

TOWN CRIER

This is the third issue of what will be a periodic communication to the citizens of Cape Charles. John Burdiss is solely responsible for the content.

Topics addressed in this issue (July 11, 2007) are:

1. Best interests of the town?
2. Notable agenda items at the 7/10/07 council meeting
3. Prospective new town manager
4. Challenge to former councilman
5. Old school?
6. We need to go on local cable
7. Constituents are invited

Best interests of the town?

"Finally!" as I heard one member of the audience remark last night. By a vote of 4 to 2 the Town's personnel policy has been changed as follows: "No Mayor or member of Council shall be an employee of the Town and upon the qualification of any such person for such position, his or her employment shall cease. Provided that those employees who currently serve on Council may complete the current individual terms to which each one was elected." (Burdiss, Bannon, Evans & Dudley – yes; Brown & Elliott – no. Brown & Elliott refused to excuse themselves from voting as the Mayor requested and as the Code of Ethics for Council requires.)

Not once during the 2+ years that this issue has been discussed have I heard those who were against the change made last night say why any employee or these employees serving on council is in the best interests of the town. For those who insist a referendum is needed, arguably one already occurred. We are a representative form of government; each member of council is elected to serve the best interests of the town and each has only one vote. Councils in the past – rightfully so – without any "referendum" excluded the Town Manager, Town Clerk, Town Treasurer and Chief of Police from serving in the dual and obviously conflicted capacities of town employee and town council member. Also see Dual Office Holding Statute, Va. Code § 15.2-1535 and Article VII of the Virginia Constitution.

Last night's change in the personnel policy for the Town was only necessary because apparently no one anticipated the circumstance that occurred which began with Councilman Brown being on council and also being an employee, followed by Councilman Elliott. Brown was elected when he ran a local business and he was not an employee of the Town. When he accepted a job with the Town he did not, as had prior persons (Don Clarke & Barbara Stiles), resign from Council. Despite what I understood that Brown said last night, there has never been an Attorney General opinion issued to and for the Town regarding his status in writing and it is absolutely not the AG's practice to issue opinions over the phone. That point is made clear by the process used recently to solicit an AG's opinion through the assistance of Senator Nick Rerras (see agenda item 7.C.); that written request for an opinion remains unanswered six weeks later.

Be that as it may, the change in the personnel policy was needed because of the obvious issues of supervisory conflicts; e.g. – Brown reports to Eder who reports to Panek who reports to the Council, including Brown. Further, under the current Town Charter, only the Council can hire or fire the Chief of Police. Questions about this or any Council's "right" to change the personnel

policy are clearly unfounded. Further they beg the very real question of how can the 2 current employees on "council" properly cast a vote on any amendment to the Town's personnel policy when they have an obvious conflict because any change in the personnel policy affects them? Importantly without the change made last night, we could have all 6 members of Council also being employees. How would that serve the best interests of the Town?

It is interesting to note the recent action (preventative) taken by the Town of Chincoteague on October 2, 2006: "**Amendment to Section 109 – Conflicts of Interest, Employee Handbook**- Councilman Wolffe motioned, seconded by Councilwoman Richardson, to amend Section 109 – Conflicts of Interest of the Employee Handbook to include the new language "*No mayor or member of Council shall be an employee of the Town and upon the qualifications of any such person for such position, his or her employment shall cease.*" The motion was unanimously approved."

Finally, the affected council members, personalized the issue, avoided any comments about the best interests of the Town or the merits of the issue. Instead they took the tact of threatening to file a lawsuit and/or asserting that there were unspoken motivations behind the action taken. Despite their protests, the best interests of the Town were served by the change.

Notable agenda items at the July 10, 2007 meeting of Town Council

- Amend personnel policy regarding certain salary schedules and positions. Burdiss yes.
- Schedule public hearings on Occupancy Tax Increase and Changes to Ordinance regarding Historic Review Board. Burdiss yes.

Prospective new town manager

Over 30 persons have applied; some are local, many from within Virginia and several from quite distant locales. My initial review of the prospects revealed several impressive candidates. Council will meet in closed session on July 26th to review the applications and to begin the screening process.

Challenge to former councilman

During public comments last night, Mr. Veber alleged that there was an "agreement" that was hidden from the public or that was not considered in the calculations used in estimating the Town's needs to raise funds for water and sewer. This allegation appeared to pander to the public's lack of awareness of just what assumptions and calculations were used in working to develop options for raising funds for water and sewer needs now and in the future. Mr. Veber did not accurately state the facts.

All members of council, *past and present* are well aware of the "agreement" – I assume he means the 1990 Annexation Agreement, as modified in 1991 and as interpreted by a three Judge panel in 1991 for the Commission on Local Government. As Mr. Veber should know, that "agreement" is extremely complex, subject to various interpretations and it could result in litigation to resolve what amount(s) the developer will pay and when and how they will be paid. Current council is moving forward to try and resolve the numerous issues contained in the "agreement" and our efforts will continue to be guided by the best interests of the Town.

I would ask Mr. Veber to explain to the public all of the complexities of the “agreement” in the same simplistic way he chose to improperly allege that it was ignored by this Council as a whole and by the Finance Committee and Town Manager in particular. I attended all of the meetings regarding the bases for the new connection fees and Mr. Veber, as well as all citizens, might have profited from doing the same.

Old School?

I appreciate Jan Neville’s remarks about the old high school and the desire to energize people (the Historical Society and others) and raise funds to “save” and restore that building.

As I noted in the last issue, “The prior council was moving toward renovating the old school for municipal space. The costs were estimated to be \$4 – 5 million, which net of possible grants and other funds would still leave \$2 – 3 million in debt. A temporary committee formed last year from this council recommended against such a plan – reasons included: flooding which isolates the old school; costs; limited parking; location in a residential neighborhood; increasing traffic on interior streets; and so on. The new standing R/E committee will include Councilman Brown, staff members, Tom Bonadeo from the Planning Commission, and others. The finance committee will work arm in arm with them. Please get involved and share your ideas; help us deal responsibly with our current and future space needs and with the old school, among other BIG issues we face.”

I was a part of the temporary committee and I stand by the recommendations. That said I too would like to preserve the old school, PROVIDED we can fund the restoration (without placing an undue burden on the Town’s finances) and PROVIDED that we have a bona fide and affordable use for it once it is renovated. Please note that the R/E committee will hold its first meeting on July 18th at 10 a.m.

We need to go on local cable

Please provide your input to enable your Town meetings, especially Council meetings, to be televised and repeated on local cable. Obviously not all citizens can attend or want to attend the numerous Town meetings; however, all of us could stay better informed as well as “see” how meetings are conducted.

You are invited!

Please join me at my office – 117 Mason Ave., Suite E (next to Kelly’s Pub) from 5:15 – 6:15 PM on Tuesday, July 17th. Come, voice opinions, ask questions and learn more about what your Town government and your Council are doing to honor our duty to you by always striving to serve the best interests of the Town with each action we take. Your responses and/or inquiries to anything in the Town Crier or about “Town” business are welcome at johnburdiss@baycrk.net