

Onley Town Council
Public Hearing & Regular Monthly Meeting
Minutes of July 12, 2021

Public Hearing & Regular Monthly Meeting of the Onley Town Council held at the Onley Baptist Church, 25501 W. Main Street, on the 12th day of July A.D., 2021:

Council Members Present: Matt Hart, Mayor
Rose Pierson, Vice-Mayor
Brian Corbin
Billye D. Custis
Bill Ferguson
Claudia Harmon
Woody Zember

Staff Present: Jamye Salazar, Clerk/Treasurer
John Spivey, Chief of Police, OPD
Chuck McPherson, Corporal, OPD
Carl Bundick, Town Attorney

Call to Order

Mayor Hart called the meeting to order at 6:00pm. Ms. Salazar read a thank you note from Councilman Zember.

Invocation & Pledge of Allegiance

The invocation was given by Vice-Mayor Pierson and the Pledge of Allegiance was led by Councilman Ferguson. At this time, Mayor Hart stated that this will be Chief Spivey's last meeting. He thanked him for his service to the town.

Adoption of Agenda

Mr. Corbin asked to add Discussion of Resident's Complaints and New Chief of Police as items F & G under Old Business. Mr. Ferguson asked to add Spivey Retirement Items as item H under New Business.

Motion: To adopt the agenda with the additions requested by Rose Pierson and seconded by Bill Ferguson. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember - yes. MOTION PASSED

Public Hearing Re-appropriation of Funds for Building a New Town Hall

Call to Order

Mayor Hart called the public hearing to order at 6:04pm.

Rules for Public Hearings

Ms. Salazar read the Rules for Public Hearings.

Presentation of Re-appropriation of Funds for Building a New Town Hall

Ms. Salazar presented the Re-appropriation of Funds for Building a New Town Hall in the amount of \$666,847.05. A copy of the re-appropriation is attached. Ms. Custis stated that this amount is in place of the amount re-appropriated (\$339,454.94) at last month's meeting – it is not in addition to that amount. Ms. Salazar agreed stating that the entire amount appropriated for the purpose of building a new town hall is \$666,847.05. Mayor Hart stated that while that amount is being re-appropriated, he is hoping that it does not cost that much. He added that amount contains a 15% contingency.

Public Comments Regarding Budget

No one signed up to speak.

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Adjourn Public Hearing

Motion: To adjourn the Public Hearing at 6:09pm by Bill Ferguson and seconded by Rose Pierson. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember - yes. MOTION PASSED

Regular Monthly Meeting (cont'd)

Consideration of Minutes

Motion: To accept the minutes from June 7, 2021, Public Hearing & Regular Monthly Meeting (no quorum) by Brian Corbin and seconded by Bill Ferguson. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Ms. Custis asked to make two corrections to the June 21st minutes.

Motion: To accept the minutes from June 21, 2021, Public Hearing & Regular Monthly Meeting with corrections by Rose Pierson and seconded by Billye D. Custis. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Motion: To accept the minutes from June 28, 2021, Special Meeting by Rose Pierson and seconded by Billye D. Custis. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- abstain. MOTION PASSED

Department Reports

Police Report and Schedule (August 2021)

Chief Spivey noted that there is an amended August schedule to approve.

Ms. Harmon asked if our veteran officers are okay with the proposed August schedule noting the addition of twelve-hour shifts. Chief Spivey stated that they are as okay as they can be for now because they understand the situation. He added that they have not worked it yet, so the consensus is to wait and see. He said that they understand that they will go back to the regular rotation once you secure another officer. Ms. Custis asked why Corporal McPherson is only working Monday through Friday and only eight-hour shifts. Mayor Hart responded that Corporal McPherson is learning the Chief's duties, so he needs to work those hours for now. Ms. Custis stated that she did not realize that we had already decided who is going to be Chief. She added that he has just been hired and is still on probation and she does not feel we should make him Chief before he is even off probation. Chief Spivey stated that was the pretense under which Officer McPherson was hired. Mayor Hart and Mr. Corbin agreed. Ms. Custis asked if we have ever advertised for a Chief of Police. Mayor Hart and Chief Spivey responded not for a Chief of Police, but we have advertised for an officer and had no response.

Motion: To adopt the schedule for August 2021 by Rose Pierson and seconded by Brian Corbin. Roll Call Vote: Corbin- yes; Custis-no; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Mayor Hart introduced Corporal McPherson to the Council and stated that he feels confident that he will do a good job. Chief Spivey stated that according to his resignation, he will be Chief until July 31st at 11:59pm, after that time, Sgt. Long will be in charge until someone is designated Chief. Mayor Hart said that those matters will be discussed later on the agenda.

Treasurer's Report

Ms. Salazar gave the Treasurer's Report. A copy is available at the office upon request.

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Ms. Custis pointed out that the invoice from Shore Tire & Auto was not really any cheaper than Hertrich, and we had to wait five weeks for the repair. Chief Spivey said that on the upside, the car now works. He added that all vehicles are back in use, although two still need a minor repair, but they are usable.

Motion: To pay the payables by Bill Ferguson and seconded by Billye D. Custis. Roll Call Vote: Corbin-yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Ms. Harmon stated that the Finance Committee had nothing to report.

Mayor's Report/Zoning Administrator's Report/Public Works Report

Mayor Hart reported that he interviewed and hired Corporal McPherson this month. He has had several complaints from residents and Council was made aware of those today. He added that he has had another complaint but will not discuss it until he has it in writing. He stated that Mr. Corbin and Mr. Ferguson's Public Works Committee has been helping with contractor issues. In the matter of zoning, he had nothing new to report. Ms. Salazar stated that she had a request from John Dennis to read a letter from him into the minutes. She asked Mayor Hart's permission. Mayor Hart agreed. A copy of the letter will be attached to the minutes. Mayor Hart reiterated that he does not take complaints seriously until he receives them in writing, and he did not receive the written complaint until today. Ms. Harmon stated that losing Mr. Dennis is a loss to the town and to our citizens, adding that he did a wonderful job of maintaining the park.

Attorney's Report

Mr. Bundick completed the Public Works contract for Simpson's Tree & Bobcat Service LLC. Ms. Salazar stated that Mr. Simpson has not signed the contract at this time. Mayor Hart asked about the contract with Jim Wert for building the new town office. Mr. Bundick said that he is waiting for Mr. Wert to signal back to us. Mr. Bundick said the contract with Michael Scott, our mosquito sprayer has been signed. Mr. Bundick asked about Alpine Nutrition and their delinquent meals tax payment. Ms. Salazar stated that they have not paid for this month and are once again getting behind for April – June. She was told to write a reminder letter and have an officer hand deliver it.

Mayor Hart asked that if anyone has complaints to pass along to the Public Works Committee, they also make him aware of the complaint as well.

Mayor Hart stated that Mr. Bundick also provided him some information about disciplinary actions within the Police Department.

Old Business

Committee Reports

Community Spirit Committee

Ms. Pierson reported that things are going well. Mr. Bliss volunteered to help a resident that needed a light installed. A letter from the committee has been delivered by a police officer to Mr. Gillispie on Virginia Avenue offering their services. They have not heard from him at this time. Ms. Bliss added that there are some things that the committee just cannot do – going above ground is not possible. Chief Spivey confirmed that Sgt. Long did deliver the letter to Mr. Gillispie.

COVID-19 Committee

Mr. Ferguson stated that they are awaiting the new fiscal year so they can purchase the gift cards. Ms. Harmon asked what she should do if residents are objecting to the gift card purchases. She stated that

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she has had three residents contact her with objections. Council advised her to encourage them put it in writing.

New Town Office Committee

Mr. Corbin called Mr. Wert two weeks ago and asked him for a status update. Mr. Wert said that there is a hold up in Accomack and he is also waiting for drawings, adding that the GMB and Berecah drawings are not acceptable to Accomack. Mr. Wert has reached out to an engineer to get stamped drawings, but the engineer has one other person in front of us at this time. Mayor Hart reported that he spoke with Rich Morrison from Accomack County and Mr. Morrison stated that nothing has been applied for at this time. Mayor Hart reported that it has been submitted to Chris Guvenator's department and he (Guvenator) has approved everything at this point. Mayor Hart said that the Building Department does not have an application at this time. He said that maybe the town could make application but typically the builder takes care of that. Mayor Hart added that it might be better to wait until the fall since building materials are so expensive right now. Mr. Corbin said that there is no indication that Mr. Wert is not interested in completing this job. Ms. Custis asked if the new engineered plans are on our dime. Mr. Corbin said that he assumes everything is on our dime. Mayor Hart feels that the issue is that the plans that Mr. Wert plans to use are different from the GMB plans since he is trying to stay under 3,025 square feet to avoid a sprinkler system and another big expense.

Public Works Committee

Mr. Corbin reported that he met with Michael Scott and has not found any problems with him abiding by the contract. He asked Mr. Scott about the claim that he was spraying weeds in the town truck. Mr. Scott assured him that was his personal truck – he does not use the town truck for his personal business. In the matter of keeping track of his time, he provides a timecard to Ms. Salazar every month. The state inspectors also require a logbook of the hours that he sprays but that is his responsibility and not ours. He said that his feeling is that if there are no mosquitoes, he does not want to micromanage the process. He asked that if anyone has complaints, they contact him or Mr. Ferguson. Mr. Ferguson asked if the park is flooding. Chief Spivey said he thinks it is okay over there right now. Ms. Custis stated that Mr. Dennis has had to move water over the last two weeks to avoid flooding.

McMath Park

Ms. Custis said that she is not making any more comments about the park because she does not feel that she has had any support from the Council. There was a discussion about signs for the park. Ms. Bliss asked if Council could get a sign that reads "gates lock automatically". Ms. Custis replied that the people that have been locked in the park have closed the gates so their dogs can run – even though the sign says, "pets must be on leash". She added that one of those people have been told twice not to close the gate. Chief Spivey said that the Police Department needs to be empowered to enforce rules at the park. He added that he is not referring to the law, he means civil enforcement of park rules or with the ability to ask people to leave the park. Council asked Mr. Bundick to look into the matter.

Ms. Custis said that we need rules for people using the park/pavilion. She feels that it is a problem because we have no way of knowing who is using the park for events. She cited a group of about forty people using the park, after dark, this past Saturday. She suggested requiring permits and added that she acquired the information from Pocomoke Park to use as a template, but she gave all of it to Rachel Kellam. She will try to find another copy.

Ms. Salazar stated that we have put the park lights out for bid and had no response. She suggested that we contact specific companies and acquire our own quotes. Mr. Gardner suggested solar lights.

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Golf Cart Committee

Ms. Pierson reported that the VDOT application was submitted. She added that they (VDOT) have come back to us with another list of reports/information that needs to be submitted so the committee is meeting again on Wednesday.

Ms. Custis stated that the Town Manager Search Committee has an applicant that they would like to discuss in Closed Session later tonight. Ms. Pierson once again suggested that we consider hiring someone to handle some of the duties of the town manger but not call them a town manager or give them the authority that comes with the title.

In the matter of the Planning Commission, Ms. Custis pointed out that they have not met this year, so no Chairman has been appointed. Ms. Bliss stated that the Planning Commission completely re-worked the Zoning Ordinance, and no action was taken on it. Mayor Hart stated that the reason given at the time was that Council had never instructed the Planning Commission to take on that project. Ms. Bliss said that work was extensive, and she asked Council to re-consider it. Council agreed to have the Planning Commission review it and present it again. Ms. Bliss said that the Comprehensive Plan needs to be reviewed again.

Motion: To instruct the Planning Commission to review the Zoning Ordinance and present it back to the Council for review by Brian Corbin and seconded by Bill Ferguson. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Ms. Salazar presented Council with a proposal from Affordable Business Systems for the purchase or lease of a new copier. A copy of the proposal will be attached to the minutes. Council decided to wait on the purchase of a new copier.

Mr. Corbin would like Council to decide about the charter change that was discussed at last month's meeting. Mayor Hart offered to poll the Council via a roll call on the matter. He said that he would like to offer his opinion as well. He stated that a few years ago, we had an issue that made us choose to move to a Town Manager system, but he does not feel that is necessary any longer. He also cited the size of the town as well as the added expense of a town manager as his reasons for wanting the charter changed. Mr. Ferguson asked Ms. Salazar how this is affecting her as the Clerk. Ms. Salazar stated that she is fine with whatever the Council chooses to do about hiring a town manager. Ms. Bliss said that she believes that Mr. Ferguson's question is to make sure that Ms. Salazar does not get steamrolled, adding that it is easy to say we do not need a town manager when you have someone there doing the job already, but you are not calling them the Town Manager. Ms. Salazar stated that she would like to clarify that while she is not doing the town manger's job, she has been tasked with some things that are probably not the Clerk/Treasurer's responsibility and she does feel that we need someone else in the office – their job title is up to the Council. Ms. Bliss expressed concern that the charter change would put so much work on the Mayor that it may preclude someone with a full-time job from ever holding the position of Mayor due to the workload. Mayor Hart stated that if something happens in the town, the responsibility falls to the Mayor so he feels that the Mayor should be the CEO of the town. He does not have an issue with dividing up the other duties like CFO or CAO. Chief Spivey suggested making sure that we give ourselves a way out in case gross negligence were to happen. He stated that is always a possibility when giving one person all the authority. At this time, Mayor Hart polled the Council asking if they are in favor of changing the charter and returning to a Mayor/CEO form of government. The

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following is their response: **Roll Call:** Corbin- yes; Custis-no; Ferguson- yes; Harmon – no; Pierson – yes; Zember- yes.

There was more discussion during the poll of the Council about this matter. Ms. Harmon stated that she wished that she knew exactly why the charter was changed to begin with adding that would help her to decide about changing it back. Ms. Pierson stated that she does not feel comfortable with a non-elected person running things. Mr. Corbin added that bringing an outsider in from anywhere in the world and giving him all the power and freedom to make town decisions is just a bad idea. Chief Spivey stated that saying appointed people have free reign is not true. He added that he was always accountable to the Town Council for any decision that he made and always followed their directives. He added that the Town Council would also never hire or appoint anyone that was not fully qualified for a position. Ms. Custis agreed with Chief Spivey that if we hire someone and they do not perform their job as expected, they can be terminated. She explained that if a Mayor does not perform his job as expected, there is no recourse because he is elected. She thinks that the only way to have Council involved in the decision making for the town is with a Town Manager form of government. She also stated that we cannot change the charter every two years just because we get a Mayor that we're not happy with at the time. Mr. Corbin suggested reverting to the old charter. Ms. Custis recommended that we implement staggered Council terms into the new charter. Council instructed Mr. Bundick to reach out to some of the other towns on the Eastern Shore to get their charters for reference.

New Business

Motion: To adopt the 2021-2022 Council Meeting Schedule by Rose Pierson and seconded by Brian Corbin. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Ms. Salazar stated that we only received one bid in response to the RFP for the 2020-2021 Audit. She stated that it was received before the deadline. Mayor Hart asked her to open and read the bid. The bid was from Robinson Farmer Cox Associates in the amount of \$8,000.00.

Motion: To accept he bid from Robinson Farmer Cox Associates in the amount of \$8,000.00 by Billye D. Custis and seconded by Woody Zember. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Mayor Hart stated that ARPA funds in the amount of \$259,000.00 were received on June 30th. Ms. Salazar explained that she has done very little research on this topic, but she does know that we are very limited in how we spend the funds. She suggested forming a committee to research how we can spend the money. Mayor Hart added that we will be receiving another payment in the same amount next June. He then asked who would like to serve on the committee. Ms. Harmon expressed concern about serving stating that everything about these funds is "like Greek". Ms. Salazar and several other Council members agreed. Chief Spivey asked Council to consider the contingency that allows these funds to be used to supplement police officer's salaries. Mayor Hart suggested hiring an outside entity to handle the money for us. He also stated that they may ease the restrictions on the money. Council asked Mr. Bundick to investigate the possibilities for the funds.

Mayor Hart asked to discuss a safety issue located at 25528 E. Main Street. He said that he has sent pictures to his fellow Council Members and expressed concern that the building's wall is going to collapse. Mr. Bundick suggested sending a letter to the property owner and make them fix the issue. Council asked Mr. Bundick to send the letter. They instructed Chief Spivey to place orange cones at the site.

Motion: To re-instate the Police Vehicle Take-Home Policy and to make an exception allowing Officer McPherson to take his car home by Brian Corbin and seconded by Rose Pierson.

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Chief Spivey explained that the Take-Home Policy states that an officer must live within 15 miles of the office to take a vehicle home, the exception is that Officer McPherson lives more than 15 miles from the office. Ms. Harmon asked how many more miles. Chief Spivey replied about 30 miles one way. Ms. Custis said that she would vote yes to re-instating the Take-Home policy but not to the exception for Officer McPherson. She added that when Officer McPherson was hired, take-home vehicles were not being offered due to the suspension of the policy and he accepted the job with that knowledge. Mayor Hart said that he feels that the Chief of Police needs a take home car to be able to get to town in a timely manner. **At this time, a vote was taken on the motion: Roll Call Vote: Corbin- yes; Custis-no; Ferguson- yes; Harmon – no; Pierson – yes; Zember- yes. MOTION PASSED**

Mr. Corbin stated that we have had a complaint from a resident that is in attendance. He asked to open the floor and ask if they (or anyone else in attendance) would like to speak. Ms. Arline Evans stated that she did not wish to speak but would like to distribute a letter to Mayor Hart and the Council. She did so at this time. Mayor Hart instructed the Council to look over the letter, stated that we take complaints very seriously and apologized to Ms. Evans for the issues. He added that he has had a complaint from Jeff Miller about an issue that happened in town, once again stated that he does not address complaints until he has them in writing. He added that he wants Council to have input about complaints. He stated that he asked Ms. Evans to attend the meeting so her complaints can be heard. Ms. Custis stated that she would like to add that this is not the first time that Jeff Miller has been told not to close the gate or let the dog run loose in the park. Mayor Hart stated that he is not disagreeing with her, but he is caught in the middle. He added that he is sorry that John Dennis got upset. Mr. Ferguson asked if Mr. Dennis would reconsider his resignation. Ms. Custis replied “no”. Ms. Custis added that we will need to find someone as soon as possible to take care of the park since there are a lot of tasks that need to be done daily. Ms. Salazar said that Mr. Dennis has offered to meet with Adam Simpson and walk him through the process of maintaining the park.

Mr. Corbin thanked Chief Spivey for his service to the town and wished him a happy retirement.

Motion: To accept the resignation of Chief John Spivey and to appoint Chuck McPherson to the position of Acting Chief of Police on July 29 at 1700 to become Chief on August 1, 2021, at 0000 with a salary of \$55,000.00 per year contingent upon offer letter by Brian Corbin and seconded by Rose Pierson.

Chief Spivey asked Council about Officer McPherson’s salary. Mayor Hart asked what the Chief on Chincoteague is paid. Officer McPherson responded from \$85,000.00-\$105,000.00. Ms. Custis stated that we are not Chincoteague – in size or population. Ms. Harmon asked how many officers they have. Officer McPherson responded 10-14. Ms. Custis and Ms. Harmon both expressed concern that they were unaware that these decisions were going to be made tonight. Ms. Custis expressed concern that we are appointing someone that has just been hired and is still on probation, to the Chief’s position as well as giving them a sizeable pay raise. Mr. Corbin responded that we do not have many options adding that no one else even applied to fill the vacancy and he feels Officer McPherson is qualified. Chief Spivey stated that he believes that Mayor Hart and Officer McPherson have a vision for the town, and he hopes everyone will support it. Ms. Harmon said that she is happy to support their plan for the town, but she would like to know what it is. Mayor Hart agreed with Ms. Harmon that she should be involved in the plans for the town and said that he was unaware that this appointment was going to happen tonight until speaking with some of the other Council Members since receiving the packet. He added that upon receiving Chief Spivey’s resignation letter, he recommended that we appoint Officer McPherson to the Chief’s position retroactive to Chief Spivey’s last day of work. He believes that we are moving to community-oriented policing in the town. **At this time, a vote was taken on the above motion: Roll Call Vote: Corbin- yes; Custis-no; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED**

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Ms. Custis asked Chief Spivey if evaluations have been completed on the current officers because she would like to see them get their pay raises. Chief Spivey said he has not completed them but will make sure that it gets done.

Motion: To order a retirement badge for Chief Spivey and allow him to purchase his firearm for \$1.00 by Bill Ferguson and seconded by Brian Corbin. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember- yes. MOTION PASSED

Ms. Harmon would like Chief Spivey to have the U.S. flag flying at the town office on the day of his retirement. Council agreed.

Public Comments

There were no public comments.

Council Comments

Ms. Harmon apologized to Officer McPherson for her hesitation around the decision to appoint him. She explained that she just needed to understand everything before she voted. She asked that he look out for our veteran officers and to start fresh with everyone. She wished him the best.

Officer McPherson told Council that he is very open to communication and advised them to call him with concerns.

Mr. Ferguson thanked Chief Spivey for his service to the town. He would like to have a lunch in his honor.

Mr. Zember thanked Chief Spivey. He welcomed the new Chief.

Ms. Pierson welcomed Officer McPherson and thanked Chief Spivey for his service.

Ms. Custis stated that her concerns about Officer McPherson were not personal, but she feels that there is a proper way to do things and she doesn't feel that is what is happening with some decisions being made. She added that she knows Mayor Hart talks to some Council Members and not to others about plans that are being made. She said that it is not a good feeling to get to the meetings and realize that decisions have already been made without you. She wished Chief Spivey a happy retirement.

Mr. Corbin thanked Chief Spivey. He welcomed the new Chief. He disagreed that anyone is being blind-sided adding that everyone has had equal opportunity to say their peace about every topic. He feels that discussing things are great, but motions need to be made to move forward. He doesn't feel that we need to constantly discuss matters and take months to act.

Ms. Harmon thanked Chief Spivey for his service to the town as well as his help to her personally.

Closed Session

Motion: To go into Closed Session at 8:53pm in accordance with Section 2.2-3711(A) of the Code of Virginia of 1950, as amended for the purpose of Paragraph 1: Discussion or Consideration of Personnel Matters pertaining to review/discussion of applicant(s) for part-time Town Manager position by Billye D. Custis and seconded by Bill Ferguson. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember - yes. MOTION PASSED

Open Session & Certification of Closed Session

Motion: To return to Open Session at 9:28pm by Billye D. Custis and seconded by Bill Ferguson. Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember - yes. MOTION PASSED

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A roll call vote was taken 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:

Roll Call Vote: Hart-yes; Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember - yes.

Adjourn

Motion: To adjourn at 9:29pm by Rose Pierson and seconded by Brian Corbin.

Roll Call Vote: Corbin- yes; Custis-yes; Ferguson- yes; Harmon – yes; Pierson – yes; Zember - yes.

MOTION PASSED

Respectfully Submitted,



Jamye Salazar, Clerk/Treasurer



Matthew Hart, Mayor