



**Minutes of the
Colonial Beach Town Council
Regular Meeting held on
Thursday, April 14, 2016 at 7:00 p.m.**

Colonial Beach Town Center
22 Washington Avenue
Colonial Beach, VA 22443

Present

Mayor, Mike Ham
Vice Mayor, Eddie Blunt
Member, Wayne DiRosario
Member, Tommy Edwards
Member, Wanda Goforth
Member, Mike Looney
Member, Burkett Lyburn

Absent

All Council Members were present.

Also Present

Town Manager, Val Foulds
Town Attorney, Andrea Erard
Police Captain, Bruce Hough
Zoning Administrator, Brendan McHugh
Town Clerk, Kathleen Flanagan

Call to Order

Mayor Ham called the meeting to order at 7:04 p.m.

Roll Call of Members

Mayor Ham requested a roll call of members. Mr. DiRosario responded “here,” Mr. Blunt responded “here,” Mr. Lyburn responded “here,” Mr. Edwards responded “here,” Ms. Goforth responded “here,” Mr. Looney responded “here,” and Mayor Ham responded “here.”

All Council Members were present.

Additions to the Agenda

Mr. Edwards asked if Resolution #25-16 could be heard under “Presentations.”

Mayor Ham queried council on their agreement with the change. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous. *The agenda was amended as stated.*

Approval of the Agenda

A motion was made by Mr. Edwards to approve the agenda, as amended. Mr. DiRosario seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to approve the agenda, as amended, passed unanimously.

Approval of Minutes

A motion was made by Mr. Edwards to approve the minutes for the January 20, 2016 Regular Meeting. Mr. Looney seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to approve the minutes passed unanimously by council members present.

Council Announcements

Mr. Blunt thanked the Chamber of Commerce for hosting the Awards Dinner for businesses.

Mr. DiRosario agreed with Mr. Blunt and recognized Sergeant Parsons and Officer Cramer who received awards.

Mr. Looney noted we are entering a very promising era in the history of the town, i.e., citizen volunteerism. Mr. Looney further noted the Planning Commission has presented a Capital Improvement Plan to the Council.

Ms. Goforth would like to invite a citizen to give a presentation on a dog waste station citizen initiative. Ms. Goforth noted she will advise the citizen to make a presentation at the next work session.

Mayor Ham noted that the quarterly South Potomac River Community Relations Council meeting will be held on Tuesday, May 3 at High Tides beginning at 8:00 a.m.

Presentations

Proclamation, Local Government Education Week

Mayor Ham read the proclamation.

Proclamation

LOCAL GOVERNMENT EDUCATION WEEK

***WHEREAS**, since the colonial period, the Commonwealth of Virginia has closely held the institutions of local government; and*

***WHEREAS**, local governments throughout the Commonwealth provide valuable services to the citizens of the communities they serve; and*

***WHEREAS**, citizen services such as, law enforcement, public health and safety, recreational opportunities, and educating local children, are most often delivered at the local level; and*

***WHEREAS**, in recognition of the work performed by local governments, the Virginia General Assembly, on February 29, 2012, designated the first week in April as Local Government Education Week in Virginia; and*

***NOW, THEREFORE, BE IT PROCLAIMED**, by the Town of Colonial Beach that April is hereby designated as Local Government Education Week; and*

***BE IT FURTHER PROCLAIMED**, that the Town of Colonial Beach and the Colonial Beach School Board will partner to promote civic education and engagement in an effort to educate citizens about their local government,*

strengthen the sense of community, and engage the next generation of local government managers.

10-Year Service Award to Philip “Bo” Gray, Water Department, Public Works

5-Year Service Award to Leon Peyton, Water Department, Public Works

5-Year Service Award to Thomas “Tommy” Gutridge, Public Works

Ms. Foulds, Town Manager

Ms. Foulds noted that the survey re: historic resources was scheduled to begin this week.

Ms. Foulds further noted that an ad is ready to be published regarding the lease of the property on the boardwalk.

Captain Bruce Hough

Captain Hough noted for March the department responded to 436 calls for service

Robin Schick, CB Planning Commission Chair

Ms. Schick reported the Planning Commission has recommended passage of the school Conditional Use Permit.

Larry Roberson, Supervisor, Westmoreland County

Mr. Roberson noted the county is looking to placing another paid rescue squad to serve Colonial Beach and housed at Oak Grove.

Mr. Roberson further noted a processing plant for sludge has been approved and will be built at Leedstown.

Mr. Roberson then noted that the county has advertised an .08 cent tax increase, but is expecting to pass no more than a .05 cent tax increase. There will also be a .03 cent tax increase to adjust for the real estate assessment.

Resolution #25-16, Reappointment to the Colonial Beach Tourism Advisory Council

Mayor Ham thanked Ms. Trish King, Ms. Gail Moore and Ms. Cathy Bokman for their service.

A motion was made by Mr. Edwards to adopt Resolution #25-15, as written. Mr. Lyburn seconded the motion.

Mr. Edwards spoke to the need for volunteers on the Tourism Council.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to adopt Resolution #25-16 passed unanimously.

RESOLUTION #25-16, REAPPOINTMENT TO THE COLONIAL BEACH TOURISM ADVISORY COUNCIL

WHEREAS, Ms. Patricia (Trish) King, Ms. Gail Moore and Ms. Catherine Bokman have faithfully served on the Colonial Beach Tourism Advisory Council; and

WHEREAS, Ms. King, Ms. Moore and Ms. Bokman have all expressed a desire to continue to serve on the Tourism Advisory Council; and

WHEREAS, there is a requirement that members of the Colonial Beach Tourism Advisory Council be residents of the Town of Colonial Beach; and

WHEREAS, Ms. Catherine Bokman and Ms. Gail Moore are part-time residents of the Town of Colonial Beach; and

WHEREAS, the Town of Colonial Beach appreciates and welcomes the dedication and efforts of all volunteers.

NOW THEREFORE BE IT RESOLVED, that the Colonial Beach Town Council meeting in regular session Thursday, April 14, 2016 hereby re-appoints Ms. Trish King to the Colonial Beach Tourism Advisory Council for a four year term; such term expiring April 30, 2020; and

BE IT FURTHER RESOLVED, that the Colonial Beach Town Council also re-designates Ms. Catherine Bokman and Ms. Gail Moore as ex-officio, non-voting members of the Colonial Beach Tourism Advisory Council for a four year term; such term expiring April 30, 2020.

Unfinished Business

There was no unfinished business.

New Business

Public Hearing

Resolution #17-16, Amends FY 15-16 Budget, General Fund and School Fund

Mayor Ham summarized Resolution #17-16 and noted this is needed to comply with Accounting Standards requirements.

Public Input

At 7:37 Mayor Ham opened the Public Hearing.

There was no public comment.

At 7:37 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mr. Lyburn made a motion to adopt Resolution #17-16 as written. Mr. Edwards seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to adopt Resolution #17-16 passed unanimously.

Resolution # 17-16, Amendment of Fiscal Year 2015 – 2016 Budget for General Fund and School Fund from VPSA General Obligation Bond

WHEREAS, the Colonial Beach Town Council has issued debt through a Virginia Public School Authority 2015 General Obligation Bond on November 19, 2015 in the amount of \$8,963,022.30 on behalf of the School Board for the construction of a new elementary school; and

WHEREAS, in order to comply with accounting standards, these funds from this general obligation bond must be transferred to the school to pay for the cost of construction of the elementary school; and

WHEREAS, on Thursday, April 14, 2016 the Town Council conducted a duly advertised public hearing to seek public input.

NOW THEREFORE BE IT RESOLVED, that the Town Council meeting in regular session, Thursday, April 14, 2016, hereby adopts an amendment to Fiscal Year 2015-2016 budget as follows:

	FY 2015-16 Approved	FY 2015-16 Revised	Change
General Fund	\$9,213,260	\$18,176,282.30	+\$8,963,022.30
School Fund	\$7,743,537	\$16,480,905.24	+\$8,737,368.24*

BE IT FINALLY RESOLVED that the funds identified in the budget amendment shall be appropriated for expenditure upon adoption of this Resolution.

**The difference of \$225,654.06 between the amount of the bond and the amount transferred to the school is the cost of issuance. Additionally, included in the amount being transferred to the school is the first payment of \$225,108.63 (capitalized interest).*

Funds appropriated in FY 2016 for Capital Improvements will not lapse at the end of the year, but shall remain appropriated for the life of the project(s) until completion, or until the Town Council eliminates the appropriation.

Public Hearing

Resolution #20-16, Adopts the 2016-2017 Capital Improvement Plan

Mayor Ham summarized Resolution #20-16.

Public Input

At 7:39 Mayor Ham opened the Public Hearing.

There was no public comment.

At 7:39 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mr. Looney noted that he has confirmed that any need in the town qualifies to go into the Capital Improvement Plan. Mr. Looney would prefer more time to review the Plan.

Mr. Blunt, Mr. DiRosario, Ms. Goforth and Mayor Ham all agreed with Mr. Looney to postpone a vote on the Plan until May.

Mr. Looney made a motion to defer action until the May regular meeting. Mr. Edwards seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to defer action on Resolution #20-16 passed unanimously.

Public Hearing

Resolution #21-16, Sale of Parcel B, 5th Street to Curland and Melinda Fields

Mayor Ham read and summarized Resolution #21-16.

Public Input

At 7:43 Mayor Ham opened the Public Hearing.

There was no public comment.

At 7:43 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mr. Blunt made a motion to adopt Resolution #21-16 as written. Mr. Lyburn seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to adopt Resolution #21-16 passed unanimously.

RESOLUTION #21-16, Sale of Parcel B, 5th Street to Curtland and Melinda Fields

WHEREAS, there is a 375 square foot parcel of land located at 3A3-1-8C-B in the Town of Colonial Beach; and

WHEREAS, on April 14, 2016, the Colonial Beach Town Council has conducted a duly advertised public hearing on the sale of the undeveloped, abandoned right of way located on 5th Street in the Town of Colonial Beach.

NOW THEREFORE BE IT RESOLVED that at the Colonial Beach Town Council, meeting on April 14, 2016, hereby authorizes the sale by quitclaim deed of the 375 square foot parcel of land located on 5th Street in the Town of Colonial Beach to Curtland and Melinda Fields subject to the following terms and conditions:

1. Curtland and Melinda Fields must obtain an appraisal of the property by an appraiser who is approved by the Town of Colonial Beach.
2. Curtland and Melinda Fields shall obtain a plat of survey of the property that clearly shows any and all easements.
3. Curtland and Melinda Fields shall be required to pay the appraised cost of the property in order to purchase the property.
4. Curtland and Melinda Fields shall be responsible for the preparation of the quitclaim deed to convey the property. The deed shall be subject to review and approval by the Town Attorney.
5. The conveyance of the property shall be subject to all necessary Town easements.
6. Closing must occur within ninety days of the date of this Resolution.

Public Hearing

Resolution #22-16, Conditional Use Permit Request for the Colonial Beach School Board

Mayor Ham summarized Resolution #22-16.

Public Input

At 7:45 Mayor Ham opened the Public Hearing.

There was no public comment.

At 7:45 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mayor Ham requested Dr. Newman, School Superintendent to answer questions.

Dr. Newman introduced Jack Clark, who recommended widening the sidewalk to ten feet at the entrance to the school. Mr. Clark thanked the Planning Commission for their suggestion.

There was Council agreement to add the word “ten (10)” feet in Condition numbered 7.

Mayor Ham read the three other suggestions made by Planning Commission that were not included in the resolution, including a suggestion to “exceed state storm water recommendations,” “consider accommodations for strategic growth” and, “develop a site plan for recreational uses on the property.”

Ms. Erard noted the only conditions that can be imposed must be directly related to the use that is being requested.

Mr. Lyburn made a motion to adopt Resolution #22-16, as amended. Mr. Edwards seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to adopt Resolution #22-16, as amended, passed unanimously.

RESOLUTION #22-16, CONDITIONAL USE PERMIT REQUEST FOR THE COLONIAL BEACH SCHOOL BOARD

WHEREAS, the Colonial Beach School Board has applied for a Conditional Use Permit (CUP) in order to construct and operate an Elementary School; and

WHEREAS, a public hearing before the Colonial Beach Planning Commission and the Colonial Beach Town Council was properly advertised and conducted; and

NOW THEREFORE BE IT RESOLVED by the Colonial Beach Town Council, on Thursday, April 14, 2016 hereby approves the Conditional Use Permit to construct and operate an Elementary School subject to the following conditions:

1. The Colonial Beach School Board shall record this approval of the CUP with the Westmoreland County Circuit Court Clerk's office within 30 days, and provide a copy of the recorded document to the Planning Department with the deed book and page number.
2. This CUP is for operation of an elementary school.
3. The Colonial Beach School Board shall have a plat/deed prepared dedicating the easements for water and sewer lines that cross the property.
4. The Colonial Beach School Board shall install an emergency access route off of 1st Street behind the proposed school.
5. The Colonial Beach School Board shall install Best Management Practices (BMP) facilities on the property and shall execute a BMP agreement which shall be recorded in the Westmoreland County Clerk's Office.
6. The Colonial Beach School Board shall comply with all Federal, State and Local Laws.
7. The School Board shall widen the sidewalk to 10 (ten) feet at the entrance to the proposed school, to accommodate for larger groups entering the school.

Public Hearing

Ordinance No. 673, Vacates and Abandons an undeveloped alley/Unopened Right of Way Extending Off Of Douglas Avenue Pursuant To VA Code Sec. 15.2-2006

Mayor Ham summarized Ordinance No. 673 and noted this alleyway needs to be abandoned in order to be included in the old high school property that will be divided into two parcels.

Public Input

At 7:53 Mayor Ham opened the Public Hearing.

There was no public comment.

At 7:53 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mr. Blunt urged swift action by Council to get this Ordinance passed.

Mr. Lyburn made a motion to adopt Ordinance No. 673 as written. Mr. Looney seconded the motion.

Mayor Ham call for a Roll Call vote. All in favor, signify by saying "aye." Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said "aye." The "ayes" were unanimous.

The motion to adopt Ordinance No. 673, as written, passed unanimously.

ORDINANCE NO. 673 VACATES AND ABANDONS AN UNDEVELOPED ALLEY/UNOPENED RIGHT OF WAY EXTENDING OFF OF DOUGLAS AVENUE PURSUANT TO VA CODE § 15.2-2006.

WHEREAS the Town of Colonial Beach seeks to vacate and abandon a 10 foot undeveloped alley/unopened right of way that extends off of Douglas Avenue for approximately 490.53 feet, as shown on the plat prepared by Alison, Baird & Sehl, P.C., dated January 29, 2016 and entitled, “Plat Showing ‘Parcel A’ and ‘Parcel B;’” and

WHEREAS this undeveloped alley/unopened right of way has never been used for public travel; and

WHEREAS the Town of Colonial Beach has no future plans to utilize or improve the undeveloped alley/unopened right of way.

NOW THEREFORE BE IT ORDAINED by the Colonial Beach Town Council, in accordance with Virginia Code § 15.2-2006, that the unopened alley/undeveloped right of way extending off of Douglas Avenue for 490. 53 feet, as shown on the plat prepared by Alison, Baird & Sehl, P.C., dated January 29, 2016 and entitled, “Plat Showing ‘Parcel A’ and ‘Parcel B,’” is hereby vacated and abandoned; and

BE IT FURTHER ORDAINED that the Town Attorney is hereby directed to record this Ordinance, as well as a plat that adds five feet of the former alley/right of way to Parcel A extending 239.90 feet for the length of Parcel A; and

BE IT FURTHER ORDAINED that the Town Attorney is hereby directed to record this Ordinance, as well as a plat that adds five feet of the former alley/right of way to Parcel B extending 239.90 feet in length; and

BE IT FINALLY ORDAINED that the Town Attorney is hereby directed to record this Ordinance, as well as a plat that adds ten feet of the former alley/right of way to Parcel B extending 250.63 feet in length.

This Ordinance shall take effect upon adoption.

Public Hearing

Ordinance No. 674, Amends the Colonial Beach Town Code, Chapter 5, “Beaches, Waterways, Boardwalk, Parks, Recreational Areas and Facilities”

Mayor Ham summarized Ordinance No. 674 and noted it deletes Article II, Construction and Maintenance of Piers or Wharves and Shoreline Maintenance Agreements on Town Property.”

Mayor Ham further summarized that Council has made a decision to begin selling the property to the adjacent property owners who own a pier, rather than the current practice of leasing the piers.

Once this Article is deleted, the Town Attorney will prepare a new policy that allows the sale of property to pier owners.

Public Input

At 7:55 Mayor Ham opened the Public Hearing.

Steve Cirbee, 809 Washington Avenue, noted there are locations where the right of way is actually in the water. Mr. Cirbee asked if the town is allowed to sell those right of ways.

Ms. Erard requested Mr. Cirbee send her a specific situation so she can prepare a specific answer.

Mr. Cirbee has a lease on a pier next to the town pier on Irving Avenue. Mr. Cirbee asked “are you going to sell me part of the town beach?”

Mayor Ham answered individual situations will be worked out as they come up.

At 7:58 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mr. Looney asked if, due to storm damage, FEMA would recognize the individual property owner.

Ms. Foulds answered that each situation would be assessed after a specific event, but reported that the town has not been reimbursed for erosion.

Mr. Blunt made a motion to adopt Ordinance No. 674 as written. Mr. Lyburn seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” Mr. DiRosario “abstained” due to a conflict of interest as he has submitted an application for the Sulgrave Pier.

The motion to adopt Ordinance No. 674 passed with a vote of six in favor and one vote to abstain.

ORDINANCE NO. 674 AMENDS THE COLONIAL BEACH TOWN CODE, CHAPTER 5, “BEACHES, WATERWAYS, BOARDWALK, PARKS, RECREATIONAL AREAS AND

FACILITIES,” BY DELETING ARTICLE II, “CONSTRUCTION AND MAINTENANCE OF PIERS OR WHARVES AND SHORELINE MAINTENANCE AGREEMENTS ON TOWN PROPERTY” IN ITS ENTIRETY.

BE IT ORDAINED by the Colonial Beach Town Council that the Colonial Beach Town Code, Chapter 5, “Beaches, Waterways, Boardwalk, Parks, Recreational Areas and Facilities,” shall be amended by deleting Article II, “Construction and Maintenance of Piers or Wharves and Shoreline Maintenance Agreements on Town Property” in its entirety as follows:

~~“ARTICLE II. – CONSTRUCTION AND MAINTENANCE OF PIERS OR WHARVES AND SHORELINE MAINTENANCE AGREEMENTS ON TOWN PROPERTY~~

~~DIVISION 1. – GENERALLY~~

~~Sec. 5-21. – Violation of article.~~

~~Any person who violates any provision of this article, shall be guilty of a class 3 misdemeanor.~~

~~Sec. 5-22. – Required.~~

~~In addition to any other permits required by law:~~

- ~~(1) It shall be unlawful for any person to construct or maintain any pier or wharf, which abuts on town property, unless they have a current permit to do so issued by the town.~~
- ~~(2) It shall be unlawful for any person to construct or maintain any rip rap or sea wall, on town property, unless they have a shoreline maintenance agreement.~~

~~DIVISION 2. – PERMITS AND LEASES FOR PIERS ON TOWN OWNED PROPERTY~~

~~Sec. 5-23. – Application.~~

~~(a) Application for a permit required by this article shall be made to the town. Such application, if for the initial construction of a pier or wharf, shall be accompanied by construction plans, drawn or approved by a registered engineer, or any professional customarily employed in design of such plans. The applicant shall agree to construct such pier or wharf in accordance with such plans.~~

~~(b) Persons having a valid town permit issued prior to December 11, 1997, may elect to allow the existing agreement to expire as provided therein or may apply for a new permit under the terms and conditions of this article, at their option. When existing agreements expire, renewal shall be in accordance with the provisions contained in this article.~~

~~(c) The town manager may grant new five year permits only to owners of property located directly adjacent to the proposed site of the pier. Such property may be separated from the site of the proposed pier by only public property or right of way. Other applications may be submitted for consideration by town council.~~

~~(d) Piers or wharves that are recorded on town records as existing prior to December 11, 1997, shall be exempt from subsection (c) above, and a permit shall be issued or renewed, if they meet all other provisions of this article, except as noted herein. Such preexisting piers or wharves shall also be exempt from [section 5-27](#) unless their existing configuration is modified.~~

~~Sec. 5-24. – Applicant's insurance.~~

~~Prior to issuance of a permit under this article, the applicant shall furnish evidence that they have in full force and effect, a general liability insurance policy, to save the town harmless from any accidents occurring on the pier or wharf. For private piers or wharves, the policy shall be in the minimum amount of three hundred thousand dollars (\$300,000.00). For piers or wharves used for commercial purposes or open to the public, the policy shall be in the minimum amount of five hundred thousand dollars (\$500,000.00). Such policy shall be maintained in full force and effect for the term of any permit issued under this article. The Town of Colonial Beach shall be named as additional insured on the pier or wharf on such policy.~~

~~Sec. 5-25. – Applicant's responsibilities.~~

~~Prior to the issuance of a permit under this article, the applicant shall enter into an agreement with the town as prescribed by the town attorney, embodying the terms and conditions set forth in this article, including:~~

- ~~(1) That the value of the pier or wharf shall be determined by the town treasurer or his agent and its assessed value be included in the assessment of the applicant's property adjacent to the pier or wharf;~~
- ~~(2) That the pier or wharf shall be recorded on the property tax assessment documents of the town or Westmoreland County, should they be acting as the town's authorized agent;~~
- ~~(3) That the applicant shall agree to pay taxes on the value of the pier or wharf as included in the property assessment;~~
- ~~(4) That the applicant agrees to maintain the pier or wharf in a safe condition and remove the pilings from the pier or wharf when the same is abandoned, becomes unsafe or the permit is not renewed as provided in this article.~~

~~Sec. 5-26. – Fees.~~

~~(a) Application fee. An administrative processing and filing fee of fifty dollars (\$50.00) must be paid at the time the five year, or forty year application is submitted. If the application is denied, the fee shall be refunded. There shall be no administrative fee for renewal applications.~~

~~(b) Yearly fee. In the case of a five year pier lease there shall be an annual fee of one hundred dollars (\$100.00) each year the lease remains in effect. This fee shall be adjusted every five (5) years to reflect the cumulative effect of inflation during this period. The adjustment shall be no greater than the increase in the department of labor, consumer price index for this region, or United States Government approved replacement, should it be discontinued.~~

~~(c) Yearly fee. In the case of a five year pier permit when issued in conjunction with a shoreline maintenance agreement there shall be no annual permit fee each year the lease and the shoreline maintenance agreement remain in effect.~~

~~Sec. 5-27. – Issuance.~~

~~The permit required by this article shall only be issued by the town when the applicant complies with the provisions of this article including the requirements listed herein:~~

- ~~(1) That new piers or wharves must be perpendicular to the land to which they are attached and piers or wharves cannot cross the applicant's property line as extended perpendicularly from the applicant's property boundary lines.~~
- ~~(2) That piers or wharves shall not be over one hundred (100) feet long unless authorized by resolution of town council as an exception to policy because of special circumstances which require different footage.~~
- ~~(3) That outer spring line pilings shall not be more than twenty (20) feet from the pier or wharf decking.~~
- ~~(4) That piers shall not be more than ten (10) feet wide and wharves more than twelve (12) feet wide, unless otherwise authorized by resolution of town council.~~
- ~~(5) That the center of the proposed pier or wharf shall be at least one hundred (100) feet from the center of adjacent piers or wharves unless otherwise authorized by resolution of town council.~~
- ~~(6) That pier or wharf owners must agree to maintain the landscape of the town property surrounding the pier or wharf, and across from the property boundaries as identified in subsection (1) above. This includes maintenance of the grass, removal of weeds and maintaining this area in an orderly manner.~~
- ~~(7) That construction of the pier or wharf must be completed within twelve (12) months of the date the permit was issued or the permit becomes invalid.~~
- ~~(8) That pier or wharf permits are issued to an individual in accordance with [section 5-28](#) and are considered a part of the property across from the pier or wharf's location per [section 5-25](#) and cannot be transferred except with the sale of the property, with the exception of piers and wharves that have been previously recorded on town records as not located directly across from the permit holder or applicant's property.~~

Sec. 5-28. – Permits.

Five-year permit: A permit issued under this article shall expire in five (5) years from the date of issue. No such permit shall be issued or renewed unless:

- ~~(1) The applicant pays the prescribed fee(s) and complies with all the terms and conditions of this article, including but not limited to [section 5-24](#), [section 5-25](#) and [section 5-27](#).~~
- ~~(2) Upon inspection, the town building inspector determines that the pier or wharf is safe for use.~~

The town treasurer or his agent, shall send a permit renewal notice to permit holders not less than thirty (30) days before permit expiration and shall receive the permit renewal applications.

Sec. 5-29. – Effect of failure to renew or comply with this article.

~~(a) In the event the applicant fails to comply with the terms and conditions of this article, the town manager or his agent, shall send the applicant written notice explaining the nature of the violation or noncompliance. The applicant shall be given thirty (30) days to submit a written plan to comply with the article and not more than six (6) months to comply with the article. Extensions of these limits may be approved by town council resolution in event of special circumstances. In the event a safety condition exists, the applicant shall be required to take immediate action to eliminate the safety hazard or the town shall take action at the applicant's~~

~~risk and expense. The town attorney shall advise the town manager on how to proceed based on the circumstances and situation.~~

~~(b) In event the applicant fails to comply with [section 5-29\(a\)](#), the town shall notify the applicant of the termination of the permit. The applicant shall be required to remove the pier or wharf and all pilings within sixty (60) days of the effective date of the termination. The town building inspector shall make a final inspection to determine if the pier or wharf and all pilings have been removed. Anything remaining shall be removed in accordance with [section 5-25](#) at the owner's risk and expense.~~

~~(c) If the applicant does not intend to renew a permit, the pier or wharf and its pilings are subject to [section 5-29\(b\)](#), starting at the date the existing permit expires.~~

~~**Sec. 5-30. – Reserved.**~~

~~**DIVISION 3. – SHORELINE MAINTENANCE AGREEMENTS FOR TOWN OWNED PROPERTY**~~

~~**Sec. 5-31. – Purpose.**~~

~~This article is intended to develop a method of protecting the town's shoreline property from erosion at no expense to the town without withdrawing the rights of town citizens who currently enjoy and use the water front for recreational purposes.~~

~~**Sec. 5-32. – Application.**~~

~~Town owned property along the shoreline in sections corresponding to existing property lines of private property that are immediately across from and adjacent to such property shall be eligible for a shoreline maintenance agreement. The town or any interest party may from time to time identify property which may be subject to a shoreline maintenance agreement. Such identification shall be made in the form of a formal application. After verification of the eligibility of the subject property, the town manager shall cause these easement agreements to be placed out to public bid for a forty year term with the following terms and conditions:~~

- ~~(1) The successful bidder must agree to rip rap or construct another type of approved sea wall to the town's reasonable specifications, along the entire length of the property, including up to ten (10) feet over each end, if necessary, to tie it into the bank. For any eligible property bordering on the body of water known as Monroe Bay the successful bidder must construct the rip rap or sea wall in such a manner that it extends to the top of the bank. For any other eligible property the successful bidder is encouraged to construct the rip rap or sea wall in such a manner that it extends to the top of the bank.~~
- ~~(2) The successful bidder must agree to maintain the rip rap or sea wall during the entire forty year term of the agreement. This includes maintenance of the property, cutting the grass, care of trees, removal of weeds and keeping the area clean of debris and litter.~~
- ~~(3) The successful bidder must acknowledge that any existing piers, wharves or structures are exempt from this agreement as pre-existing structures. They shall be governed by the town pier ordinance or other town ordinances and are private property. However the owners of the structures shall be allowed to repair them~~

~~and shall not be denied water, electricity or such other reasonable improvements to make the pier, wharf or structure function to its intended purpose.~~

~~(4) The successful bidder shall acknowledge that the property subject to the shoreline maintenance shall continue to be open to the public for all to enjoy the shoreline, as it is now, with exception of the privately owned piers, wharves or structures, and the bidder's only right shall be to maintain the property in return for the promise made by the town in the agreement.~~

~~(5) The town shall agree, in return for the successful bidder's pledge to use their funds and resources:~~

~~a. To not sell or lease the property;~~

~~b. To allow ingress and egress to the rip rap or sea wall to permit construction and/or repairs in accordance with the agreement; and~~

~~c. To not allow any structures to be built on the easement with the exception that preexisting piers, wharves or structures are exempt from this requirement and shall be allowed to remain or to be expanded. Should the piers, wharves or structures be removed by the owner, such cannot be replaced, not even by the holder of the agreement. Nothing in this provision shall be construed to prohibit the owner of a pier or wharf which existed prior to the commencement of the shoreline maintenance agreement from maintaining, repairing or replacing such pier.~~

~~(6) The town shall:~~

~~a. Assist the successful bidder in obtaining permits, access; and~~

~~b. Cooperate with the successful bidder to initially rip rap or sea wall the shoreline; and~~

~~c. Allow the successful bidder to maintain the shoreline over the term of the forty year agreement.~~

~~(7) The town shall agree to allow the holder of the agreement, or estate to subjugate or transfer the agreement to other individuals to fulfill its terms and conditions should they move or sell their property.~~

~~(8) The successful bidder shall acknowledge that the work performed becomes the property of the town upon the completion and acceptance of such work by the town. Work shall be inspected and accepted for the town by the town building inspector.~~

~~(9) The successful bidder shall submit plans for the initial construction of the new, or maintenance of the existing, rip rap or sea wall, drawn or approved by a registered engineer, or any professional customarily employed in design of such plans. The successful bidder shall agree to comply with such plans during construction and/or maintenance.~~

~~(10) A successful bidder with an existing, approved rip rap or sea wall, shall be granted a shoreline maintenance agreement as long as they meet the terms and conditions of this article.~~

Sec. 5-33. Successful bidder's insurance.

~~Prior to the commencement of work under this article, the successful bidder shall furnish evidence that they or the contractor performing the work, have in full force and effect, a general liability insurance policy, to save the town harmless from any accidents occurring during construction or maintenance. The policy shall be~~

~~in the minimum amount of three hundred thousand dollars (\$300,000.00). For easements used for commercial purposes or open to the public, the policy shall be in the minimum amount of five hundred thousand dollars (\$500,000.00). Such policy shall be maintained in full force and effect for the term of the period of construction and the Town of Colonial Beach shall be named as an additional insured on such policy.~~

~~Sec. 5-34. – Successful bidder's responsibilities.~~

~~The successful bidder shall be responsible for the maintenance of the rip rap or sea wall at their expense and if the area becomes unsafe or is not maintained and erosion is evident, the agreement shall be subject to termination in accordance with the provisions of this article.~~

~~Sec. 5-35. – Expiration.~~

~~An agreement issued under this article shall expire on its anniversary date, forty (40) years from its date of issue.~~

~~Sec. 5-36. – Effect of failure to comply with terms and conditions of this article.~~

~~(a) In event the successful bidder fails to comply with the terms and conditions of this article, the town manager or his agent, shall send the successful bidder written notice explaining the violation or nature of the noncompliance. The successful bidder shall be given thirty (30) days to submit a written plan to comply with the article and not more than six (6) months to comply with the article. Extensions of these limits may be approved by town council resolution in the event of special circumstances. In event a safety condition exists, the successful bidder shall be required to take immediate action to eliminate the safety hazard or the town shall take action at the successful bidder's risk and expense. The town attorney shall advise the town manager on how to proceed based on the circumstances and situation.~~

~~(b) In the event the successful bidder fails to comply with subsection (a) above, the town shall notify the successful bidder of the termination of the agreement.~~

~~Sees. 5-37 – 5-39. – Reserved.”~~

Public Hearing

Ordinance No. 675, Amends Colonial Beach Town Code, Chapter 15

Mayor Ham summarized Ordinance No. 675, Article II, Disposal of Trash.

Ms. Erard noted this section of Code has not been updated in eighteen years. What has changed is the notice requirement, which allows “reasonable notice” and allows the town to remedy the situation.

Public Input

At 8:04 p.m. Mayor Ham opened the Public Hearing.

There was no public comment.

At 8:04 p.m. Mayor Ham closed the Public Hearing.

Action by Town Council

Mr. Looney referred to an email sent by Ms. Schick and asked Ms. Schick to address her concerns.

Ms. Erard noted this ordinance is related to trash, refuse and litter.

Mayor Ham noted the Planning Commission maintains there is another ordinance that addresses garbage.

Ms. Schick noted this ordinance, in Section 1 talks to grass cutting; and in section 2 talks to public nuisances, but there is also Chapter 12, titled “Garbage and Trash.” Ms. Schick believes both Chapters, 15 and 12, need to be reviewed together.

Ms. Foulds noted Chapter 12 does need to be updated and urged Council not to delay updating this section.

Ms. Goforth agreed with Ms. Schick and would like to defer action. Ms. Goforth further noted she objects to taking out the requirement to send a certified letter and talked about notifying property owners who are part time residents or “weekenders.” Ms. Goforth further noted if the town is looking to place a lien on someone’s property, just sending a letter is not enough notice.

Ms. Erard suggested staff develop and provide Council a policy of specifics on how enforcement will occur.

Mr. DiRosario agrees with Ms. Goforth in regard to notice to property owners who own their summer home here.

Ms. Schick suggested the enforcement official write an opinion containing her perspective on this issue.

Mr. Edwards formerly served as a Code Enforcement Officer and knows they are limited to what is on the books.

Ms. Schick further noted the ordinance under advisement does not state with specificity the process or the number of days permitted to respond.

Mr. Lyburn suggested the ordinance go through the Town Manager and the Planning Commission for revision on Chapters 15 and 12, and then come back before Council.

Ms. Schick agreed with Mr. Lyburn.

Action by Town Council

Mayor Ham asked for a motion to postpone action on Ordinance No. 675 until the Town Manager and Town Attorney and the Planning Commission have a chance to review all of Chapter 15 and any other grass or trash ordinance.

Mr. Edwards made a motion to postpone as noted by the Mayor. Mr. DiRosario seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Looney, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The “ayes” were unanimous.

The motion to postpone consideration of Ordinance No. 675 passed unanimously.

Resolution #23-16, Authorizes Repair of the HVAC system at 717 Marshall Avenue in an amount not to exceed \$8,000

Mayor Ham summarized Resolution #23-16 and noted Council has agreed to pay up to \$8,000 to replace the HVAC system.

Mayor Ham suggested paying for this funding from the Capital Improvement Fund.

Action by Town Council

Ms. Goforth made a motion to approve Resolution #23-16 as written. Mr. Edwards seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Blunt, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” Mr. Looney “abstained” due to the fact that he was one of the founding members of the Colonial Beach Foundation, which currently leases 717 Marshall Avenue.

The motion to adopt Resolution #23-16 passed with a vote of six in favor and one vote to abstain.

RESOLUTION #23-16, Authorizes Repair of the HVAC system at 717 Marshall Avenue in an amount not to exceed \$8,000

WHEREAS, the property located at 717 Marshall Avenue is currently leased to the Colonial Beach Foundation, which lease began on April 1, 2015 and expires on March 31, 2020; and

WHEREAS, the Colonial Beach Town Council has agreed to pay for necessary repairs to the HVAC system.

NOW THEREFORE BE IT RESOLVED, that the Colonial Beach Town Council, meeting in regular session Thursday, April 14, 2016, hereby approves the immediate funding for repair of the HVAC system at 717 Marshall Avenue in an amount not to exceed \$8,000.

BE IT FURTHER RESOLVED THAT, any costs authorized by this Resolution shall be paid out of the Capital Improvement Fund as services and goods are procured.

Resolution #24-16, Resolution Authorizing Town Attorney to Initiate Enforcement Action

Mayor Ham summarized Resolution #24-16. In the past the Town Attorney was authorized by Council on a case by case basis. This resolution authorizes the Town Attorney to initiate any and all enforcement action.

Action by Town Council

Mr. Lyburn made a motion to approve Resolution #24-16 as written. Mr. Edwards seconded the motion.

Vote on Motion to Approve Resolution #24-16 as written

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Blunt, Mr. Lyburn, Mr. Looney, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.”

The motion to adopt Resolution #24-16 passed with a unanimous vote.

RESOLUTION #24-16, RESOLUTION AUTHORIZING TOWN ATTORNEY TO INITIATE ENFORCEMENT ACTION

WHEREAS the Colonial Beach Town Council seeks to enforce all federal, state and local laws within the Town of Colonial Beach; and

WHEREAS the Colonial Beach Town Council wishes to authorize the Town Attorney to initiate any and all enforcement action that is necessary.

NOW THEREFORE BE IT RESOLVED by the Colonial Beach Town Council at its regularly scheduled monthly meeting on April 14, 2016, that the Town Attorney is hereby authorized to initiate any and all enforcement action in the name of the Town of Colonial Beach.

Citizen Input

Walter Kern, The Meadows, reported that he called the West Point school system. Enrollment is 759, with 152 tuition students paying \$2,800 per student, which brings in revenue/tuition of \$425,600. Those students provide their own transportation.

Mr. Kern then asked for an explanation about a utilities tax that appears on Dominion Power bill and would like to know what that money is used for and where does it go.

Mr. Kern then spoke to the private road coming out of Public Works onto Route 205. Mr. Kern requested a stop sign be placed at the entrance (third request).

Steve Cirbee, 809 Washington Avenue maintained that meeting minutes are 4-1/2 months behind on the webpage. Mr. Cirbee maintains minutes must be posted, under Code of Virginia, within three days.

Mayor Ham responded that the law to which Mr. Cirbee is relying only applies to certain executive branch councils.

Mr. Cirbee then noted that the Commonwealth Attorney only responds to the town and never responds to the people.

Mr. Cirbee then noted he has never received an answer to any of his questions posed to Council.

Mayor Ham advised Mr. Cirbee if he has a specific question, to submit it.

Mr. Cirbee then spoke to the CIP and requested Council to understand what the requirements and focus of the CIP is.

Robin Schick, 163 4th Street thanked Council and recognized that this Council has made significant progress.

Roger Dean, 306 Monroe Point Drive asked if a 10-inch drainage is a state standard and asked where is that 10-inch drainage pipe and will it cause damage to the school.

General Council Comments

There were no general Council comments.

Closed Meeting

There was no closed meeting.

Adjournment/Recess

Mr. Lyburn made a motion to adjourn. Ms. Goforth seconded the motion.

Mayor Ham called for a voice vote on the motion to adjourn. All in favor, signify by saying "aye." Mr. DiRosario, Mr. Edwards, Mr. Looney, and Mayor Ham voted "aye." The motion to adjourn passed unanimously.

At 8:43 p.m. the meeting was adjourned.

Kathleen Flanagan, Town Clerk

Mike Ham, Mayor