



**Minutes of the
Colonial Beach Town Council
Regular Meeting held on
Thursday, August 11, 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, Burkett Lyburn
Member, Mike Looney

Absent

All Council Members were present.

Also Present

Town Manager, Val Foulds
Town Attorney, Andrea Erard
Police Chief, Danny Plott
Zoning Administrator, Brendan McHugh
Town Clerk, Kathleen Flanagan

Call to Order

Mayor Ham called the meeting to order at 7:03 p.m.

Roll Call of Members

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

All Council Members were present.

Additions to the Agenda

Mr. Looney motioned a new resolution to postpone the vote on Eleanor Trailer Park as a new purchase offer has been received and the first offeror would need an opportunity to respond. The Town Attorney has prepared a resolution to postpone, Resolution #48-16. Mr. Looney further requested that Resolution #48-16 be added to the agenda between Item no. 4 and Item no. 5.

Ms. Erard further noted the new resolution provides that this meeting be recessed and reconvened on August 25 at 4:30 p.m.

Mr. DiRosario stated if the meeting is recessed, he would ask the Mayor to suspend the rules on the reconvened meeting on the 25th so as to allow public comment at the beginning of the reconvened meeting.

Ms. Erard suggested adding the following to the last sentence in Resolution #48-16 “and that public comment be permitted prior to any vote by Council.”

Mayor Ham clarified the public comment, saying Council will allow a public comment period on the sale of Eleanor Trailer Park at the reconvened meeting on August 25, 2016.

Mayor Ham queried Council members, who unanimously agreed to allow a public comment period on the sale of Eleanor Trailer Park at the reconvened meeting on August 25, 2016.

Action by Town Council

Mr. Edwards made a motion to add Resolution #48-16 to the agenda. Mr. Lyburn seconded the motion.

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

The motion to add Resolution #48-16 the agenda passed unanimously.

Approval of the Agenda

A motion was made by Mr. Edwards to approve the agenda, as written. Mr. Lyburn seconded the motion.

Mayor Ham call for a voice vote. All in favor, signify by saying “aye.” Mr. DiRosario, Mr. Blunt, Mr. Looney, 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. Blunt to approve the minutes for the April 28, 2016 Work Session.

Council members indicated they had not received the minutes for review. Mayor Ham suggested holding a vote on Approval of Minutes until the reconvened session on August 25.

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.” The “ayes” were unanimous.

There was no council objection to holding consideration of “Approval of the Minutes” until the reconvened meeting on August 25, 2016.

Resolution #48-16, Postpones vote on the sale of Eleanor Trailer Park

Ms. Erard read Resolution #48-16.

Action by Town Council

Mr. Edwards made a motion to adopt Resolution #48-16, as read. Mr. Blunt seconded the motion.

Mr. DiRosario asked why the appraisal was not given to Council during the initial closed session.

Ms. Erard answered she was unaware that Mr. DiRosario did not have the information and that had he requested that information, she would have provided it.

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

The motion to adopt Resolution #48-16, as read, passed unanimously.

RESOLUTION # 48-16, Postpones Vote on the Sale of Eleanor Trailer Park, As Amended (Resolution Postponing Vote on the Sale of Eleanor Trailer Park)

WHEREAS on July 8, 2006 the Colonial Beach Town Council approved Resolution #33-06 and voted to pursue the sale of the property known as Eleanor Trailer Park (Tax Parcel 3A1-2-9-1)

located at the intersection of Irving Avenue, Dandridge Lane, and Lossing Avenue and consisting of 1.89 acres; and

WHEREAS on June 12, 2014 the Colonial Beach Town Council approved Resolution #39-14 which authorized an appraisal for Eleanor Trailer Park and, upon receipt of the appraisal, identification of the process for the sale of Eleanor Trailer Park; and

WHEREAS on August 14, 2014 the Colonial Beach Town Council approved Resolution #53-14 which required that the Town Manager advertise Eleanor Trailer Park for sale and stated that Eleanor Trailer Park be sold at the appraised value; and

WHEREAS on June 29, 2016 an offer for the purchase of Eleanor Trailer Park was received from Randy Hirsch; and

WHEREAS on August 11, 2016 a second offer for the purchase of Eleanor Trailer Park was received from Roger Matherly; and

WHEREAS it is only fair to provide an opportunity to Randy Hirsch to respond to the offer submitted by Roger Matherly before Town Council takes a vote.

NOW THEREFORE BE IT RESOLVED by the Colonial Beach Town Council at its regular monthly meeting on August 11, 2016 that the Town Council will recess at the end of this meeting in lieu of adjournment and continue this meeting until August 25, 2016 at 4:30 p.m.; and

BE IT FINALLY RESOLVED that the question regarding the sale of Eleanor Trailer Park is postponed until August 25, 2016 at 4:30 p.m. and that public comment will be permitted prior to any vote by Council on the proposed sale of Eleanor Trailer Park.

Ms. Goforth asked if the second offer would be discussed in closed session.

Mayor Ham responded that when Council reconvenes on the 25th, the information on both offers received will be considered.

Mayor Ham summarized the second offer received, saying the offer was for \$950,000 and the prospective purchaser is looking to build 12 single family homes.

Ms. Goforth noted the offer is based on 12 lots. Will this person still be interested if they cannot build 12 homes? Will it negate this offer?

Mr. Edwards asked Mr. McHugh if there are 12 lots on the property.

Mr. McHugh answered he would need a survey to determine the number of lots.

Ms. Erard noted the town is selling the property “as-is” and is not representing any particular number of lots.

Ms. Goforth believes that is a condition of the offer.

Mayor Ham responded the town is not going to guarantee he can build 12 houses. The property will be sold “as is.”

Ms. Erard noted both offers contain a due diligence period.

Council Announcements

Mr. Edwards thanked Chief Plott and the entire department, as well as the Rescue Squad for holding National Night Out.

Mr. Blunt noted he received an email from a constituent about a sewer stoppage and that citizen was very impressed with Mr. Carl Pearson, who responded for the town.

Mr. DiRosario agreed with Mr. Edwards about National Night Out.

Mr. Looney noted there are a number of terms he would like to be included in the sale of Eleanor Trailer Park and will hold off to submit those terms.

Ms. Goforth would like to talk to Ms. Erard about the “Confidential, Attorney/Client Privilege” memo she received.

Ms. Goforth asked Mr. Erard to report what she discussed with the other attorney and her take on the issues raised.

Ms. Erard reported that she received a phone call from Gif Hampshire who is an attorney representing Ms. Cathy Bokman. Mr. Hampshire believes a super majority is required for Council to approve the sale of Eleanor Trailer Park.

Ms. Erard indicated to Mr. Hampshire that, based on her research, she disagreed with his conclusions. Mr. Hampshire and Ms. Erard agreed to talk about this further when Mr. Hampshire returns from vacation.

Presentations

Val Foulds, Town Manager responded she did not have anything at this time.

Police Chief Danny Plott thanked everyone that participated in National Night Out.

Mayor Ham noted the County Board of Supervisors voted to add a voting precinct to District 2 and District 3.

Robin Schick, Chairperson, Planning Commission reported that the Commission is working on amendments to Article 24, Landscaping, and amendments to Article 13, Parking. The Commission is also ready to recommend the town sell the front half of the Wilder Avenue parking lot and keeping the back half for parking.

The Commission is also working on writing an ordinance for murals.

Ms. Schick and the Commission have recommended approval of the Housing Amendment, which is currently in front of Council.

Ms. Goforth asked Ms. Schick if the Commission is looking at the Montross ordinance for murals and further asked Ms. Schick to furnish copies of that ordinance to every Town Council member.

Tim Trivett, Chairman, School Board reported regarding construction of the new elementary school that the first block is supposed to go in the ground on Monday.

Mr. DiRosario reported that Riverwood will have an open house featuring the recent remodel on Thursday, August 18 from 5:30 p.m. to 7:30 p.m.

Unfinished Business

Resolution #44-16, Amends 2009-2029 Comprehensive Plan, Chapter 1.6, Housing Update (Motion to Table unanimously approved on July 14, 2016)

Action by Town Council

Mr. Looney made a motion to remove Resolution #44-16 from the table. Mr. Lyburn seconded the motion.

Mr. Blunt requested more information from the Zoning Office.

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

The motion to take Resolution #44-16 off the table as passed unanimously.

Mr. Blunt suggested postponing action until October.

Mr. McHugh addressed several items that citizens have called into question. For example, page 143 notes the 278 new housing units would serve: younger individuals who are new to the work force (ages 18-24), those with limited incomes and older residents (65+) who are looking for housing with significantly less maintenance.

The 278 new housing units will become a requirement for the town. The Comprehensive Plan is a guide for the town and is not legally binding.

This amendment satisfies Section 15.2-223 of the Code of Virginia which states a Comprehensive Plan shall include a designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering current and future needs of the planning district within which the locality is situated.

Mr. DiRosario made a motion to postpone Resolution #44-16 until the November regular meeting. Mr. Edwards seconded the motion.

Mayor Ham call for a roll call vote. All in favor, signify by saying “aye.” Mr. Blunt, Mr. Looney, Mr. Lyburn, Mr. Edwards, and Ms. Goforth all said “aye.” Mr. Looney and Mayor Ham voted “nay.” The motion to postponed passed with a 5-2 vote.

The motion to postpone Resolution #44-16 until the November regular meeting passed with a 5-2 vote.

Resolution #48-16, Postpones vote on the sale of Eleanor Trailer Park

Mayor Ham noted that Resolution #48-16 replaces Resolution #46-16, which was placed on the table on July 14, 2016.

Resolution #46-16 was left on the table and is no longer a viable resolution.

New Business

Resolution #47-16, Review of Financial Records of Town-funded Agencies

Mayor Ham summarized Resolution #47-16.

Action by Town Council

Mr. DiRosario made a motion to adopt Resolution #47-16. Mr. Looney seconded the motion.

Motion to Amend

Ms. Goforth made a motion to amend the resolution by changing the wording in the third paragraph to read as follows: THEREFORE, BE IT RESOLVED that the Town Manager is directed to require the submission of and review the documents...

Mr. Looney seconded the motion.

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

The motion to amend Resolution #47-16 passed unanimously.

Action by Town Council

Mr. DiRosario made a motion to adopt Resolution #47-16, as amended. Mr. Edwards seconded the motion.

Mayor Ham call for a roll call vote. All in favor, signify by saying “aye.” Mr. Blunt, Mr. DiRosario, Mr. Looney, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said “aye.” The motion to adopt passed with a unanimous vote.

The motion to adopt Resolution #47-16 passed with a unanimous vote.

RESOLUTION # 47-16, Review of financial records of Town-funded Agencies

WHEREAS, Town Council wishes to improve the process of reviewing funding requests from non-profit and for-profit groups that request funding from the Town; and,

WHEREAS, in order to improve the process, the Town Manager is directed to require that certain information accompany any budget requests.

THEREFORE, BE IT RESOLVED that the Town Manager is directed to require the submission of and to review the documents listed below and include the following wording in all future budget resolutions:

- *The Town shall reserve the right to review the financial records of agencies who request funding from the Town as a condition of requesting funding and who do not obtain independent annual audits. Said agencies shall provide a financial statement to the Town annually; and,*
- *The Town shall reserve the right to review the financial records of agencies who request funding from the Town as a condition of requesting funding and who do obtain independent annual audits. Said agencies shall provide a financial statement to the Town annually; and,*
- *The Town shall reserve the right to review the Charter, Mission Statement or other defining document of agencies who request funding from the Town as a condition of requesting funding.*

Citizen Input

Ursula Finney, 214 Meadow Avenue reminded Council that she has not received any response on her concerns brought up at the July meeting. Ms. Finney reported there is major erosion on either side of the ditch and she is concerned this is a dangerous situation.

Mr. Blunt responded saying that Public Works has been out to the property taking pictures and measurements and are studying the situation. Ms. Foulds noted an aborist is scheduled for Friday.

Caryn Self-Sullivan, 2010 Beach Avenue reported that she is on the Board of Directors for the Chamber of Commerce and that this morning a letter on this issue was given to the Board.

Mayor Ham responded saying there are two separate issues. One, the Chamber has been invited to a Work Session to discuss vendors operating during events.

Ms. Self-Sullivan believes the town requiring a review of the financial records is a bit extraordinary.

Ms. Self-Sullivan believes the town needs the green space and should not sell Eleanor Trailer Park. If a decision is made to sell the property, Council should not accept an offer without countering the offer.

Ray Wells, 200 5th Street believes we have a rigged system. Mr. Wells is concerned for the eagles and ospreys that live in Eleanor Trailer Park.

Walter Kern, The Meadows spoke to three topics: (1) the Welcome Sign on Colonial and Washington needs to be fixed; (2) 315 Douglas needs to have the gutters cleaned and the street needs to be open to two-way traffic and railings need to be installed on the 18 steps leading to Town Hall and flag poles need to be installed; and, (3) a stop sign needs to be installed at the entrance to Public Works on Route 205.

Mr. Kern noted the School Board for the county applied for state grant money to build a new high school. Did the town apply for grant money? If not, why.

Jay Jarvis, 225 Boundary agrees with Ms. Self-Sullivan regarding a counter offer and a second opinion.

Mr. Jarvis then asked if any council members had been on Hawthorn near the boardwalk. Mr. Jarvis asked council to ask the town manager why a permit was given to put a storage shelter on town property right in the middle of the revitalization. There is a storage shelter with advertising sitting on what used to be Hawthorn, which is now a park.

Ms. Erard informed the Mayor that she had researched the cost of a new appraisal for Eleanor Trailer Park and was informed that Mr. Kaila said it would cost approximately \$1,200 to \$1,500 for an updated appraisal and would take two to three weeks.

Mayor Ham suggested finishing Citizen Input, and then hold a discussion or make a motion to get another appraisal.

Jim Chiarello, 1008 Monroe Bay Avenue said he was going to ask if the town had gotten an updated appraisal.

Mr. Chiarello said he knows real estate has changed and he believes Council has a fiduciary duty to the citizens to order a new appraisal.

Steve Cirbee, 809 Washington Avenue noted he was a candidate for council and pointed out Bill Dellar, Phil Rogers, Frank Alger and Dallas Leamon.

Mr. Cirbee asked Ms. Erard for a copy of the determination from the court that the town could sell Eleanor Trailer Park.

Mr. Cirbee suggested a staff person go through the Codes of Virginia that apply to localities with a population over 3,500 as he believes there are a number of things that the town is not doing that it should.

Mr. Cirbee noted that, according to Robert's Rules, to lay a motion on the table is never used to kill a motion. And that is exactly what Council did.

Mr. Cirbee also noted that because Res #46-16 was not taken off the table today, at the next regular meeting, the motion dies.

Ms. Goforth informed the Mayor the Clerk had citizen comments to read into the record.

Ms. Flanagan replied that Council had been provided paper copies of all comments received.

Ms. Flanagan further replied that she has responded to citizens who send in written comments that although the comments are not typically read at the meeting, they are provided to council and become a part of the permanent record.

Ms. Goforth noted she had received a text from the citizen.

Ms. Goforth read the written comments provided by Drs. Terry Gasterland and Doug Gasterland.

General Council Comment

Action by Town Council

Mr. Lyburn made a motion to procure another appraisal of the property in order to determine the current value. Mr. DiRosario seconded the motion.

Mayor Ham call for a roll call vote. All in favor, signify by saying "aye." Mr. Blunt, Mr. DiRosario, Mr. Looney, Mr. Lyburn, Mr. Edwards, Ms. Goforth and Mayor Ham all said "aye." The motion passed with a unanimous vote.

The motion passed with a unanimous vote.

Closed Meeting

There was no closed meeting.

Adjournment/Recess

Mayor Ham recessed the meeting.

At 8:30 p.m. Mayor Ham recessed until August 25 at 4:30 p.m.

Kathleen Flanagan, Town Clerk

Mike Ham, Mayor