



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
November 13, 2008
7:00 p.m.

At approximately 7:00 p.m. at the St. Charles Parish Hall, Vice Mayor Bannon called to order the Regular Session of Town Council. In addition to Vice Mayor Bannon, present were Mayor Sullivan, Councilmen Bennett, Burdiss, Elliott, Evans and Veber. Also present were Town Manager Joe Vaccaro, Assistant Town Manager Heather Arcos, Town Planner Tom Bonadeo and Town Clerk Libby Hume. Several other members of staff were present as well as 18 members of the public.

PUBLIC COMMENTS:

Mr. Melvin Dudley, 303 Madison Avenue, addressed the Town Council stating the following: i) He worked the polling station in Cape Charles and there was a good turnout with 918 voters coming in on November 4th and 200 voters by absentee ballot out of a total of 1499 voters in the precinct; ii) He has been following the Planning Commission discussions over the past several months and he agrees with their recommendation for approval of the Keck property rezoning application; iii) He agrees with the Memorandum of Agreement between the Town of Cape Charles and the Citizens for Central Park.

Ms. Sharon BJORLO addressed the Town Council asking for support from the Town for the Randy Custis Park in Nassawadox in the form of a sponsorship for a new field.

Ms. Judy Morgan, Landmark Holdings, addressed the Town Council stating that Landmark supports an impact study, stating that the traffic created would have a nominal impact on the Town and new businesses would help bring the Town to life and existing businesses would prosper with immediate benefits being an increase in rentals, restaurant traffic and in retail shops. Judy Morgan went on to state that she is confident that a consultant would see this as a project that embraces the information in the guiding documents and brings the concepts to reality. The Town previously hired a professional to help develop the guiding documents for the Harbor District and the Planning Commission used that information and the guiding documents to make their recommendation. Ms. Morgan concluded by stating that a consultant at this point would be providing redundant information at a redundant cost and that the Town Council has the ability to rely on the recommendations from the Planning Commission and the ability to use its good decision-making ability to approve this application to allow it to move forward in the review process.

Town Clerk Libby Hume read a letter from Mr. Chuck Little, 8 Randolph Avenue, addressing his concerns on the Cape Harbor Project in regards to the mass of the buildings in relation to other residential and commercial areas along Mason Avenue and the architectural aspects of the project. Mr. Little suggested that deliberations include the following issues and considerations: i) The proposed project would take approximately up to 11 – 12 years for build out using the average sales of Bay Creek as an example; ii) Strong consideration should be given to whether the project should be considered as a whole since it will more than likely still be in progress 11 – 12 years from now and a great deal will change in Cape Charles over the next 11 – 12 years; iii) The developer has successfully bought and sold real estate on the Eastern Shore but Mr. Little pointed out that his completed projects on the shore

are limited to upgrading the Kiptopeke Inn, installing a number of billboards on Routes 13 and 184 and in Cheriton, developing Waverly Landing Estates which consists of two brick entrance monuments and a paved road, and the renovation of a house on the Cape Motel property. Mr. Little went on to suggest that, given the issues and considerations that he has raised, he believes that it would be prudent to limit approval on this project to three (3) to six (6) phases, for individual approval, that would be less long term and would be more in keeping with the current character of the Town so adjustments could be made along the way to better reflect the changing nature and demographics of the community. Mr. Little concluded by pointing out the planned waterfront condominium project at Willoughby Spit in Norfolk had reservations on 50% of the units but still lost the financing and now an abandoned construction site sits where a motel and restaurant used to be.

CONSENT AGENDA:

Vice Mayor Bannon requested to add discussion and action regarding the Eastern Shore Library Agreement under Report Presentations, Item G-Library Report.

Councilman Burdiss requested that under Old Business, Item A-Regional Water and Wastewater System, the two (2) Action Items be considered individually.

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

The Town Council reviewed the minutes of the following meetings: July 10, 2008 Joint Public Hearing with the Planning Commission, July 10, 2008 Regular Session, July 31, 2008 Joint Work Session with the Planning Commission, October 2, 2008 Work Session, October 9, 2008 Executive Session and the October 9, 2008 Regular Session.

Councilman Bennett pointed out several corrections to be made on page 4 of the October 9, 2008 Regular Session.

Motion made by Councilman Burdiss, seconded by Councilman Evans and unanimously approved to accept the minutes as amended.

REPORT PRESENTATIONS:

A. Treasurer's Report:

Treasurer Paul Skolnick reviewed the Treasurer's Report dated October 31, 2008 showing \$59,659 in the Bank of America checking account and \$813,351 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$873,009. Paul Skolnick informed the Town Council that the real estate tax bills totaling approximately \$947K and personal property tax bills totaling approximately \$159K were mailed out on November 5, 2008. Also mailed out were the decals which totaled approximately \$25K.

There was much discussion regarding financing for several upcoming projects and Paul Skolnick informed the Council members that he has been working with VML regarding a line of credit or loan to fund the upcoming projects but until he gets a definite direction for the projects, he cannot move forward with obtaining financing.

Motion made by Councilman Bennett, 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 October 20, 2008 for a work session on the Comprehensive Plan. The Planning Commission met on November 4, 2008 for their regular meeting and discussed the following: i) reviewed a new definition for an Open Space District and a public hearing has been scheduled for November 17, 2008; ii) an Adaptive Reuse and Rehabilitation Ordinance for Cape Charles was discussed to encourage the renewal of empty special purpose buildings whose purpose does not fit the zone in which they exist. Public opinion will be sought prior to generation of an ordinance.

C. *Historic Review Board:*

Town Planner Tom Bonadeo reported that the Historic District Review Board met on October 21, 2008 and approved a new garage plan for the property on the corner of Jefferson Avenue and Nectarine Street with two (2) options as follows: i) as presented, the garage doors open to Nectarine Street; ii) the Town has a wastewater line under the property that does not appear to have a recorded legal easement. When the easement issue has been resolved, an alley easement could be put in place for this block requiring the garage doors to open to the alley and the garage would be moved further into the yard to meet the required setback.

Vice Mayor Bannon stated the he is seeing satellite dishes on the fronts of houses in Cape Charles which is not allowed by the current ordinance. Tom Bonadeo stated that he will check into the situation and contact the respective satellite dish companies.

D. *Public Works Report:*

Public Works Director Dave Fauber reported the following: i) his crew has planted flowers along Bay Avenue; ii) his crew has been cleaning leaves; iii) He and Kathleen Stevens have received their certification for Ornamental and Turf Pest Control; iv) He and Patrick Christman visited sites in Sussex County, DE and Princess Ann, MD to observe their filter presses.

Councilman Bennett asked about the ground water permit which expires this month. Dave Fauber responded that he has been in touch with the DEQ who stated that they were behind in their paperwork and we will probably be operating for several months without a permit with DEQ permission.

E. *Recreation Report:*

Youth Director Tad Tadborn reported the following: i) the soccer goals have been installed and special thanks were given to Jim Mahaffey who volunteered his services for this project, Buddy, Kate and Pete; ii) The Fall Dance is scheduled for November 22nd and volunteers are needed from 6:00 – 11:00 PM for chaperones and he thanked Mayor Sullivan for her help in raising funds. Tad Tadborn went on to inform the Council members that the location of the dance may have to be moved since the fire trucks cannot be moved outside if the temperature falls below 20°.

F. *Harbor Report:*

Harbormaster Smitty Dize reported the following: i) he distributed copies of the Virginia Clean Marina Certificate to all the Council members; ii) the stripes for the boat ramps should be painted by this weekend; iii) permits were received for the inshore breakwater but still waiting for the permits for the offshore breakwater.

Councilman Burdiss asked about the revenue being down this year and Smitty Dize explained that his numbers were down due to lower fuel sales and the restrictions on crab dredging this winter. Smitty Dize informed the Council members that several watermen have filed a suit against the VMRC and the court date is scheduled for November 24, 2008.

Councilman Burdiss expressed his concern regarding if the offshore breakwater gets approved when will the funding for this project will needed. Smitty Dize responded that he has applied for a boating infrastructure grant and is expecting a decision in March 2009.

Vice Mayor Bannon congratulated Smitty and his staff in obtaining the Virginia Clean Marina designation.

G. Library Report:

Librarian Ann Rutledge stated the Library held 14 programs during the month of October and had 211 attendees. 114 children came to the Library on Halloween. Ann Rutledge informed the Council members that she attended the Virginia Library Association convention in Williamsburg on October 23-24 and that she feels that the Northampton Memorial Library provides all the services of the larger libraries throughout Virginia, but in a smaller scale.

Vice Mayor Bannon informed the Council members that the Library Board had scheduled a Public Information meeting on December 3, 2008 to obtain input regarding the proposed name change. Vice Mayor Bannon went on to read the Library Services Agreement between Eastern Shore Public Library and the Town of Cape Charles and requested the Town Council approve the agreement.

Motion made by Councilman Evans, seconded by Councilman Elliott and unanimously approved for Town Manager Joe Vaccaro to sign the Library Services Agreement as presented.

OLD BUSINESS:

A. Regional Water and Wastewater System – Termination of Planning Efforts:

Councilmen Burdiss and Elliott remained in the room but did not participate in the discussion. Consultant Bob Panek updated the Council members on the status of the Regional Water and Wastewater System and recommended termination of the current planning efforts under the Memorandum of Understanding (“MOU”) with Cheriton and Webster Investors, LLC. There was much discussion regarding the waste load allocation and whether there would be any financial impacts if the January 2011 deadline was not met. Bob Panek explained that there were no financial impacts, but the discharge permit for the wastewater treatment plant would be reduced from 500K GPD to 250K GPD. Bob Panek went on to explain that the recommendation is to just terminate the planning efforts and that private entities are welcomed to submit proposals for consideration at any time.

Motion made by Councilman Bannon, seconded by Councilman Veber, to terminate the current planning efforts for a regional wastewater system under the MOU. The vote was split with Councilmen Bannon and Veber voting for and Councilmen Bennett and

Evans voting against the motion. Councilmen Burdiss and Elliott abstained from the vote. Mayor Sullivan broke the tie by voting for the motion.

B. Memorandum of Agreement with Cheriton:

Councilman Elliott remained in the room but did not participate in the discussion. Bob Panek reviewed the Memorandum of Agreement (“MOA”) which is structured as a partnership and includes a provision to consider establishment of an Authority if it is deemed preferable as the project progresses. The Council members questioned why the MOU was terminated and this MOA was being considered. Bob Panek explained that the MOU was between Cape Charles, Cheriton and Webster Investors LLC to study the feasibility of the regional project and that only the study efforts were terminated. The termination of the MOU does not prevent anyone from submitting a proposal, which we currently do not have. By approving this MOA, the public partnership between the Towns would be in place if a proposal is received. This would make it easier to enter into a public-private partnership.

Motion made by Councilman Bannon, seconded by Councilman Burdiss, to approve Resolution 20081113 authorizing Mayor Sullivan to execute the MOA, and approved by a majority vote, with Councilman Elliott abstaining. Roll Call Vote: Bannon – yes, Bennett – yes, Burdiss – yes, Elliott – abstained, Evans – no, Veber – yes.

A. Water and Wastewater System – Downsize Capacity:

Bob Panek informed the Council members that the senior engineers from Stearns and Wheler were scheduled to meet on December 9th to review the preliminary design and he recommended that the decision on whether to downsize or not be deferred until this process has been completed and the new construction estimates are received in January 2009.

Motion made by Councilman Burdiss, seconded by Councilman Bannon and unanimously approved to table further discussions regarding the capacity of the new wastewater treatment plant until the new construction estimates are received.

C. Accessory Dwelling Zoning Text Amendment:

Tom Bonadeo summarized the discussions at the work session that was held immediately prior to this regular session. There was some further discussion regarding the enforcement of the rental program and the number of residents permitted in each dwelling.

Motion made by Councilman Bannon, seconded by Councilman Elliott, to deny the Zoning Ordinance amendment allowing Accessory Dwellings. The motion was approved by a majority vote with Councilman Burdiss abstaining.

D. Cape Harbor Project:

Tom Bonadeo summarized past work session discussions regarding the Cape Harbor Project and recommended that the Town Council discuss each conditional use individually. The first condition discussed was the hotel.

Motion made by Councilman Bannon, seconded by Councilman Elliott and unanimously approved to approve the conditional use permit for a hotel with a specific

condition of a 120 room limit and any general conditions will be determined at a later date.

The next condition discussed was the multi-family residential over commercial.

Motion made by Councilman Elliott, seconded by Councilman Bannon, to approve the conditional use permit for multi-family residential over commercial in accordance with Section 3.9 of the Zoning Ordinance with specific and general conditions to be determined at a future meeting. The motion was approved by a majority vote with Councilman Evans abstaining.

The final condition discussed was the maximum allowable height. Tom Bonadeo suggested that another work session be scheduled to discuss this conditional use in detail along with the specific and general conditions regarding this use as well as the other two (2) uses to which the Council members agreed.

E. Keck Conditional Rezoning Application:

Councilman Burdiss stated that he would remain in the room but would not participate in the discussion. Tom Bonadeo stated that the Keck property consists of approximately 34 acres which is divided by a tree line into two parcels and is currently zoned as R-E to allow one (1) acre home sites including mobile homes. Tom Bonadeo explained that the Planning Commission worked with the applicant to include Class III buffers along the property lines and distributed maps showing the locations of the buffers. There was much discussion regarding the dedication of the eastern 17.7-acre portion to the Town, the Town having to retain ownership for 15 years and the other deed restrictions involved.

Motion made by Councilman Evans, seconded by Councilman Bannon, to approve the conditional rezoning of the 15.6 acre portion of parcel 90-3-a in accordance with the Statement of Proffers pending legal review of the Proffers. The motion was approved by a majority vote with Councilman Burdiss abstaining.

NEW BUSINESS:

A. Water Supply Planning:

Bob Panek presented a resolution regarding participation in a regional water supply planning effort that has been mandated by the Virginia General Assembly explaining that the deadline for localities with less than 15K in population is November 2, 2010. Bob Panek went on to inform the Council members that the Department of Environmental Quality has grant funds available to partially offset the cost of this planning effort.

Motion made by Councilman Burdiss, seconded by Councilman Elliott and unanimously approved to approve Resolution 20081113A regarding regional water supply planning. Roll Call Vote: Bannon – yes, Bennett – yes, Burdiss – yes, Elliott – yes, Evans – yes, Veber – yes.

B. MOA Town of Cape Charles – Citizens for Central Park:

Assistant Town Manager Heather Arcos explained that the purpose of this MOA was to define the responsibilities of the Town of Cape Charles and the Citizens for Central Park relating to improvements and maintenance of Central Park with the final authority resting with the Town Council.

Motion made by Councilman Elliott, seconded by Councilman Evans and unanimously approved to authorize Town Manager Joe Vaccaro to sign the MOA as presented.

ANNOUNCEMENTS:

- Council Work Session, November 19, 2008 at the Town Hall
- Library AARP Driving Class, \$10 for the 2-day class @ St Charles Parish Hall
- Mayor Sullivan will be having surgery on November 17th at Norfolk General Hospital
- Councilmen Bennett, Bannon and Assistant Town Manager Heather Arcos will be attending the Elected Officials Meeting

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

Mayor Sullivan

Vice Mayor Bannon

Town Clerk