

**Town of Onancock  
Town Council Meeting  
Monday September 25, 2023  
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. Mayor Fletcher Fosque, Councilmembers Brandon Brockmeier, Ray Burger, Cynthia Holdren, Joy Marino, Sarah Nock and Maphis Oswald were present. Town Manager Matt Spuck and Town Clerk Debbie Caton were also present.

**2) The Pledge of Allegiance was recited.**

**3) Approve minutes from August 28, 2023 –**

Councilmember Nock moved to approve the minutes. Councilmember Holdren seconded the motion. The motion passed with a 6-0 vote.

Councilmember Holdren moved to add an item to the agenda. The item to be discussed is VA House Bill 2271 and VA Senate Bill 1391 that would limit the ability to restrict short term rentals in town. Councilmember Nock seconded the motion. The motion passed with a 6-0 vote.

**4) Public Hearing**

**a. A-NPDC DHCD Northeast Revitalization Project –**

The public hearing opened at 7:05 PM – Eric Luchansky with Accomack & Northampton Planning District Commission (A-NPDC) spoke to council members and audience members. A-NPDC will be applying for a one-time supplemental fund grant to rehabilitate ten homes in the northeast district of Onancock. A-NPDC will apply for \$855,250 of additional funds to cover the extra cost from bids received on September 15, 2023.

No public comments. The public hearing closed at 7:06 PM.

Councilmember Nock asked if there were any changes to the scope of work or were the additional funds needed to cover inflation? Mr. Luchansky confirmed the additional funds were needed to cover inflation.

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**b. Chapter 38 – Zoning, Article VIII A: Cultural, Recreational, and Community Facilities District –**

Mayor Fosque explained that there was confusion about the zoning of the Historic Onancock School (HOS) property. In 2008 the zoning changed from Parks and Open Spaces to Cultural, Recreational and Community Facilities District. (Article VIII A) In 2021 when the town's ordinances were recodified Article VIII A was omitted; therefore, it was the opinion the HOS was still operating under Parks and Open Spaces zoning statute. After further review from the town attorney, the HOS is in fact still operating under Cultural, Recreational and Community Facilities District zoning statute. The town did not follow the state code requiring public notice and public hearings to repeal the zoning statute. Mayor Fosque read an email from Eric Gregory with Hefty, Wiley and Gore explaining this matter. The public hearing scheduled for Monday, September 25, 2023, was advertised to change the ordinance to require a Special Use Permit (SUP) for outdoor performances. Mayor Fosque read the proposed ordinance.

The public hearing opened at 7:14 PM. The following public comments were recorded.

- Bob Spoth – Mr. Spoth attended the Planning Commission meeting on Monday, September 18, 2023, where he announced that a petition in support of the performance pavilion has 125 signatures. As of September 28, 2023, there are 141 signatures. The petition was not supported by any organization. With 141 signatures the petition has 10% of resident support. Support for the pavilion is in the majority. Mr. Spoth clarified the petition only expressed support and it did not make clear any guidelines for a SUP. It is Mr. Spoth's opinion that Town Council should pass the ordinance recommend by the Planning Commission which does not require a SUP.
- Patsy Felthousen – On January 22, 2021, the town council voted to accept the newly created municipal codes as presented. The only council member to express concerns that all ordinances were not included was Councilmember Maphis Oswald. The town council continued to meet for the next eleven months and there is no mention in the minutes or recorded meeting videos of a performance pavilion. However, on July 2, 2021, there were two phone calls from the town of Onancock to Accomack County requesting information on the Resource Protection Area (RPA) at 6 College Ave and information on storm wastewater protocol for the construction of a performance pavilion. These phone calls were not included in any Town Council or Planning Commission agendas, packets, or minutes. The first mention of a performance pavilion was in November 2021 at the scheduled Planning Commission meeting. The Town

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Council sees the drawings for the first time in March 2022. In November 2021 Rick and Janice King donated money earmarked for the construction of a performance pavilion. No residents know anything about this plan. In March 2022, the entire Town Council is presented with the plans and drawings for the performance pavilion. A motion passed to allow for construction.

- Greg Felthousen – 5 Ames St. – The town council put a moratorium in place when considering a new ordinance for short term rentals. This town council took months to pass the ordinance which requires a SUP. A SUP is an order for management. This is to prevent future misbehavior. Limitations are meant to put guard rails on this process. They are not meant to inhibit anybody's procedures. We (Onancock Residents Group) {ORG} has never proposed the pavilion be torn out. But Friends of Onancock (FOS) has repeatedly stated they would tear it out if members of the community did not approve. I have not seen anything realistic to support this rule or comment. If asked to sign a petition in favor of the pavilion, I would sign the petition.
- Lisa Murphy – 440 Monticello Ave Norfolk, VA – Ms. Murphy is the attorney for ORG. Her request is to adopt the ordinance proposed by Eric Gregory. A performance pavilion is a commercial use in a residential neighborhood. Despite the interpretation from FOS' attorney, the FOS does not have a vested right in a use that was not authorized in their lease and was never authorized in the prior ordinance even if the prior ordinance was not repealed. ORG is asking to implement a SUP. A SUP recognizes that certain uses are not necessarily incompatible with the uses traditionally associated with the standard zoning district but those uses are special and you need to look at how to mitigate potential impacts on the safety and welfare of all residents.
- Haydon Rochester – 39 King St – The Planning Commission has twice recommended the original 2008 ordinance which served well for 13 years and was inadvertently deleted because of Town Council action be restored as written. The town attorney has supplied a revised version but replacing the original ordinance with this new version will not end the controversy and confusion. Mr. Rochester commented on several scenarios where the ordinance can be confusing.
- Casey Grier – FOS was originally founded to save the school. At that time, the town was broke, and the lease gave FOS carte blanche which was a chance for the town to forget about an old building sitting on sixteen acres. Things have changed and it is Ms. Grier's opinion that a 501(c)3 should not be running the largest municipal asset. This is a municipal function. Closer supervision of the largest municipal and largest property asset that the town owns is appropriate. This is where a SUP comes in and allows the town to assert some control over the uses of the property. A SUP is the guardrails you need to maintain municipal control.
- Geoff Daking – 28 Meadville Dr. – On three separate levels Mr. Daking is opposed to changing the code. As a musician, it is incredibly irritating to restrict a live musical

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performance. As a body of professionals, the audio can be managed. The controversy surrounding the performance pavilion is a tyranny of the minority. A small group is trying to override the will of the people. Mr. Daking requested Scott Schreiber's opening statement from the September 18, 2023, Planning Commission meeting be reread for the audience. He feels this would be beneficial.

- Greg Temple – 76 Market St. –Mr. Temple shared his interpretation of the contention between FOS and ORG. FOS was given the property 15 years ago and has managed it successfully. So why after that amount of time is anyone stepping in to take control? His response is because this is a different time and being the largest project FOS has undertaken with the potential impact to affect the entire town, the right thing to do is adopt the ordinance with a SUP requirement. The town has changed dramatically in the past 15 years. The town has an overriding interest in asserting some level of control over how the pavilion is being used. At the town council meeting held August 28, 2023, the town attorney gave a very reasoned opinion on why a SUP is appropriate. Mr. Temple urges the town council to adopt the code with the amendments as proposed.
- Mark Sinclair –19142 Greenway Circle – Mr. Sinclair addressed Dr. Felthousen's earlier comment about ORG has never said to tear down the performance pavilion. Mr. Sinclair stated he has not personally heard these comments, but it is implied in everything they say. For example, the ORG website states the desire is for a smaller, more architecturally appropriate facility with public restrooms. Mr. Sinclair urges town council to pass the original zoning ordinance.
- Karen Gravelle – Ms. Gravelle thinks the town must decide if it genuinely wants to support the school or not. There needs to be a plan on how to keep the school functional that does not require the other people in the building to come up with ideas on how to fund the building. The artist community is a huge attraction for the town.

The public hearing closed at 7:42 PM

**5) Public Presentation**

- a. **Chris Guvernator, Executive Director – Habitat for Humanity** – Mr. Guvernator gave a presentation to Town Council and audience members on the Eastern Shore Habitat for Humanity (ESVAHH) affiliate. The affiliate started in 1988, and construction of house #53 began in 2023. After construction, the home is owner occupied. The funding comes from annual events, grants, home mortgages and the Restore. All homeowners are required to contribute 350 sweat equity hours. Currently, the need for housing is greater than what they can provide, and they are scrambling for property. ESVAHH would like to partner with the Town of Onancock on finding lots that are construction ready.

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- a. Mayor Fosque asked, “what are you asking from the town?” Mr. Governator answered, “ESVAHH is looking for land in the Northeast district. They would like to partner with the town for a lot on Watson St.”
- b. Councilmember Holdren asked, “in the past, Habitat for Humanity did not use government funds. What is the reason for the change and what the impacts would be.” Mr. Governator answered, “Because USDA operates in this area, they are willing to step in and issue loans to our families which will allow USDA to hold the mortgage. ESVAHH is not borrowing money from USDA, they are partnering them with the families.
- c. Councilmember Nock asked, “how many houses have been paid off since 1988? Mr. Governator answered, “two houses were paid off in 2022. Three houses will be paid off in 2023. He thinks eleven to fifteen have been paid off since 1988.”
- d. Councilmember Brockmeier asked, “is ESVAHH aware of the water and sewer rates and the extra town expense for town real estate taxes?” Mr. Governator explained, “the goal is not to burden the families with another monthly payment, but the current lots they are looking at for development are marginal in the sewer category. Many of the donated lots were donated because they are of no value particularly the inability for the land to perk. They are already building houses with alternative systems that add up to \$30,000 to \$40,000 to the price and require annual maintenance. It is becoming more cost effective to hook up to central water and sewer.”
- e. Councilmember Oswald asked, “for the lot already owned by ESVAHH in Onancock, is the cost prohibitive to clear it?” Mr. Governator explained, “the cost to clear and the inability to sell the timber is not economical.”
- f. Mayor Fosque suggested Mr. Governator work with Town Manager Spuck on a proposal for the lot they are interested in partnering with ESVAHH for consideration of construction and a potential timeline to begin construction.

**6) Council Action: Article VIII** – Mayor Fosque reiterated that in the last email from the town attorney dated Monday, September 25, 2023, the original zoning from 2008 is still in effect for HOS. Mayor Fosque asked for any comments from Town Council.

- Councilmember Brockmeier recommended the 2008 ordinance be updated on Municode. Town Manager Spuck plans to update when the final ordinance is approved.
- Councilmember Nock would like to move forward with whatever gets things unstuck.
- Councilmember Oswald feels a SUP is not for today, but it is for future protection.

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- Councilmember Holdren would like to take a moment to reflect as a lot of information was presented late Monday afternoon before the meeting.
- Councilmember Marino shared the same sentiment as Councilmember Holdren. And after speaking to the attorney, it was recommended to hold off on taking any action tonight.
- Councilmember Burger did not see the emails from attorneys but feels there is already a resolution as the original ordinance is still in effect.

Councilmember Brockmeier moved that we accept the recommendations of the Planning Commission and the ordinances that are still in effect be updated to the proper on-line filing system. Councilmember Nock seconded the motion. Council discussion ensued. Lisa Murphy spoke from the audience about her conversation with Mr. Gregory before the meeting. She believes his position that the ordinance as it existed in 2008 still exists. If you take no action that still exists but that does not address whether there is a vested right. And they will argue there is not a vested interest. There is a difference between getting permission from your landlord to build a structure and getting permission from the zoning body to enact a use that may or may not be covered under the ordinance. By doing nothing tonight, town council agrees with Mr. Gregory the 2008 ordinance is still in effect.

Councilmember Brockmeier amended his motion to say, we are agreeing the 2008 ordinance is still in effect and the website will be updated to reflect that. Councilmember Nock seconded the motion. The motion passed with a 6-0 vote.

**7) Council discussion: – Discussion of VA House Bill 2271 and VA Senate Bill 1391 –**

Councilmember Holdren explained that we were asked by Paul Grossman from Cape Charles to support their position in opposing VA House Bill 2271 and VA Senate Bill 1391 that would amend the code of VA such that we could not restrict any short term rentals that were managed by VA Realtors. Councilmember Holdren is suggesting we write a letter of support to Michelle Gowdy with the Virginia Municipal League (VML) and the sponsors of each bill saying we oppose those two bills. Councilmember Nock read the summary of the bill to town council members and audience members. The consensus was to have Town Manager Spuck write a letter to the necessary parties.

**8) Committee Reports**

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- **Personnel – (Cindy Holdren)**- The personnel committee did not meet in September except for the closed session on August 28, 2023.
- **Onancock Main Street –(OMS) (Cindy Holdren)** – No updates.
- **Historic Onancock School (HOS) - (Sarah Nock)** - The board is meeting this week. The events schedule for Saturday, September 23, 2023, were canceled because of Tropical Storm Ophelia.
- **Planning Commission – (Brandon Brockmeier)** – The Planning Commission is scheduled to meet Monday, October 2, 2023, at 5:30 PM.
- **Waterfront – (Fletcher Fosque)** – T. Lee Byrd spoke to the revenue shortages particularly for transient dockage. The marina will be closed for the season Tuesday, October 31, 2023. The slip dredging will begin in the off-season. The overflow parking on King St has been extremely helpful. The staff continues to get amazing reviews.
- **Economic Development Authority (EDA)– (Joy Marino)** – Since the member have not had a formal meeting, Town Manager Spuck gave the updates for the EDA. Seven members were appointed at the closed session meeting on August 28, 2023. There will be one meeting each month for balance of calendar year 2023. These meetings will be held the 3<sup>rd</sup> Tuesday of each month. The official dates will be posted on the website. After 2023, the meetings will be held quarterly. After the bylaws are established, Town Council can review them.

9) Public Comment

- **Sammy Cooper** – Mr. Cooper will retire on December 31, 2023. He thanked the residents of Onancock for the continued support over the years. He said it was an honor to serve the town. Mr. Cooper is not leaving the Shore and is available for any questions or needs after retirement.
- **Mark Sinclair** –Mr. Sinclair discussed four topics. 1. Mr. Sinclair thanked the Town Council for resolving the zoning issue as it has been a long battle. As far as guardrails, his recommendation is to talk to the HOS to ask what limitations or guidelines with which they can work. 2. Unless you enforce the speed limit changes, lowering the speed limit on certain streets will not matter. 3. When the pavilion issue arose over a year ago, Mr. Sinclair attended a meeting where it was publicly stated the Town of Onancock was dying. Since that meeting, there have been major renovations all over the town. Mr. Sinclair credited the Town Council, Onancock Business and Civic Association (OBICA) and Onancock Main Street (OMS) for all their efforts to help the town grow. 4. Mr. Sinclair noted HOS raised the money for a playground for the enjoyment of all residents.
- **Janet Rochester** – 39 King St. – Mrs. Rochester went on record to say, “this has been a sad day as she feels there has been a lack of support for the school and

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the demand of many people to take control of all the activities. She reminded everyone when you have control you also have responsibility.

- Lisa Murphy – 4400 Monticello Ave – Ms. Murphy is the lawyer for ORG. She stated her clients want the school to be a good neighbor. These people have made investments in their homes and want to protect and are asking for some requirements or guidelines to protect and keep this from destroying the homes they love.
- Dr. Greg Felthousen – 5 Ames St. – Dr. Felthousen ran into a former neighbor who is planning to leave the town. This neighbor has supported the town for years, since the pavilion controversy started, he has purchased two donuts. Dr. Felthousen wants town to consider the economic impact if people start to move. A SUP is simply guidelines which will not allow for a free pass. He hoped tonight everyone would say a SUP makes sense and he could walk over to Haydon and shake his hand to say this is over. He pleaded for Town Council to take the time to do this right for the whole town.
- Rick Turner – 3 Onancock St. – Mr. Turner stated a SUP is not the answer. The answer is to sit down with all groups involved and discuss guidelines that can be adjusted from time to time.
- Kerry Brockmeier – Mrs. Brockmeier referenced Dr. Felthousen’s earlier comment about shaking hands with Haydon Rochester and urged everyone to not wait until the issue is resolved. Instead of waiting, why not take those steps now?

10) Mayor’s Report –

- VML conference is Monday, October 9, 2023 – October 11, 2023. Town Council members should consider attending.
- Mayor Fosque referenced an earlier public comment that referenced the town had financial issues in 2008. This is not accurate information. The town has always been in good standing. There were not extra funds for capital expenditures at the time, but the town has been financially sound for several years.

11) Town Manager’s Report

- a) Manager’s Report- see attached report.
- b) Financial Report – see attached report.



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12) Councilmember Comments

Councilmember Burger – no comment.

Councilmember Marino asked for a commitment from the Town Council to participate in the Christmas parade.

Councilmember Holdren thanked Town Manager Spuck for mentioning the overgrown vegetation as she has noticed some residents have taken care of the issues.

Councilmember Oswald asked Town Manager Spuck if the Chamberfest was successful?

Councilmember Nock – no comment.

Councilmember Brockmeier thanked Town Manager Spuck and DPW for their hard work and the continued services while working on other projects.

13) Closed Session:

Councilmember Holdren moved to enter closed session for the purpose of discussing personnel matters as allowed by state code section 2.2-3711 (A) (1). Councilmember Nock seconded the motion. The motion passed with a 6-0 vote. Closed session began at 9:16 PM.

Councilmember Nock moved to reenter public session and with a roll call vote to certify that no matter was discussed other than that mentioned in the motion to enter closed session. Councilmember Marino seconded the motion.

Councilmember Brockmeier – yes

Councilmember Burger – yes

Councilmember Holdren – yes

Councilmember Marino – yes

Councilmember Nock – yes

Councilmember Oswald – not present.

Councilmember Nock moved to renew Town Manger Spuck's employment contract.

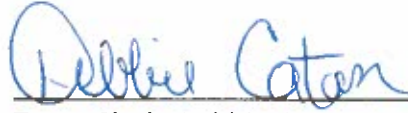
Councilmember Brockmeier seconded the motion. The motion passed with a 5-0 vote.

14) Adjourn: Councilmember Nock moved to adjourn the meeting. Councilmember Brockmeier seconded the motion. The motion passed with a 5-0 vote. The meeting adjourned at 9:45 PM.

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Mayor, Fletcher Fosque



Town Clerk, Debbie Caton