

Onley Town Council Minutes of July 2, 2012

VIRGINIA: Onley Town Council Joint Public Hearing with Planning Commission for Special Use Permit and Regular Monthly Meeting at the Onley Fire & Rescue Building on the 2nd day of July, A.D., 2012:

Members Present: Billye D. Custis, Mayor
Jack Pierson, Vice-Mayor
Billy Chance
Dawn Dize
Ned Finney
Fred Gardner
Don Strautz

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

Regular Monthly Meeting

Call to Order

The Regular Monthly Town Council Meeting was called to order by Mayor Custis at 6:00pm.

Oath of Office for the Council

Donna Belote from the Accomack County Clerk's Office administered the oath of office to Jack Pierson, Billy Chance, Dawn Dize, Ned Finney, Fred Gardner and Don Strautz.

Invocation/Pledge

The invocation was given by Ned Finney. The Pledge of Allegiance to the Flag was led by Jack Pierson.

Appointment of Council Member to Planning Commission & Appointment to Planning Commission

Motion: To appoint Don Strautz to the Onley Planning Commission by Dawn Dize and seconded by Fred Gardner. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Motion: To appoint Lance Eller to replace Fred Gardner on the Planning Commission with a term ending June 30, 2015 by Don Strautz and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Ms. Belote administered the Planning Commission oath of office to Janet Siglin, J. Lance Eller, Othel D. Bowling, Susan M. Rillo and E. Don Strautz at this time.

Ms. Belote noted that she would administer the oaths all at once but that each commissioner has a different expiration date for their term.

Adoption of Agenda

Mayor Custis asked to add 11(G) Employee Health Insurance under Old Business.

Motion: To adopt the agenda with the above change by Don Strautz and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Town Council & Planning Commission Joint Public Hearing for Special Use Permit

Call to Order the Hearing & establishment of quorum for both bodies

Mayor Custis called the Joint Public Hearing to order at 6:11pm and asked Ms. Burge to read the rules for public hearings.

Rules for Public Hearings

Ms. Burge advised Council members that when hearing comments from the public, it is not always necessary to comment since they may not yet have all of the facts.

Mayor Custis asked Ms. Siglin to call the Planning Commission's Public Hearing to order. Ms. Siglin did so at 6:15pm and stated that they did have a quorum. Ms. Burge read the rules at this time.

Statement of facts on Special Use Permit

Mr. Engelhart stated that the special use permit is for a monument sign to be placed on the corner of Route 13 and Route 179 going to Onancock at the request of Royal Farms. The size of the sign will be 52 square feet where our zoning calls for signs no larger than 32 square feet.

Public Comments

Mr. Randy Bendler spoke on behalf of Royal Farms in favor of the sign. He stated that Royal Farms is hoping that this much smaller sign than the one previously proposed will be more acceptable to everyone.

Mr. Pat Morrison spoke against allowing the oversized sign stating that the ordinance was in place for a reason. The citizens of Onley do not want large signs and he feels that if you allow this one, you will have to allow others.

Adjourn Public Hearing – both bodies

Mayor Custis adjourned the Public Hearing for the Onley Town Council at 6:22pm. Commissioner Siglin adjourned the Planning Commission Public Hearing at this time as well. The Planning Commission moved to another room to deliberate at this time.

Regular Monthly Meeting

Walkability Workshop Presentation

Mayor Custis introduced Jim McGowan. He stated the he was there representing the Eastern Shore Health project working on Walkability. There will be several workshops held to discuss this – the one for Onley will be at the Shore Bank building on July 30. He passed out a handout with additional information to everyone in attendance. Mr. Strautz asked if it will also cover bike trails. Mr. McGowan responded that it does. Mayor Custis encouraged the Planning Commission and Council to attend. Mayor Custis thanked Mr. McGowan for his time.

Consideration of Minutes

Mr. Strautz asked to have the statement that he made at the June 4th meeting referencing the smell at the post office changed from "quite a bit" to "two times". Ms. Salazar will make that change.

Motion: To approve the Minutes of the June 4, 2012 Regular Monthly Council Meeting with the above change by Ned Finney and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Motion: To approve the Minutes of the June 11, 2012 Recessed Council Meeting by Don Strautz and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Department Reports

Police Report & Schedule

Mr. Strautz asked if the Crown Vic is functional. Chief Marks replied that it is and they use it for a reserve car.

Motion: To accept the August 2012 schedule by Don Strautz and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Mayor Custis stated that she does not believe that our officers (with the exception of Officer Bennett) are wearing the vests and wants Council to be aware of that. She also asked Ms. Burge what the liability is to the Town. She further asked Council if they want to instruct Chief Marks to have them wear the vests. Chief Marks stated that the ones that they have now are old and do not fit properly however they are in the process of acquiring new ones which will be fitted to the individual. Ms. Burge added that this is a liability to the Town.

Motion: To have police officers wear vests while on patrol with the only exception being when they are in the Town Office by Ned Finney and seconded by Fred Gardner. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-absent. MOTION PASSED

Mr. Finney asked how long before the new vests will be here. Chief Marks stated that is up to the grant coordinator since she will need to order them and then someone will come to measure the officers. He added that he himself does not wear his vest all of the time but he does wear it when he feels there is a need. Mr. Finney stated that he has a problem with the vests not being worn on traffic stops. Mr. Gardner asked if they are unfitting in such a way that they would not protect the officer. Chief Marks replied that the validity for them has expired. Mayor Custis stated that Council should have been notified of that before the expiration. She added that the new ones were approved at last month's meeting so there is no reason that they have not been ordered.

Treasurer's Report

Ms. Salazar stated that there is a sheet of additional payables in the folders. She added that the transfer of \$125,000.00 from regular checking to money market has been made which netted an additional \$30.00 in interest for about half of the month. She added that since we are at the end of a budget year, Council should take notice that we ended with about \$209,000.00 in revenue which is substantially more than expected. Ms. Dize asked for an explanation of several items on the deposit detail report. She further asked if Ms. Salazar could provide a little more information in the description line. Ms. Salazar stated that she will try, however space is limited in the accounting software which compiles this report. Ms. Dize asked if \$100.00 in petty cash is sufficient. Ms. Salazar replied that it is.

Motion: To pay the June 2012 Payables by Don Strautz and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Zoning

Mr. Engelhart shared the three estimates received for the clean-up of the Nicolls property. Allstate Salvage will pay to the Town \$2,500.00 for removing just the vehicles, The Task Force will charge the Town \$10,375.00 for the removal and clean-up of everything and the final bid is from ES Auto Body

asking that the Town pay to them \$2,025.00 for removal of everything, \$960.00 for storage fees and finally the landfill charges for the camper and boats. Mr. Engelhart asked for Council's guidance with this matter. He added that his recommendation would be to begin by having Allstate Salvage remove the metal and pay the Town. The Town would then use the proceeds to hire The Task Force to do the actual clean up of the property. Ms. Burge stated that Mr. Engelhart has acquired the three quotes and made a recommendation so now it is up to Council to make a decision based on the information that he provided. Ms. Dize asked about the chimney. Mr. Engelhart stated that The Task Force will remove the chimney - they will not remove the concrete footing. Mr. Finney stated that he may know someone who would like to do the clean-up as well. Mr. Finney asked if Allstate will store the vehicles for five days. Mr. Engelhart stated that he does not have that in the quote but the representative from there did agree verbally to do so. He will have Allstate add that to the quote.

Motion: To accept the bid from Allstate Salvage providing they will store the vehicles for five days by Ned Finney and seconded by Jack Pierson. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Mr. Engelhart stated that there is another item that needs to be discussed. There have been some complaints about the odor stemming from the crab operation on Woody & Andrea Zember's property. He reminded Council that a conditional special use permit was approved in June 2011. One of the conditions of the permit was there is to be no odor from the operation. Mr. Pierson asked if he could ask Mr. Zember a question. Ms. Burge asked to speak first so she can explain the process for investigating complaints. She read the specific conditions set forth upon granting the permit to the Zembers. If conditions are not met, then usually there is a complaint generated. The complaints are to be registered and a recommendation needs to be made to Council. Council will then have staff investigate any complaints and Council will then deliberate. If Council finds the complaint to be well founded, then Council will direct staff to make sure complaints are addressed within a certain time frame-or not. If conditions are not being met, this is a reason for revocation of the permit. This will be a decision made by Council only – not the Planning Commission. If there is to be an appeal of Council's decision, it will go straight to the Circuit Court. Mayor Custis read three complaint letters into the minutes. A copy of these letters will be attached to the minutes. Mr. Pierson stated that he spoke with Mr. Zember and Mr. Zember feels that the problem is coming from the cooking of the crabs. Mr. Zember stated that he currently cooks about four bushels a day in small turkey cookers. He is planning to change that so that he will only be cooking for about forty minutes a day. He is also willing to do the cooking at whatever time of the day that Council wishes. He added that the crab scraps are kept in sealed containers and disposed of daily. He reiterated that he feels the smell is coming from the steam and added that there is nothing he can do about nature. Mr. Finney asked Mr. Zember if he would consider asking Tony Edwards to steam the crabs. Mr. Zember stated that Mr. Edwards is a competitor and he may not be interested as well as the fact that Mr. Edwards uses a different method for cooking his crabs. Mrs. Zember stated that two of the letters received are from people that were against the special use permit in the beginning and one is from the Mayor's mother. Mayor Custis stated that she is correct about the two letters but the other is not from her mother but from S.P. Custis who she indicated is sitting in the front row. Ms. Zember stated that Mr. Custis is the Mayor's step father. Mayor Custis responded that she does not think that has anything to do with the topic at hand. Ms. Zember stated that she wants everyone to know that two of the complaints are from people that have been against them all along as well as a member of the Mayor's family. Ms. Siglin asked to speak and stated that she had no problem with the permit in the beginning but said that the Planning Commission was initially told by Mrs. Zember that the crabs would be cooked in the house. Ms. Zember denied this adding that cooking inside is not allowed by the Health Department. Ms. Rillo agreed that they were told the crabs would be cooked inside. Mr. Strautz stated that he cannot remember the specifics without going back to look. He offered a visual of the Zembers garage to Ms. Emma Taylor's house adding that it is about 372 feet and that

circle affects a lot of homes. Mr. Dennis Markle stated that he believes he lives just as close as Ms. Taylor and he rarely smells crabs, adding that when he does, it does not bother him. Mr. Todd Travis who lives next door to the Zembers stated that he does not have a problem with the crab smell bothering his family. Mr. Lance Eller stated that his property backs up to the Zember's property and he has only smelled the crab twice adding that he doesn't think that Ms. Taylor even goes outside so he is not sure how it can be bothering her so much. He feels that the Zembers are being "picked on". Mr. Zember asked that Council suggest a good time for him to cook the crabs. Ms. Zember said that she has heard that the administration in Town has been asking people if they have complaints. Mayor Custis replied that Ms. Zember's statement was not true and that she should refrain from proceeding with negative comments. Ms. Zember's response implied that she was not talking about Mayor Custis. Mayor Custis responded that Ms. Zember has been talking about her. As the discussion became heated, Ms. Burge asked to bring the meeting back to the issue at hand which is the complaints and that this meeting is the place for them to be discussed. Mayor Custis stated that she would have called the Zember's and offered a friendly notice but when she called them about the issue of them selling crab from the house, Mrs. Zember hung up on her. Mrs. Zember said that her reaction was because Mayor Custis had a bad attitude. Mayor Custis then asked Ms. Salazar to speak since she was a witness to this particular phone conversation. Mrs. Zember replied that she did not want to hear what Ms. Salazar had to say since she is "on your side". After another heated discussion between Mayor Custis and Mrs. Zember, Ms. Burge suggested that Vice-Mayor Pierson take over for Mayor Custis. Mr. Finney commented that the arguing is not resolving anything. Mr. Chance stated that he walks all over town day and night and has not been bothered by the crab smell. Mr. Pierson asked Mr. Zember to make a proposal for what he will do to solve this problem. Mrs. Zember suggested doing the cooking after 9:00pm. She also invited Council to come by the house and watch the process. Ms. Dize stated that she has only smelled the crabs once or twice and that the smell seemed to go away as quickly as it came but that it is very offensive. Council agreed to make cooking between 9:00 – 11:00pm a revised condition to the conditional special use permit granted to Woody & Andrea Zember. Ms. Dize stated that there are several yards in Town with grass issues. Mayor Custis stated that Mr. Engelhart gets a list and he works on it throughout the week.

Attorney's Report

Ms. Burge stated that Council will need to adopt the motor vehicle code when it is reached on the agenda. She thanked Council for allowing her to serve another year as the Town's Attorney and offered to schedule some time to meet with Council to go over the ins and out and the do's and don'ts of public office. She encouraged everyone to attend the VML's Newly Elected Officials Conference schedule for the end of the month. She concluded by telling Council that she cannot conduct the meetings – that's why we have a Mayor and a Vice-Mayor.

Mayor Custis stated that she has previously attended the Newly Elected Officials Conference on her own dime but she would like for the Town to pay for her to attend this year. The registration fee is \$175.00 and the cost of the hotel is \$83.00 per night for a total of \$166.00. Mr. Gardner would also like to attend.

Motion: To send Mayor Custis and Councilman Gardner to the VML's Newly Elected Official Conference from July 26-28 by Jack Pierson and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Old Business

The property at 25571 East Main Street was not discussed.

Mayor Custis read the grant coordinator's report. A copy will be attached to the minutes.

The clean up of the garage and pod was not discussed. There has been no change since last month.

The Welcome to Onley signs have been installed but Mr. Pierson thinks the one at the south end needs to be raised. Mayor Custis thinks that if the vegetation around it is removed that will make a difference. Ms. Dize will be glad to clean up the vegetation if someone is willing to help her. Mayor Custis will check her schedule because she may be available to help.

Ms. Siglin stated that the motion was made and passed unanimously to recommend the approval of the special use permit as submitted by Royal Farms.

Motion: to accept the Planning Commission's recommendation and approve the special use permit for Royal Farms by Ned Finney and seconded by Fred Gardner. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-no; Strautz-yes. MOTION PASSED

Ms. Burge stated that she has taken a look at the contract presented by Alarm Engineering and she has a few concerns. The contract provides for a 9% annual increase in the leasing of the equipment, there is an insurance and indemnity requirement that she does not recommend, it stated that the Town will hold them harmless for anything and it requires that the Mayor personally guarantee the agreement. She suggested that we ask them to re-submit an agreement reflecting these changes or she can re-work it. Council agreed that we should ask Alarm Engineering to re-work it.

Ms. Salazar explained to Council that essentially they have three decisions to make about the employee health care coverage. The first is whether to remain with Anthem or switch to Optima. Our current policy with Anthem has a 32.05% rate increase but no annual deductible. In order to bring this number down, Council will need to consider choosing a plan that has a deductible. Optima offers a plan that is comparable to the current Anthem plan without a deductible for a rate increase of 2.41%. The final decision will be whether to continue with BB&T Insurance Services in Richmond as our agent or look for someone locally. After some discussion about this, Council decided to change to the Optima plan.

Motion: To accept the Optima proposal with a rate increase of 2.41% for employee health care coverage by Don Strautz and seconded by Ned Finney. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

New Business

Mr. Finney asked Mr. Pierson if he is willing to continue to serve as Vice Mayor. Mr. Pierson agreed.

Motion: To appoint Jack Pierson to the position of Vice Mayor by Ned Finney and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED
Mayor Custis asked Council to approve the 2012-2013 meeting schedule presented.

Motion: To approve the 2012-2013 meeting schedule by Don Strautz and seconded by Fred Gardner. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Mayor Custis asked Council to re-appoint the Treasurer and Town Attorney.

Motion: To appoint Jamye Salazar to the Position of Treasurer by Dawn Dize and seconded by Don Strautz. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Motion: To appoint Cela Burge to the Position of Town Attorney by Dawn Dize and Jack Pierson.

Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Mayor Custis read Ordinance 001-12 for the Motor Vehicle Code of Virginia into the minutes. A copy will be attached.

Motion: To adopt Ordinance 001-12 for the Motor Vehicle Code of Virginia by Ned Finney and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Mayor Custis read the Resolution for Bank Authorized Signatories into the minutes. A copy will be attached. She further explained that this document will specify who is allowed to sign checks in the absence of her and Ms. Salazar.

Motion: To appoint Jack Pierson and Ned Finney to be the additional signers on the checking account in the absence of the Mayor and/or Treasurer by Dawn Dize and seconded by Don Strautz. Vote:

Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Motion: To adopt the Resolution for Bank Signatories by Dawn Dize and seconded by Don Strautz.

Voice Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Mayor Custis presented Council with the value of the dump truck and stated that there are Public Works items that need to be disposed of accordingly. There is a walk behind mower, a walk behind street sweeper, an edger and several weed eaters. Ms. Salazar stated that one of the police officers has offered to clean the garage in trade for some of the items. Ms. Burge stated that a trade is not allowed per state law. Mayor Custis stated that we have tried to get rid of some of these things via the bid process and there was no interest. Council agreed to accept sealed bids for the sale of the dump truck and the utility trailer and to donate the other items.

Motion: To donate the various Public Works equipment excluding the dump truck, utility trailer and Ferris lawnmower to the CALL by Ned Finney and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes;

Finney-yes; Gardner-yes; Pierson-yes; Strautz-abstain. MOTION PASSED

Mayor Custis asked Council if they would like to consider charging a fee for the public packets. We currently compile an additional five packets a month at a cost of about \$10.00-\$12.00. She stated that she was charged for hers for many years. Ms. Dize does not want to charge the Public. Mr. Finney agreed but stated that he does have a problem with people receiving a packet but never coming to the meetings. Ms. Burge stated that there needs to be a packet for viewing at the Town Office but there is not a requirement to provide one to each member of the Public. Mr. Pierson would like to charge for an advanced copy of the packet but give them for free at the meeting. Mr. Eller suggested putting the packet online at the website. Ms. Perrucci expressed her concern that some people do not have computer access. Ms. Burge reminded Council that if a packet is requested under FOIA, we have five days to reply and we can charge for that information. Ms. Salazar stated that we do email some packets but some citizens do not have computer access. The other issue that Mayor Custis has is that Ms. Salazar has to call these people each month. The packets are available at 4:00pm on the Thursday before the meeting. She does not feel that Ms. Salazar should have to continuously call and remind these people to pick them up. Mr. Strautz agreed. It was decided that she will put a notice in next month's packets stating that she will no longer be calling – it will be up to them to remember to pick the packet up. Mayor Custis stated that it is time to think about the renewal of the garbage contract. Ms. Burge stated that after briefly looking at the current Waste Management contract, there is a provision that it may be extended for two additional one year terms at the agreement of both parties. Mr. Finney would like for Ms. Burge to look over the whole contract and make her recommendation at next month's meeting.

Public Participation

No one signed up to speak. Mayor Custis asked if anyone wished too.

Pat Morrison congratulated the Council and Planning Commission for their re-appointment but stated that he feels the decision to approve the Royal Farms sign was a mistake. He feels that when the next person comes along and wants a bigger sign, Council will now have to approve them or face a lawsuit.

John Dennis stated his concern about the grass cutting in Town being done by the Public Works contractor. He feels that it's a little taller than it should be.

Margaret Grinnalds stated that she is very pleased with the new town signs but would like to see the grass cut down.

Lance Eller stated that he agreed to serve on the Planning Commission until the Royal Farms sign was no longer an issue. He added that since that matter was taken care of earlier tonight, he respectfully resigns his position from the Onley Planning Commission.

Council Comments

Mr. Pierson had no comment.

Mr. Gardner stated that the meeting was very interesting.

Ms. Dize thanked everyone for coming and stated that she will work on the grass around the sign. She thanked Mayor Custis and apologized to her stating that she knew tonight was difficult. She thanked the other Council members for their work adding that it has been a difficult week for everyone. She stated that it is very difficult to make fair decisions that please everyone.

Mr. Strautz welcomed Mr. Gardner. He agreed with Ms. Dize that it is hard to please everyone but that he is grateful for the people that come to the meetings and voice their opinions.

Mr. Finney thanked Council for their work. He thanked Mr. Engelhart, Ms. Salazar and Ms. Burge for their hard work. He stated that his job is to represent the people and that's what he tries to do.

Mr. Chance agreed there are a lot of ups and downs with serving on Council but thanked everyone for their input.

Mayor Custis asked Council what they wish to do with the old town signs. She suggested rotating them with the old signs coming from Tasley and Onancock. Council will think about that and come back with an answer at next month's meeting.

She added that it is also time for new committees to be formed so each Council member should be thinking about what they would like to do because she needs help with various aspects of running the Town.

She ended by apologizing for earlier in the night but stated she has been taking a lot of heat that is not deserved.

Adjourn/Recess

Motion: To adjourn at 8:41pm by Don Strautz and seconded by Jack Pierson. Vote: Chance-yes; Dize-yes; Finney-yes; Gardner-yes; Pierson-yes; Strautz-yes. MOTION PASSED

Jamye Salazar, Treasurer

Billye D. Custis, Mayor