

Onley Town Council Minutes of June 6, 2011

VIRGINIA: Public Hearings for Special Use Permit & Proposed 2011-2012 Budget & Regular Monthly Meeting June 6, 2011- Public Hearings Begin at 6:00pm with Regular Meeting immediately following at the Onley Fire & Rescue Building on the 6th day of June, A.D., 2011:

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

Staff Present: Walter Marks, Chief of Police
Jamy Salazar, Treasurer
Cela Burge, Town Attorney
David Engelhart, Zoning Administrator

Public Hearing Special Use Permit

Mayor Custis opened the Joint Public Hearing for Special Use Permit at 6:00pm and stated that the Town Council does have a quorum. Chairman Morrison called the Planning Commission to order and stated that they also have a quorum. Mayor Custis read the Rules of Public Participation.

Mr. Engelhart stated that Woody & Andrea Zember residing at 25480 Coastal Blvd. have applied for a Special Use Permit allowing them to have a home occupation whereby converting their garage into a custom crab picking operation. The business would have one employee other than the family. This will not be a retail operation. It will be wholesale as well as have some Internet sales therefore, it will not create any extra traffic. The product will be shipped daily via FedEx, UPS or DHL and the waste will be removed daily. They will need to do this to comply with USDA, the FDA and Shellfish Sanitation as well. Mr. Zember stated that the crab scrap will be kept in 60 gallon sealed containers and will be removed daily. There will be one picker other than him. He further stated that everyone including the Health Department has signed off on this – they are just awaiting Town approval. Mr. Engelhart asked if the Health Department has given septic approval. Mr. Zember stated that they have. Mayor Custis asked if the Planning Commission had any questions. Commissioner Campbell asked where the crabs will be cooked. Mrs. Zember stated that they will be cooked on the deck in a turkey cooker. There will also be refrigerators kept in the garage.

Public Comments

Mayor Custis read a letter from Emma Sue Taylor and a letter from Cary & Dottie Milliner – both in opposition to a crab picking operation in a residential area. These letters will be attached to the minutes. Herman Hohlt stated that he was neither for or against the Special Use Permit being granted; however, he wants to make sure that due diligence is used if the application is approved. He believes that the neighborhood already has feral cats, black snakes and possum. He is concerned that crab waste and an undesirable odor will attract other things as well. Woody Zember reiterated his claim that the waste will be handled appropriately in a sealed container and disposed of daily. He further stated that since the container will be sealed there should be even less odor than the normal household waste container. He added that the crab picking operation is designed to be used in a home. This limits what you are able to do from your house. He concluded by saying if anyone else had questions they should contact him and he would be glad to give them an answer. Andrea Zember stated that no one in the neighborhood will even know that a business is being operated at their home. Mayor Custis asked if anyone else wanted to speak. No one did.

Adjourn Public Hearing – Both Bodies

Mayor Custis adjourned the Public Hearing at 6:15pm. Chairman Morrison adjourned the Public Hearing of the Planning Commission at 6:15pm. It was decided that they would deliberate after the Public Hearing for the Proposed 2011-2012 Budget.

Public Hearing Proposed 2011-2012 Budget

Mayor Custis called to order the Town Council of Onley for the purpose of the Public Hearing for the Proposed 2011-2012 Budget at 6:16pm. Ms. Salazar presented the proposed budget and a copy of it will be placed with the minutes.

Public Comments

Niall Finnigan gave Council an update on the SPOTS organization and asked that Council consider putting money into the budget to help in covering the cost of a new roof on the train station. Mayor Custis asked if anyone else wished to speak. No one did.

Adjourn Public Hearing

Mayor Custis adjourned the Public Hearing at 6:20pm.

Regular Monthly Meeting

Call to Order

The Regular Monthly Town Council Meeting was called to order by Mayor Custis at 6:20pm. The invocation was given by Lance Eller. The Pledge of Allegiance to the Flag was led by Ned Finney.

Adoption of Agenda

Mayor Custis asked to move 8(b) Grant Coordinator Report to 6A(3) as well as add 9(H) Onancock Mosquito Spraying, 9(I) Tables for Firehouse and 9(J) Grass Cutter under New Business.

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

Consideration of Minutes

Motion: To approve the Minutes of the May 2, 2011 Regular Monthly Council Meeting by Lance Eller and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Department Reports

Police Report & Schedule

Mayor Custis stated that there have been several calls about residents not having current decals on their vehicles. The Police Department is aware of it and several stops have been made. Mr. Strautz asked Chief Marks if on double coverage days an officer could be posted at the stop light in front of the Sage Diner. He has noticed a lot of traffic on weekends traveling at high speeds once that light turns green. Chief Marks stated that the speed limit just beyond there is 55 mph and there is no safe area for an officer to sit at that light. Ms. Dize stated that she has observed numerous vehicles traveling at high speeds on Coastal Blvd.

Motion: To approve to July 2011 Police Schedule by Don Strautz and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis asked Council to approve Byrne Jag grant expenditures in the amount of \$4,666.00 requiring a \$518.00 match from the Town. The Police Department is requesting that it be spent on the following items: Prolaser III with battery and carrying case for \$2,929.00, officer mileage and training for \$575.00, an AlcoSensor III for \$315.00, mouthpieces for \$30.00, (3) fire extinguishers for \$75.60 and Citipak software for \$735.40.

Motion: To approve the Byrne Jag expenditures with the Town making a match of \$518.00 by Dawn Dize and seconded by Lance Eller. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes.

MOTION PASSED

Mayor Custis stated that at the April meeting, Council agreed to discuss hiring another officer in 60 days. Chief Marks stated that he needs another officer at this time.

Motion: To re-advertise for a Full-Time DCJS Certified Police Officer at the VEC website by Don Strautz and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Chief Marks asked about the repeal of the curfew at Four Corner Plaza. There was a large gathering there last weekend of about 500 people with loud music and partying. Ms. Burge stated that since it is private property our only course of action would be to cite a violation of the noise ordinance. Mayor Custis read the Grant Coordinator's Report which stated that 2010-2011 Virginia Highway Safety Program requirements second quarter reports have been filed and all hours for that quarter have been filled. The officers have remained on track with their grant expectations as well as traffic check points and seatbelt surveys. The application for the 2011-2012 Highway Safety grant was submitted on April 14th, 2011 and no response has been received at this time. The USDA grant application for purchase of a police car has been completed and filed. The purchase will be made as soon as funds are made available to us. The USDA representative was in Onley this past month to begin the environmental assessment for the new Town Office. The Byrne Jag grant expenditures were just discussed and approved.

Treasurer's Report

Ms. Salazar asked Council to consider moving some money around since after making a deposit today into the PNC regular checking account, there is a balance of about \$207,000.00. She presented Council with a list of rates from several of the local banks.

Motion: To close the money market accounts at BB&T and Suntrust adding an additional \$100,000 from regular checking and opening a Wall Street Money Market account in the amount of \$260,000 at Shore Bank earning a rate of .80% by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Ms. Salazar asked if there were any questions about her Treasurer's Report. Mr. Strautz asked why we were paying Patrick Robbins \$240.00. Ms. Salazar asked that Chief Marks explain. He stated that in some instances when a person requires an attorney to represent them, if the state box is not checked on a citation and the case is lost, the Town is responsible for paying the attorney's fee.

Motion: To pay the June 2011 Payables by Lance Eller and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Zoning

Mr. Engelhart thanked everyone for their input on the Special Use Permit application. He also asked Council to approve his attendance at a seminar given by VAZO on July 26-29. This training will allow him to become a certified zoning official and zoning administrator. This one is in Charlottesville and he estimates that the total cost will be \$900.00. This will cover tuition, hotel stay, and meals. He would like to use the \$700.00 in the current budget and the remainder from the 2011-2012 budget. Ms. Burge said that this is very good training and would be very helpful to the Town.

Motion: To send David Engelhart to the VAZO training in Charlottesville on July 26-29 at a cost of \$900.00 by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mr. Finney asked what is happening to the house over by the railroad building. Mr. Engelhart stated that he has spoken with Mr. Hart concerning the property since there have been no permits purchased for any of the construction being done there. He further stated that he also explained to him that depending on his plan for the property he may need to look into special use permits. At this time, he has received no response from Mr. Hart. Ms. Burge explained that when a special use permit is granted, it runs with the land and not the landowner. There are some other categories. For example, structures built before 1971 when the zoning ordinance was adopted, if a multi-family home becomes a single family home, it may lose its non-conformity. This is something that the Planning Commission and Town Council may need to look into. Another category is single family homes that have been turned into something that is non-conforming. The Zoning Administrator will then need to address that by saying that it can no longer exist in that way. Mayor Custis asked Mr. Morrison for an idea on when the Zoning Ordinance will be finished. Mr. Morrison said that he hopes to have it completed this month. Ms. Burge stated that the Planning Commission will need to have a Public Hearing, take public comments into consideration and then present the final draft ordinance to Council. Town Council will then have a Public Hearing, hear public comment, deliberate and make any changes. If necessary, another Public Hearing may be held depending on the changes and then finally adopt the ordinance.

Attorney's Report

Ms. Burge stated that in reference to the Charter Communications item on the agenda tonight, there was a letter written to Former-Mayor John Kellam and received this week from Charter still asking that the Town sign a franchise agreement. Ms. Burge does not recommend that we do that at this time. She did complete a RFP for an Architect to help with building the Town Office which is very important if the Town is going to pursue USDA funding. She also attended the VML Section Meeting last week and got an update on some issues that are important to the Town. The most important issue being the LODA coverage and she will speak to that when it is reached on the agenda. She concluded by asking the Planning Commission if they had any questions for her. They did not.

Old Business

Ms. Burge read the RFP for Architect to the Council and Ms. Salazar stated that in it she gave respondents until July 1, 2011 to reply. This will correspond with our July meeting. Mayor Custis stated that she learned at the VML meeting that VACO has money to lend for the purpose of building a Town Office.

Mayor Custis asked Council if they want to continue with the newsletter. There were quite a few left over since some members did not pick any up for delivery and others delivered only a few. She added that she does not feel we can continue to justify the expense or the time spent on it if everyone on Council is not going to deliver at least 40 per member. Mr. Strautz stated that he delivered several only to find that residents had already received them. Ms. Salazar stated that she divides up the Town accordingly and that when Mr. Strautz picked his newsletters up she was not there to advise him on where he needed to deliver. She can only assume that is why some residents received duplicates. Mayor Custis asked each Council member if they are willing to deliver 40-50 newsletters. Everyone agreed that they would.

Ms. Salazar stated that she has provided Host Gator with credit card info to purchase the domain site for a year. She emailed Ms. Dryden to get an update for tonight's meeting but has not heard back from her at this time.

Ms. Burge spoke about Charter Communications earlier in the night.

Ms. Salazar gave the total cost of the Spring Clean-up as \$1,572.15. Chief Marks said about 24 residents used the service.

The Council Vacancy will be moved to after Closed Session.

There was no need to write the letter requesting a "Watch for Children" sign on Rogers Street. Mr. Eller took care of putting up a sign there.

There was some discussion about whether or not Officer James Coulbourne can continue to work 40 hours as an officer and work an additional 10 hours per week cutting grass in town. Ms. Burge stated that she believes he will need to be paid overtime for anything over the 85.5 hours worked in a pay period. She suggested hiring an outside contractor if the Town wants to avoid the overtime issue. Mr. Eller tabled the Bid Package for Public Works Services until next month.

Ms. Salazar stated that she only received one response from the Audit Proposal Requests that she mailed out in April. It was from Robinson Farmer Cox Associates in the amount of \$7,200.00.

Motion: To accept the Audit Proposal from Robinson Farmer Cox Associates in the amount of \$7,200.00 by Don Strautz and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

New Business

Ms. Burge reinforced to Council that in the Zoning Ordinance there are specific guidelines and review standards to consider when looking at a Special Use Permit. The ordinance says that you shall consider certain things in reviewing a Special Use application. The first thing is whether this proposed use or structure is allowed, the second is whether the proposed business or structure is consistent with the Town's Plan, the third is that the proposed use will not tend to change the character of the established pattern of development in the district where located, and the fourth is that the proposed use is in harmony with the uses around it by right already in that zoning district and the intent of the zoning district regulations for that district and won't adversely effect the neighboring property or the value of the neighboring property. Those are the four things that have to be considered. She further added that if Council chooses to impose conditions or special requirements, they have to be for the purpose of protecting public health, safety and general welfare of the Town. She then read a list of acceptable requirements, limitations and special requirements allowable. She encouraged Council to be very specific about what they grant. Mr. Morrison stated that on a motion by Commissioner Siglin and seconded by Commissioner Campbell, the Onley Planning Commission unanimously recommends approval of a Special Use Permit for a wholesale crab picking business at 25480 Coastal Blvd. on the condition that all odors from the operation, rodents and pests are effectively controlled. They also recommended that the Town Council review any complaints received within six months with the understanding that the Special Use Permit may be revoked if all conditions are not met. A copy of this recommendation will be attached to the minutes. Ms. Burge stated that if there are complaints a review can be done at any time by the Zoning Administrator who would then make a recommendation to Council.

Motion: To approve the Special Use Permit allowing Woody & Andrea Zember residing at 25480 Coastal Blvd. to operate a wholesale crab picking operation at their residence with the Planning Commission recommendations in place as well as the addition that the crab waste is kept in a sealed container and disposed of daily by Don Strautz and seconded by Lance Eller. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Motion: To meet on June 13, 2011 at 6:00pm to consider adoption of the 2011-2012 Budget by Ned Finney and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis presented Council with three options for our LODA coverage – one funded through VRS another with VML. We have until July 1, 2011 to opt in or out of the state (VRS) fund for this year

however next year on July 1, 2012 if you opt in – you cannot opt out. The third option is to self fund meaning once there is a claim, the Town would have to pay it. Ms. Burge stated that this fund will give public safety workers certain benefits if they are killed or disabled in the line of duty. Ms. Burge does not recommend that the Town self insure. There was much discussion about this subject.

Motion: To acquire LODA coverage from VML at a cost of \$200.00 per police officer by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Ms. Dize asked if we have any complaints about Waste Management. Ms. Salazar stated that we had a few early on but now everyone seems to be satisfied. Mayor Custis stated that they don't seem to mind picking up just about anything.

Motion: To send out an RFP for garbage pick-up by Ned Finney and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis presented Council with the cost of renewal for employee health coverage noting an increase of 12.5%. She further added that we added a 12% increase in the 2011-2012 budget. Mr. Eller stated that he feels we have good employees and he would like for Council to renew the current policy since it appears to be the better coverage.

Motion: To renew the current Anthem employee health coverage for another year at an increase of 12.5% by Lance Eller and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis asked Council to set a July meeting date since the first Monday is July 4th.

Motion: To have the July 2011 Regular Monthly Meeting on July 5, 2011 by Dawn Dize and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis presented Council with the Annual VML Renewal in the amount of \$17,224.00 for the coming year. This consists of local government liability coverage, general liability no-fault coverage, auto coverage, property coverage, workman's comp coverage and miscellaneous coverage. The amount is about the same as we paid last year.

Motion: To renew the VML coverage 2011-2012 in the amount of \$17,224.00 by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis stated that the Town of Onancock has asked us to let Mr. Shaw use our mosquito sprayer for about two weeks since their sprayer is broken. Mr. Shaw will fill the sprayer with our chemical, spray Onancock and then fill the sprayer with their chemical to ensure that none of our chemical is being used for Onancock.

Motion: To allow the Town of Onancock to use our mosquito sprayer for two weeks with the stipulation that they reimburse us for the gas and Biomist by Dawn Dize and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis asked Council to consider purchasing new tables for the Firehouse. The tables they have now are in poor condition and not suitable for use at the town meetings. The cost will be \$75.00 each for an 8' table.

Motion: To purchase five 8' tables at a cost of \$75.00 each by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Mayor Custis stated that last week it took Jamie Coulbourne 6 1/2 hours to cut the grass in Town. She feels that his rate of pay should be increased. He is giving up time off to help out the Town and she feels that we need to compensate him accordingly. He currently makes \$13.50 per hour. Ms. Dize asked about the condition of the sidewalks. Mayor Custis stated that Mr. Shaw was to spray sidewalks yesterday but had to postpone due to the rain. Once he sprays, the grass will need to be pulled and that will be up to the individual to do that.

Motion: To increase Jamie Coulbourne's hourly rate to \$25.00 per hour for grass cutting retroactive from the time that he started by Dawn Dize and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Public Participation

Ada Jo Amadeo asked that Mr. Eller and Mr. Finney speak up. The people in the back of the room are having a hard time hearing them.

Ann Pepler asked if there is an alert system in place for weather emergencies. Ms. Salazar stated that she spoke with Scott Taylor from the Fire Company and there is a siren that can be used. It needs to be turned on manually but in the case of a weather emergency, he will be happy to do it. Ms. Pepler suggested that we due a test. Ms. Salazar will look into this as well as get the info out to citizens in the next newsletter if we proceed with the test. Mr. Eller is concerned that there will be confusion when the siren is used for emergency calls. Ms. Salazar stated that Chief Taylor told her they no longer use it for emergency calls. Several people commented that they have heard it recently. It was decided that the siren that they heard was from either Onancock or Tasley since Onley does not use one.

Council Comments

Mr. Finney thanked everyone for coming to the meetings. He thanked Officer Coulbourne, Chief Marks, the Planning Commission, Ms. Burge and the other members of Council as well.

Mr. Eller had no comment.

Ms. Dize reiterated Mr. Finney's comment and also thanked Mayor Custis.

Mr. Strautz thanked everyone as well. He apologized for the confusion with the newsletters.

Mr. Chance thanked everyone for coming out to the meetings.

Closed Session

Motion: To go into Closed Session at 8:16pm 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 Council vacancy specifically related to vacancy due to Teresa Marshall Erdman's resignation by Dawn Dize and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Open Session

Motion: To return to Open Session at 8:45pm by Ned Finney and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Certification of Closed Session

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-yes; Eller-yes; Finney-yes; Strautz-yes.

Motion: To recess at 8:46pm until 6:00pm June 13, 2011 by Lance Eller and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Strautz-yes. MOTION PASSED

Jamye Salazar, Treasurer

Billye D. Custis, Mayor