

**TOWN COUNCIL
Regular Session
February 14, 2006
7:30 p.m.**

At approximately 7:30 p.m. on February 14, 2006 in the Town Council Chambers, Mayor Frank Lewis called to order the Regular Session of the Town Council. In addition to Mayor Lewis, also present were Council members Sullivan, Brown, Davis, Evans, and Veber. Absent was Councilman Elliott. Also present were Town Manager Tim Krawczel, Town Planner Jason Pruitt, Town Clerk Joy Pelletier various staff members and approximately 30 members of the Public..

Councilman Davis led the Invocation and Councilman Brown led the Pledge of Allegiance.

Public Comments

Mary Ann McDevitt, 644 Monroe Ave.

See the attached handout. Ms. McDevitt described the The Historic Preservation Weekends program as being put together with the Historical Society; therefore any profit realized from the program would be donated to them. She discussed the cost of the program, listed the businesses in Town that had agreed to sponsorship and asked the Town of Cape Charles to agree to sponsor the program with a donation of \$225. She asked the Council to consider sponsoring Spring, 2007 in the amount of \$950. Town Manager Tim Krawczel suggested using funds from the Planning Commission and Historic District Review Boards educational budgets to fund the purchase of one ticket for each session for a total of \$90.00.

Melvin Dudley, Madison Ave.

Mr. Dudley had signed up to speak but donated his 3 minutes to be used by John Burdiss.

Dianne Davis, 601 Jefferson Ave.

Ms. Davis spoke about her concern for the youth of Cape Charles. She noted the Town had take action on many items in Town and asked if the Town had a plan that included the needs of the Town's young people.

John Burdiss, 117 Mason Ave.

Mr. Burdiss read a letter into record concerning employees of the Town serving on Town Council. He pointed out the difficulties that could arise when a Department Head needed to give guidance or direction to an employee who is a member of Town Council. He also pointed out a number of circumstances, such as approving the Town Budget, where an employee/councilman would need to

recuse himself due to conflict of interest. Mr. Burdiss presented to Council a petition with 133 signatures of the Town's citizens and property owners indicating their support to not allow employees on Town Council.

Dave Burden, 507 Tazewell Ave.

Mr. Burden appeared before Council to ask for consideration to create a skateboard park. He indicated there were a group of volunteers who would be willing to hold fund raisers to help with the cost of building the park and possibly maintaining the park. He pointed out the benefits to the Town which included a safe and structure environment for the youth and that it would bring individuals in from other areas that would potentially spend money in our restaurants and stores. He asked that the Town designate a plot of land, preferably in or near Central Park, to be developed into the Skateboard Park.

Scot Walker, 528 A. Washington Ave.

Mr. Walker displayed an aerial photograph showing the jetty and Harbor area. His comments expressed his concern over the sand being washed south over a low portion of the jetty and collecting in the Harbor channel. Mr. Walker requested that Town Council direct the Town Manager to consult with engineers on a cost proposal to repair or fill in about 200 feet of the jetty using free concrete blocks from Bay Shore Concrete covered with granite. His second concern had to do with Board and Commission vacancies. He indicated he had submitted an application complete with resume twice in the last eight months to serve on the Wetlands Board. He stated he has had no response. He asked that a set of procedures be established by which applicants can expect some sort of feedback

Jan Neville, 112 Randolph Ave.

Letter read into record. The letter addressed the loan from the Town to the Historical Society for the purchase of the items from Margaret Carlson's antique store. The letter stated due to recent donations, \$1200 from the Chamber of Commerce and \$10,000 from Dick Foster, the loan could be paid earlier than the May 1, 2007 deadline. The letter thanked the Chamber and Mr. Foster for their generous support.

Consent Agenda

Motion made by Councilman Evans, seconded by Councilman Davis and unanimously approved to accept the agenda format as amended by adding the resolution for the Water Works Plan under New Business as the last item; delay New Business A&B until the Harbor Master arrives.

Motion made by Bruce Evans, seconded by James Davis and unanimously approved to accept the minutes as presented of January 06, 2006 Special Session, January 10, 2006 Public Hearing and January 10, Regular Session.

Report Presentations

A. Treasurer's Report-see attached.

Motion made by Councilman Brown seconded by Councilman Veber and unanimously approved to approve the minutes as presented.

B. Planning Commission

Town Planner Jason Pruitt reviewed the points discussed at the last Planning Commission

meeting. See attached.

Planning Commission Chairman Tom Bonadeo reported on the joint meeting held with the County's Planning Commission sub-committee. The major item covered in that session was a wish list from the Town to the County and a Corridor Overlay for Rt. 184. Concerning the Corridor Overlay, Chairman Bonadeo asked for direction from Council.

Chairman Bonadeo also spoke to Council concerning the Planning Commission's posture on the Tree Ordinance. The Planning Commission would like to remove the significant tree language from the Historic District Overlay but with additional amendments to the Landscaping and Buffering section, section 4-B, 5. Section 4-B,5 applies to all zones as opposed to just the Historic District Overlay. The Planning Commission also wanted to applaud the Mayor and Council for establishing the ad-hoc tree committee.

Old Business

***A. Revisions to the Zoning Ordinance for Requirements for Tree Removals**

Tim Krawczel introduced this item by reminding all that Town Council had voted at their December, 2005 meeting to rescind the requirement for requiring a Certificate of Appropriateness from the Historic District Review Board before removing a significant tree. Mr. Krawczel stated he took the action to be a resolution of intent to amend the Zoning Ordinance. Public Hearings have been held. The Planning Commission is moving forward on creating amendments; the ad-hoc tree committee is in the process of being formed; the Town has asked the Harbor design team, Paradigm Design, to take a look at the issue; and we are encouraging the Planning Commission to consider putting the plan for trees into the revisions to the Comprehensive Plan. Mr. Krawczel asked Council to make a recommendation on how they wanted the staff to proceed. Viewpoints were offered by members of Council and staff concerning the mechanics of how this issue had been handled to this point. It was mentioned there is much sensitivity on this issue and quite a bit of misunderstanding. Mayor Lewis stated the current tree ordinance had been reviewed by our Attorney who stated he did not think our ordinance would hold up in court. The attorney's opinion was our ordinance was too vague and capricious. Planning Commission Chairman Tom Bonadeo interjected that the Commission has heard Town Council and is willing and ready to strengthen the ordinance to be enforceable.

Motion made by Councilman Evans, seconded by Councilman Brown and unanimously approved to turn this back to the Planning Commission for action and a recommendation.

***B. Revisions to the Cape Charles Zoning Ordinance Appendix A, Subdivision Ordinance, Section 5.4.1, Streets to add Section 5.4.1.2, Access and Circulation.**

Tim Krawczel enlightened those present on the Planning Commission having identified a need to revise the Subdivision Ordinance. He mentioned a Public Hearing had been held on the proposed text with no comment from the Public. He asked for Council's recommendation.

Motion to accept the changes to Section 5.4.1.2, Access and Circulation as proposed made by Councilman Brown, seconded by Councilman Evans.

*C. Conditional Use Permit, 718 Randolph Ave – Three second story apartments

There was no discussion.

Motion made by Councilman Brown stating the proposal will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that the proposal is in harmony with the purpose and intent of the Zoning Ordinance, and that such use will be in harmony with the public health, safety and general welfare. Therefore, the applicant's request is approved for a Conditional Use Permit for three second story apartments with the following five conditions as provided by the Planning Commission and the Historic District Review Board: 1) a legally enforceable written agreement for the proposed shared parking spaces must be submitted to the Zoning Administrator; 2) a set of window panes on the right side of the left front door is not included on the proposed elevations. These window panes must be included to give the front a symmetrical appearance; 3) the proposed corrugated metal roof must be of a "standing seam" type; 4) the foundation of the rear addition must have a brick exterior rather than exposed concrete block; and 5) all rails and columns must be painted and not left unfinished. Motion seconded by Councilman Veber and unanimously approved.

*D. Contract for Update of Personnel Policies Handbook

Town Manager Tim Krawczel reminded Council that as a part of the retainer for legal services, a Personnel Manual Review and Fair Labor Standards Act Training for Town employees was presented in January by Arlene Klinedinst. Also as part of the retainer there is an agreement to update the Town's Personnel manual for a fixed fee. Mr. Krawczel asked Council for their recommendation of approval to update the Personnel manual and indicate whether Town Council wished to schedule a workshop to review any proposed changes prior to the Manual's finalization.

Motion made by Councilman Veber, seconded by Councilman Davis and approved with one abstention by Councilman Brown to accept the recommendation to have the Personnel Manual updated and have a workshop prior to the finalization of the manual to review any proposed changes.

*E. Boards and Commission Vacancies

Mayor Lewis reminded Council he had asked for recommendations to fill the vacancies on the various Boards and Commissions. He asked for nominations and set the date of February 22, 2006 at 5:00 p.m. for interviews.

Mayor Lewis also mentioned that Elizabeth T. Neal had been appointed to the Cape Charles-Northampton County Industrial Development Authority by the County Board of Supervisors. He stated for this appointment to become official, the Cape Charles Town Council needed to act on the appointment.

Motion made by Councilman Evans, seconded by Councilman Brown and unanimously approved to concur with the decision of the Northampton County Board of Supervisors in the decision to appoint Elizabeth T. Neal to the Cape Charles-Northampton County Industrial Development Authority for a term to end in December, 2009.

*F. Building Department Violation Abatement Policy

Tim Krawczel summarized the work session held on January 26, 2006 to develop policies which would address abandoned and unsafe structures. He discussed the cost of the program and if begun this spring, which line items could be reduced to cover the expected expenditures. He asked Town Council to consider the Building Official's proposal and provide direction as to funding.

Motion made by Councilwoman Sullivan, seconded by Councilman Davis and unanimously approved to direct the Town Manager to accept the policy changes and use the ledger item entitled Recaptured Code Enforcement Expenditures for needed funds.

***G. Tax Relief for the Elderly**

Tim Krawczel reviewed with Council real estate tax relief for the elderly. He mentioned the County was realigning their qualification caps and asked Council to consider aligning our guidelines with those of the County by increasing levels of income and net worth

Motion made by Councilwoman Sullivan, seconded by Councilman seconded by Councilman Veber and unanimously approved to realign the Town's guidelines with those of the County.

***H. Results of RFP – Contract for Landscape Services**

Tim Krawczel announced to the Council that our current Landscape contract would expire in April, 2006; therefore, as required by law, the Town advertised a Request for Proposals. Three proposals were received within the time frame and one was received the following day.

Motion made by Councilman Veber, seconded by Councilman Davis and unanimously approved to accept the contract from Advantage Lawn Care.

***I. Results of RFP – Contract for Basketball Construction**

Tim Krawczel apprised Council of the results of the Request for Proposals for the construction of the basketball court. Only one responsive bid was received for \$13,604.50 with the Town providing the posts, backboards and goals. The contractor offered to provide these items for an additional \$3,024.50. Discussion covered fencing surrounding the basketball court and enlarging the size of the court in order to be able to play two half court games.

Motion made by Councilman Veber, seconded by Councilwoman Sullivan and unanimously approved to award the contract to Thomas B & Company with the condition six feet be added to the basketball court.

***J. Funding for Cape Charles Volunteer Fire Department**

Tim Krawczel presented to Council the request by the Cape Charles Fire Company to fund the purchase of an aerial ladder truck. Mr. Krawczel mentioned the request came out of sequence with the Town's budget process and offered four alternatives: fund the purchase; contribute sufficient funds to reserve the vehicle and consider additional funding as part of the next budget cycle; contribute some funds to defray the cost of an audit and consider funding based on the results of the audit place in next year's budget cycle; or include the cost of a vehicle in next year's capital improvement program and follow the procurement process. Representatives from the Cape Charles Fire Company presented justifications for the purchase of the aerial

ladder truck. Most important was the new construction of three story homes in densely populated tracts. Having the additional protection of the truck would also improve our Insurance Service Office (ISO) rating.

Motion made by Councilman Evans, seconded by Councilman Brown and unanimously approved to provide funds as a deposit to hold the truck, combine the cost of the truck and the audit, if the audit clears take out a loan to pay the balance due and dedicate funds in the budget year 2006/2007 to pay off the loan. Polled vote: Sullivan, yes; Brown, yes; Davis, yes; Evans, yes; Veber, yes.

New Business

***A. Town Harbor – Proposed Rate Changes**

Tim Krawczel pointed out to the Mayor and Council the attachment and pages of documentation. He summarized the reports stating there are 51 slips in the Harbor which bring in \$37,000. The proposed changes would increase rates by \$8,000 making the new total \$45,000. Adjustment to other rates and fees were also mentioned as well as the fact our Harbor fees are currently the lowest in the area. Mr. Krawczel then outlined the improvements the Town is making to the Harbor which include repairing the bulkhead and a new Harbor Master office.

Motion to adopt the rate increases as presented was made by Councilman Brown seconded by Councilman Veber and unanimously approved.

B. Virginia Port Authority Aid to Local Ports Grant

Tim Krawczel shared with Council information from the meeting held by the Virginia Port Authority that he attended with the Mayor and Harbor Master. At that meeting, he presented the Town's request for funding on both current projects under construction and for the anticipated work on the south side of the Harbor. The total cost of the project came to approximately \$1,399,945. Mr. Krawczel reported that \$59,125 is available to the Town under the current allocation for repairs to the Harbor.

***C. Regional Main Street Priority Projects**

Tim Krawczel recapped with Council the information passed to them by Barbara Schwenk of the Accomac-Northampton Planning District Commission at their December, 2005 meeting. Ms. Schwenk had reviewed a list of potential Regional Main Street projects that may be eligible for future state funding. As a result of that December meeting, Council asked the members of the Cape Charles Revitalization Program for an updated recommendation. The following projects were proposed: 1) upgrading of the sanitary sewer system in the commercial district; 2) repair of the sidewalks in the commercially zoned areas; 3) removal and replacement of all overhead utilities underground in the commercially zoned areas.

Motion to endorse the plan to approve the priority list as presented made by Councilwoman Sullivan, seconded by Councilman Brown and unanimously approved.

***D. Collection of Transient Occupancy Tax**

Tim Krawczel reviewed with Council the history behind the transient occupancy tax

ordinance and its current language. The Town's procedures as prescribed in the Town Code tax conflict with the current ordinance language. Mr. Krawczel indicated Section 66-66 of the Town Ordinance no longer applies; therefore, he asked Council to review the proposed changes and revise the ordinance.

Motion made by Councilman Brown, seconded by Councilman Veber and unanimously approved to adopt the recommendation.

*E. Funding Request to Northampton County

Mr. Krawczel reminded the Council that in the past funding for the Library and for the DMV office had been received from Northampton County. He informed Council that the Director of Finance for Northampton County had asked for requests for funding in preparation of their budget process. Mr. Krawczel then reviewed the list of requests which included funds for the Library, DMV, Fireworks for the Fourth of July and development of water and sewer capacity. It was suggested additions to the letter could be what the Town has spent on the beach breakwaters and funds spent upgrading and maintaining the Harbor.

Motion made by Councilman Brown, seconded by Councilman Davis and unanimously approved to proceed in sending the letter.

*F. Letter to Northampton County On Boundary Line Adjustment

Mr. Krawczel outlined for Council the standard for evaluating the merits of a boundary line adjustment. Discussion was held as to the desirability of a boundary line adjustment and the relative ability for the Town to provide services to the area such as sewage treatment, water, solid waste collection, crime prevention, fire prevention, etc.

Motion made by Councilman Brown, Seconded by Councilman Davis and unanimously approved to direct the Town Manager to work with the Town's attorneys to develop an appropriate request to Northampton County for Town Council consideration at the March Meeting.

G. Rosenwald School Options

Tim Krawczel reviewed the history of the Rosenwald School and the interest lately expressed by many individuals including the Council on trying to restore and preserve the school. To be eligible for grant funding, it would be advisable for the structure to be named as a historic landmark. This would also make it eligible for Federal and State tax credits. Mr. Krawczel informed Council that the Planning Commission unanimously passed a motion to request that the HDRB draft a proposal for the inclusion of the Rosenwald School in the Town's Historic District. He asked Council to provide guidance on how to proceed.

*H. Extension of BPOL Tax Rebate

There was no discussion.

Motion made by Councilman Brown, seconded by Councilman Davis and unanimously approved that the Town of Cape Charles rebate BPOL taxes paid in 2006 on the following schedule: (1) 50% for professional and retail categories; (2) 33.3% for service businesses. The rebate shall apply to all businesses in the affected category who pay their 2006 BPOL tax by April 17, 2006 and who are still in business in 2007. Polled vote: Sullivan, yes; Brown, yes; Davis, yes; Evans, yes; Veber, yes.

I. Historic Preservation Weekends

There was limited discussion.

Motion made by Councilman Brown, seconded by Councilman Evans and unanimously approved to use funds from the education and training line items from Historic District Review Board and from the Planning Commission to purchase one ticket for each of the Historic Preservation Weekends.

J. Water System Planning

Mr. Krawczel reviewed with Council new information for water availability. The Virginia Department of Health agreed to allow 450 new connections under the following two conditions: File an annual Water Monitoring Program Report beginning with June, 2007 to analyze the number of connections and water usage per connection; and expand the Town's water treatment plant with the goal of designing, permitting, constructing and bringing into service the new plant capacity by January, 2008.

In addition, Mr. Krawczel reported Town Officials agreed to allocate 225 connections of the 450 for new lots at Bay Creek. The remaining 225 connections would be reserved for infill development in Town, the STIP, and vacant lands such as the Martin Farm and the Gallagher and Tavi properties.

Motion made by Councilman Evans, seconded by Councilman Veber and unanimously approved to adopt the resolution as presented. Polled vote: Sullivan, yes; Brown, yes; Davis, yes; Evans, yes; Veber, yes.

Announcements

- A. Historic Preservation Weekends – Starting February 18th at Palace Theatre
Mayor Lewis referred to the Public Comment section for information on this item.
- B. Letter of Appreciation from Star Transit letter in file
Mayor Lewis directed Council's attention to the letter in the packet thanking the Town Council for the support they have always given to Star Transit.
- C. Town of Cheriton Planning Grant
Mayor Lewis again directed the Council's attention to the letter in file indicating that the Town of Cheriton is in the early stages of utility planning. The letter invites the Council member to attend several of the discussions.
- D. Accomack-Northampton Transportation District Commission Press Release Regarding New Management
The Mayor announced for those that were unaware that Dick Foster had taken over the daily business of running the railroad.

- E. February 28, 2006 Public input session on Harbor Master Plan and Design will be held at 6:30 p.m. at the Palace Theatre.
The Mayor referred back to the Planning Commission report where Town Planner Jason Pruitt covered this item.

Motion made by Councilman Brown, seconded by Councilman Davis and unanimously approved to go into Closed Session – In accordance with Section 2.1-344A of the Code of Virginia of 1950 as amended for the purpose of Paragraph 1 – Discussion or Consideration of Personnel Matters, specifically Medical Leave.

Motion made by Councilman Veber, seconded by Councilman Brown and unanimously approved to go back into regular session.

Motion made by Councilman Veber, seconded by Councilman Brown and unanimously approved that we discussed only those things from which the closed session was called. Polled vote: Sullivan, yes; Brown, yes; Davis, yes; Evans, yes; Veber, yes.

Motion made by Dora Sullivan, seconded by Charles Brown and unanimously approved to recess the meeting until February 22, 2006 at 5:00 p.m. the Special Session of the Cape Charles Town Council.

Mayor

Town Clerk