



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
October 9, 2008
7:00 p.m.

At approximately 7:00 p.m. Mayor Dora Sullivan called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Councilmen Bannon, Bennett, Burdiss, Evans and Veber. Councilman Elliott was not in attendance. Also in attendance were Town Manager Joe Vaccaro, Assistant Town Manager Heather Arcos, Town Planner Tom Bonadeo, Town Clerk Libby Hume and several members of staff and approximately 15 members of the public.

PUBLIC COMMENTS:

Mr. Melvin Dudley, 303 Madison Avenue, addressed the Town Council regarding the Community Trail requesting that the Town Council move forward and approve the application and resolution.

Mr. Erin Harvey, 123 Peach Street, stated his disappointment in the Town Council's difficulty in digesting the meaning of the public's opinions. He stated that the opinions expressed at the Planning Commission Public Hearings were more in favor of the project, but the more recent Public Hearings held by the Town Council were 100% against the project. Erin Harvey advised the Council to not over inflate the positive comments stating that the more recent comments were negative. He concluded by stating that he wants to see Cape Charles brought back to it's hey day but cautioned that the "If you build it they will come" concept is not the way to do it.

Ms. Judy Morgan, Landmark Holdings, stated that she and members of her team were here to support their application and would be happy to answer any questions that may arise.

Ms. Andie Morgan, 10 Tazewell Street, stated that with the current economy, the Town Council has a positive and unique opportunity to take their time to think through this project to make sure that the right decision is made. She reiterated the following: i) additional traffic studies needed to be done, especially on Randolph Avenue; ii) if Cape Harbor does get approved, Cape Charles does not yet have a pattern book for the Harbor District; iii) Cape Charles has not decided whether to build our own water treatment plant or a regional plant with Cheriton with a January 2011 deadline. Decisions need to be made on this to ensure that we have sufficient facilities in place. She concluded by stating that more information was needed.

Town Clerk Libby Hume read an email from Etta K. Pruitt stating that she shared the reservations and concerns expressed so eloquently by Erin Harvey and Karen J. Davis regarding the Cape Harbor Project.

Libby Hume read a fax from Laura Calnan expressing her concerns regarding the Cape Harbor Project questioning the density, height and size of the project and stating that 420 units was potentially harmful to the Historic District. Laura Calnan recommended immediate contact with the Department of Historic Resources in Richmond and strongly urged the Town Council to not move forward on this project until all concerns are answered.

Town Planner Tom Bonadeo read a letter from the Board of Directors of The Cape Charles Historical Society stating that part of their mission was to preserve and display the local history thereby creating a sense of place and heritage for future residents and visitors to Cape Charles. The Board of Directors requested that the Town Council consider the effects of their decisions on the maintenance of our historic small railroad town character and do their best to help preserve the Town's character for future generations.

CONSENT AGENDA:

Mayor Sullivan requested the following changes: i) move the discussion regarding Item 7A-Broadband Project-Grant Requirements from New Business to follow Item 6A-Cape Charles Community Trail-Application and Resolution under Old Business; ii) add new item 7C-Keck Property under New Business.

Motion made by Councilman Evans, seconded by Councilman Veber and unanimously approved to amend the agenda as described above.

The Town Council reviewed the minutes of the following meetings: August 14, 2008 Public Hearing, August 14, 2008 Regular Meeting, August 14, 2008 Executive Session, August 19, 2008 Work Session, September 3, 2008 Work Session, September 11, 2008 Executive Session, September 11, 2008 Public Hearing / Regular Meeting and the September 15, 2008 Executive Session.

Councilman Veber requested the minutes of the September 11, 2008 Regular Meeting, page 4 regarding the motion, be amended to show that the Council approved the motion to table further discussion regarding the Zoning Ordinance changes for Accessory Dwellings with Councilmen Veber and Elliott opposed to allowing accessory dwellings.

Libby Hume stated that the minutes of the August 14, 2008 Public Hearing, page 4 regarding Mary Miller's comments, needed to be corrected to show Ms. Judy Morgan's reply to Ms. Miller's question regarding inclusionary housing was that Landmark did not have any approvals yet. Ms. Miller restated her question to the Town Council asking whether there was any reference to inclusionary housing in the application being reviewed to which several Council members replied "not to their knowledge."

Councilman Bannon requested the minutes of the August 14, 2008 Executive Session be amended to show that Councilmen Bannon, Elliot and Veber walked out of the meeting and broke the quorum.

Motion made by Councilman Bannon, seconded by Councilman Veber and unanimously approved to accept the minutes as amended with the exception of September 3, 2008 and September 25, 2008 for which Councilman Evans abstained since he was not in attendance.

REPORT PRESENTATIONS:

A. Treasurer's Report:

Treasurer Paul Skolnick reviewed the Treasurer's Report dated September 30, 2008 showing \$34,209 in the Bank of America checking account and \$956,417 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$990,627. Mr. Skolnick reported that he received the real estate assessment books from Northampton

County which was approximately 99% complete. The real estate assessments should be finalized by the County by October 31, 2008. Mr. Skolnick also stated that in light of the economy, he contacted the LGIP and informed the Council that our investments are safe and have not lost significant value. He will continue to check on the investments regularly. Mr. Skolnick went on to report that the bulk of the tax revenue will come in during December which amounts to just under \$1M. Mr. Skolnick also reported that we just completed the first quarter of this fiscal year and the departmental budget reports have been distributed and he has advised the department heads to pay close attention to spending and to review their budgets to see what can be reduced if needed.

Councilman Bannon stated that with the current economy many citizens may have difficulty paying their water bills and taxes to the Town and would like to see this topic added to the agenda for the November 19, 2008 Retreat for discussion regarding the possibility of waiving penalties, etc. He also suggested discussion regarding the possibility of layoffs within the Town if necessary. Town Manager Joe Vaccaro replied that a hiring freeze has already been put in place. A police officer may be leaving and if so, his position will not be filled at this time.

Councilman Burdiss asked if the Town has any resources or credit lines available in case the projected revenue does not come in as expected. Mr. Skolnick responded stating that the Town does not have any credit lines at this time but that he has been in contact with the Virginia Municipal League regarding their programs. Until the first quarter review has been completed, the impact cannot be determined. After further discussion, Councilman Burdiss concluded by stating that he would like to have a credit line in place as a backup if needed.

Motion made by Councilman Bannon, seconded by Councilman Burdiss and unanimously approved to accept the Treasurer's report as presented.

B. *Planning Commission:*

Town Planner Tom Bonadeo reported that the Planning Commission met on September 15, 2008 to discuss the following: i) a definition for an Open Space Zone which will be worked over the next several meetings; ii) a text change to add Public Utility Facility as a use in the Harbor District so that pump stations can be built as part of development such as Cape Harbor, Harbor Development and South Port; iii) Joan Natali was nominated for the Harbor Historic Review Board and Eileen Cobb was nominated for the Trail Committee as a replacements for Karen Davis; iv) discussion regarding the Keck Property was tabled to their October meeting due to the lack of quorum to continue discussion. Mr. Bonadeo also reported that the Planning Commission held a work session on September 29, 2008 to continue their work on the Comprehensive Plan Review and have scheduled another work session for October 20, 2008 to continue their review. Mr. Bonadeo continued by stating that the Planning Commission held their October meeting on October 7, 2008 and their recommendation regarding the Keck Property will be reviewed later in this meeting.

Mayor Sullivan asked whether the Planning Commission had any candidates to fill their vacancy. Mr. Bonadeo responded stating that the Commissioners have several candidates which will be forwarded to the Town Council for their review.

Councilman Bennett asked whether the Comprehensive Plan will be presented to the Town Council as a whole or in sections. Mr. Bonadeo responded stating that the Comprehensive Plan was a redesign of the existing plan and upon completion will be presented to the Council for their review in its entirety.

C. *Historic Review Board:*

Town Planner Tom Bonadeo reported that the Historic District Review Board did not meet in September.

D. *Public Works Report:*

Public Works Director Dave Fauber reported the following: i) a new software package designed for small water and wastewater treatment plants is being installed; ii) He, Bob Panek and Paul Skolnick attended the Virginia Tech workshop in Richmond regarding Operating and Financing a Sustainable Water Works; iii) He, Bob Panek and Patrick Christman toured three (3) wastewater treatment plants with members of Stearns and Wheler and Zenon which manufactures wastewater filters; iv) He and Bob Panek toured two (2) composting facilities with Stearns and Wheler; v) Thomas Stratton, Ron Bailey, Gerald Elliott and Billy Powell attended a leak detection class in Exmore sponsored by the Virginia Rural Water Association; vi) He met with Stearns and Wheler to start work on the Wastewater Task Order 5, engineering and contracting the new Wastewater Treatment Plant; vii) He met with Tom Saunders regarding construction of the bio-filter at the New Quarter vacuum pump station; viii) Kathleen Stevens, who had been working part time at the Harbor, is now working full time on the Public Works crew; ix) Several banner rods needed to be replaced around Town so during the process of replacing the rods, the holiday banners have been put up; x) Pete Leontieff is doing a great job. Mr. Fauber went on to list several upcoming projects as follows: i) removal of sludge from the polishing pond; ii) water system flushing; iii) maintenance of the beach crossovers and sand fences, which were being installed today; iv) construction on the police department office space in the Town Hall. Mayor Sullivan asked Tom Bonadeo to explain why the snow fences were being placed on the beach at 45° angles. Mr. Bonadeo explained that the beach runs north to south and the winds blow usually at a northwestern direction and by placing the fences at 45° angles they will stop the sand from blowing into the street and form dunes. These fences will be removed prior to the summer.

Councilman Bennett stated that he heard about two (2) recent water leaks and asked about the amount of water that was lost as a result of these leaks. Mr. Fauber responded stating that the leak at the wastewater plant was on the well side so no water was lost and approximately 20K gallons were lost as a result of the leak at the police station. Councilman Bennett went on to ask about the ground water withdraw permit. Mr. Fauber responded stating that the paperwork had been submitted to the Department of Environmental Quality but he has not yet heard back from them.

E. *Recreation Report:*

Youth Director Tad Tadbom reported on the following activities which were all very successful: i) He worked with Jim Weiner to organize fishing activities; ii) He attended the September Northampton County Anglers Club (“NCAC”) meeting; iii) The flag football outing held on Saturday, September 20, 2008 had a great turnout with approximately 25 participants. Mr. Tadbom went on to report on projects that are in the works as follows: i) He would like to formalize a relationship with the NCAC by joining and bringing some of the Town children to the outings; ii) He would like to participate in

the NCAC-sponsored fishing outings in June and July 2009 and hold a town-sponsored derby in August; iii) He will be assisting with the Teen Read Week movie night at the Library on October 18, 2008; iv) He is compiling a tentative schedule of events through early 2009 to be posted on the Town's website; v) His major focus for the future is on networking to increase mentor and volunteer support.

F. *Harbor Report:*

Harbormaster Smitty Dize reported the following: i) He was told verbally by the inspector that the Harbor had passed all the tests related to the clean marina program and he should know for certain by October 14, 2008; ii) Scheduled maintenance for October includes cleaning, painting, weeding, planting, replacement of the fuel filters and having the fire extinguishers inspected and recharged if necessary.

G. *Library Report:*

Librarian Ann Rutledge stated that the Library remains busy and her emphasis is on providing free programs to the public. She reported the following: i) A workshop series based on the Spiritual Teaching of Eckart Tolle began this month and will be held on the 1st and 3rd Wednesdays of each month from 7 PM – 9 PM; ii) 35 children from the Cheriton Migrant Headstart program attended Storytime at the Library; iii) The Remarkable Trees of Virginia presentation was held on October 7, 2008 and three (3) people attended; iv) Teen Read Week is next week with a movie, Blood & Chocolate, being shown on October 18, 2008; v) October 18, 2008 is also Safe Kids Saturday and safety films will be shown, fingerprinting will be available as well as other activities; vi) Other upcoming programs are a Memoir Workshop and an AARP Safety Class.

OLD BUSINESS:

A. *Cape Charles Community Trail – Application and Resolution:*

Assistant Town Manager Heather Arcos requested permission from the Town Council to submit the TEA-21 Application for the Cape Charles Multi-Use Trail for Phase 1 – Central Park and asked that the Council adopt the Virginia Transportation Enhancement Program Project Endorsement Resolution. Councilman Bennett requested that the amount of expenditures and funds from the grants be input into a spreadsheet to make it easier to review. Ms. Arcos responded stating that she will create a spreadsheet with this information. Councilman Burdiss asked if the Town had to pay for the work first and file for reimbursement. Ms. Arcos explained that the Town does have to pay for the work but the reimbursement process takes approximately 30 days. There was much discussion regarding funding from the grant and the Town's match.

Motion made by Councilman Bannon, seconded by Councilman Bennett and unanimously approved to approve the resolution and authorize Ms. Arcos to file a TEA-21 grant application for the Cape Charles Multi-Use Trail.

7A. *Broadband Project – Grant Requirements:*

Town Planner Tom Bonadeo gave some background regarding the Broadband Project then introduced Ms. Barbara Schwenk, Economic Development Coordinator for the Accomack-Northampton Planning District Commission (“A-NPDC”) who gave an overview of the project and the documents needing approval.

Motion made by Councilman Evans, seconded by Councilman Burdiss to adopt the following Plans, Policies, contracts and Authorizations: 1) Local Business Employment

Plan; 2) Non-Discrimination Policy; 3) Anti-displacement Plan; 4) Fair Housing Promotion Plan; 5) Section 504 Non-Discrimination on Basis of Handicap Plan; 6) Designate the Mayor as Certifying Officer for the Environmental Review; 7) Contract with A-NPDC for administrative services for the grant (paid from grant funds); and 8) Authorize the Mayor to execute agreements with the Virginia Department of Housing and Community Development (“DHCD”) and the Eastern Shore of Virginia Broadband Authority (“ESVBA”) for the broadband grant purposes. The motion was unanimously approved by the Town Council.

B. Regional Water and Wastewater System:

Bob Panek updated the Town Council on the status of the Regional Water and Wastewater System stating that both Cape Charles and Cheriton have adopted the model guidelines for evaluation of proposals and selection of a private partner and have agreed to pursue a formal agreement between the two (2) towns to exercise the responsibilities of the public partner. Future steps that are required are as follows: i) finalize the agreement between the two (2) towns and adopt it via Council Resolution; ii) adopt the necessary revisions to the water and wastewater ordinance; iii) appoint a citizen Board for oversight of the partnership; iv) accept and evaluate a proposal from the private partner, Webster Investors, and negotiate a comprehensive partnership agreement if the proposal is economically advantageous; v) if a comprehensive agreement for a public-private partnership is consummated, terminate the Town’s project to build a new wastewater treatment plant.

C. Cape Harbor Project:

Councilman Evans stated that in order to avoid any appearance of a conflict of interest regarding his previous deal with Tavi in 2002, he would recuse himself from this discussion. Tom Bonadeo stated that the Town Council had previously discussed the three (3) uses in this application and recommended that each condition recommended by the Planning Commission be reviewed individually in order for the Council to accept, modify or deny the condition. There was much discussion amongst the Council members regarding their readiness to make a decision and whether an outside consultant should be hired to assist in these discussions and where a consultant could be found. Councilman Evans reminded Mayor Sullivan that Crisfield had a consultant that they recommended.

Motion made by Councilman Bannon, seconded by Councilman Veber, to table further discussion regarding the Cape Harbor Project to allow Town Manager Joe Vaccaro time to contact the Mayor of Crisfield, MD and the VML to get names of recommended consultants. The vote was split with Councilmen Bannon and Veber voting for and Councilmen Bennett and Burdiss voting against the motion. Mayor Sullivan broke the tie by voting for the motion.

NEW BUSINESS:

B. Designate a Day/Week for Council Work Sessions:

Town Manager Joe Vaccaro informed the Council that Councilman Evans previously suggested selecting a specific date for any additional Council work session so members and staff could plan their schedules accordingly and recommended designating the fourth Thursday of each month, beginning at 5:30 PM, for a work session, if needed. Mr. Vaccaro went on to recommend that the Work Session to discuss the Zoning Ordinance modifications regarding Accessory Dwellings be scheduled for Thursday, October 23,

2008. Councilmen Bannon and Evans stated that they would not be able to attend and requested an alternate date.

Motion made by Councilman Burdiss, seconded by Councilman Bennett and unanimously approved to designate the fourth Thursday of each month for a work session if needed. The work session regarding Accessory Dwellings will be scheduled for a date in November.

C. Keck Property Rezoning:

Tom Bonadeo informed the Town Council that a Conditional Rezoning application had been received and reviewed by the Planning Commission who recommends approval of the application for rezoning the 15.6 acre parcel from R-E to R-3 with the following conditions and proffers: i) no more than 100 dwelling units; ii) 100' Class III buffer along the western boundary and Old Cape Charles Road to be planted with the commencement of construction on the property; iii) future development shall be designed and constructed to provide for access to a future road connecting to Route 184; iv) the eastern 17.7 acre portion will be dedicated to the Town of Cape Charles with deed restrictions. The deed restrictions are as follows: i) the Town shall retain ownership of the property for 15 years; ii) the property shall not be used for commercial or residential development; iii) a 100' buffer shall be maintained on the common boundary of the two (2) parcels and the residents; iv) the 100' Class III buffer will be continued along Old Cape Charles Road to the residents' properties; v) the property may be rezoned but the deed restrictions will remain in force. Tom Bonadeo went on to recommend that the Town Council schedule a public hearing at its next regular meeting.

Motion made by Councilman Bannon, seconded by Councilman Bennett to schedule a Public Hearing to hear comments regarding the Keck Property Rezoning for November 13, 2008. The motion was approved by a majority vote with Councilman Burdiss abstaining from the vote stating that he did not believe there was a conflict of interest but he would get clarification prior to the next meeting.

ANNOUNCEMENTS:

- Council Work Session – One Day – November 19, 2008 at the Town Hall
- Public Information Presentation re: Water & Wastewater System Project and Annexation to be given by Bob Panek – October 16, 2008 @ 5:30 PM at the Town Hall

Motion made by Councilman Bannon, seconded by Councilman Bennett and unanimously approved to adjourn the Town Council meeting.

Mayor Sullivan

Town Clerk