



TOWN COUNCIL
Public Hearing / Regular Meeting
St. Charles Parish Hall
March 12, 2009
7:00 p.m.

At approximately 7:00 p.m. Mayor Dora Sullivan called to order the Public Hearing and 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 Acting Town Manager Heather Arcos, Town Clerk Libby Hume, Town Consultant Bob Panek, several members of staff and approximately 30 members of the public.

Mayor Sullivan announced the evening's public hearing was to hear public comment on the proposed increase of the monthly sewer service rate and the proposed increase in the residential water and wastewater connection charges.

Consultant Bob Panek began by showing a presentation regarding wastewater rates which showed comparisons to other localities throughout the State.

PUBLIC COMMENTS:

There were no Public Comments to be heard regarding the wastewater rate increase.

Bob Panek moved on to show the Water and Wastewater Facility Fees presentation which also showed comparisons to other localities. Mr. Panek also stated that the increased connection charges were comparable to the cost of installing well and septic systems within the County.

PUBLIC COMMENTS:

Ms. Mary Ann McDevitt, 644 Monroe Avenue, stated that she met several times with Bob Panek regarding the new wastewater treatment plant and also with representatives from Webtide regarding the proposed regional wastewater treatment plant. Ms. McDevitt stated that if the growth projections were not met, the Town's connection fees for water and wastewater could increase to over \$20K. Ms. McDevitt asked the Town Council to keep all options open regarding a possible regional wastewater treatment plant.

Mr. Oral Lambert, 5 Water's Edge Drive, addressed the Town Council regarding the proposed water and sewer connection charges. (See attached)

Mr. Tom Bonadeo, 519 Mason Avenue, addressed the Town Council regarding water conservation. Mr. Bonadeo informed the Council of a program in the Town of Purcellville, VA which offers rebates to citizens for installing fixtures to aid in water conservation, i.e., water saver toilets and showerheads, etc. Mr. Bonadeo stated that some dual flush toilets could save a family of four approximately 24K gallons of water per year. Mr. Bonadeo applauded the Bay Creek developers for requiring water saver showers and not permitting car washing in the community. Mr. Bonadeo stressed that there is a limited amount of water on the Eastern Shore and everyone needs to be mindful of water conservation.

Town Clerk Libby Hume read an email from Lew Schnitzius, 12 Carissa Court, regarding the proposed increases to the connection fees. (See attached)

With no further public comments to be heard, Mayor Sullivan closed the Public Hearing.

PUBLIC COMMENTS:

Mr. Perry Kiriakos, 524C Washington Avenue, asked Mayor Sullivan and Councilman Burdiss to resign stating that it was common knowledge that a deal was made and Cape Charles had lost an honorable man who served his country and Cape Charles. Mr. Kiriakos asked that the Council let the citizens know what happened and added that the Council has disenfranchised the whole community where there is no trust. Mr. Kiriakos stressed that the Town needed to work together as a cohesive community but that this Council is dying and if the Council dies, the community dies. Mr. Kiriakos asked "Where do we go from here?" Mayor Sullivan cautioned Mr. Kiriakos on his language. Mr. Kiriakos pressed Council for answers and refused to return to his seat, which resulted in his being escorted from the building by Police Officer Nick Braatz.

Mr. David Gomer, 629 Tazewell Avenue, stated that he thought he had signed up for public comments for the wastewater fees and added that on June 26, 2006, he wrote a check for approximately \$2500 to the Town of Cape Charles for water, tap and connection fees. Mr. Gomer stated that Cape Charles has charged the business owners to the nth degree and he did not know how the businesses make it. Cape Charles is business unfriendly with no incentives to bring businesses here or to get them to stay here. The County's plan to ban businesses from Route 13 and to get them into the Towns will never happen with all the dying towns on the Eastern Shore. Mr. Gomer stated that he paid \$2500 for nothing and the Town Council is out of their minds if they are thinking about raising the fee from \$10K to \$20K. Mr. Gomer concluded by stating that, as an investor with numerous properties in Town, had he known about this, he never would have come here.

Mr. Gene Kelly, 614 Tazewell Avenue, addressed the Council regarding commercial water charges stating that he, as owner of Kelly's Gingernut Pub, pays the same rates as a residential owner. Mr. Kelly agreed with Mr. Gomer that Cape Charles was not business friendly. In 2006, when he first opened his pub, the average water bill was between a low of \$265 and a high of \$425. Mr. Kelly continued by stating that last month, his low was \$704 and his high was \$1400+ during the summer. Along with the 10% combined food tax and the higher electric bills with the new electrical service, the Town's water and wastewater rates put a strain on businesses to makes ends meet in this economy. Mr. Kelly asked the Council to consider a commercial rate structure to help the businesses in Town and to appear business friendly. If the Council wants to attract businesses to Town, they need offer incentives to the business owners such as a commercial rate structure.

CONSENT AGENDA:

Mayor Sullivan asked if there were any objections to the agenda as presented. Hearing no objections, the agenda was approved by unanimous consent.

The Town Council reviewed the minutes of the following meetings: February 12, 2009 Regular Meeting, February 18, 2009 Special Meeting, February 18, 2009 Executive Session, February 25, 2009 Work Session, March 3, 2009 Joint Public Hearing with the Planning Commission and the March 4, 2009 Work Session. Mayor Sullivan asked if there were any objections to the minutes as presented.

Councilman Burdiss stated that did not believe that he had abstained from the vote regarding the conditional use permit for multi-family residential for the Cape Harbor Project at the February 12, 2009 Regular Meeting. Town Clerk Libby Hume stated that she would review the recording and make any necessary corrections.

Hearing no further objections, the minutes for the February 18, 2009 Special Meeting, February 18, 2009 Executive Session, February 25, 2009 Work Session, March 3, 2009 Joint Public Hearing with the Planning Commission and the March 4, 2009 Work Session were approved by unanimous consent. The minutes for the February 12, 2009 Regular Meeting were approved by unanimous consent subject to any necessary corrections being made.

REPORT PRESENTATIONS:

A. Treasurer's Report:

Acting Treasurer JoAnna Leatherwood reported the following: i) The Treasurer's Report dated February 28, 2009 showed \$92,319 in the Bank of America checking account and \$1,128,549 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$1,220,868; and ii) She met with a representative from the VML VACo regarding the construction loan financing for the wastewater treatment plant.

Mayor Sullivan asked if there were any objections to the Treasurer's Report. Hearing no objections, the Treasurer's Report was approved by unanimous consent as presented.

B. Library Report:

Librarian Ann Rutledge was not able to attend the meeting.

C. Recreation Report:

Youth Director Tad Taborn reported that he has been working on the sign-up procedures for the Skateboard Park. Tad Taborn distributed a tentative schedule of events for April which showed the following events: i) April 15th – Organic Gardening presented by Jeanie Flynn and Jennifer Ingram; ii) April 19th – Pier Fishing and Crabbing presented by Ben Lusk and Tad Taborn; and iii) April 26th – Skateboard Park Grand Opening presented by Dave Burden and Tad Taborn.

D. Public Works Report:

Public Works Director Dave Fauber reported that the Public Utilities staff will begin work on the bio filter at New Quarter later this month.

E. Harbor Report:

Harbormaster Smitty Dize reported that due to an equipment malfunction, he does not have a cannon for the Blessing of the Fleet ceremony on April 3rd. Instead of a cannon blast, the emergency siren will be used.

F. Historic Review Board:

Town Planner Tom Bonadeo reported that the Historic District Review Board did not have any applications to review in February but officers were elected as follows: Russ Dunton was reelected as Chair and Melvin Dudley was reelected as Vice Chair.

G. *Planning Commission:*

Tom Bonadeo reported the following: i) The Planning Commission voted to recommend the approval of the Conditional Use Permit for a Bed & Breakfast at 212 Bay Avenue; ii) The Planning Commission is close to completing their work on the Comprehensive Plan update and is planning a joint work session with the Council in the near future to present the updated Comprehensive Plan to the Council.

OLD BUSINESS:

A. *212 Bay Avenue – Bed and Breakfast Conditional Use Permit:*

Tom Bonadeo stated that the Planning Commission has reviewed the Conditional Use Permit application for a two-bedroom bed and breakfast at 212 Bay Avenue and a joint public hearing with the Town Council was held on March 3, 2009 at which there were no public comments. The Planning Commission recommends approval of the Conditional Use Permit.

Councilmen Evans and Bannon stated that since there are currently only two Bed & Breakfasts in Town, they would abstain from the vote on this issue.

Motion made by Councilman Burdiss, seconded by Councilman Elliott, to approve the Conditional Use Permit to operate a two-bedroom Bed & Breakfast at 212 Bay Avenue. The motion was approved by a majority vote with Councilmen Bannon and Evans abstaining.

NEW BUSINESS:

A. *Appointment to Planning Commission:*

Tom Bonadeo informed the Council that Commissioner Andie Morgan tendered her resignation on February 13, 2009 and a replacement needs to be appointed to complete Ms. Morgan's term ending July 13, 2010. During the last interview process in December 2008, Council named Roger Munz as the second alternate for the Planning Commission.

Mayor Sullivan asked if there were any objections regarding the appointment of Roger Munz to the Planning Commission to complete Ms. Morgan's term. Hearing no objections, Roger Munz was appointed to the Planning Commission by unanimous consent.

B. *Appointment to the Wetlands Board:*

Tom Bonadeo informed the Council that multiple members of the Wetlands Board have resigned and there is currently one vacancy on the Board with no alternates. Scott Walker was previously interviewed for the Wetlands Board and due to questionable language regarding simultaneous memberships on various boards, Mr. Walker was not seated at that time. Clarification has been received from the Attorney General stating that Mr. Walker can serve on both the Wetlands and Building Code Boards.

Mayor Sullivan asked if there were any objections regarding the appointment of Scott Walker to the Wetlands Board. Hearing no objections, Scott Walker was appointed to the Wetlands Board by unanimous consent.

C. *Harbor Rate Change:*

Smitty Dize explained that the last rate increase at the Harbor was effective February 14, 2006 and due to the closing of the crab dredging season in 2009, the Cape Charles Harbor

had experienced a significant financial loss. Smitty Dize proposed a modest rate increase effective March 13, 2009 and presented comparisons to other marinas/harbors on the Eastern Shore. (see attached)

Mayor Sullivan asked if there were any objections to the proposed increases. Hearing no objections, the rate increases at the Cape Charles Harbor were approved by unanimous consent as presented.

D. Update to Harbor Rules and Regulations:

Smitty Dize explained that the Cape Charles Harbor earned its designation as a Virginia Clean Harbor and new rules and regulations needed to be incorporated to promote a clean boating environment. Smitty Dize stated that the various rules and regulations regarding the Harbor, including the clean harbor requirements and Town Codes, where applicable, have been combined into one set of rules and regulations.

Mayor Sullivan asked if there were any objections to the proposed rules and regulations. Hearing no objections, the Cape Charles Harbor Rules and Regulations were approved by unanimous consent as presented.

E. Increase of Wastewater Rate:

Town Consultant Bob Panek reviewed the background regarding the proposed increase to the wastewater minimum usage rate from \$25.40 to \$34.30 per month. A Public Hearing was held earlier this evening and there were no public comments regarding the proposed usage rate increase. Mayor Sullivan read Resolution #20090312 – Increasing the Wastewater (Sewer) Minimum Usage Rate.

The Resolution was approved by unanimous vote. Roll Call Vote: Bannon – yes; Bennett – yes; Burdiss – yes; Elliott – yes; Evans – yes; Veber – yes.

F. Increase of Water and Sewer Connection Charges:

Bob Panek reviewed the background regarding the proposed increase to the water and wastewater connection charges effective July 1, 2009. Mr. Panek went on to state that he had received the revised grant contract from the Department of Environmental Quality (DEQ) and Cape Charles had been approved for a \$6.8M Nutrient Removal Grant. Mr. Panek also stated that he had met with a representative from the VML/VACo regarding financing for a construction loan and that he had applied for a Clean Water Revolving Loan Fund loan and/or grant as part of the Federal economic stimulus package. There was some discussion regarding feedback received from the VML/VACo representative.

Bob Panek introduced Mr. Malcolm Hayward who gave a presentation entitled “Water Plant Financial Opportunity – A Conceptual Approach” which introduced a plan where property owners could pre-pay for a connection at the current cost. There was much debate amongst the Council regarding the amount of the increase. Mayor Sullivan read Ordinance #20090312 – Increasing the Water and Sewer Connection Charges.

Motion made by Councilman Bannon, seconded by Councilman Veber, to approve Ordinance #20090312 to increase the water and sewer connection charges to \$20K. The Council vote was tied and Mayor Sullivan cast the deciding vote to approve the increase as presented. Roll Call Vote: Bannon – yes; Bennett – no; Burdiss – no; Elliott – yes; Evans – no; Veber – yes.

G. *Reappointment to the Industrial Development Authority:*

Acting Town Manager Heather Arcos reported that she received a letter from Northampton County Administrator Katherine Nunez informing her that Stephen R. Warren had been reappointed to serve on the Industrial Development Authority of Cape Charles-Northampton County for an additional term to expire December 31, 2012 and it was also necessary for the Town Council to concur with this reappointment.

Mayor Sullivan asked if there were any objections to the reappointment of Stephen Warren to the Industrial Development Authority of Cape Charles-Northampton County. Hearing no objections, Stephen Warren's reappointment was approved by unanimous consent.

H. *Bank Document Signing Authority:*

The Council reviewed the staff report regarding adoption of a new bank resolution authorizing the positions of Mayor, Town Manager, Assistant Town Manager, Treasurer and Town Clerk to sign banking documents.

Mayor Sullivan asked if there were any objections regarding the positions authorized to sign banking documents. Hearing no objections, the bank document signing authorization was approved as presented by unanimous consent.

ANNOUNCEMENTS:

- March 21, 2009 – Renovator's Ball
- March 26, 2009 – Town Council Work Session – Budget
- April 3, 2009 – Blessing of the Fleet
- April 9, 2009 – Town Council Regular Session
- May 30, 2009 – MS Bike Race

Mayor Sullivan asked if there were any objections to adjourning the meeting. Hearing no objections, the regular meeting of the Town Council was adjourned by unanimous consent.

Mayor Sullivan

Town Clerk