



**TOWN COUNCIL**  
**Regular Meeting**  
**Cape Charles Volunteer Fire Company**  
**February 12, 2009**  
**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, Elliott, Evans and Veber. Also in attendance were Assistant Town Manager Heather Arcos, Town Clerk Libby Hume, Town Attorney Mike Sterling, several members of staff and approximately 150 members of the public.

Mayor Sullivan read a statement that she, former Town Manager Joe Vaccaro and Councilman John Burdiss had a three-party agreement to resign from their positions under the condition that none of the three individuals can be rehired or reappointed for the remainder of their terms and that she had two of the three signatures, hers and Joe Vaccaro's. Mayor Sullivan asked Councilman Burdiss for his signature on the agreement to which he declined.

**PUBLIC COMMENTS:**

Ms. Roberta Newman, 8 Randolph Avenue, stated that since moving here sixteen years ago, she has attended numerous committee meetings regarding what we want the community to be. Every meeting began with an exercise in which we identified what was most valuable to us about our community. Qualities or characteristics we would never want to lose, even if other things change. Time and time again, the answer revealed in the exercise was that we value our small town community atmosphere where people live and work together in harmony, respect and trust each other and treat each other in neighborly ways. This vision of our community has been shared by everyone and still is – long term residents, those recently moving here, young and old, rich and poor. We have come to a point where we are in danger of losing what we value most. People are treating each other with contempt, pointing accusatory fingers, taking pot shots at each other, spewing sarcasm about half-truths and giving harsh criticism that is hurtful, demeaning and may not be healed. Ms. Newman went on to state that she is saddened that this community that she loves has come to this. Though she does not fully understand all the conflicts that have arisen, she knows that we need to return to having rational, civil discourse, even when we strongly disagree. We need to recognize, as adults, that we are role models for the youth in the community who are watching our interactions. How can we expect them to conduct themselves with politeness, courtesy and decorum if we aren't able to act that way? If we don't calm down and take a hard look at how we are conducting ourselves, we are going to damage the heart and spirit of our community in a way that may be irrevocable. Ms. Newman asked everyone, elected and appointed officials and the town's people, to keep that in mind as we move forward.

Mr. Chuck Little, 8 Randolph Avenue, stated that over the course of the nearly ten years that he has worked and lived in Cape Charles, he has cast a vote for every elected official sitting at the Council table and when he cast his votes, he did not question the honesty, integrity and ethics of any of the Council, nor does he now. Mr. Little stated that his statement holds true for the Town Manager as well, even though he had no direct say in his hire. Over the last several weeks, he has been extremely disappointed in the actions of the Council, the Mayor, the Town Manager and many of the Town's citizens and he did not fully understand how we

got to this point and he stated that he does not expect that he ever will, but it has been counterproductive, at best, to air the situation in the court of public opinion. There are very few people, if any, outside the members of the Town administration who have enough knowledge and understanding of the facts to make an informed judgment. Mr. Little stated that he does understand that there are a number of very important issues facing the Town that have a significant impact on the way Cape Charles will grow and the quality and equity of life for those who call Cape Charles home. Mr. Little continued stating that he does not expect this type of dysfunction from those that are charged with administering the affairs of the Town. He stated that he does not believe that the recent actions of the six Council members, the Mayor or the Town Manager have been motivated by any reason other than the desire to do what each felt is best for the Town and he also does not doubt that there are real issues that must be resolved. He stated that he expected each member of the Council to approach those issues with respect for the integrity and intellect of the other members and respect for what is at stake. He stated that he expected the Mayor to preside with a firm hand both as to the tenure of the meetings and the correctness of the procedures. He expects the Town Manager to respect the contest to which he serves, to respect procedures for administering the affairs of the Town that have been established and to operate as an efficient, deliberate manager of the Town business. He finds it heartening, in a town where we are all neighbors, that so many take interest in the workings of our government. It is unfortunate, however, that a few have used the platform of the open Town Council meetings and the Internet to turn innuendo and half-truths into fact. It is also unfortunate that anyone who now wishes to try to contribute to the betterment of the Town by serving on Council, as Mayor, as Town Manager, as a speaker at a Council meeting or as any of the numerous volunteers on committees and commissions is now subject to demeaning ridicule and denigration on Internet blogs. This is not the real Cape Charles! We are fortunate to live in a time and place where freedom of speech is valued as much as "Mom" and "apple pie" but no one has ever enhanced their own stature by attacking another's character or ridiculing them. The recent lack of leadership in all levels of administration and all of the citizenry in the recent mass meetings has stretched the close-knit fabric of this community and distracted us from other serious issues. Mr. Little thanked all the Council for serving in a thankless job and stated that he would like to think that together they could work out the bulk of the issues and move past this before any more harm is done. Mr. Little concluded by quoting Abraham Lincoln stating "Put your feet in a good place and stand firm" then asked the Council "Are your feet in a good place?"

Mr. Jim Mahaffy, 415 Tazewell Avenue, addressed the Council regarding a proposed Skateboard Park. (see attached)

Mr. Bill Payne, 103 Arnie's Loop, thanked Mayor Sullivan for the opportunity to speak and told her that the Town needs her. Not only do we need her, we also need the six Council members that support her. The Town has an opportunity now to reset ourselves and get back on an even keel if we can learn from some of the mistakes that have been made over the last few months. Mr. Payne went on to state that the Town has been rocked to its heels but is still standing and he asked for everyone's support in making the Town what he thinks it can be. He admonished the Council and citizens stating that we have behaved as children and need to clear the slate and move forward by showing love for one another, listening to one another and trying to understand other perspectives because there is never a perfect solution or a terribly erroneous solution. Mr. Payne implored the Council to learn to work together and offered his time to help mediate, if necessary, and stated that he was sure there were others in the audience that also want this system to work. Mr. Payne went on to state that he has only been living in Cape Charles for two years, but had never seen so many closed meetings. He

understood that a closed meeting was necessary when discussing personnel issues, but the best way to ensure that everyone behaves was to have others watching. Mr. Payne concluded by addressing the citizens of Cape Charles and asking them to support our leaders by standing behind them and controlling our emotions.

Mr. Jay Wiegner, 9 Palmer's Landing, stated that he has been living in Cape Charles a little over four years, has owned property here for eight years and has a small hand in the Town government as a member of the Board of Zoning Appeals. Fortunately, most of what he wanted to say had already been said, which puts him on the same page as many of the Town's citizens. Mr. Wiegner stated that he agreed with Bill Payne and wanted to restate that he does not believe that any elected official of this Town should resign for any reason. Rather, they should serve out their terms and do the job that they were elected to do. Cape Charles has recently undergone an ordeal that saddens him regarding a personnel issue that was made public which never should have happened. This obviously led to rhetoric that served our Town in a less than favorable fashion. How and why does not matter except for the learning experience that this does not happen again. What truly matters is that it all comes to an end now. Let's move on with the proper business of the Town government, specifically the water and wastewater treatment issues and how to improve the economy of our Town and region. He urged the Town not to build more capacity than actually needed. The projected growth estimates for this area seem extremely optimistic and maybe on the verge of utopia. The wastewater treatment plant should preclude the discharge of any water into the Bay and the time will come when that will be federally prohibited. As to improving the economy, the business of our Town should be to promote business. It was business, such as trains, ferry service, hotels, restaurants and many other small businesses, that allowed the Town to prosper in the 30s, 40s and 50s. It was business that kept this Town from dying in the 70s and 80s after the ferry service was stopped, with Bayshore Concrete being the major attribute to this Town. The late 90s showed us a beautiful establishment called Bay Creek which created a short-lived economic revival; however, it is unsustainable in this present economic environment. Mr. Wiegner strongly urged the Council to be pro-business, to even dare to be creative in keeping the present businesses in Town and improving them and planning future business to make Cape Charles a place we all want it to be.

Ms. Roxie Duncan, 619 Mason Avenue, asked whether Joe Vaccaro had resigned as Town Manager. Mayor Sullivan responded in the affirmative to which Ms. Duncan stated that Joe was a good man who she will miss.

Mr. John Blackburn, 124 Saratoga Place, began by stating that he and his wife, Sandy, moved to Cape Charles four and a half years ago. They found the place to be beautiful, quiet, convenient and quite unique and that is what drew them here. The people here have shown themselves to be very capable and one of the things that have impressed him has been the volunteer spirit. The people of this Town are willing to get on board to help out and volunteer in different ways and run for public office, which for \$50 per month, he would never attempt. The people here are active, interested and have a healthy respect for the past while looking to the future. Recently, there had been a great deal of contention between the Town Council, the Mayor and the Town Manager. A lot has been said, written, emailed and blogged, full of personal opinions, attacks, innuendos, half-truths and, in some cases, lies and we continue to see it smolder. We cannot undo the things that have already been said and done, but starting tonight, we can make an effort to rectify this situation and not make the same mistakes again. Mr. Blackburn stated that his father told him long ago "You're either part of the solution or part of the problem." We can play childish games or act like adults. His suggestion is that all

citizens need to know the legal framework of the local government, become active in it, know who is responsible for what and to whom, know who makes the decisions and who is in charge of implementing those decisions. We also need to know the chain of command as citizens, employees, Town Council members, the Mayor and Town Manager. It is time for effective leadership and action on important projects and issues such as wastewater treatment, the upcoming budget, the Cape Harbor project and economic development. Mr. Blackburn concluded by asking everyone in attendance “Are you part of the solution or are you part of the problem?”

Ms. Linda Buskey, 100 Arnie’s Loop, relinquished her time to Chuck Little.

Mr. Oral Lambert, 5 Water’s Edge Drive, began by thanking Mayor Sullivan and the Council for the opportunity to speak tonight and stated that he would like to speak on two subjects. The first is the wastewater treatment issue. Mr. Lambert stated that the Town was threatened by a deadline of January 2011 which forced the Council to make decisions they might not have otherwise made. Mr. Lambert encouraged the Council not to build a plant that exceeds the existing capacity or needs and stated that a 500 GPD plant was a mistake that the citizens will pay for a long time. He also encouraged the Council to consider seeking relief from the general assembly stating that there is a bill under consideration that may provide time to consider a regional facility which would eliminate all discharge into the Bay, better serve the region as a whole, could be the most economically favorable, provide for the future needs beyond the 250 GPD that we need now, and move this necessary, but unsightly, industrial use out of the heart of the Town and free up a prime location for higher use that is more compatible with the dreams of the Harbor and the Harbor District. Mr. Lambert stated that his second subject was probably more important than the wastewater treatment issue. Each individual on the Council sought the office to serve this Town because they have something to offer that is uniquely theirs to give and because they care about our community. At times, it is a thankless job and it is not unusual to hear people say “You couldn’t pay me enough to sit up there and take the criticism as a member of Council.” Mr. Lambert stated that he suspected that the Council members shared this sentiment and they serve because they love the Town and want it to succeed. The Council has been through an ordeal in recent days with feelings being hurt, friendships damaged and setbacks in the progress they want to see. Mr. Lambert went on to state that it is his sincere hope that the Council will put aside the unhealthy differences, keep their healthy differences, because that is what makes them bring a unique contribution to the Council as a whole, and look for the common ground of shared vision and admiration for the Town as the basis for moving forward with the agenda that he knows the Council has for the Cape Charles community.

Mr. Steve Michel, 10 Peach Street, stated that he was concerned about what has happened to Cape Charles’ image. He added that he was looking at the wastewater treatment handout tonight and felt that the growth projections cited in the handout would need to be recalculated based on what has happened over the last few weeks since the Town’s image has suffered. Mr. Michel referred back to a statement, from the Code of Ethics, that he read last month inferring that the primary responsibility of the Council members is to ensure the public maintains its faith in the integrity of the Town government. He went on to state that the citizens have heard so many accusations that they don’t know what to believe and have lost their faith in the integrity of the Town government. Mr. Michel suggested that all the Council members should resign and the Town should hold a new election to find out what the people want. A lot of the citizens wanted Joe Vaccaro, but it does not seem that he could ever come

back and the Town has lost a valuable asset. The slate needs to be wiped clean with a new election so the people can elect those they think will serve the Town well.

Mr. James Peters, 6 American Court, stated that he lives in Washington DC but owns property in Cape Charles. Last weekend he brought some friends down to visit and happened to pick up an Eastern Shore Newspaper and was absolutely shocked, devastated and almost had tears in his eyes to read what was happening in Cape Charles. He continued stating the he learned a long time ago when he was playing football that “Quitters never win and winners never quit.” Mr. Peters went on to state that it hurt him to hear that elected officials were stepping down and advised the Council that if they were elected to serve, they need to serve out their term and fulfill their duties.

Ms. Libby Thomas, 5 Tazewell Avenue, began by saying that Cape Charles has been her home her entire life and that she served on the Council for eight years, serving as Vice Mayor for six. Ms. Thomas stated that when she looks back over the years, she recalls many good times and many dark days and at one point, there was no money in the budget and a drawer full of bills totaling approximately \$200K. Several Council members, Chris Bannon among them, would come to the Town offices, after working all day at their regular jobs, and work until about 10:00 PM paying bills, processing payroll, preparing deposits and countless other jobs to get the Town’s business done. When times were bad, the Council members stayed and worked together to get things done. We went through more than one Town Manager, but it was in the best interest of the people who elected them to do so. During the last few weeks, she stated that she has listened to useless bickering to the point of cancelling *All Around the Town* by Joan Natali. All the emails and letters going back and forth are doing nothing more than inciting and inflaming the Town’s people over issues that should have never been issues to begin with. What is the good of it all? Nothing. It has only done harm. The Town Manager serves at the will and pleasure of the Town Council. Ms. Thomas reminded Mayor Sullivan and the Council not to lose sight of the fact that their responsibility is to the citizens of Cape Charles who elected them. She asked that they please put the matter to rest and decide together what is in the best interest of the Town and its future.

Mr. Scott Walker Jr., 528 Washington Avenue, began by stating that the bad news is that he must give voice to a public lament on churlish behavior of Councilmen Bennett, Burdiss and Evans for their recent presumptive action in circumventing the wishes of many of the Town’s people and to suggest that these three have morphed from being popular public servants into ordinary small-town politicians with their personal agendas. Mr. Walker continued by stating that the good news is the impasse now faced could be quickly avoided if Councilman Burdiss were to sign and date a one-sentence proclamation resigning from the Town Council of the Municipal Corporation of Cape Charles. Barring that action, Mr. Walker stated that approximately 100 citizens had signed a recall petition for John Burdiss, Esq. Mr. Walker concluded by stating that any citizens who voted in the last election who wished to sign the petition to please see him or Joan Natali.

Mr. Michael Flanagan, 538 Tazewell Avenue, stated that the people depend on their representatives to be their first line of defense, but when the representatives are the enemy, the citizens are definitely in trouble. When the government, whether local, state or federal, caters to specialized interest groups or has their own agendas, then there is no government and when this is the case, the representatives need to be replaced. Mr. Flanagan concluded by stating that he is afraid this is the case with this situation in Cape Charles.

Ms. Pat Buckley, 4 Perny Court, addressed the Mayor, Council, Town Staff and the members of the community regarding the recent Council issues. (see attached)

Mr. Erin Harvey, 123 Peach Street, stated that he knew there were several issues that have been drawing the attention of the Council members and the public over the last few weeks, but there was one very important issue that he did not want to slip through the cracks. The Cape Harbor project is something, once constructed, that will be with this Town one hundred years from now, long after any personnel issues are forgotten and after today's new wastewater treatment plant will likely have been replaced. It will be located in the heart of this Town so there is a need to take the time to get it right. Mr. Harvey stated that he had been dismayed to see where the Council had been heading with this project. While there had been some downsizing of the heights along Mason Avenue, overall, it is still too tall, too dense and does not conform to the Town's guiding documents. The Council seems to be working hard to interpret the zoning and planning documents in such a way as to best fit the developer's plans rather than interpreting these documents in a way to best reflect the wishes of the citizens and the true intentions of these documents. The Council is giving the developer a huge 120-room hotel, height variances above 40' for the entire development and a density figure that will be larger than anywhere else in the Town. Mr. Harvey added that although he hopes the Council will continue to listen to the citizens of the Town and reconsider some of these items, there is one outstanding issue where the Council can still leave a positive legacy in regards to this property – how the property lines up with the existing grid. Unlike height and density, there is not much room for interpretation with this. The guiding documents clearly indicate the development of the Harbor District should follow the existing grid of the Town's streets. Because of this, it is his understanding that the Council has already pushed the developer to angle their view shed on Harbor Avenue to line up with that street's diagonal slant; however, so far there has been no effort to do the same with Pine Street, which will become the new center of the commercial district after this property is developed. Current sketches of the developer's plans show one of their massive buildings sitting right at the end of Pine Street. This same building would have a much lighter presence in Town if it were to sit on the street corner opposite the Pub in a way that lines up with the existing grid. Mr. Harvey continued by stating that he understands why the developer would resist keeping this space open, as the planning documents require, because their property only extends a relatively short distance to the east of Pine Street. By keeping Pine Street open, the developer would likely end up with a narrow strip of land on the other side that would not support a viable structure. Most properties have idiosyncrasies that have to be dealt with such as this. The development of this property must match our guiding documents. We should not be bending our guiding documents in order to match the property. Mr. Harvey stated that he believed this presents an opportunity for the Town Council to make an exchange for the concessions that have already been made for the developers regarding every special exemption they have requested regarding height, density, hotel use and residential over commercial. By insisting that this small amount of land, beginning at Pine Street and extending to the eastern border of the property, remain open space, a very small park will be preserved in the middle of our commercial district. Since this space should be open according to the guiding documents regarding the continuation of the grid from Pine Street, Mr. Harvey concluded that it is the least we can ask for in exchange for giving so much to the developers.

Ms. Shannon Veber introduced some of her family and friends who wished to speak regarding the proposed skateboard park. Four children, ages 10 and 11 years old, addressed the Council

stating that the children of Cape Charles need more activities that are safe and that the skateboard park would be a great addition to the Town.

Ms. Judy Morgan, Landmark Holdings, stated that on behalf of Landmark Group, she wanted to acknowledge the efforts put forth this past year by the Planning Commission, the Town's staff, individual citizens and most recently, the Town Council. Landmark is pleased that the Council has approved the use for a 120-room hotel along with heights over 40' as per the Harbor District zoning ordinance as long as the hotel is located at the west end of the property. They are also pleased that Council has approved the use of multi-family residential over commercial. Although the restrictions regarding the height have significantly impacted the project, Landmark respects Council's approval with the specified limitations. Ms. Morgan stated that she has received the conditions, as compiled by Town staff from the recommended conditions from the Planning Commission and from Council's January work session, and has provided details about the conditions to Town staff and asked they be brought to the Town Council this evening. In considering the conditions to impose, Landmark asks that the Council keep in mind that the Cape Harbor project exceeds the expectations of open space, exceeds the number of view corridors, exceeds the provisions for parking and exceeds the expectations for setbacks from the Harbor and Mason Avenue. Cape Harbor's ability to virtually hide the parking and to provide beautiful walkways along the Harbor extending to the existing pier and walkway is based on the ability to have a financially viable project. The Council has already done the hard work by approving the framework for this project. The conditions being considered tonight can enhance Cape Harbor's contribution to the Cape Charles and the County or they can be restrictions that limit potential. Ms. Morgan continued stating that each of us have worked too hard and have vested too much to allow a vital component of the future of Cape Charles to unnecessarily vanish and concluded by asking the Council to respect the process of approval, the adopted regulations, the applicant and foremost the future of Cape Charles.

Town Clerk Libby Hume read an email from Phyllis and Barry Tyndall, 202 Madison Avenue, imploring the Council to put aside the issues from the past month and proceed with the important issues that the Town is facing such as the wastewater treatment facility and the viable options that are available. The Tyndalls concluded by stating that the citizens elected the Council members to serve the Town and its businesses and asked the Council to do the jobs that they were elected to do.

**CONSENT AGENDA:**

Mayor Sullivan requested to add as action Item 7D-Interim Town Manager under New Business.

**Motion made by Councilman Evans, seconded by Councilman Bennett and unanimously approved to add the above item to the agenda.**

Councilman Bennett suggested reversing Items 6A-Wastewater Treatment Plant Location and 6C-Wastewater Treatment Plant Capacity.

**Motion made by Councilman Evans, seconded by Councilman Elliott and unanimously approved to reverse the above items on the agenda.**

Councilman Evans requested that, in light of the March 11, 2009 information meeting at the Palace Theater, an item be added, under Old Business, to reopen discussion regarding the unsolicited proposal from Webtide regarding a regional wastewater treatment plant.

**Motion made by Councilman Evans, seconded by Councilman Bennett, to add the above item to Old Business. The motion was denied with Councilmen Evans and Bennett voting in favor, Councilmen Bannon and Veber voting against and Councilman Burdiss abstaining from the vote. Mayor Sullivan broke the tie voting against the motion.**

**Motion made by Councilman Bannon, seconded by Councilman Veber and unanimously approved to amend the agenda by adding Item 7D under New Business and reversing Items 6A and 6C under Old Business.**

The Town Council reviewed the minutes of the following meetings: January 8, 2009 Public Hearing and Regular Session, January 14, 2009 Work Session, January 22, 2009 Executive Session, January 22, 2009 Special Meeting and the February 4, 2009 Executive Session.

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

**REPORT PRESENTATIONS:**

*A. Treasurer's Report:*

Treasurer Paul Skolnick reported the following: i) the Treasurer's Report dated January 31, 2009 showing \$107,442 in the Bank of America checking account and \$1,201,881 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$1,309,323; and ii) he is in the process of reviewing the current fiscal year budget and will have the information available at the Town Council Work Session which has been scheduled for February 25<sup>th</sup>.

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

*B. Library Report:*

Librarian Ann Rutledge reported the following: i) A series of computer classes on MS Excel, word processing and the Internet, taught by Etta Kaye Pruitt, was held in January and five people were in attendance at each session; ii) A six-week Writing Workshop led by author Margaret Richard began on February 4<sup>th</sup> and will continue through March 11<sup>th</sup>; and iii) The Friends of the Library hosted this year's poetry slam on February 7<sup>th</sup> at the St Charles Parish Hall. Ann Rutledge concluded by stating that lots of programs continue to be held at the little library, which could not happen without her volunteers, and that she hopes to some day have a new library.

*C. Historic Review Board:*

Tom Bonadeo reported that the Historic District Review Board reviewed and approved a new roof addition/repair for a property on Tazewell Avenue.

*D. Planning Commission:*

Town Planner Tom Bonadeo reported the following: i) The Planning Commission reviewed a Conditional Use Permit application for 212 Bay Avenue requesting to operate a two-bedroom Bed & Breakfast. A public hearing has been scheduled for March 3, 2009

at 6:00 PM and would like to share the hearing with the Town Council so that the process can move forward as soon as possible; ii) Cela Burge had been re-elected as Chair and Joan Natali had been re-elected as Vice Chair.

E. *Recreation Report:*

Youth Director Tad Tadborn reported the following: i) He has been working with volunteers on a proposal for the skateboard facility. There was an information gathering session at the Library and he is concerned about safety issues; ii) He is training with the Northampton County Public Schools to finish his CDL requirements; iii) He is working on a monthly schedule through late spring; iv) He is trying to organize possible field trips during spring break, such as bowling and swimming at the YMCA; v) The February Freeze will be held this weekend at the beach with registration beginning at 11:30 and the dip at noon, which will be followed by a bonfire, then lunch at the Trinity Church.

F. *Public Works Report:*

Public Works Foreman Pete Leontieff reported the following: i) The Cape Charles Police Department has been moved into their new office at the Municipal Building; ii) The Municipal Building remodeling is almost complete and the hallway has been painted; iii) The 4x4 posts from the baseball field have been moved to the beach so new posts for this season would not have to be purchased; iv) The Town received three storage sheds at no cost from the Coast Guard. One will be placed at the Library and another will be used by the Public Works personnel.

**OLD BUSINESS:**

C. *Wastewater Treatment Plant Capacity:*

Town Consultant Bob Panek stated that even though Council voted to move forward with the 500K GPD plant, we were not committed to build the 500K GPD plant until the contract is awarded. There was much debate regarding the costs and the risks involved in moving forward with the 500K GPD plant vs. downsizing to a 250K GPD plant. Councilman Elliott expressed his concern that if the Council decides to downside to a 250K GPD plant, the Town will lose much in grant funding and will have to pay so much more when the time comes to increase the capacity of the plant. Councilman Bennett suggested scheduling a special meeting to discuss this issue further in order to make a decision to which the Council agreed. The Special Meeting was scheduled for February 18, 2009 beginning at 5:30 PM followed by the Executive Session, which had already been scheduled. Bob Panek stated that the connection fees are not adequate and should have been raised years ago and asked that the Council approve holding a public hearing regarding this issue. The Public Hearing was scheduled for March 12, 2009 beginning at 7:00 PM followed by the Regular Session.

B. *Cape Harbor Project:*

Tom Bonadeo stated that the general and specific conditions regarding the Conditional Use permits for Cape Harbor were discussed at a work session on December 4, 2008 and were included in the agenda packet. Councilman Evans interjected, that for the sake of consistency, he would not participate in this discussion and would abstain from voting on this issue. Tom Bonadeo began with the list of twelve general conditions. During the discussion, it was noted that #7, which states that the buildings shall be bonded by phase, may not be legally possible and the Town is awaiting a legal opinion.

**Motion made by Councilman Bannon, seconded by Councilman Elliott, to approve eleven of the general conditions, deferring a decision on #7 described above until a legal opinion has been obtained. The motion was approved by a majority vote with Councilman Burdiss voting against and Councilman Evans abstaining from the vote.**

Tom Bonadeo moved on to the specific conditions regarding the hotel. There was much discussion regarding the conference center for approximately 200 people, a pool facility for the hotel guests and the possibility of hotel guests parking along Mason Avenue vs. the parking garage.

**Motion made by Councilman Bennett, seconded by Councilman Elliott, to approve the conditional use for the hotel with a maximum of 120 rooms and a conference center for approximately 200 people. The motion was approved by a majority vote with Councilman Evans abstaining from the vote.**

Tom Bonadeo summarized the specific conditions regarding the height over 40' stating that an additional condition was agreed upon by the Council at their last work session which required the harbor setback as presented in the application. There was much discussion regarding the height issue.

**Motion made by Councilman Bennett, seconded by Councilman Bannon to approve the additional specific conditions as stated regarding the harbor setback as described above. The motion was approved by a majority vote with Councilman Evans abstaining from the vote.**

The Council reviewed the specific conditions relating to the multi-family residential condition use. There was much debate regarding the number of units to be permitted.

**Motion made by Councilman Bennett, seconded by Councilman Bannon, to approve the conditional use for multi-family residential with a maximum of 318 units with a minimum of 960 SQFT per unit. The motion was approved by a majority vote with Councilmen Burdiss and Veber opposed and Councilman Evans abstaining from the vote. Mayor Sullivan vetoed the vote stating that when someone feels so strongly about something so important to the Town, more thought and discussion was needed before proceeding.**

There was much more discussion regarding the number of units to be permitted for this development.

**Motion made by Councilman Elliott, seconded by Councilman Bannon, to approve the conditional use permit for multi-family residential with a maximum of 300 units. The motion was approved by a majority vote with Councilmen Burdiss and Veber opposed and Councilman Evans abstaining from the vote.**

*A. Wastewater Treatment Plant Location:*

Bob Panek explained that the Town has been planning the replacement of the existing wastewater treatment plant (WWTP) for several years. Bob Panek went on to explain that the new WWTP was planned to be constructed on Parcel 83A3-14, based on the recommendations of the Real Estate Committee which cited their reasons as follows: i) the location was farther away from the harbor to afford better protection from major

storms; ii) the current location, Parcel 83A3-17, was more valuable for future development being closer to the harbor. There was much discussion regarding the location for the proposed WWTP. Bob Panek stated that the engineering design was being based on Parcel 14 and changing the location at this point would require significant re-design which would result in additional engineering costs and a delay in the schedule that would not meet the nutrient waste load allocation compliance deadline.

**Motion made by Councilman Bannon, seconded by Councilman Veber, and approved by a majority vote to proceed with the plans to construct the new WWTP on Parcel 83A3-14. Councilman Evans voted against the motion and Councilman Burdiss abstained from the vote.**

**NEW BUSINESS:**

*A. Memorandum of Agreement – Eastern Shore of Virginia Broadband Authority:*

Tom Bonadeo explained that the grant for the Broadband Fiber is to the Town of Cape Charles with the title being granted to the Eastern Shore of Virginia Broadband Authority (ESVBA) upon completion of the project and a Memorandum of Agreement (MOA) needs to be executed between the Town of Cape Charles and the ESVBA. Tom Bonadeo went on to explain that the MOA between the Town and Bay Creek Communications is to allow the Town and ESVBA to install the fiber by looping through their communications building. These two MOAs provide for the execution of the Community Development Block Grant (CDBG) for the Town and the ongoing maintenance by the ESVBA while servicing all the citizens of Cape Charles. .

**Motion made by Councilman Bannon, seconded by Councilman Elliott and unanimously approved to authorize Mayor Sullivan to sign the two MOAs as presented.**

*B. Virginia Port Authority – Request for Harbor Redevelopment:*

Harbormaster Smitty Dize reported that, on January 28, 2009, he, Councilman Bannon and Acting Town Manager Heather Arcos met with the Virginia Port Authority (VPA) in Richmond to ask for funding to execute the Phase 1A segment of the Off Shore Breakwater as part of the Harbor Redevelopment Plan, the cost of which is estimated to be \$645K. The amount being requested from the VPA is \$500K. The VPA will review all funding requests and allocate monies in July 2009.

**Motion made by Councilman Evans, seconded by Councilman Elliott, and unanimously approved to authorize Mayor Sullivan to sign the funding request letter to the VPA.**

*C. Set a Joint Public Hearing – Conditional Use Permit for 212 Bay Avenue:*

Tom Bonadeo explained that the Planning Commission reviewed a conditional use permit application to operate a two-bedroom Bed & Breakfast at 212 Bay Avenue and scheduled a public hearing for March 3, 2009 at 6:00 PM. The Planning Commission requests a joint hearing with the Town Council.

**Motion made by Councilman Burdiss, seconded by Councilman Bennett, and unanimously approved to schedule a Joint Public Hearing on March 3, 2009 at 6:00 PM to hear public comment regarding the conditional use permit application to operate a two-bedroom Bed & Breakfast at 212 Bay Avenue.**

D. *Interim Town Manager – Heather Arcos:*

Mayor Sullivan stated that she would like to confirm Heather Arcos as Acting Town Manager as provided in Section 2-4 of the Town Code. A closed session will be scheduled immediately following the February 18<sup>th</sup> Special Meeting to discuss details regarding this position.

**Motion made by Councilman Veber, seconded by Councilman Evans and unanimously approved to confirm Heather Arcos as Acting Town Manager.**

**ANNOUNCEMENTS:**

- February 16, 2009, Town Offices closed in observance of Presidents Day

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

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Mayor Sullivan

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Town Clerk