joel Addison. He added that it is his job to make sure things like this do not happen. He thanked Council for their support and stated that this was probably one of the most difficult things that he has dealt with in his career.

Ms. Dize stated that she feels we really fell short on our parliamentary procedure tonight. She feels that the audience speaking randomly by making statements or asking questions whenever they feel like it is inappropriate. She added that there is a time for Public Comment and that is when the audience needs to speak. Mr. Finney agreed but added that if we only allow the public to speak during Public Comments, that means everyone – we can't allow certain people to speak and exclude others. Mr. Strautz pointed out that the Accomack County Board of Supervisors does not allow people to speak out of order and he feels that it is important for everyone to remember that this is a public forum and should be treated as such. Ms. Salazar stated that from a minute keeping standpoint, it makes it hard to keep minutes when several people are speaking at once. Mr. Sterling stated that because it is a small crowd and a small setting, it is a nice thing to let everyone speak at will but he agrees with Ms. Salazar that it is very hard to keep proper minutes when there are numerous people speaking at once. Mr. Strautz suggested reading the Rules of Participation at next month's meeting and sticking to them.

Ms. Rillo asked where we are concerning the advertisement for the vacancy in the Police Department. Mr. Sterling stated that normally the decision to run the ad is not something that the Council needs to be involved in.

Adjourn/Recess

Motion: To adjourn at 9:05pm by Don Strautz and seconded by John Dennis. Roll Call Vote: Hart-yes; Rillo-yes; Dize-yes; Dennis-yes; Strautz-yes; Finney-yes. MOTION PASSED

Respectfully submitted by,

Jamye Salazar
Treasurer

Jack Pierson
Mayor