

VIRGINIA: At an Onley Town Council Public Hearing(s) (1. Proposed Budget Amendments 2010-2011, 2. Idea of Golf Cart Ordinance, 3. Ordinance for Regulation of Nuisance Removal) & Regular Monthly Meeting of the Onley Town Council held at the Onley Fire & Rescue Building on the 7th day of February, A.D., 2011:

Members Present: Billye D. Custis, Mayor
Teresa Marshall, Vice - Mayor
Billy Chance
Dawn Dize
Lance Eller

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

Absent: Ned Finney

Call to Order

Mayor Custis called to order the Public Hearing(s) and established that there was a quorum. Mayor Custis read the rules for Public Participation at Public Hearings.

Public Hearing Proposed Budget Amendments 2010-2011

Ms. Salazar stated that the donation to the Fire Department was left out of the original budget and since there was a need to amend the budget to add that, there were some other items on the budget that she, Mayor Custis and Council thought it would be a good idea to amend. She did not explain each amendment line by line but stated that a copy of all of the amendments had been at the Town Office for review for two weeks and would also be attached to the minutes. Mayor Custis stated that no one signed up to speak on this matter and asked if anyone wished to speak at this time. No one did. Mayor Custis adjourned the Public Hearing on the Proposed Budget Amendments 2010-2011 at 6:05pm.

Public Hearing on Idea of Golf Cart Ordinance

Mayor Custis stated that she had a copy of Exmore's Golf Cart/Utility Vehicle Ordinance. She read a list of numerous requirements that the golf cart must have when application is made to register the vehicle with the Town. She further stated that Virginia law states that golf carts cannot ride on any streets having a speed limit of more than 25mph. She stated that the Town of Exmore does have two crossings of 35 mph streets. Golf Carts must be inspected by an inspection station and covered by insurance. She further stated that the golf cart having met all of these requirements must then be brought to the Town Office for inspection as well – she stated that this would be a problem since the speed limit at the Onley Town Office is 35 mph. She concluded by reading letters from three separate residents in opposition of the idea of a Golf Cart Ordinance. Mayor Custis stated that no one signed up to speak on this matter and asked if anyone wished to speak at this time. Mr. Charles Williams stated that he is in favor of the ordinance and also feels that the State of Virginia gives the Town the authority to create such an ordinance. He doesn't feel that three people's opinions should sway Council. Ms. Dottie Milliner had several questions about the safety of driving the golf carts on the streets. Mayor Custis adjourned the Public Hearing on Idea of Golf Cart Ordinance at 6:12pm.

Public Hearing on Ordinance for Nuisance Removal

Ms. Burge stated that back in the Fall the issue of how to abate certain things that can be considered nuisances was discussed by Council. Ms. Burge stated the definition of a nuisance - basically it is anything that can fill or collect in between the ditch and the street causing health or safety issues. She read through and explained the Ordinance to Council at that time explaining what kinds of things are considered nuisances and also what the process for removal and the penalty for not complying would be. Mayor Custis stated that no one signed up to speak on this matter and asked if anyone wished to speak at this time. Ms. Anne Pepler asked if there were any such problems in Town. Mayor Custis stated that there are. Mr. Williams asked if garbage cans left out all week are included in this ordinance. Ms. Burge stated that while it does not cover garbage cans, it may cover certain types of garbage that gets left out. Mr. Pat Morrison asked about deteriorating structures in Town. Ms. Burge stated that this ordinance does not cover such structures but that there are others that may. Mayor Custis adjourned the Public Hearing on Ordinance for Nuisance Removal at 6:23pm.

Call to Order

The Regular Monthly Town Council meeting was called to order by Mayor Custis at 6:23pm. In the absence of Mr. Finney, an invocation was given by Dawn Dize. The Pledge of Allegiance to the Flag was led by Teresa Marshall.

Adoption of Agenda

Mayor Custis asked to move items 9(F) and 9(G) to after Closed Session.

Motion: To adopt the agenda with changes by Teresa Marshall and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Audit Report

Mayor Custis welcomed David Foley from Robinson Farmer Cox Associates. Mr. Foley began by thanking Ms. Salazar and Mayor Custis for their help in completing the audit. He then stated that this audit was performed in accordance with General Accepted Auditing Standards. Mr. Foley presented a brief summary of the audit noting no significant deficiencies in the Town's internal controls as well as no material weaknesses. He then stated that the Financial Statements are the responsibility of management and that they have been prepared in accordance with General Accounting Principles. There were two recommendations made in a separate management letter. The first being that the checking account needs to be reconciled to the General Ledger each month, the second being that CD's, money market and escrow accounts be reconciled. Mayor Custis thanked Mr. Foley for his presentation.

Motion: To adopt the 2009-2010 Draft Audit by Lance Eller and seconded by Teresa Marshall. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Consideration of Minutes

Motion: To approve the Minutes of the January 3, 2011 Regular Monthly Council by Teresa Marshall and seconded by Lance Eller. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Motion: To approve the Minutes of the January 13, 2011 Recessed Council Meeting by Lance Eller and seconded by Teresa Marshall. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Department Reports

Police Report & Schedule

Mayor Custis asked if there were any questions about the March schedule. There were not.

Motion: To accept the March 2011 Police Schedule by Lance Eller and seconded by Teresa Marshall.

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

The Glock 27 is still at Jaxons awaiting sale.

The 2010 Ford Explorer has arrived and Sergeant Marks is driving it.

Sergeant Marks would like for Council to consider the possibility of raising the speed limit on Onley Road from 25 mph to 35 mph. Mayor Custis thinks that VDOT will need to do a study and if they find that drivers are already speeding – they are not likely to raise it. Mr. Engelhart reminded everyone that there is also the possibility of a strip mall coming to the end of that road. Mr. Eller will check and see how long the speed limit has been 25 mph and then Council will go from there.

Mayor Custis read a letter from Parksley Volunteer Fire Company thanking the Onley Police Department for helping with the funeral of Henry T. Nicholson Sr.

Mayor Custis stated that the Town has received a resignation letter from Officer Mark Whitney. She asked if Sergeant Marks felt the need to replace him at this time. Sergeant Marks stated that he thinks the department can get by until summer without hiring a replacement. He further stated that when the time comes, he would like to hire a full-time certified officer. Ms. Dize is concerned about the new businesses coming to Town and what effect they will have on our Police Department. Mr. Eller recommended that Sergeant Marks put together a complete description of what he would like Council to advertise for with regards to filling that position and present it to Council at next month's meeting.

Treasurer's Report

Ms. Salazar stated that she had nothing out of the ordinary but did want to point out that petty cash was higher than normal due to tolls involved with purchasing the new vehicle as well as a trip to the crime lab. Ms. Dize had a question about the deposit detail report. Mayor Custis pointed out that on the Budget YTD – total revenues are at 58% and expenses are at 49%.

Motion: To pay the Payables by Lance Eller and second by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Zoning

Mr. Engelhart stated that he has received the site plan for the McDonald's demo and rebuild. He has approved it. He has been given the impression that they will close sometime in March but there is nothing concrete to support this. As far as he knows, the Town is the only one they have applied to thus far. After looking at the plan, he does not think there will be a lot of changes except that there will now be parking on the Bank Street side of the building and only one entrance from Lankford Highway instead of two.

Attorney's Report

Ms. Burge stated that she has spent considerable time with Mr. Engelhart working on the Internet Café Zoning clearance and that Mr. Engelhart has issued that to them.

Ms. Burge stated that there was a hearing last week on the matter of a warrant in debt against James Wenzel. The Town did receive judgment in the amount of \$6,600.00 plus \$56.00 in court costs and \$1,312.00 in attorney's fees. Ms. Salazar will make sure that the abstract judgment gets recorded in the

records of the Circuit Court. Ms. Burge stated that once the judgment is recorded, she will be happy to help with collection. Council can let her know if they wish to proceed with collection at a later date. In the matter of the Nicolls case, Mr. Nicolls has hired another attorney and been granted a continuation until February 25.

In reference to the resignation of Mr. Ferguson, Council has a duty to select an interim replacement. According to new state law changes from last year, a writ of election will need to be issued so that in the next General Election which will be held in November 2011, that position will be on the ballot. She has filed the petition and a writ of election. It has been signed by the judge and the court will send it to the Board of Elections.

Ms. Burge is still researching the proposed Charter Franchise Agreement and she will continue to work on that.

Ms. Burge stated that she has been asked with regards to Mr. Engelhart's decision on the matter of the Internet Cafe, if an appeal were possible. The code does allow for appeal of the decision of the Zoning Administrator. Every decision that he makes has the opportunity for appeal but it needs to be done within 30 days. She further stated that she is not making a recommendation for or against this - only stating that it can be done.

Mayor Custis stated that she read that the VML is backing legislation to make Internet Café's illegal. She would like to know what happens if it passes. Ms. Burge stated that she would need to look into this but thinks that they would not be allowed to continue since once the state says that something is illegal - cities and towns can't say otherwise.

Old Business

Mr. Eller stated that he and Mr. Finney met and came up with a list of items that they feel are necessities when construction of the new building begins. This list consists of (1) the Town needs to be it's own contractor (2) two residents appointed to serve on the committee with them (3) the Town needs to secure an architect (4) building should have a brick front with a wood or metal frame (5) grant administrator needs to look into grants and loans (6) geo-thermal heating system (7) concrete flooring (8) reception area/with seating (9) Town Manager's office (10) Mayor's office (11) File room (12) mechanical room (13) janitorial closet/sink/washer/dryer (14) meeting room with seating for 25 people (15) banquet room with kitchen (16) handicapped bathroom facilities and (17) a generator unit.

Mayor Custis stated that she would like to see Ms. Salazar serve on the building committee since she has experience with Record Retention and some of the other needs of the Town. Council decided that anyone wishing to serve on this committee should submit their name and Council can select members to serve.

Mayor Custis stated that she has a Grant Coordinator Report that says the Byrne Jag grant has been submitted. The new vehicle will not be purchased with USDA grant funds but that there is the possibility of purchasing another vehicle in the next fiscal year. Highway Safety Hours for last quarter are all used and paperwork for reimbursement has been submitted.

The newsletters have been delivered.

There is still a washing machine and a mosquito sprayer in the garage that does not work.

Motion: To "junk" the washing machine and mosquito sprayer by Dawn Dize and seconded by Lance Eller. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Ms. Salazar stated that Ms. Dryden is working on the website.

The outdoor message center has arrived and Mr. Finney will put it together as soon as he is well. Mayor Custis read a letter from Mr. Finney stating that he is ill and unable to attend tonight's meeting. He further stated that he does not have a strong opinion about any matter on the agenda and would vote with the general consensus of Council on all matters if present.

Ms. Burge is still working on the Charter Communications Franchise Agreement.

New Business

Motion: To adopt the Proposed Budget Amendments 2010-2011 by Lance Eller and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Motion: To send the Onley Fire Company the \$6,000.00 donation budgeted by Teresa Marshall and seconded by Dawn Dize. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Mayor Custis asked if anyone wished to make a motion on the Idea of Ordinance for Golf Carts. No one made a motion.

Motion: To adopt the Ordinance for Nuisance Removal as written by Dawn Dize and seconded by Lance Eller. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Mayor Custis stated that there was the possibility of ordering Biomist early and saving 15% however because we are in the State of Virginia, we are already getting it for bid price and they can't go any lower. Council decided to wait since there will be no savings to the Town.

Public Participation

No one signed up to speak. Mr. Strautz stated that Ms. Milliner had to leave but left a note to be read during this time. Mayor Custis read the note and stated that it concerned the train station and she would pass it along to SPOTS via Mr. Morrison.

Ms. Peppler asked about the yellow house on Onley Road. Mayor Custis stated that Willie Crockett owns this house and he has stated that it will be torn down. Mr. Engelhart will write him a letter reminding him of this.

Council Comments

Mr. Chance had no comment.

Ms. Dize thanked everyone for coming tonight.

Ms. Marshall stated that it was nice to see so many people at the meeting.

Mr. Eller thanked everyone for coming out and stated that even if you do not get selected for the building committee, please submit any suggestions. They will be greatly appreciated.

Mayor Custis stated that she spoke with Linda Cicoira from the ES Post and that the Census results are in and the population of Onley is up 9.3%. She is concerned that this figure is not accurate since there were so many issues with this census.

Closed Session

Motion: To go into Closed Session at 7:25 pm 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 Administrative Department, specifically discussion of candidates for the part-time position, and discussion of candidates to fill the vacant seat on the Council due to Mr. Ferguson's resignation by Dawn Dize and seconded by Lance Eller. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-yes. MOTION PASSED

Open Session

Motion: To return to Open Session at 8:02pm by Lance Eller and seconded by Teresa Marshall. Vote: Chance-yes; Dize-yes; Eller-yes; Finney-absent; Marshall-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-absent; Marshall-yes.

Motion: To offer Ada Jo Amadeo the position of part-time office assistant with a rate of pay of \$10.00 per hour with no benefits by Teresa Marshall and seconded by Dawn Dize. Vote: Chance=yes; Dize=yes; Eller=yes; Finney-absent; Marshall=yes. MOTION PASSED

Motion: To appoint Don Strautz to fill the vacant position on the Onley Town Council until the November 2011 General Election by Teresa Marshall and seconded by Dawn Dize. Voice Vote: Chance=no; Dize=yes; Eller=yes; Finney-absent; Marshall=yes. MOTION PASSED

Motion: To adjourn at 8:06p.m. by Dawn Dize and seconded by Billy Chance. Vote: Chance=yes; Dize=yes; Eller=yes; Finney-absent; Marshall=yes. MOTION PASSED

Billye D. Custis, Mayor

Jamye Salazar, Treasurer