



**Minutes of the
Colonial Beach Town Council
Regular Meeting held on
Thursday, May 8, 2014 at 7:00 p.m.**

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

Present

Mayor, Mike Ham
Vice Mayor, Tommy Edwards
Member, Pete Bone
Member, Linda Brubaker
Member, Jim Chiarello
Member, Wanda Goforth
Member, Gary Seeber

Also Present

Town Manager, Val Foulds
Town Attorney, Andrea Erard
Town Clerk, Kathleen Flanagan
Police Chief, Libby Legg

Call to Order

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

Pledge of Allegiance

Mayor Ham led a recitation the Pledge of Allegiance.

Roll Call of Members

All members were present.

Additions to the Agenda

Ms. Goforth made a motion to add Resolution #35-14, Ensures citizen input. Mr. Edwards seconded the motion. Without objection, Resolution #35-14 was added to the agenda.

Mayor Ham made a motion to add a Proclamation under Presentations for National Peace Officers Memorial Day and National Police Week. Without objection, the Proclamation was added to the agenda.

Approval of the Agenda

A motion was made by Mr. Edwards to approve the agenda and seconded by Mr. Chiarello. Mayor Ham called for a voice vote. All in favor, signify by saying “aye.” The “ayes” were unanimous, the motion passed.

Approval of the Minutes

Mr. Chiarello made a motion to approve of the minutes for the December 9, 2013 Special Meeting and the April 10, 2014 Regular Meeting. Mr. Edwards seconded the motion.

Mayor Ham called for a voice vote. All in favor, signify by saying “aye.” Ms. Goforth abstained from the vote because she was not in attendance at the April 10, 2014 meeting. Mr. Bone abstained from the vote because he was not on council for the December 9, 2013 meeting.

Mayor Ham called for a voice vote to approve the minutes from the December 9, 2013 meeting. “All in favor, signify by saying aye.” The ayes have it, with one abstention from Mr. Bone.

Mayor Ham called for a voice vote to approve the minutes from the April 10, 2014 meeting. “All in favor, signify by saying aye.” The ayes have it, with one abstention from Ms. Goforth.

Council Announcements

Ms. Brubaker noted she has been working with Rob Murphy, Director of Public Works regarding the boardwalk.

Mr. Edwards noted he attended a planning meeting for the upcoming October bike fest. The executive board voted unanimously not to have fireworks during bike fest, instead chose to have a band.

Mr. Edwards then noted that on May 26, 2014 at 11:00 a.m. there will be a Memorial Day ceremony at the cannon.

Mr. Bone noted there will be a public hearing on tax increase and on the proposed FY 2014-2015 budget to be held on May 21, 2014 at 6:00 p.m.

Mr. Chiarello applauded the fact that Town Hall is being painted and looks great.

Mayor Ham noted that the town is hosting the COMREL meeting at High Tides and is looking forward to a big turn-out.

Presentations

Proclamation, Building Safety Month

Mayor Ham read the Proclamation for Building Safety Month.

-----Proclamation-----

Proclamation

Whereas, the Town of Colonial Beach is continuing efforts to address the critical issues of safety, energy efficiency, and resilience in the building environment that affect our citizens, both in everyday life and in times of natural disaster, give us confidence that our structures are safe and sound, and;

Whereas, our confidence is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, tradespeople, laborers and others in the construction industry—who work year-round to ensure the safe construction of buildings, and;

Whereas, these guardians—dedicated members of the International Code Council—use a governmental consensus process that brings together local, state and federal officials with expertise in the built environment to create and implement the highest-quality codes to protect Americans in the buildings where we live, learn, work, worship, play, and;

Whereas, the International Codes, the most widely adopted building safety, energy and fire prevention codes in the nation, are used by most U.S. cities, counties and states; these modern building codes also include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires and earthquakes, and;

Whereas, Building Safety Month is sponsored by the International Code Council, to remind the public about the critical role of our communities' largely unknown guardians of public safety—our local code officials—who assure us of safe, efficient and livable buildings, and;

Whereas, “Building Safety: Maximizing Resilience, Minimizing Risks” the theme for Building Safety Month 2014, encourages all Americans to raise awareness of the importance of building safe and resilient construction; fire prevention; disaster mitigation, backyard safety; energy efficiency and new technologies in the construction industry. Building Safety Month 2014 encourages appropriate steps everyone can take to ensure that the places where we live, learn, work, worship and play are safe and sustainable, and recognizes that countless lives have been saved due to the implementation of safety codes by local and state agencies, and,

Whereas, each year, in observance of Building Safety Month, Americans are asked to consider projects to improve building safety and sustainability at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE, I proclaim the month of May 2014 as Building Safety Month. Accordingly, I encourage our citizens to join with their communities in participation in Building Safety Month activities.

Dated this 8th day of May 2014

Michael S. Ham, Mayor

-----End of Proclamation-----

Mayor Ham then read the Proclamation regarding Peace Officers Memorial Day and Police Week.

-----Proclamation-----

Proclamation

WHEREAS, in 1962 President John F. Kennedy signed a proclamation which designated May 15 as Peace Officers Memorial Day, and the week in which it falls as Police Week; and

WHEREAS, the members of the law enforcement agency of the Town of Colonial Beach play an essential role in safeguarding the rights and freedoms of the citizens; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our police department recognize their duty to serve the people by safeguarding life and property, protecting them against violence or disorder, and protecting the innocent against deception and the weak against oppression or intimidation; and

WHEREAS, the police department of the Town of Colonial Beach has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service;

NOW, THEREFORE, I call upon all citizens of the Town of Colonial Beach and upon all patriotic, civil, and educational organizations to observe the week of May 12 through 18, 2014, as Police Week with appropriate ceremonies in which all of our people may join in commemorating police officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I FURTHER ask all citizens of the Town of Colonial Beach to observe Wednesday, May 15, 2014, as Peace Officers Memorial Day in honor of those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

_____, *Michael S. Ham, Mayor*

-----End of Proclamation-----

(Applause.)

Val Foulds, Town Manager

Ms. Foulds noted that this Saturday, Resource Engineers will be holding a meeting at Town Center from 10:45 a.m. until 1:00 p.m. for the residents who are affected in the Safe Routes to School grant area.

Police Chief Libby Legg

Chief Legg noted that the volunteer fire department and rescue squad met this week to work on upcoming events and peak weekends.

Ms. Goforth asked Chief Legg about the generator on the water tower. Chief Legg has met with Westmoreland County and discovered “we still have to maintain the feeder on the water tower. I was not aware of that. The dispatch consolidation report does not show that. I do not have a key to that.”

Chief Legg continued “We still have components of our 911 system for which the town is responsible.”

Larry Roberson, Supervisor, Westmoreland County Board of Supervisors

Mr. Roberson noted the county is going to go up .04 cents per \$100 increase. There will be a public hearing. The State has not provided its budget yet.

Mayor Ham asked if the .04 cent increase is on the general fund side or the school side? Mr. Roberson answered it is on real estate taxes, not personal property. It will be used for general fund.

Ms. Brubaker asked if the county funds the Northern Neck Regional Jail. Mr. Roberson answered most of the money for the regional jail – when we have leftover beds, the federal government will put federal prisoners in. That has been very helpful in making payments. All the money that goes there has to stay there.

Kathleen Beane, School Superintendent

Ms. Beane reported she did not have anything to report, but would be available for questions.

Ms. Brubaker asked if Ms. Beane had heard anything about the insurance.

Ms. Beane noted “Not a word.” She had a conference call Monday morning with the consultants who are looking at getting legal counsel.

Ms. Brubaker asked if anything had been heard about the cause of the fire.

Ms. Beane answered “No. I’ve got nothing official or unofficial.”

Ms. Goforth asked “I thought, by law, they had to respond within 30 days.”

Ms. Beane answered “The insurance had responded saying that, basically, they are not going to give us any money.”

Ms. Goforth asked “What is the reason, what are they basing that on?”

Ms. Beane answered “They’ve got a whole list of things. I don’t know off the top of my head. But they’ve sent a three-page letter.” “At this point, we’re going to go into mediation. We’re still dealing with what the attorney has to say. The attorney is saying positive, but we are all hoping.”

Ms. Goforth responded “I suppose this could take years.”

Ms. Beane answered “It’s not going to be a quick process.”

Ms. Brubaker asked Ms. Beane to forward a copy of that letter.

Ms. Beane answered “Sure.”

Mr. Chiarello asked “And share it with the rest of us.”

Ms. Goforth said “Yes.”

Mr. Bone asked “Did you say you are looking at no insurance reimbursement?”

Ms. Beane answered “Other than the \$100,000 they gave us to put towards expenses, nothing.”

Mr. Bone asked “Demolition? Removal?”

Ms. Beane answered “Nothing.”

Mr. Chiarello asked about the insurance company.

Ms. Beane answered “They are call VaCorp. They consider themselves to be a – they cover a lot – they cover a lot of school divisions across the state.

Ms. Erard responded “It’s an insurance pool.”

Mr. Chiarello “I think a phone call to the State Corporation Commission explaining your situation might push them or motivate them to move a little quicker.”

Mr. Chiarello continued “I’ve heard some things, maybe environmental hazards in the basement or something, but...that’s all been taking care of. They should be able to get in there and make a determination and do what they need to do.”

Mr. Bone asked how much was obligated out of the \$100,000 the school received.

Ms. Beane answered “About \$75,000 or \$80,000.”

Trish King, Chairperson, Tourism Council

Ms. King reported that she and Ms. Foulds attended a seminar today called “Drive Tourism” by the Virginia Tourism Commission.

The town currently has a “public private partnership” with the artist guild, which was recommended. And the town is currently in line to receive a revitalization grant, which was also recommended.

The VTC is recommending that the Northern Neck locations ‘drive tourism’ to each other to benefit the entire region.

Citizen Input

Ursula Finney, 214 Meadow Ave, believes Council is “throwing the senior citizens under the bus.”

Ms. Finney suggested that parents of children in school that is not paying county or town taxes pay \$500.00 per year for every child in the school system.

Ms. Finney noted the ditches on Meadow Ave were re-done poorly and is flooding badly. There is nowhere for the water to go.

Marty Long, 15 Virginia Avenue, is looking for answers on the “forgotten end of the Boardwalk.” That area is currently under a foot or two of sand that used to be the beach. “Flood insurance is almost prohibitive as it is. It’s hard to take a hit and make a claim like we did 10 years ago with Isabell. It’s almost intolerable and I cannot take another hit.”

Walter Kern, 2400 McKinney Boulevard, noted that the town and the school board need to face the reality that the burnt out school building needs to come down, as it is a safety issue.

Jay Jarvis, 225 Boundary Street, noted he still believes the town needs to put someone in charge of Parks and Recreation and put together plans and schedules of activities together to support all citizens of the town. Mr. Jarvis suggested hiring a Parks and Recreation Director who will write grants, such as building bike trails, tennis courts and a jogging trail. This person could serve as an event coordinator for town activities.

Steve Cirbee, 809 Washington Avenue, said he was glad to see Town Hall being painted, but believes the painter does not have insurance. Mr. Cirbee also noted he has assumed the Safe Routes to School grant efforts have been re-directed to the 1st Street corridor.

Mr. Cirbee would like to know when the School Board received the letter from the insurance company.

As to FOIA requests, Mr. Cirbee has made several requests and is waiting on fulfillment of his recent FOIA requests.

Mr. Cirbee has been asking for enforcement of the sign ordinance and that business license holders be monitored as he believes at least 40% of contractors in town do not hold a Colonial Beach business license.

Ms. Erard noted she has worked with Ms. Flanagan and believes that all of Mr. Cirbee's FOIA requests have been responded to. Ms. Flanagan concurred.

Glenda Chiarello, 1008 Monroe Bay Avenue, was shocked to hear that the school's insurance claim had been denied and would like to know when the School Board found out.

Ms. Chiarello reminded Council that the county is going to raise taxes .04 cents per \$100 assessed value. According to City Data.com, the average home is \$250,000. A .23 cent increase would mean an additional \$625 per year.

Ms. Chiarello further noted "this is a huge chunk" out of taxpayers' pockets. There are people on fixed incomes and people whose income is under the poverty level.

Ms. Chiarello further noted the entire economy of the town will suffer with such a large tax increase.

Mr. Roberson spoke up, saying, "Your hostility to the school has been noted for quite a while. It's not a big surprise. If you think an insurance company wants to pay you money, then I got some swamp land I'll sell you real cheap."

Mr. Roberson continued "It happened this week at the beginning of the week. The school hasn't even had a chance to meet to discuss it themselves among each other. They have contacted the company they've hired to do this. That company is working on the next phase. It's not a huge surprise to say we're denied. I think that – I'm going to go out on a limb and tell you, it's arson. Everybody knows it's arson on that school. But the state has not said it yet. All the stuff is in Beltsville, Maryland being examined right now. And the state won't say anything about it until they come up with an exact cause. But that guy told me every day they get closer and closer to figuring out exactly what happened, how it happened and what was involved. It's a brand new thing. And I shouldn't even be speaking because I'm not on the school board. But I know it just started."

Mr. Roberson further noted it is the same insurance company that the school in Louisa had to fight to get money after the earthquake.

Ms. Brubaker responded saying she disagreed with Mr. Roberson. As POC to the school, she was not aware a letter had been received and, had Ms. Brubaker not asked a specific question, she does not believe Town Council would have been made aware.

Mr. Roberson answered saying he did not believe Council needed to be aware until the School Board has a chance to see the letter.

Ms. Brubaker responded that Council is trying very hard to support the school system and it makes it very difficult when it is perceived that information, true or not, is being withheld from the Council and from the citizens.

Mr. Bone reminded everyone that this is Citizen Input and not a debate.

Mr. Roberson said he was speaking as a citizen.

Mayor Ham noted there is not a school board member present.

Mr. Chiarello requested Val to contact Kathleen Beane. Mr. Chiarello noted "Looking at the time that has passed, it's not reasonable anymore."

Mr. Roberson "It doesn't matter. You don't have a say in it. I don't have a say in it."

Mayor Ham asked if there was further Public Comment.

Mr. Chiarello approached the podium.

Jim Chiarello, 1008 Monroe Bay Avenue, said he has watched the building deteriorate for four months. That building should be down by now. This town needs to stand up for what is right and hold people accountable for what they need to do. I am not blaming the school board. I am not blaming anybody. Calls need to be made to their attorney, the State Corporation Commission and get this ball rolling.

Larry Roberson, Cedar Avenue, said "Jim, they can't touch the building. You can get up off your dead butt and do whatever...it doesn't matter. It's in the hands of the insurance company. We're not allowed to touch that building."

Steve Cirbee, noted he printed out a comparison of all the towns in Virginia through 2012 and Colonial Beach's taxes are "almost twice of the average of everybody else."

Ms. Goforth commented that most on Council are aware of that.

Ursula Finney, Meadow Avenue, asked if all delinquent taxes have been collected or do we have outstanding taxes that have not been collected.

Mayor Ham answered "We always have outstanding taxes."

Mr. Bone answered "Usually it goes three years before you have a tax sale."

Ms. Finney asked if anything was being done to collect.

Mr. Bone answered "It's very limited what you can do until you get to the tax default."

New Business

Public Hearing, Ordinance No. 647, Amends the Colonial Beach Town Code, Chapter 13.1 “Licenses”

Mr. Seeber made a motion to approve Ordinance No. 647. Mr. Edwards seconded the motion.

Mayor Ham noted this ordinance clarifies collection of lodging tax from the cottage industry in town.

Mayor Ham called for a roll call vote on the motion. Mr. Seeber voted “aye,” Ms. Brubaker voted “aye,” Mr. Edwards voted “aye,” Mr. Chiarello voted “abstain, I own a cottage,” Mrs. Goforth voted “aye,” Mr. Bone voted “aye,” and Mayor Ham voted “aye.” Ordinance No. 647 passes.

-----Ordinance No. 647-----

Ordinance No. 647

ORDINANCE NO. 647 AMENDS THE COLONIAL BEACH TOWN CODE, CHAPTER 13.1 “LICENSES,” ARTICLE I, “BUSINESS AND OCCUPATIONAL LICENSES OF TAXATION,” SECTION 13.1-4, “LICENSE REQUIREMENT” TO EXCLUDE PERSONS RENTING PROPERTY BY THE WEEK FROM THE BUSINESS LICENSE REQUIREMENT; CHAPTER 20, “TAXATION” ARTICLE III, “TRANSIENT LODGING TAX,” SECTION 20-30, “DEFINITIONS” TO MODIFY THE DEFINITIONS OF HOTEL, LODGING, PERSON, AND TRANSIENT, AND TO ADD DEFINITIONS FOR ROOM RENTAL AND TRAVEL CAMPGROUND; SECTION 20-31, “LEVY” TO ADD TRAVEL CAMPGROUND; SECTION 20-34, “ 20-36, “PROCEDURE UPON FAILURE TO FILE RETURN OR PAY TAX” TO MODIFY THE PROCEDURE; TO DELETE SECTION 20-39, “EXCEPTIONS FOR GOVERNMENTAL EMPLOYEES ON OFFICIAL BUSINESS” AND SECTION 20-40, “EXCEPTIONS FOR TRANSIENTS AT PLACES OF LODGING AT PUBLIC INSTITUTIONS;” AND TO MODIFY SECTION 20-41, “VIOLATIONS; CRIMINAL PENALTIES” TO CLARIFY THAT THE PENALTY IS A MISDEMEANOR. ORDINANCE NO. 647 IS CONSIDERED PURSUANT TO THE GRANTS OF AUTHORITY CONTAINED IN VA. CODE § 58.1-3840.

BE IT ORDAINED by the Colonial Beach Town Council that the Colonial Beach Town Code, Chapter 13.1 Licenses,” Article I, “Business and Occupational Licenses of Taxation,” Section 13.1-4, “License Requirement” to exclude persons renting property by the week from the business license requirement, Chapter 20, “Taxation” Article III, “Transient Lodging Tax,” Section 20-30, “Definitions” to modify the definitions of hotel, lodging, person and transient, and to add definitions for room rental and travel campground, Section 20-31 “Levy” to add travel campground, Section 20-34 “Discount,” Section 20-36 “Procedure Upon Failure to File Return or Pay Tax” to modify the procedure, to delete Section 20-39, “Exceptions for Governmental Employees on Official Business” and Section 20-40 “Exceptions for Transients at Place of Lodging At Public Institutions,” and to modify Section 20-41 “Violations; Criminal Penalties” to clarify that the penalty is a misdemeanor, read in their entirety as follows:

“Chapter 13.1 Licenses

Article I. Business and Occupational Licenses of Taxation

Sec. 13.1-4. License requirement.

(a) Every person engaging in the town in any business, trade, profession, occupation or calling, except for persons renting property by the week, (collectively hereinafter "a business") as defined in this chapter unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a definite place of business in the town, (ii) such person does not maintain a definite office anywhere but does maintain an abode in the town which abode for the purposes of this chapter shall be deemed a definite place of business, or (iii) there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in sections 58.1-3717, 3718, or 3728, respectively of the Code of Virginia, or is a contractor subject to section 58.1-3715 of the Code of Virginia, or is a public service corporation subject to section 58.1-3731 of the Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two (2) or more businesses or professions carried on at the same place of business may elect to obtain one (1) license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the town; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing in the town on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) The tax shall be paid with the application in the case of any license not based on gross receipts. If, the tax is measured by the gross receipts of the business, the tax shall be paid on or before April 1.

(d) The assessing official may grant an extension of time, not to exceed ninety (90) days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten (10) percent of the portion paid after the due date.

(e) A penalty of ten (10) percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax

by the assessing official is not paid within thirty (30) days the assessor may impose a ten (10) percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business, and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g. due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(f) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this chapter from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under section 58.1-3916 [of the Code of Virginia].

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty (30) days from (i) the date of the payment that created the refund; or (ii) the due date of the tax, whichever is later.

ARTICLE III. TRANSIENT LODGING TAX

Sec. 20-30. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context clearly indicates a different meaning:

Hotel: Includes, but is not limited to, any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, boardinghouse or other lodging place within the town, offering lodging to any transient for compensation, and which can lodge four or more persons at any one time.

Lodging: Includes, but is not limited to, any space or room furnished any transient.

Person: Includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

Room rental means the total charge, exclusive of any tax imposed on such charge, made by any hotel for lodging furnished any transient. If the charge made by any hotel to a transient includes any charge for services or accommodations in addition to that of lodging or use of space, then such portion of the total charge as represents only lodging or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Transient means the same person who, for a period of less than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or use of space in any hotel or travel campground, for which lodging or use of space a charge is made.

Travel campground means any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes, or temporary dwelling during travel, recreational or vacation uses.

Treasurer The treasurer of the town and any of his duly authorized agents.

Sec. 20-31. Levy.

There is hereby imposed and levied by the Town of Colonial Beach on each transient obtaining lodging or the use of space at any hotel, a tax at the rate of five (5) percent on the amount paid for such lodging or the use of space by or for such transient to any hotel or travel campground.

Sec. 20-32. Collection from transients; when payable.

Every person receiving any payment for lodging or the use of space with respect to which a tax is levied under this article shall collect the amount such tax so imposed from the transient on whom such tax is levied, or from the person paying for such lodging, at the time payment for such lodging is made. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until the same shall have been remitted to the treasurer.

Sec. 20-33. Report of collection and remittance of tax.

The person collecting any tax as provided in this article shall make out a report thereof upon such forms setting forth such information as the treasurer may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver such reports with the remittance of such tax to the treasurer. Such reports and

remittances shall be made on or before the twentieth day of each month covering the amount of tax due and collected during the preceding month.

Sec. 20-34. Discount.

For the purpose of compensating the owner of any hotel collecting the tax imposed by this article, such owner shall be allowed three (3) per cent of the amount of the tax due and accounted for in the form of a deduction on his or her monthly return, provided that the amount due is not delinquent at the time of payment.

Sec. 20-35. Penalty and interest for nonremittance.

If any person shall fail or refuse to report and remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount as provided for in this article, there shall be added to such tax by the treasurer, a penalty in the amount of ten (10) per cent thereof and interest thereon at the rate of ten (10) per cent per annum, which shall be computed upon the tax and penalty from the date such taxes were due and payable.

Sec. 20-36. Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the treasurer shall make an estimate of the amount of taxes due the town by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The treasurer shall notify such person by certified and first class mail, sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice. The treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as is provided by law.

Sec. 20-37. Records; inspection by treasurer.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and preserve for a period of two (2) years such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying to the town. The treasurer shall have the authority and power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article and to make transcripts of all or any parts thereof. The treasurer shall have the authority after notifying the town attorney in writing prior to each examination of the records of any establishment; such examination shall be for the purpose of administering and enforcing the provisions of this article and transcripts may be made of any parts thereof or all of said records. Further, said inspections shall be made at reasonable times and without unreasonable interference with the business of such person.

Sec. 20-38. Cessation of business; tax due immediately.

Whenever any person required to collect and pay to the town a tax imposed by this article shall cease to operate, go out of business, or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the treasurer.

Sec. 20-41. Violations; criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, Section 58.1-3906, or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. Each violation or failure shall be a separate offense.”

-----End of Ordinance-----

Resolution #34-14, Amendment of Fiscal Year 2013-2014 Budget – General Fund (Meadow Avenue paving)

Mayor Ham noted this will apply carryover funds committed to capital projects and to provide for final payments on the Meadow Avenue paving.

Ms. Brubaker made a motion to approve Resolution #34-14 as written. Mr. Chiarello seconded the motion.

Mayor Ham called for a voice vote on the motion. All in favor, signify by saying “aye.” Mayor Ham, Mr. Edwards, Mr. Bone, Mr. Chiarello, Ms. Brubaker and Mr. Seeber and Ms. Goforth voted “aye.” Resolution #34-14 passes.

-----Resolution #34-14-----

RESOLUTION # 34 - 14, AMENDMENT OF FISCAL YEAR 2013-2014 BUDGET GENERAL FUND – FOR CAPITAL PROJECTS (MEADOW AVENUE PAVING)

NOW THEREFORE BE IT RESOLVED, that the Colonial Beach Town Council meeting in regular session, Thursday, May 8, 2014 hereby adopts and appropriates the following amendment to the FY 2013-2014 budget as follows:

	FY 2013 -14 Approved	FY 2013-14 Revised	Change
General Fund	\$6,524,646	\$6,663,857	\$139,211*

*\$93,047 from Carry Over Funds identified in 2013 audit as “Committed to: Capital Projects”

*\$46, 164 from Capital Projects Fund (Prior Year Balance)

The above total represents “Fund Balance – Prior Year” and will be reflected in General Fund budget line 3-100-90000-0002

Funds will be expended form line 4-100-41200-8151

-----End of Resolution-----

Closed Session

Mr. Bone made a motion to go into closed session pursuant to Virginia Code section 2.2-3711(A)(1) for the purpose of the discussion or consideration of the performance and performance goals of the Police Chief and pursuant to Virginia Code section 2.2-3711(A)(3) for the discussion or consideration of the disposition of publicly held real property because discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Town Council – Robin Grove Park..

Mayor Ham called for a voice vote on the motion. All in favor, signify by saying “aye.” Mayor Ham, Mr. Edwards, Mr. Bone, Mr. Chiarello, Ms. Brubaker and Mr. Seeber and Ms. Goforth voted “aye.” At 8:24 p.m. Council moved into closed session.

Reconvene/Certification

At 9:11 p.m. Council reconvened into open session.

Mr. Bone made motion to reconvene in open session. Ms. Brubaker seconded the motion.

Ms. Brubaker made a motion to certify that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Council. Ms. Goforth seconded the motion

Mayor Ham called for a roll call vote on the motion. Mr. Seeber voted “I certify,” Ms. Brubaker voted “I certify,” Mr. Edwards voted “I certify,” Mr. Chiarello voted “I certify,” Mrs. Goforth voted “I certify,” Mr. Bone voted “I certify” and Mayor Ham voted “I certify.”

Adjournment

Ms. Brubaker made a motion to adjourn. Mr. Edwards seconded the motion. The meeting was adjourned at 9:12 p.m.

Kathleen Flanagan, Town Clerk

Mike Ham, Mayor