

Town of Onancock
Town Council Meeting
Monday, September 23, 2024
7:00 PM

1) Call to order and roll call: Mayor Fosque called the meeting to order at 7:00 PM and roll was called. Councilmembers Cindy Holdren, Joy Marino, Sarah Nock, Maphis Oswald, Paul Weitzel and Mayor Fosque were present. Town Manager Matt Spuck and Town Clerk Debbie Caton were also present. A quorum was established.

2) Pledge of Allegiance

Mayor Fosque announced Councilmember Ray Burger resigned effective September 23, 2024, as he and his family moved out of town.

3) Approve minutes from August 26, 2024, meeting. Councilmember Oswald moved to approve the meeting minutes. Councilmember Marino seconded the motion. The motion passed with a 5-0 vote.

4) Public Hearings

a. **None scheduled.**

5) Public Presentation:

a. **ESCADV – Kayla Gray** – Ms. Gray was not present.

6) Council Action

a. **Article XV: Special Use Permit** – Town Manager Spuck explained there were no changes from the previous meeting.

- Councilmember Oswald asked the procedure for an impact study of traffic as she thinks it might be too much to ask of the applicant. The zoning administrator can use his discretion as to when this would be necessary.
- Councilmember Marino would like Section 38-499 (6) to be deleted. This was decided at the previous meeting.
- Councilmember Holdren would like Section 38-498 (c) to include prompt notification to the applicant along with justification for the decision.

After more discussion and several requested revisions, Town Council tabled the vote.

b. The ordinance is to initiate amendments to allow zoning for HRSD to operate the collections system. – Town Manager Spuck explained that in order for HRSD to properly operate the collection system of the sewer system, several changes are required to ordinances and zoning. HRSD will do this in two phases. Phase one is voting on the new

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ordinances. This ordinance sets the layout for the resolution. Planning Commission will also review the resolution. A joint public hearing will be scheduled for the October 28, 2024, meeting.

7) Public Comments

- a. **Dana Simson** – Ms. Simson announced the upcoming events for Halloween weekend which will be held October 25, 2024 - October 26, 2024. There will be several events to include the pumpkin carving at the gazebo and a Halloween parade.
- b. **Mary Clements** - see attached.
- c. **Dr. Greg Felthousen** - Dr. Felthousen presented a written copy of a proposal for the town. – See attached.
- d. **Rosemary Paparo** – Ms. Paparo is a participant in Onancock Resident’s Group (ORG), but she is speaking for herself at tonight’s meeting. ORG has never advocated to close HOS, but they do not seem to be financially viable. For example, they still cannot afford to pay property insurance which is budgeted at almost \$10,000 for FY2025. The town pays the premium. Now there is a request for almost \$500,000 for windows and a new HVAC system. All these costs are the responsibility of FOS under the lease agreement. Other repairs are needed such as a new roof which could cost \$500,000 - \$1,000,000. In the meantime, FOS has invested thousands of dollars in a new performance pavilion. Ms. Paparo thinks these funds could have been better used for overall repairs. A good option (in her opinion) is for the town to take over the school as a cultural and community center. The town can hire a general manager to oversee daily operations.
- e. **Geoff Daking** – Mr. Daking stated the problem with the school is the “fuzzy” lease which does not specify who is responsible for capital improvements. The Virginia property maintenance code 103.2 states the owner of the structure shall provide and maintain all buildings structures systems and facilities associated and equipment and compliance with this code unless specifically expressed or implied. Mr. Daking did research on both lawyers that wrote the lease to learn neither had experience in commercial real estate law. Mr. Daking stated the issues with the school have been delayed and the Town Council must keep in mind the property was leased to an entity that never had the ability to pay for these repairs. He thinks it is the town’s responsibility. The funds generated for the construction of the performance pavilion could not have been used for maintenance because the funds were private donations specifically earmarked for the building.
- f. **Kent Sudman** – Mr. Sudman would like to see public comments on the agenda for every meeting held by Town Council. Public comments should pertain to the specific items on the agenda with the time being controlled as it is right now. Mr. Sudman would like to hear Town Council discussion before making public comments. Mr. Sudman first heard about ORG when a flyer was placed in his mailbox without postage which is a federal

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offense. He requested a list of members of ORG and other supporting documents such as financials for the organization.

- g. Cherie Tapman** - Ms. Tapman is inquiring about the cannon that was displayed at the Historic Onancock School (HOS). This historical artifact was gifted to a resident who has since refurbished it. Ms. Tapman feels the cannon belongs to the town and it should be returned for display at the school.
- h. Thelma Gillespie** – Ms. Gillespie is a former postmaster, and reiterated Mr. Sudman’s earlier comment about leaving mail in others’ mailboxes without postage. This is a federal offense.
- i. Toni Nelson** – Ms. Nelson owns two commercial buildings in Onancock. Ms. Nelson thanked the town council for the continued good work. She also thanked the residents who spoke during public comments who speak all sides of an issue. She agrees with Mr. Sudman in that public comments should be after council discussion. She asked for the FOS loan vote to be tabled for clarification.

8) Council discussion –FOS Loan

- a.** Councilmember Weitzel asked if the price included removal of the oil boiler and if it will be buried underground. If the tank is buried, will this later be a liability to the town? Mayor Fosque responded that he does not think the price includes those two items. Councilmember Weitzel thinks a comprehensive engineering assessment is a good idea.
- b.** Councilmember Nock agrees with Councilmember Weitzel but since the maintenance issues have been delayed and winter is quickly approaching, any freeze issues with pipes could be tough to manage. Councilmember Nock is hopeful for a solution to bridge for whenever the boiler decides to stop working. FOS is trying to proceed with electrical work that would support additional space heaters if needed. Councilmember Nock asked if Town Manager Spuck would be willing to share an email sent to town council regarding the FOS loan. Town Manager Spuck read his email. – see attached.
- c.** Councilmember Oswald asked Town Manager Spuck to read the lawyer’s comments regarding partnering with FOS. Town Manager Spuck read the email – see attached. Councilmember Oswald thinks there is a lot of work left to do on considering the loan for FOS. The lawyer has advised not to partner with FOS. There are other loan options. She thinks several good ideas have been presented. The idea of the town taking over as Parks and Recreation is appealing.
- d.** Councilmember Holdren shares Councilmember Nock’s concerns. She has concerns about the length of the loan. She would like to know the best solution for the heating. She supports the town paying for the loan and potentially paying for the entire payment.
- e.** Councilmember Marino requested an engineer report to help prioritize the repairs. Town Manager Spuck was directed to obtain bids for a structural and mechanical engineer assessment of HOS.

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9) Committee reports

- a. **Personnel – Cindy Holdren** - The personnel committee did not meet in September. Town Manager Spuck's evaluation is being discussed in closed session after tonight's meeting.
- b. **Onancock Main Street (OMS) – Cindy Holdren** - OMS held two community events in September. OMS hosted an online survey that ends October 15, 2024. OMS is working on a new mural for a building in the Uptown section. The mural will celebrate our cultural heritage over the years.
- c. **Historic Onancock School (HOS)– Sarah Nock** - The search is ongoing for the next Executive Director. Interviews are in progress. The pavilion construction and fundraising are progressing. OBCA hosted a "Meet the Candidates" forum. There are several events scheduled for the upcoming months.
 - Wine Wednesday, Wednesday, October 2, 2024
 - Pedal and Pour – Friday, October 25, 2024
 - Champagne and Oyster Tasting – Sunday, November 17, 2024
- d. **Planning Commission – Fletcher Fosque** – The planning commission did not meet in September because of the Labor Day holiday. Currently, there is a vacant seat on the planning commission.
- e. **Waterfront – Fletcher Fosque** – The committee discussed winter projects and other maintenance required to close for the off-season. The marina will close for the season on October 31, 2024.
- f. **Economic Development Authority (EDA) – Joy Marino** – The EDA did not meet.

10) Mayor's Report – Mayor Fosque plans to attend the VML meeting scheduled for October 14, 2024, in Virginia Beach, VA.

11) Town Manager's Report -

- a. **Manager's Report** – Town Manager Spuck's full report is provided in the town council packet.
- b. **Financial Report** – Town Manager Spuck's full report is provided in the town council packet.
- c. **New Grant** – Governor Youngkin announced grant money for Historic Preservation of capital improvements ahead of the Nation's Semiquincentennial in 2026. Town Manager Spuck submitted the preliminary application. All four projects were accepted and will go to the next stage of grant writing.

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12) Town Councilmember comments

- a. Councilmember Holdren echoed Councilmember Marino's comments about Councilmember Burger. Councilmember Holdren addressed negative feedback about the amount of money being spent on landscaping to say the results are not always instant but the hedge by the town sign looks the best it has looked in several years.
- b. Councilmember Marino thanked Councilmember Burger for his service to the town by serving as a council member. He will be missed. She received feedback from the candidates' forum requesting the event be set up with microphones and an avenue to watch it remotely.
- c. Councilmember Nock reminded the audience that early voting starts September 13, 2024 – November 2, 2024. You can vote at the county registrar's office.
- d. Councilmember Oswald commented the music played at a wedding across the creek was enjoyed until around 11:00 PM. This lets you know how the sound travels across the creek.
- e. Councilmember Weitzel thanked everyone for attending the meeting.

13) Closed Session - Councilmember Holdren moved to enter closed session to discuss personnel matters per 2.2-371(A) to discuss the town manager's performance. Councilmember Weitzel seconded the motion. The motion passed with a 5-0 vote. Closed session started at 8:57 PM.

Councilmember Holdren moved to exit closed session of this regular meeting of the Onancock Town Council and certify by roll call vote that the item discussed in Closed Session align with the purpose stated in the motion made in Open Session. Councilmember Weitzel seconded the motion. A roll call vote was taken:

- Councilmember Holdren – yes
- Councilmember Marino – yes
- Councilmember Nock – yes
- Councilmember Oswald – yes
- Councilmember Weitzel – yes
- Mayor Fosque – yes

Open session reconvened at 10:12 PM.

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- 14) **Adjourn** – Councilmember Marino moved to adjourn the meeting. Councilmember Nock seconded the motion. The motion passed with a 5-0 vote. The meeting adjourned at 10:15 PM.

Fletcher Fosque, Mayor

Debbie Caton, Town Clerk

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I respectfully request these notes be included in the meeting minutes.

Mary Clements, 8 Joynes Street

Councilman Burger maintains an office in HOS. He would be directly effected by any financial or other decision regarding FOS or HOS. It is appropriate he recuse himself from matters effecting FOS or HOS.

The last pages of Town Council packet include the Town Manager Report. Under New Grant, projects listed include the windows at the school. How much was requested in the grant application and from where would the one-third match for the request come?

The lease covering the relationship between the Town of Onancock and FOS has been broken in several area and for quite some time. Even if all funds for all repairs magically appeared, work would NOT be completed for at lease several months, well into the heating season.

The following are suggestions for consideration for the development of a new lease and to ease the financial burden of town taxpayers:

- Hire a Director of Parks and Recreation for the town. Duties would include but not be limited to:
 - Complete control of the HOS building and grounds for the assessment of repairs needed, communicating these needs to TC and TM, looking for grants or other funding sources and applying for same with oversight of TM and TC.
 - Upkeep of HOS building and grounds.
 - Determining priorities for repair.
 - Requisition bids for a service company specializing in the repair and maintenance of HOS boiler for an least 3 years and bring those bids to TC and TM for consideration.
 - Needs assessment for all the other parks and open spaces including but not limited to ball field, Sunset Park, dog park, Northeast park, town highway entrance and overseeing placement of specialty event signs at the entrance.
 - Developing a comprehensive budget for HOS and any other parks and rec needs to be included in the town budget as line items for council vote.
- Since FOS would be relieved from the costs of attempting repairs, increase their rent. Current commercial rent within 5 miles of this meeting room range from \$10 per sq/ft to \$25 per sq/ft. Since it is obvious FOS would be unable to pay that amount for rent, start with a percentage of reported income for the year before and increase the percentage annually until a more appropriate figure is attained. For example, if the reported income -not including grant for special projects- is \$50,000 for last year,

start with 10% of 50,000= \$5000 annually or \$417 (rounded) per month. The next year increase it to 12%, the third year to 14%, the fourth year to 16% and so on until a more equitable rent is achieved.

- FOS would retain the right to continue with their community enrichment programs as desired, with the caveat that any programs that require a permanent alteration of the grounds be evaluated by the DPR and brought to a public meeting for explanation.
- It is confusing what relationship the town has with the Pavilion. At this point, it appears the Pavilion is fully owned by FOS. Forbid the resale or long term single entity sub-leasing of the building to protect the town property.
- Require FOS purchase insurance for the Pavilion and its use.
- Use funds from the \$2,221,485 cash reserves in the savings account for the first issue requiring repair. This should probably be the roof since any leaks onto new wiring may result in electrical fires.
- Set water/sewer and electrical use values and include those in the sub-tenants monthly payments. Discontinue the 'free' first 43,100 gallon per quarter in water/sewer benefits.
- If cost for heating oil is not currently included in the sub-tenants payment, include it there.

It has been mentioned that OEDA be responsible for the loan being requested by FOS. This is a poor choice at the present time since OEDA currently has few funds available and doesn't have independent legal council.

Thank you.

Dr. Greg Felthausen

Dear Town Council Members,

1.) Have the town council and town manager consult with the Town' attorney, Mr. Eric Gregory.

2.) Void the current lease between FOS and the Town.

3.) Ask FOS to continue as stewards of the Old School and establish a new lease designating the Town as owner and responsible party for school upgrades.

4.) Use Town reserves for "bandaid repairs" to preserve the Old School while OPEN MEETINGS are held to re-purpose the Old School.

5.) Obtain an accurate evaluation and estimates of the costs for a full reworking of the Old School. Determine a realistic plan and put the plan out for open public bids, to be shared with the citizens.

6.) I suggest that the Town consider using the Old School as a learning center ... The Original Purpose. Use the Old School as a regional center for education in the creative Arts and the Environment, partnering with local artists and environmental organizations such as the Virginia Master Naturalists, the Chesapeake Bay Foundation and the Nature Conservancy.

6.) Rebrand and market the Town as a regional hub for the Arts and Environment.

I would feel negligent if I didn't share my interpretation of the consequences of simply walking away from the loan. First, nothing precludes us from taking out the entire loan. It does not create a partnership with the school and provides care for our assets. Financially, the total loan payment is less than 1% of our operating budget. Without adequate heating and windows, a significant portion of our school will become uninhabitable. This could lead to the departure of our local artists, who may find downtown studio space unaffordable. It's important to note that these are not just any spaces but the creative hubs of our community, not high-end galleries, as some may suggest. Once the artists leave and the staff can't get paid, the building will close and fall into disrepair. An investment of 1% of our budget will cover most major problems except the roof. Without the necessary funds, our building, playground, nature trail, and pavilion will inevitably deteriorate. In the long run, we risk having a derelict building at the heart of our town or being forced to sell it. This is a future we can prevent with the right investment now. A developer would be the logical customer for the property. Still, given the proximity to the creek and the requirements of our subdivision ordinance, it would likely be a losing proposition. Selling the building as condos with the amount of work would net the town very little. Tearing the buildings down and making it into an open space is an option that would cost well over \$100,000; it would leave the pavilion unfinished and a hole in the soul of the town's history. Caring for the grass and vegetation would also cost thousands each year. The school is our building, and it's our collective responsibility to preserve it. Spending 1% of our operating budget to care for it seems reasonable and prudent. The options for the schools to go away are distasteful. A small group of residents would eagerly discourage helping the school, likely claiming the negative impact on taxpayers (if we add the full loan payment to only real estate rates, it will change from \$.242 to \$.242216). We could craft a Survey Monkey to determine how your constituents feel, but ultimately, it's our collective responsibility to preserve our school. The school has a useful life that is greater than the term of the loan. It will be sad for many residents if we let the FOS die because the town didn't invest in its own building.

A handwritten signature in blue ink, consisting of a stylized initial 'M' followed by a long, sweeping horizontal line that tapers to the right.

- Favorites**
 - Inbox 10
 - Sent Items
 - Drafts 2
 - Add favorite
- Folders**
 - Inbox 10
 - Drafts 2
 - Sent Items
 - Deleted Items
 - Junk Email
 - Archive
 - Notes
 - Conversation History
 - Create new folder
 - Search Folders
 - Go to new Groups

- Inbox** ★
- RB** Ray Burger
Re: Would you suppor... Wed 9/18
Sure, that sounds beneficial Ray ...
 - JM** Joy Marino
Re: Who pays for capit... Tue 9/17
Thank you I appreciate it Get O...
 - Matt Spuck**
Re: Who pays for capit... Tue 9/17
I forwarded Eric's email to Katie. ...
 - JM** Joy Marino
Re: Who pays for capit... Tue 9/17
This member is! Get Outlook for i...
 - CH** Cindy Holdren
Re: Who pays for capit... Tue 9/17
Is the EDA aware of his recomme...

Sent: Tuesday, September 17, 2024 3:50:07 PM
 To: Cindy Holdren <choldren@onancock.com>; Fletcher Fosque <ffosque@onancock.com>; Joy Marino <jmarino@onancock.com>; Maphis Oswald <moswald@onancock.com>; Ray Burger <rburger@onancock.com>; Sarah Nock <Snock@onancock.com>; Maphis Oswald <moswald4@verizon.net>; Paul Weitzel <paul.weitzel@onancock.com>
Subject: Who pays for capital expenditures

I asked Eric a couple of questions (bottom). His response is below.

	Matt Spuck Town Manager
	t: 757-787-3363
	e: matt.spuck@onancock.com w: www.onanc
	a: 15 North Street, Onancock, 23417

From: Eric Gregory <Eric@heftywiley.com>
Sent: Tuesday, September 17, 2024 3:00 PM
To: Matt Spuck <matt.spuck@onancock.com>
Subject: RE: Capital

Matt,

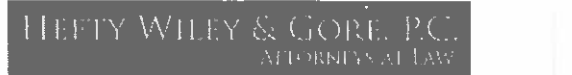
The lease (attached) includes provisions applicable to your question below, which govern Rehabilitation and Development (Paragraph 4) and Maintenance (Paragraph 5. Paragraph 4 on Rehabilitation and Development are pretty specific about FOS's role and responsibilities to make certain improvements, fundraise for the purpose of investing funds into rehabilitating and developing the facility, and to be responsible for maintenance.

There is no provision concerning "Capital", per se. I don't see any particular provisions that require the Town to be responsible for the maintenance or upkeep or capital improvements of the facility.

I would recommend against partnering with FOS on any loans or borrowings because it could and likely would get problematic if FOS were unable to make payments or otherwise comply with the terms of the arrangement. If the Town wants to pursue loans or borrowings to improve the old school facility, I'd suggest you consider going to DHCD or using your EDA as a conduit for a project like this. That would provide some insulation for the Town and doing such things is one of the core areas of responsibility for EDAs.

Eric

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THIS E-MAIL AND ANY ATTACHMENTS HERETO ARE