

MINUTES OF THE PUBLIC HEARING AND MEETING
SMYRNA TOWN COUNCIL
DECEMBER 17, 2007

PUBLIC HEARING REF. 2008 PROPOSED BUDGET

The hearing was called to order at 7:15 p.m. by Vice Mayor A. Douglas Chervenak. Council members present were Council members present were Bernard R. Brown, Gene A. Mullen, William D. Pressley Sr., Lawrence O. Thornton Jr. and Valerie M. White. It was noted that Mayor Stombaugh is absent because she is sick.

Also present were Town Manager David S. Hugg III, Chief Richard H. Baldwin Jr., Attorney John Terence Jaywork and Recording Secretary Carol C. McKinney.

Visitors present included Ali Cheeseman, Daryl Jester, Seth Clevenger, Regina Brown, Jaci Hugg, Amber McKinney, William Duncan, Wilbert Bordley, Brandon Dunning, Bruce Graham, Bill Raynor, Jenn Merrill, Bob Wilson.

Vice Mayor Chervenak asked if anyone present wished to comment on the proposed budget. No one came forward.

Vice Mayor Chervenak closed the public hearing at 7:17 p.m.

OPEN REGULAR COUNCIL MEETING

The meeting was called to order at 7:30 p.m. by Vice Mayor A. Douglas Chervenak. Council members present were Council members present were Bernard R. Brown, Gene A. Mullen, William D. Pressley Sr., Lawrence O. Thornton Jr. and Valerie M. White. It was noted that Mayor Stombaugh is absent because she is sick.

Also present were Town Manager David S. Hugg III, Chief Richard H. Baldwin Jr., Attorney John Terence Jaywork and Recording Secretary Carol C. McKinney.

Chief Baldwin led the Pledge of Allegiance and Vice Mayor Chervenak asked for a moment of silence.

ADDITIONS/DELETIONS TO PUBLISHED AGENDA

Mr. Hugg said that the Town Engineer and the Town Construction Inspector investigated the streets in Woodland

Manor and determined that they are not ready for action this evening. He asked that Item 9B be removed from the agenda.

Councilman Pressley asked that an executive session be added for a personnel matter in which names of individual's competency and performance would be discussed and discussion of land acquisition.

Councilman Mullen made a motion to accept the agenda as amended. Motion was seconded by Councilman Pressley and carried unanimously.

MINUTES OF PREVIOUS MEETINGS

Executive Session of December 3, 2007
Council Meeting of December 3, 2007

Councilman Mullen made a motion to accept the minutes of the executive session of December 3, 2007. Motion was seconded by Councilman Thornton and carried unanimously.

Councilman Mullen made a motion to accept the minutes of the council meeting of December 3, 2007 as presented. Motion was seconded by Councilman Thornton and carried unanimously.

REPORTS

BILLS AND FINANCIAL STATEMENT:

Mr. Hugg said there are no reports.

PRESIDING OFFICER:

Vice Mayor Chervenak had no statement.

TOWN ATTORNEY:

Mr. Jaywork had no report.

POLICE CHIEF:

Chief Baldwin had no report.

TOWN MANAGER:

Mr. Hugg said that his written report was in packets. Bill Evans continues to make excellent progress in Crozier Chester.

He is able to feed himself. He is extremely grumpy, etc. He is sitting up and healing quite well. There is still a long physical therapy period ahead of him.

Mr. Hugg brought to Council's attention that there were questions raised after the last Finance Meeting about growth in the town and the impact of the proposed change between property taxes and electric revenues and other indicators about the community.

Mr. Hugg said there was a 60 percent increase in population between 2001 and 2007 (3588 people). Between 2001 and 2007, the Town-maintained streets increased from 21 to 28 miles or about 36 percent. Electric customers increased by 942 or about 31 percent. Sworn police officers increased from 17 in 2001 to 22 in 2007 which is 29 percent. Total employees have expanded from 52 in 2001 to 72 in 2007, an increase of 19 percent overall. The numbers clearly indicate that, at a time of rapid growth, the Town has continued to keep a lid on the growth of staff. Mr. Hugg said he feels we have been increasingly efficient both on the police side and the rest of the Town. Employees are given a lot of credit for taking care of more people and more streets.

Mr. Hugg said that the effect of reducing electric revenues, initially we will reduce the PPCAC from its current level down to .0036. That will take our customer cost from #1 among municipalities to #3, barely above the average Delmarva Power customer and \$7 below Clayton. That it makes the electric burden on our customers somewhat easier is pretty clear.

COMMITTEES:

Councilman Pressley said Personnel met on December 12. You should have those minutes in your packet. A couple of things we will go into Executive Session to discuss.

Councilman Mullen said the Finance Committee has met several times. Going over and presenting the 2008 budget to Council will be the second thing on the agenda tonight.

RECOGNITION OF VISITORS

Visitors present included Ali Cheeseman, Daryl Jester, Seth Clevenger, Regina Brown, Jaci Hugg, Amber McKinery, William Duncan, Wilbert Bordley, Brandon Dunning, Bruce Graham, Bill Raynor, Jenn Merrill, Bob Wilson.

Vice Mayor Chervenak said this is the time for anyone in the audience to address Council. He asked that speakers come to the microphone, give their name and address for the record and limit their comments to three minutes.

Capt. Will Bordley of 119 Winding Ridge Drive said that Dr. Maxwell, a local dentist, has 700 Purdue oven roasters to donate to needy families. He asked Council for their help in locating folks to receive them.

Vice Mayor Chervenak asked how they publicized this situation.

Capt. Bordley said they have gone around homes on the east side of Town and to the Boys and Girls Club.

Hearing no further comments, Vice Mayor Chervenak closed the public portion of the meeting.

OLD BUSINESS

RESOLUTION TO SET 2008 TAX RATE

Councilman Mullen said throughout the deliberations with the Finance Committee and going through a lot of options, we feel that this is the best way to handle this. He said he is going to jump right in and make a motion following the recommendation of the Finance Committee and then he said he will explain the motion as he goes.

Councilman Mullen made a motion to set the 2008 tax rate at \$.2526 per \$100 of assessed valuation which includes a five cent increase per \$100 that is going to offset directly the revenue from the electric rate which will be reduced in the PPCAC and a three cent per \$100 increase that will go directly to the 2008 budget. Motion was seconded by Councilman Thornton.

Councilman Mullen said that several months ago this Council made a commitment to do everything we could to have a better balance in the general fund budget. The General Fund generally runs a deficit of \$2 million. It was the decision of this Council to try to even that up and reduce electric rates. Councilman Mullen said this will be a multi-year process. The five cent per \$100 will directly go to reduction of the electric by reducing the PPCAC to .0036. Over the course of twelve months, it will more than offset the per hundred cost.

Councilman Chervenak said in this tax year, it will increase. The five cent increase will offset the electric but you are also adding another three cents.

Councilman Mullen said the three cent per \$100 increase will go directly to the budget. It will create revenues of approximately \$189,000.

Motion carried unanimously.

ADOPT 2008 BUDGET

Councilman Brown made a motion to adopt the 2008 Budget as proposed by the Finance Committee. Motion was seconded by Councilman Mullen.

Councilman Mullen said this budget isn't quite as austere as the 2007 budget. We did add positions. It also includes increases in health care, trash pick up and several other areas. It continues our move along the road for capital projects that we have had planned for several years. It also increases our employees in needed positions that we have not done in several years. Councilman Mullen said he feels this is a very workable budget. He added that he is sure the revenue figures which are very conservative will increase as the year goes on.

Mr. Hugg commended the Finance Committee for their hard work and for facing what we have talked about for the six years he has been here about over-dependency on electric revenues to finance the Town. Our financial advisors have strongly recommended changing this process for several years. It puts us in a much sounder position in terms of balance of revenue. It also makes us more competitive with those communities we compete with for new jobs now that we are not the highest electric utility. Staff thanks you for this.

Mr. Hugg thanked Gary Stulir for all the work he has done. Without that, none of us would have been able to get the job done.

Councilman Mullen thanked the Finance Committee. He said with the experience and the caring we have on the committee, it is a sight to behold. We have members who are very well versed in finance. We couldn't ask for more. A lot of time has been spent on this budget, a lot of time away from families. He thanked the committee very much.

Councilman Thornton said, as a member of the Finance Committee, he learned how we put together a budget. You hear about the tax concept. He said he thinks it is necessary. No one on this Council raises taxes without a good reason. In addition to raising taxes, we cut budgets of some departments. They were very good at doing that. We are going to use some of our reserves to improve our computer system. With increased revenues, decreased budgets in some departments and by using some of our surplus, this will work. Councilman Thornton echoed comments about the committee members and said he wants to single out Gary Stulir for doing a yeoman's job of working with these numbers. He said he thinks we have put together the best we can do. The revenue side will increase and be on stable footing next year.

Councilman Mullen said that Mr. Hugg's experience is far reaching in knowledge of employees, electric, personnel, budget, finances, it just goes on and on. We couldn't do this without him. He thanked Mr. Hugg very much.

Motion carried unanimously.

THIRD READING: ORD. NO. 015-07, CHAPTER 2, ADMINISTRATION
REF. ACTIONS OF COMMITTEE/COMMISSION MEMBERS

Councilman Brown made a motion to consider this the third reading of Ordinance No. 015-07. Motion was seconded by Councilwoman White.

Vice Mayor Chervenak said he especially likes the synopsis.

Councilman Thornton said that, at the last meeting, Mr. Jaywork volunteered to change the wording of this ordinance.

Councilman Brown said he feels that Councilwoman White was on the right track. This will clear up questions committee/commission members might have. It will save a lot of head aches for Mr. Hugg and his staff.

Motion carried unanimously.

APPROVAL TO SIGN SPEA CONTRACT

Councilman Thornton made a motion to approve signing the SPEA contract with the most recent addendum. Motion was seconded by Councilman Mullen.

Mr. Jaywork noted that the addendum was sent out by Mr. Barrows today.

Bob Wilson said he spoke to Mr. Barrows about it today.

Councilman Mullen asked if anyone has it. A couple of wording changes were brought to their attention were corrected. He said he wanted to be sure Mr. Brown is comfortable with it.

Councilman Brown asked if the Police Department is pleased with the contract and understands the addendum. Those employees present replied yes.

Councilman Thornton complimented the members of the negotiating team on their professionalism and decorum. He added that he feels it went very well and that we were able to come to resolution quickly. Councilman Thornton applauded all involved for being very professional.

Motion carried unanimously.

APPROVAL TO SIGN POLICE EMPLOYEES' CONTRACTS

Councilman Brown made a motion to approve the police employees' contracts and the addendum for Chief Baldwin, Capt. Bordley, Lt. Wood and Lt. Wilson. Motion was seconded by Councilman Pressley.

Councilman Thornton said that in the Chief's contract, #28 Professional Development states that continuing professional development for the Chief of Police has to be approved by the Mayor. He added that he thinks this may be hold-over language from before. He asked if it should be "Mayor and Council" or "Council".

Councilman Pressley said that was a typo. It was changed to "Council".

Chief Baldwin said he has no objection to that.

Motion carried unanimously.

Councilman Pressley thanked all members on both committees for doing a great job. He thanked Mr. Jaywork and Mr. Barrows who had his hands full with these two committees.

NEW BUSINESS

RESOLUTION REF. CHRISTMAS EVE DAY

Councilman Mullen made a motion to consider December 24, 2007 as an official Town of Smyrna holiday. Motion was seconded by Councilwoman White.

Vice Mayor Chervenak asked about those employees who are scheduled to work that day. Mr. Hugg said it will be treated as a regular holiday. They will get regular holiday pay.

Councilman Mullen said we all appreciate everything the employees do. This is just a little thank you.

Councilman Brown thanked Councilwoman White for bringing this up.

Motion carried unanimously.

APPROVE LETTERS IMPLEMENTING PERSONNEL ACTION DECIDED FOLLOWING EXECUTIVE SESSION HELD ON DECEMBER 3, 2007

Councilman Brown made a motion to approve the letters implementing personnel action decided following the executive session held on December 3, 2007. Motion was seconded by Councilman Thornton and carried unanimously.

OTHER COUNCIL BUSINESS

Councilwoman White commented on an invitation that was included in packets. She said that, by the time we received them, it was too late to RSVP on attending. Councilwoman White asked that Council members be notified earlier of such invitations so that they could have attended if they wanted to.

Councilman Brown said an e-mail notice would be sufficient.

Councilman Mullen said if we had the outside mail boxes, that would solve such situations.

Councilman Mullen said that we have a little glitch in our long and short term health care. For some unknown reason, when a town employee gets hurt, there is a three-month gap between when short-term coverage cuts off and when long term kicks in. In this case, it is directly related to Bill Evans. He is going

to run out of health care very shortly. We need to do something in the interim until we come up with a solution for this.

Councilman Mullen made a motion that the Town cover health care premiums for a maximum of six months for Mr. Evans. Motion was seconded by Councilwoman White.

Mr. Hugg said that currently the Town pays 85 percent of the cost for health care coverage. He asked if that is the motion.

Councilman Mullen made an addendum that the Town will pick up the portion of his health care for a maximum for six months.

Mr. Jaywork said he doesn't know for sure if you are paying for six months of his medical care.

Mr. Hugg said just for his health insurance premiums. He asked if this can be changed to cover any employee just in the case we have another injury in this time period.

Councilman Mullen and Councilwoman White agreed to this wording change.

The question was raised exactly what is the motion on the floor.

Councilman Thornton said we need to keep insurance whole for a period of six months with respect to medical benefits should any employee be injured on the job or until the Town investigates and comes to a conclusion on this.

Mr. Jaywork asked if we are talking about his health care premiums. Mr. Hugg said that is the intention here.

Councilman Mullen withdrew his motion and Councilwoman White withdrew her second.

Councilman Mullen made a motion that the Town meets the health care responsibility of the employee affected for a maximum of six months or until long term care kicks in when the employee is injured or incapacitated on the job. Motion was seconded by Councilwoman White.

Mr. Jaywork said it sounds like it was workers compensation claim and he doesn't see why the health care is involved. Vice

Mayor Chervenak said his health care insurance premiums are not being paid while he is off work.

Motion carried unanimously.

Councilman Brown asked the status of the issue with the workmens comp proposed by the Delaware League of Local Governments having the Town buy into a group.

Mr. Hugg said it will be discussed again by Personnel in January. He added that the proposal presented by the State pool was significantly more expensive than our estimated cost of the coverage we have through the open market. The individuals from the State pool stated that they were still negotiating on group figures. Since we didn't have to do this until June, we agreed to put this off. He added that, at the moment, it is not in our apparent best interest to join the pool. Municipalities with less favorable experience profile will benefit more.

Councilman Mullen said it appears that the numbers are changing almost daily. He added that it is a good thing that we are going to review it.

Mr. Hugg said the Personnel Committee also made a recommendation that when we sign our new long-term disability coverage, we pick up short term disability insurance. He said he doesn't know if that needs to come to Council for a vote.

Councilman Pressley said we had a gentleman from Mutual of Omaha discuss a description of a plan with a fifteen day waiting period. From the time an employee's benefits stop, this would pick up that fifteen day grace period for a period of up to ninety days.

Mr. Hugg said this is not workers comp short term disability for anyone injured on the job site. Some employees also have separate policies offered through AFLAC. We experienced a significant reduction in contract costs and have enough money to add short term disability benefits. Short term bridges between the grace period and the beginning of long term disability up to a maximum of \$500 a week. The Personnel Committee voted to add that to our benefit package. Anyone already paying for AFLAC could continue that as a bonus to the Town offered benefit. This short term coverage would be at no cost to the employee. It makes our current benefit package more attractive.

Vice Mayor Chervenak said if somebody is off work for illness, how many days before the short term disability kicks in. Mr. Hugg said fifteen days and coverage would be for up to ninety days with a maximum of 66 percent of their salary not to exceed \$500 a week.

Councilman Thornton made a motion to adopt a short term disability provision as part of our overall benefit package. Motion was seconded by Councilwoman White.

Councilman Brown asked if this is built into the budget. Mr. Hugg replied yes.

Councilman Brown asked if this requires a vote. Mr. Hugg replied that it is a change in benefit so it is a good idea for Council to vote on it.

Motion carried unanimously.

Councilman Mullen said an issue came up in the last Council meeting that he would like to revisit.

Councilman Mullen made a motion to open discussion on Mr. Hugg's attorney fees in reference to his contract. Motion was seconded by Councilman Thornton.

Councilwoman White said she would like to see this tabled until the full Council is present to vote.

Councilman Mullen said it takes a motion to bring it to the floor. This is just a motion to open discussion.

Mr. Hugg said he feels very strongly that Council or the committee involved still owes him the benefit of negotiating in good faith on his contract. He added that we have not sat down and talked about any of the issues he brought before them in September. Council has acted on all the other contracts except mine.

Councilman Mullen withdrew his motion and Councilman Thornton withdrew his second.

Mr. Hugg said he was asked today about his compensation January 1. He added that he would like the opportunity to discuss with the full Council his feelings about the costs he felt he had to incur and the items he asked for in September.

Vice Mayor Chervenak asked if we need a Special Meeting. Councilman Mullen said it can be discussed in Executive Session.

**EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS AND
LAND ACQUISITION**

Councilman Mullen made a motion to go into Executive Session to discuss personnel matters in which individual employee's names, qualifications and performance will be discussed and to discuss land acquisition. Motion was seconded by Councilman Thornton and carried unanimously. Council went into Executive Session at 8:20 p.m.

Council returned to regular session at 8:40 p.m.

Councilman Brown made a motion to authorize the Town Manager to set a higher salary as discussed in Executive Session. Motion was seconded by Councilman Thornton and carried unanimously.

Councilman Brown made a motion to authorize the Town Manager to obtain an appraisal on the property as discussed in Executive Session. Motion was seconded by Councilman Thornton and carried unanimously.

ADJOURNMENT

Councilman Brown made a motion to adjourn, seconded by Councilwoman White. Meeting adjourned at 8:40 p.m. by unanimous vote.

Council Secretary

ccm