



**Minutes of the  
Colonial Beach Town Council  
Meeting held on  
Saturday, July 22, 2017 at 8:00 a.m.**

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

**Present**

Mayor, Eddie Blunt  
Vice Mayor, Dallas Leamon  
Member, Frank Alger III  
Member, Steve Cirbee  
Member, Bill Dellar  
Member, Phil Rogers

**Absent**

All Council Members were present with the exception of Mr. Lyburn.

**Also Present**

Town Manager, Val Foulds  
Town Attorney, Andrea Erard  
CFO, Joan Grant  
Police Chief, Danny Plott  
Town Clerk, Kathleen Flanagan

**Call to Order**

Mayor Blunt called the meeting to order at 8:02 a.m.

**Roll Call of Members**

Mayor Blunt noted that all council members were present with the exception of Mr. Lyburn.

*All Council Members were present except Mr. Lyburn.*

## **Appropriation for Elementary School Construction Project**

Mayor Blunt opened discussion and noted Council had in front of them a packet prepared by Mr. Dellar and Mr. Rogers.

Mr. Rogers noted the School Board made a request dated July 13, 2017 for an additional appropriation of \$765,500. This request gave rise to Council looking into the status to date.

Mr. Dellar expressed concern several months ago that obligations may have exceeded appropriations. Subsequently, Mr. Dellar and Mr. Rogers have spent several days reviewing numerous documents including bond issuance, the town's appropriated amount to the School Board, signed contract obligations, expenditures to date through June 30, 2017, and numerous resolutions, Memorandum of Understanding, and memorandums to the record.

Without getting into a lot of detail, the results indicate that current obligations have exceeded the appropriations by \$212,062. The cause for these issues can be shared on both sides, the School Board, Town Council and staff.

This issue occurred primarily through the misunderstandings and miscommunications. A major cause deals with the School Board property transferred to the town and the fact that this property has not yet sold. Therefore, anticipated funds from the sale have not materialized.

The following recommendations were made to address the School Board's request for additional appropriations. First, given that the School Board has contractual obligations that exceed the amounts appropriated, and that this potential violation is in violation of Virginia Code, it is recommended the Town Attorney provide Council with guidance on how best to proceed. Secondly, the School Board, Town Council and staff need to both acknowledge mistakes were made and to establish safeguards to ensure that these mistakes are not repeated. Thirdly, if consistent with the guidance provided from the Town Attorney, the Town Council should immediately appropriate \$250,000 to cover current contract obligations as well as incidental costs, if necessary, with a detailed funding request, itemize any additional costs with completing the construction project, provide that request to the Town Council for immediate consideration.

Mr. Cirbee agrees with the summary and the recommendations. Mr. Cirbee asked what other costs are, what other requests are there.

Mr. Alger noted there is one small issue, saying the final bond number given to the School was \$8.5 million. Resolution #17-16 the amount that was actually appropriated to the School was \$8,512,259, which is \$12,259 more.

Dr. Kevin Newman, School Superintendent, noted the request was sent and what it will take to complete the work is \$765,500 over the \$8.5 million to get to \$9,226,500 for everything.

Dr. Newman noted that Vice Mayor Leamon had provided a timeline to Council that lists everything.

Dr. Newman expressed his concern and that of the School Division when they hear they spent money that was not appropriated and referred Council to the timeline. The School understood that if the property sales were not done in time, the money would come out of reserve fund and then the property sales money would be returned to the town.

The bond was approved on November 12, 2015. The money was transferred on November 15, 2015. And the first contract was signed on November 20, 2015. Alternatives 3 through 6 were not signed until the School was told the Council approved the Capital Improvement Plan.

Dr. Newman said “we were only doing what we were told. If that was wrong, we apologize. But we did not violate any law on purpose. We were only following direction.”

Mr. Dellar said “we have to start when the bonds were appropriated.” Mr. Dellar further noted “You can’t obligate or commit the town or the school to pay obligations that you have not received money for.”

Mr. Dellar said “You may have very well been told to go ahead and do it, but without an appropriation document, that was not the right thing to do.”

Mr. Dellar asked if there were Council minutes that reflect what the School was told.

Dr. Newman answered “No, sir. I had monthly meetings with Mr. Looney. I had monthly meetings with Mr. Looney and Ms. Foulds. And we had meetings at other times with Mr. Trivett, myself, Ms. Foulds, Mr. Looney and Mayor Ham.”

Mr. Dellar noted the contracts were awarded prior to the appropriation. That issue continues to be a problem, even today. It appears the School issued change orders in the amount of approximately \$500,000.

Mr. Dellar said he was not saying anyone did something intentionally wrong, but was looking for acknowledgement and a correction of processes.

Dr. Newman responded he did not mind putting a plan together to make sure that issues do not happen again.

Mr. Rogers noted there were miscommunications and misunderstandings on both sides and we need to move forward from that and correct the issues.

Mr. Alger noted that there is a recommendation to appropriate the \$250,000, but there is also the question of the FFE in the amount of \$765,500.

Dr. Newman noted that Ms. McConnel, the project manager, will be available on Friday and will be able to answer specific questions.

Mr. Cirbee and Mr. Dellar expressed they had questions about change orders.

Dr. Newman re-stated that Ms. McConnel will be at the meeting on Friday to answer specific questions.

Mayor Blunt asked former Mayor Mike Ham to speak.

Former Mayor Ham stated “When we went into this, we had an agreement that it would cost \$9.2 million. We got the bond for \$8.5 million. There was some money at that time left from the insurance proceeds. There was an agreement that the town would buy Town Hall from the School. We are still paying \$1 per year in rent. We should have bought that a year and a half ago.

Last year, when we went through the capital improvement plan, those bathrooms, the boat ramp and all, and we all said ‘we need to leave at \$400,000 to \$500,000 in the capital improvement plan to buy Town Hall. That money is still sitting there. That’s more than half of what they’re going to need.

I’ve gone over the figures with Frank and I’ve talked to Tim, it appears that \$765,500 is the final amount they’re going to need to complete it. If you backed out \$300K or \$400K, which is what the town would buy town hall for, you’re talking \$300K to \$400K. That will be reimbursed once property sells, which we’ve got the large lot next to the old school and the ball field.

As far as the deducts, I thought there was a decision up front that a lot of the equipment that was going to go in there – they decided to go out on direct purchase orders to get a better price. So there is the big deduct. I can’t guarantee that’s it, but I know they went out for direct purchase orders. That way, the air conditioning systems, heating systems, a lot of stuff got taken out of the original contract bid because Southwood said ‘if you can get a better price, go ahead and do that.’

The bottom line is, we got a school that, obviously -- \$765,000, half of that money the town already owes the school because we’re sitting in town hall basically debt free for going on three years now.”

Mr. Cirbee noted that there is no question Council has to appropriate the money to the school, but his questions are to the details, such as huge deducts in steel, sand and gravel.

Mr. Cirbee noted Council should not be fixing things. “We’ve got a tenured School Board, we’ve got a tenured Town Manager, we’ve got an attorney that’s been here forever and ever. These things should never get this far. Never.

Former Mayor Ham continued “There is enough blame to go around.

At the time we signed the contract, they had sufficient money to cover it because there total costs were not earmarked for anything at that time. Yes, they may have closed down the school a month early or something if we hadn’t located the money, but at this point, sometime either prior

to 1 January or between 1 January and 30 June, the Council should have taken action to go ahead and appropriate additional money, money we told them we would guarantee.

Yes, there is enough blame for everybody. We're derelict in not getting bids on town hall and just buying it. That's half of what they need right there.

We've been playing with the contract with Coldwell for two years almost. We got wound up with Eleanor Park. We haven't sold anything.

There is enough blame for everybody to go around.

In a perfect world, everything works perfect.

I would suggest that you, Mr. Cirbee, should be recusing yourself from this because you're in a law suit with the School Board."

Mayor Blunt noted he didn't vote for the new school because he thought it came too fast, there wasn't enough information from the very beginning.

But the School did agree to put a generator in so the community now has a shelter after a storm.

Mayor Blunt sees no criminal intent at all, but does see a lack of understanding of appropriations.

Mayor Blunt stated that the town will do better; this kind of thing won't happen again.

Mayor Blunt asked this Council and future Councils to be more patient, to do their due diligence and expressed his hope that more citizens will become involved.

Mayor Blunt would like to see the schools opened up for the communities.

Former Mayor Ham remarked that the last tax increase included two cents being earmarked to pay the bond. There was also anticipated the following year another three cents tax increase, which was not enacted because of increased revenues in meals and lodging taxes.

Mayor Blunt noted the town had a surplus without raising any additional taxes.

Mayor Blunt suggested Mr. Dellar and Mr. Rogers meet with Ms. McConnell before the Friday meeting.

Mr. Dellar asked "Is it the intention of this Council to ignore the potential violation of law with regard to the appropriation and obligations?"

Mayor Blunt suggested asking the Town Attorney to reach out to the Commonwealth Attorney with a brief overview.

Ms. Erard noted to Mr. Cirbee “You indicated that you were going to abstain from voting. If you believe you have a conflict, usually you also abstain from discussion.”

Mr. Cirbee responded that he probably understands the process better than anyone on Council.

Mr. Cirbee stated that Council needs to step back and get in line with the processes and asked ‘how does this keep happening?’

Ms. Erard noted that based on all the information she has heard today “I am not aware of any violation of the law that the Town Council has committed.”

Mr. Cirbee noted “we are one town.” “We are all to blame.” And “We have all got to do better in the future.”

Mayor Blunt summarized saying the next course of action is that Mr. Rogers and Mr. Dellar will have a conference call with Megan.

Mayor Blunt noted he personally would not vote for any kind of criminal...Mr. Dellar, Mr. Rogers, Mr. Cirbee, Mr. Leamon, and Mr. Alger all agreed.

Mr. Leamon stated he believes that even if there is a violation of law, there is no malice and that we built the school, we’ve got to fill it with furniture, with children.

Mr. Cirbee asked Council to look at the ramifications of going to the Attorney General and does not feel it needs to be exasperated any further.

Mr. Dellar agrees and does not see any criminal intent on the part of anyone and there was no personal enhancement of any kind. His concern is that if this was a violation, any citizen could raise this issue to the Commonwealth Attorney and press the issue forward.

Ms. Erard stated she would contact Ms. Sichols on Monday.

Ms. Erard further stated “I am not aware of anything that I’ve heard that would give rise to that. Furthermore, I just want to make it clear, I think most of you understand this, but the only people who have any power or authority really is the Town Council. The Town Council makes all of the decisions and directs staff. I, myself, have no authority. I respond to the questions that I’m asked. I indicate what the law is. And sometimes Council chooses to take my advice. And sometimes they choose to go in another direction. Likewise, I believe that Ms. Foulds works at the pleasure and direction of Council as well.

So, I think, Mr. Cirbee, if you’re concerned about mistakes, the place we should start is with Council education.”

### **Adjournment/Recess**

Mr. Leamon made a motion to adjourn. Mr. Cirbee seconded the motion.

*At 9:02 a.m. the meeting was adjourned.*

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Kathleen Flanagan, Town Clerk