

Onley Town Council Minutes of April 13, 2011

VIRGINIA: At a Regular Monthly Meeting of the Onley Town Council held at the Onley Fire & Rescue Building on the 13th day of April, A.D., 2011:

Members Present: Billye D. Custis, Mayor
Billy Chance
Lance Eller
Ned Finney
Don Strautz

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

Absent: Teresa Erdman, Vice – Mayor
Dawn Dize

Call to Order

The Regular Monthly Town Council meeting was called to order by Mayor Custis at 6:30pm. In the absence of Dawn Dize, an invocation was given by Don Strautz. The Pledge of Allegiance to the Flag was led by Lance Eller.

Adoption of Agenda

Mayor Custis asked to add some items to the agenda. She asked to add under 6(A) Tires for the silver charger as well as under #8 (F) RSMH Resolution (G) Request to Repeal Four Corner Plaza Curfew (H) Review of Decal Ordinance and (I) Resignation of a Council Member.

Motion: To adopt the agenda with changes by Lance Eller and seconded by Don Strautz. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Consideration of Minutes

Motion: To approve the Minutes of the March 7, 2011 Regular Monthly Council Meeting by Lance Eller and seconded by Ned Finney. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Motion: To approve the Minutes of the March 24, 2011 Recessed Council Meeting by Don Strautz and seconded by Lance Eller. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Department Reports

Police Report & Schedule

Motion: To approve the May 2011 Police Schedule by Lance Eller and seconded by Ned Finney. Vote: Chance=yes; Dize=absent; Eller=yes; Finney=yes; Marshall=absent; Strautz=yes. MOTION PASSED

The off-duty Glock 27 has been sold for \$420.00.

Mayor Custis stated that a letter asking for the speed limit change on Onley Road has been sent to the Board of Supervisors.

Sergeant Marks stated that there were several applications received in response to the ad for a Police Officer however only one was certified. Mr. Finney stated that he is unsure as to whether or not we need a fifth officer at this time. After looking at the current schedule, he noticed that three officers are

often working the same shift so that everyone can get their hours. Mr. Eller stated that he would rather not spend the money if we didn't have a real need. Mr. Strautz stated that he feels public safety is a priority and he would like to go ahead and interview for the fifth officer. Mr. Chance stated that he does not feel that there is a need for another officer at this time.

Motion: To re-visit the idea of hiring another officer in 60 days by Lance Eller and seconded by Ned Finney. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis stated that both Chargers need new tires.

Motion: To purchase new tires for both 2009 Chargers by Ned Finney and seconded by Lance Eller.

Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis stated that there is a Law Enforcement Safety & Operational Survival Seminar at the CBBT on April 20th and she would like for one or more of our officers to attend.

Motion: To send Sergeant Marks and any other officers available to the Law Enforcement Safety & Operational Survival Seminar at the CBBT on April 20th by Don Strautz and seconded by Lance Eller.

Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Treasurer's Report

Ms. Salazar stated that since the meeting was postponed several times, the bills have actually been paid however she would like for Council to make the motion to pay them.

Motion: To pay the Payables by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Zoning

Mr. Engelhart stated that he has just received a new application for a home occupation located at 25480 Coastal Blvd. submitted by Woody and Andrea Zember. They would like to convert a 20x20 garage into a custom crab picking operation. They have stated that they will have one employee, no retail operation, no pick-up by wholesalers and they will be producing ready to eat seasonal products for Internet sales that will be packed and taken to FedEx for shipping. Ms. Burge stated that a Public Hearing will need to be held on the matter before any further discussion or decisions are made.

Mr. Engelhart stated that someone from Royal Farms has contacted him and would like to meet with him and go over some of their plans. It is the same company that designed the Rural Health building. He suggested that Council speak with them about the new Town Office. Mayor Custis stated that according to Peggy Jordon from USDA the first step is to hire the architect. Ms. Burge stated that we will need to put it out on bid by way of a Request for Proposal per our procurement ordinance. He concluded by stating that a bill went before the General Assembly making Internet gambling illegal so he thinks that we probably will not see that sort of business come to Onley after all. Mr. Finney asked if Mr. Engelhart had heard anything from McDonalds. Mayor Custis read a letter from McDonalds stating that they were planning to close at the end of May and re-open after Labor Day. She stated that this will be a factor in estimating our meals tax in the upcoming budget. Mr. Strautz asked Mr. Engelhart if the Town will have any input in the design or "look" of the Royal Farms like the County did with Walmart. Mr. Engelhart will look into it but he does feel that they are more than reasonable and will be very willing to cooperate as much as possible.

Attorney's Report

Ms. Burge stated that she will report on Charter Communications later in the meeting when it is reached on the agenda. She stated that the privacy statement proposed to us for the website is adequate. She stated that the abstract for judgment in the Wenzel case has been recorded. We are still pending a BZA appointment for Kerry Anderson's position because we still do not have a judge. She stated that we

have had on the back burner for some time the Chesapeake Bay Local Assistance Department Phase III Consistency. We are not required to be Phase III Consistent until 2012 or 2013 but she has been looking into that so that we can be prepared. She reminded Council that it is almost time to request for proposals for the sanitation contract. There has been a question about the Open Burning Ordinance and Accomack County's does apply to the Town. Ms. Burge stated that Mr. Nicoll's appeal period will expire tomorrow and as of this morning he had not filed an appeal.

Old Business

Motion: To request proposals for an architect firm to build the new building at 25571 E. Main Street by Ned Finney and seconded by Lance Eller. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman -absent; Finney-yes; Strautz-yes. MOTION PASSED

Ms. Burge advised Council to adhere to the Procurement Policy for Professional services when requesting these proposals.

Mayor Custis stated that the parking area at the Town Office is muddy and full of holes. She asked Council if they would consider some sort of a quick fix until the new building and an actual parking lot is a reality. Mr. Finney suggested that everyone park on the street. Mr. Eller agreed that everyone will have to park on the street – he does not want to spend the money at this time to repair the parking lot. Mayor Custis stated that the general public also uses our lot and we need to keep everyone from driving on it. Mr. Finney and Mr. Eller would like to see it taped off the same way we did the vacant lot.

There is no Grant Coordinator Report.

The newsletters will go out after the meeting tonight.

Ms. Salazar stated that she spoke with Ms. Dryden today and once our attorney approves the privacy statement, she will continue with the mock of the website. Ms. Salazar further stated that she expressed to Ms. Dryden that we are eager to get the website up and running and if there is anything that we can do to make this happen faster we will certainly do it.

Ms. Burge stated that the Town has granted a Franchise to Charter Communications for many years. In 2006, when the communication tax was enacted there was a whole different way of collecting franchise fees. The communications tax now goes to the state and our part is then sent to us. Ms. Salazar indicated that we are collecting communications tax. We are operating without an agreement now but this particular agreement offers Charter a non exclusive agreement with a term of 10 years beginning when this one is initiated. It has a renewal term for 5 years but you will need to notify them 3 years before it expires if you are not planning to renew. Ms. Burge explained that essentially we are giving them permission to use the roads and streets in Town for the purpose of installing lines and equipment. Ms. Burge stated that she would like to know if the County has the same agreement and if so she would like to join with them and have both franchise agreements run simultaneously. Council decided to wait another month and see if the County finds their agreement.

Council decided to leave the \$6,000.00 Fire Department donation in the 2011-2012 Budget and to discuss it further at next month's meeting. Mr. Strautz would like to have all members of Council present when finalizing the draft budget.

New Business

Mayor Custis stated that Jack Pierson has agreed to serve on the Planning Commission. She further stated that there will be a vacancy on Council and she is unsure if Mr. Pierson will be interested, however if he is he cannot serve in both capacities.

Motion: To appoint Jack Pierson to the Planning commission by Lance Eller and seconded by Ned Finney. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Motion: To have the Spring Fling on May 28th with a rain date of May 30th by Don Strautz and seconded by Ned Finney. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Motion: To have the Veteran's Day Celebration on November 5, 2011 by Lance Eller and seconded by Ned Finney. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

There was some discussion about the Burn Ordinance and whether or not we are covered under Accomack County's Ordinance. Mayor Custis asked Ms. Burge if we are correct in saying that there is no burning at all in Town. Ms. Burge stated that while there is some permissible burning, there is no open burning allowed in Town. There is no burning allowed within 500 feet of an occupied building or 300 feet of any neighbors without their permission. Ms. Burge read the guidelines for burning as well as the penalties if they are not adhered too. Ms. Burge asked Council if they would like to develop their own Burn Ordinance. Mr. Finney and Mr. Eller feel that we are covered under Accomack's Ordinance and that is sufficient at this time.

Mayor Custis stated that employee evaluations are coming up and she will try to have them done for budget purposes.

Mayor Custis read two Resolutions Supporting Riverside Shore Memorial Hospital moving to Accomack County. She asked Council if they would like to adapt the Resolution and send one from the Town of Onley.

Motion: To adapt the Resolution for Shore Memorial Hospital from the Town of Onley and send it in support of the new hospital by Don Strautz and seconded by Ned Finney. Voice Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis read a letter from Rick Hall requesting the repeal of the Four Corner Plaza Curfew Ordinance. Mr. Hall stated that new businesses at the Plaza will be open 24 hours a day and the curfew will be impossible to enforce. There was some discussion by Council as to whether or not to do this. Ms. Burge reminded Council that the Town itself does have a curfew for minors and since Four Corner Plaza is private property she is unsure if this curfew is even enforceable.

Motion: To repeal the Four Corner Plaza Curfew Ordinance by Lance Eller and seconded by Ned Finney. Voice Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis told Council that an issue came up this week with the Town decals that needs some clarification. There was a resident that owns an antique car and wanted to know if he needed to purchase a decal. Our ordinance does not clarify this nor does it make allowances for the fire department volunteers to receive a free decal. Ms. Salazar asked that Council also clarify whether or not inactive Fire Department members are eligible as well as how many free decals should go to a household.

Council asked Ms. Burge to redraft the ordinance to include a free decal for active members of the Onley Fire Department and to require that all vehicles housed in Onley display a decal.

Mayor Custis read a letter from Teresa Erdman (formerly Teresa Marshall) stating that she wishes to resign from her position on the Onley Town Council.

Motion: To accept the resignation of Teresa Marshall Erdman by Lance Eller and seconded by Ned Finney. Vote: Chance-yes; Dize-absent; Eller-yes; Erdman-absent; Finney-yes; Strautz-yes. MOTION PASSED

Council decided to put the vacancy in the newsletter and anyone that is interested can submit their name. Council also agreed to wait to appoint a Vice-Mayor.

Public Participation

Mayor Custis asked if anyone wished to speak. Mr. Grinnalds asked if he is eligible for a free decal. Ms. Burge stated that she would look into it since the state code governs the exceptions.

Council Comments

Mr. Chance had no comment.

Mr. Strautz asked that everyone work as hard as they can to make ends meet with the upcoming budget.

Mr. Eller stated that he feels public expression is very important and if people have things to say they should say it at meetings and not around Town.

Mr. Finney stated that he is sorry to lose Ms. Erdman and he praised her for doing such a good job. He has enjoyed working with her and wished her luck in her future endeavors.

Ms. Burge suggested that Council have a resolution to that effect and maybe invite her to the next meeting and present it to her.

Motion: To have a resolution expressing gratitude for service to Teresa Marshall Erdman by Ned Finney and seconded by Don Strautz. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Closed Session

Motion: To go into Closed Session at 7:59pm in accordance with Section 2.1-344-A of the Code of Virginia of 1950, as amended under Paragraph 1: discussion or consideration of personnel matters pertaining to the Public Works Department, specifically related to the job performance of Jerry Crockett by Don Strautz and seconded by Lance Eller. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Open Session

Motion: To return to Open Session at 8:30pm by Ned Finney and seconded by Lance Eller. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Certification of Closed Session

Mayor Custis stated that Officer Marks did report to them something that is not available under FOIA. 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: Custis=yes; Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes.

Mr. Finney thanked Mayor Custis for all that she does.

Motion: To adjourn at 8:33pm by Lance Eller and seconded by Don Strautz. Vote: Chance=yes; Dize=absent; Eller=yes; Erdman=absent; Finney=yes; Strautz=yes. MOTION PASSED

Jamye Salazar, Treasurer

Billye D. Custis, Mayor