

MINUTES OF THE MEETING
SMYRNA TOWN COUNCIL
June 6, 2011

The meeting was called to order by Mayor Patricia A. Stombaugh at 7:30 p.m. Council members present were Regina I. Brown, Valerie M. White, Joanne Masten, Robert Riddagh, Jeff Flairty, and Anthony H. DeFeo.

Also present were Town Manager David S. Hugg III, Chief Wilbert R. Bordley, Attorney John Terence Jaywork, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh asked everyone to rise for the Pledge of Allegiance. Mayor Stombaugh asked for everyone to remain standing for a moment of silence.

ADDITIONS/DELETIONS TO PUBLISHED AGENDA

Councilman DeFeo made the motion to accept the agenda as presented. Motion was seconded by Councilwoman White and carried unanimously.

MINUTES OF PREVIOUS MEETING

Mayor Stombaugh asked if there were any additions or deletions to the minutes of April 18, 2011. There were none. Councilman Riddagh made the motion to accept the minutes of April 18, 2011. Motion was seconded by Councilwoman Masten and carried unanimously.

REPORTS

A. Presiding Officer - Mayor Stombaugh said she had the honor of going with the Air Force last Thursday and Friday to Florida for the search and rescue. She said the commitment that these soldiers have for our country was astonishing.

B. Town Attorney - Mr. Jaywork said he had nothing this evening.

C. Police Chief - Chief Bordley reported that the 5K held on May 25th went very well. He said the Memorial Day parade was handled very nicely and there were no complications. Chief Bordley said the two new replacement officers will be here to be sworn-in.

D. Town Manager - Mr. Hugg said he emailed his report to Council and he did not have anything to add.

E. Committees - Councilman DeFeo said the Utility Committee will be meeting June 8th at 5:00 p.m.; a representative from Comcast will be there, and there will be a discussion of the possibility of moving the trash fees from our monthly utility statement to an annual statement.

Councilman Flairty said the Long Range Planning meeting was not held due to the holiday and they are preparing for the next meeting.

Councilman Riddagh said the Public Safety Committee will meet this Thursday at 5:00 p.m., and the Personnel Committee will be meeting June 14th at 5:00 p.m.

Mayor Stombaugh said the Finance Committee will meeting June 14th at 6:00 p.m.; all of the committee meetings are open to the public.

Mayor Stombaugh said the Business Development Committee met last Thursday morning; representatives from Bayhealth Hospital presented information on their 24/7 emergency center that is going to be located at the end of Carter Road near Route 300.

Councilwoman Masten said the Tree Commission last met on May 18th so she has nothing new to report there, but the new meeting will be held within the next two weeks.

RECOGNITION OF VISITORS

Visitors present were Daryl Jester, Joseph Wilson, Andrea Hodge, Prince Lawton, Charmaine Grice, Lauren Tyrell, Cheryl Tyrell, Austin L. Grice Jr., Lawrence E. Tyrell Jr., Abigail Petro, Kelsey Penix, Morgan Wilson, Desirea Penix, Brandi Penix, Mary Petro, Frank Sackmann, Melissa Wilson, Lawrence E. Tyrell, Seth Clevenger, and Lisa Fagioletti.

Mayor Stombaugh said this portion of the meeting is open to visitors. She said if you would like to address Council please step to the microphone, and give your name and address because it is recorded; you have three minutes to address Council. Mayor Stombaugh said Council may not have an answer for your

questions tonight; we may need to refer it to a staff member or to a committee.

Mayor Stombaugh said tonight we have a special presentation and she asked Joseph Wilson to come forward. Joseph Wilson, 27 Harkins Drive, Smyrna, came forward to speak. Mr. Wilson said he is a member of CCO, and he is here tonight to talk about a young lady who has done something heroic - she saved a life. He said she did this because she had had training through the Girl Scouts; she is 10 years old. Mr. Wilson said this is what we are about; we want to honor people who have done heroic things - anybody who helps another citizen. He asked the girl's mother to come forward. Cheryl Tyrell, 544 Brenford Station Road, Smyrna, came forward to speak. Ms. Tyrell introduced her daughter, Lauren Tyrell, and said she had brought a book of Lauren's accomplishments. She said she is very, very proud of her, not only did she first respond and save her brother with the Heimlich maneuver - when asked how she knew how to do that she said she had read about it in her Girl Scout handbook. Ms. Tyrell said Lauren has had a lot of extreme circumstances in her life to overcome, and through these circumstances she has excelled; this book is filled with things that she has done in the last two years.

Mayor Stombaugh said she received a letter from the Girl Scouts of the Chesapeake Bay which she read into the record. Mayor Stombaugh then presented Lauren Tyrell with a Certificate of Heroism. Mr. Wilson also presented Lauren something from CCO.

Mayor Stombaugh asked if anyone would like to address Council. Lisa Fagioletti, 25 West Commerce Street, Smyrna, came forward to speak. Dr. Fagioletti said she recently opened her dental office there and she is here tonight hopefully to get some information. She said at the beginning of April had sent a letter to the town that she would like to know any information of construction to do with the easement of the property behind her, and a few weeks ago she was speaking to the renter of the property - who she shares the easement with - and she was told some information is: that they are going to widen the alleyway for both traffic out and in - so she has concern about safety; she was told they were going to add some extra parking spaces back there and she is concerned about traffic coming onto her parking lot and her property that she does not want. Dr. Fagioletti said there is going to be some liability with people

walking on her property; currently right now their entryway has a sidewalk that comes to her parking lot, so the flow of pedestrian traffic is coming up her parking lot and going to her front door. She said when people walk on her property that is her liability and she is not accepting that - she would like some other alternatives versus people having to walk on her property that are not her clients. Dr. Fagioletti said she understands there are times when children are going to come back and forth, but it is actually directed the flow of traffic onto her property. She said she is also concerned that people are going to come down - and it's both ways now - and witnessing three point turns in an area that it should not be - someone is going to get hurt. Dr. Fagioletti said she does not want to accept the liability on her property for all of these issues that are happening. She said she want to see how we can make things work, but she does not want to accept the liability of people driving and walking on her property that are not allowed to walk on her property, so she was wondering if Council could help her, give her some information.

Mayor Stombaugh said her understanding from talking with Dr. Fagioletti is that she just wants to be kept informed, wants to be involved with what's taking place. Dr. Fagioletti said yes, she would like some information.

Councilman Riddagh asked Dr. Fagioletti to give him her contact information, and he will go talk with her about her concerns and bring it to the Public Safety Committee.

Liza Hawk came forward to speak. Ms. Hawk said her mother-in-law lives at 424 Baldwin Drive and they have had issues with the electric bill throughout the past couple of months with her being sickly and not being able to pay her bill like she should, so her son took over the bill and it's now paid in full, but the late fees which are staggering are over \$1,200.00. She said they've spoken with Mr. Markow in the business office who stated they could come to the Council meeting and that they might be able to apply those late fees to her bill, which would help her out for the next couple months. Mr. Hugg asked Ms. Hawk to repeat the address.

Councilman Flairty asked Mr. Hugg if he knew anything about this. Mr. Hugg said no. He said we adopted a new set of policies not too long ago that we are very much trying to implement, and any exceptions to them have to come to Council.

Mr. Hugg asked Ms. Hawk to briefly explain the issue, which she did.

After much discussion it was decided to have staff review and research exactly what happened, and then Council will discuss the findings at the next Council meeting on June 20th.

Charity Sackmann, 504 Greens Branch Lane, Smyrna, came forward to speak. Ms. Sackmann said they have gone through a rough time of hardship and in the past - the first time it was shut off in February or March - and then it was just shut off again; they paid it on the 27th when her husband got paid, but unfortunately they found out that \$300.00 was due for the collar since it had been shut-off twice in 36 months. She said they were hoping for Council to either waive the \$300.00 fee or even the \$100.00 for three months - maybe lower it.

Councilman DeFeo had a copy of the Sackmann's account history and reviewed it with Council. Mr. Hugg reviewed the policy regarding cut-offs. He said he would not have a problem allowing the Sackmann's pay the \$300.00 over a six month period of time instead of three months; Council has the alternative to instruct staff to give them another shot. Mr. Hugg said if six months would work for them he would even be willing to put it off for one month. Mr. Hugg said if it was okay with Council he would offer that the Sackmann's to be allowed to pay the \$300.00 over a six month period and the first payment would be delayed 30 days.

Mayor Stombaugh asked if anyone else would like to address Council. No one came forward.

Mayor Stombaugh said seeing no one step forward we will close this portion of the meeting and return to the regular Council meeting.

OLD BUSINESS

A. Appointments to Tree Commission and Other Committees/Commissions - Mayor Stombaugh did not have any appointments.

B. Confirm Lake Como Agreement - Mr. Hugg said at the last meeting he had reported to Council where we were with the renewal of the Lake Como agreement with Aaron Weisenberger. He

said it has been signed by all parties, subject to Council's approval tonight. Mr. Hugg reviewed the primary changes in the agreement with Council.

Councilman DeFeo made the motion to accept the 2011 Lake Como Concessions agreement. Motion was seconded by Councilwoman Masten and carried unanimously.

NEW BUSINESS

A. Authorization to go to Bid for New Street, Green Meadows, and Greens Branch Lift Stations - Mr. Hugg explained that about a year ago Council approved the Town applying for a stimulus loan under the Clean Drinking Water Program at DNREC - these are 2 percent, 20 year bonds in the form of a loan for a whole laundry list of sewer projects. He said at the time Council approved us taking out those loans there was a requirement that he come back to Council and ask their permission to move forward on groups of projects, and the one that we did first and have completed is the sewer line on South Street. Mr. Hugg said these are three very old, extremely poor condition and high risk pump stations or lift stations that are in the list of approved projects. He said if you remember back in December the Greens Branch substation failed; we spent most of the Christmas period with emergency pumping and staff maintaining that lift station while we got it back into somewhat more normal operation.

Mr. Hugg said there are three projects: the New Street station which is a totally obsolete ejector pump system in the middle of the street that is a very high maintenance and high risk project; Green Meadows - there are two items there - both the force main that we just recently had to purge, and a very old pump station package; and then the Greens Branch pump station. He said he would like to move ahead with the bidding and associated work to start the New Street pump station this summer, the Green Meadows force main this fall, and do all of the design and permitting and what have you for the Green Meadows pump station and the Greens Branch pump station to be started in early spring.

Councilwoman Brown made the motion to give Mr. Hugg the approval to proceed with the New Street, Greens Branch, and Green Meadows pump station projects with the DNREC stimulus funding. Motion was seconded by Councilwoman White and carried unanimously.

B. Status of 2009 and Prior Tax Collections - Mr. Hugg said Councilwoman White had asked that this be put on the agenda tonight and on Council's desk tonight is a memo about delinquent taxes. He said there is roughly \$180,000.00 in unpaid taxes from 2010 prior, and \$216,000.00 unpaid from 2011 prior - the 2011 taxes are technically not delinquent at this time, but they are listed because if we proceed to Sheriff Sale on any of these properties we will include them in balances owed to the town. Mr. Hugg said the majority of those taxes fall in the 2007-2008 time periods; of the \$180,000.00 roughly \$78,000.00 is one property against which we have a mortgage - the property is now listed for sale and hopefully at the time of the sale we'll recover, so you have to deduct that out. He said there is actually a balance of \$102,000.00 that is owed to us from 2010 and earlier - of that we are in the process of filing, or probably have already filed against nine properties that we are taking to Sheriff Sale. Mr. Hugg said between Adam Gerber at Hudson, Jones, and Jennifer LongLove in the billing department we have collected \$56,500.00 so far this year in back taxes. Mr. Hugg explained the process that Adam Gerber and Jennifer LongLove go through when collecting the back taxes.

EXECUTIVE SESSION

A. Executive Session to Discuss Contract Negotiations - Councilman DeFeo made the motion to go into executive session to discuss contract negotiations. Motion was seconded by Councilwoman Masten. Council went into executive session at 8:50 p.m. by unanimous vote.

Councilwoman White made the motion to come out of executive session. Motion was seconded by Councilwoman Masten. Council came out of executive session at 9:46 p.m. by unanimous vote.

POSSIBLE ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

Mayor Stombaugh passed the gavel to Councilman DeFeo. Mayor Stombaugh made the motion to agree to and proceed with what was discussed in executive session. Motion was seconded by Councilwoman Masten. Motion carried with Mayor Stombaugh, Councilwoman Masten, and Councilmen Flairty and DeFeo voting for, Councilwoman White voting against, and Councilwoman Brown and Councilman Riddagh were absent.

OTHER COUNCIL BUSINESS

Mayor Stombaugh asked if there was any other Council business. There was none.

ADJOURNMENT

Mayor Stombaugh adjourned the meeting at 8:39 p.m.

Council Secretary

vlh