



# Town Council

## Regular Session

January 9, 2007  
7:30p.m.

At approximately 7:30 p.m. in Town Council Chambers Mayor Dora Sullivan called to order the Regular Session of Town Council. In addition to Mayor Sullivan, present were Council woman Mary Harris, Councilmen John Burdiss, Charles Brown, Gerald Elliott, Chris Bannon and Bruce Evans. Also present were Town Manager Tim Krawczel, Town Planner Jason Pruitt, Town Clerk Joy Pelletier, several staff members and approximately fourteen members of the public.

Councilman John Burdiss led the invocation and all recited the Pledge of Allegiance.

### Public Comments

E-mail from Rich Wagner read into record – see attached.

E-mail from Mark Usry read into record – see attached.

**Motion Made by Councilman Brown, Seconded by Councilman Evans and unanimously approved to accept the Agenda as amended adding item 7B to New Business, Town Manager Evaluation form.**

**Motion made by Councilman Brown, seconded by Councilman Bannon and unanimously approved to accept the minutes as presented.**

### Report Presentations

*A. Treasurer's Report*

See attached

**Motion made by Councilman Brown, seconded by Council woman Harris and unanimously approved to accept the Treasurer's report**

*B. Planning Commission*

See attached.

*C. Public Works*

See attached. Also, Councilman Bannon requested direction be given to spend funds to upgrade the lighting in the Library.

### Old Business

*A. Selection of Consultant for TEA-21 Funded Multi-Use Path.*

Mayor Sullivan introduced Carol Rizzio and Bill Spivey of Land Studio, p.c. who presented by means of power point a brief synopsis of their company, their abilities, the history of Cape Charles, how they perceive the project, and their method carrying the project to completion. Ms. Rizzio explained they would work in prioritized segments, that they were budget conscience and

historically minded. She also mentioned the company could help with finding sources of financing the project.

Town Manager Tim Krawczel reiterated that the project would be handled in phases, Phase I being the creation of a Master Plan. The Master Plan phase would include a meeting with key stakeholders, a charted design, a preliminary trail plan and the Master Plan. He indicated the cost of Phase I would be approximately \$31,000 and might take up to six months to complete.

Councilman Evans requested the Master Plan include a drawing encompassing the Conservation Area, the Bay Creek Property, the Gallagher Property, Heritage Acres and Marina Village to be incorporated into the Comprehensive Plan.

**Motion made by Councilman Bannon, seconded by Councilman Brown and unanimously approved to contract with Land Studio, p.c. as the consultants for the TEA-21 Funded Multi-Use Path.**

*B. Erosion and Sediment Control Regulations and Fees*

Tim Krawczel opened the topic by commenting on input from Steve Bennett (see attached). Mr. Bennett's comments were made on the basis of the July, 2006 edition of the Virginia Erosion and Sediment Control Law, Regulations and Certification Regulations.

Building official Doug Smith then summarized the E&S Ordinance and explained the revisions were the result of review by DCR of our Ordinance. The proposed revisions were created with input from DCR and brought the Town in line with their expectations. Ian Edwards from DCR was available to answer specific questions.

Councilman Evans expressed concern over a section of the Ordinance which stated a "person enrolled in the course can complete the review." His concern was that someone who was not yet certified was authorized to complete the review – he asked why that was allowed. Ian Edwards indicated the rationale was so that localities would not fall behind in the inspections. He stated that the Certification was a six month process with the examination held only twice a year. He further asserted the candidates would practice in the field what they learn in the classes with mentorship available to help in the review process.

**Motion made by Councilman Evans to adopt the ordinance and fee schedule as presented with the exception that the person doing the review be certified and not just enrolled in classes. Mr. Edwards interjected then the Ordinance would not comply with the State's regulation. He went on to say in section 570 of the regulations a jurisdiction could adopt an Ordinance less restrictive than the State's Code, but could not make the Ordinance more stringent.**

**Councilman Evans amended the motion to adopt the ordinance and fee schedule as presented, but put in place a policy that the Town would use only Certified Inspectors. Councilman Brown seconded the motion with unanimous approval.**

*C. Implementation of Rehab Report on Water Treatment Plant*

Mr. Krawczel indicated this item was for informational purposes, only to keep Town Council apprised of the process of rehabilitating the water plant. He then introduced Patrick Christman, the acting Director of Utilities to describe the recent developments at the water plant.

Councilman Burdiss inquired on the procurement process for the \$200,000 expenditure. He voiced concern over the appearance of Roberts Filters being hired without following the proper bidding process. Mr. Krawczel assured Councilman Burdiss with the help of the attorney, the engineers, prior bidding, and the unique characteristics of the parts which would have to be re-engineered if another firm was contracted, that the Town was in compliance with the procurement process. He also mentioned the timeliness of the project was significant, and as this rehab was certified as an emergency the procurement process was allowed certain allowances which were being followed. Mr. Burdiss asked for assurance that the appropriate documentation would be available for inspection.

Warranties were also discussed.

**New Business**

*A. Appointment to Building Code Board of Appeals*

Doug Smith introduced Matthew Brown as a candidate to fill the vacancy on the Building Code Board of Appeals. He presented Mr. Brown's qualifications and expressed the necessity of filling the void prior to the next Building Code Academy which was scheduled for April. Several Councilmen discussed their familiarity with Mr. Brown's work experience and accomplishments.

**Motion made by Councilman Burdiss, seconded by Councilman Elliott and unanimously approved to appoint Matthew Brown as a member of the Building Code Board of Appeals.**

**The motion was amended by Councilman Burdiss, seconded by Councilman Elliott and approved with one abstention (Councilman Brown) to waive the interview process and appoint Matthew Brown as a member of the Building Code Board of Appeals.**

*B. Town Manager Evaluation Form*

Councilwoman Harris stated the Town Manager's performance had not been evaluated for FY 2005/2006. In preparing the evaluation it was decided the format no longer corresponded to the Town Manager role and attributes; therefore, the form had been revised and distributed to the Council members. Three items were recommended as follows:

- 1) Council adopts the redesigned "Town Manager Performance Evaluation" as the official evaluation tool for the Town Manager position.
- 2) Council members and Mayor submit completed evaluations to the Mayor no later than 5:00pm on January 16, 2007.
- 3) Council approves evaluation date of January 23, 2007. Evaluation takes place between the Town Manager and the Mayor, using compiled results of all submitted evaluations.

**Motion made by Councilman Brown, seconded by Councilman Burdiss and unanimously approved to follow the recommendations as listed above.**

#### **Announcements**

Councilman Bannon announced the Epiphany party raised approximately \$3,920 for the Volunteer Fire Company and there was yet more to come. He also mentioned a poster was reproduced in limited edition of 75 copies, the proceeds of which will be donated to the Fire Company.

**Motion made by Councilman Brown, seconded by Councilman Evans and unanimously approved to recess for fifteen minutes.**

**Motion made by Councilman Brown, seconded by Councilman Evans and unanimously approved to return to open session.**

**Motion made by Councilman Brown, seconded by Councilman Elliott to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of paragraph 7, Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel; specifically: Annexation agreement/water & wastewater treatment plants and related issues.**

**Motion made by Councilman Brown, seconded by Councilman Elliott and unanimously approved to return to Open Session.**

**Motion made by Councilman Brown, seconded by Councilman Elliott and unanimously approved to certify to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or**

**considered in the meeting by the public body. Roll Call vote: Brown, yes; Harris, yes; Burdiss, yes; Bannon, yes; Evans, yes; Evans, yes.**

**Motion made by Councilman Brown, seconded by Councilman Elliott and unanimously approved to adjourn the meeting.**

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**Mayor Sullivan**

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**Town Clerk**