



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
October 8, 2009
Immediately Following the Public Hearing

At approximately 7:03 p.m. Mayor Dora Sullivan called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Councilmen Bennett, Burdiss, Evans and Veber. Councilman Elliott arrived at 7:29 p.m. Councilman Bannon was out of town and not able to attend. Also in attendance were Town Manager Heather Arcos, Town Planner Tom Bonadeo and Town Consultant Bob Panek. Several additional members of staff were also in attendance.

PUBLIC COMMENTS:

No one from the public signed up for comments and no written comments were submitted prior to the meeting.

CONSENT AGENDA:

Town Manager Heather Arcos requested to add under New Business, Bid Procedure Approval as item 7D.

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

The Town Council reviewed the minutes of the September 10, 2009 Regular Meeting, the September 21, 2009 Joint Meeting with representatives from the Northampton County Board of Supervisors and Mayor Lewis of Cheriton, two Executive Sessions on September 24, 2009 and the September 24, 2009 Special Meeting.

Councilman Evans stated that he would abstain from the vote for the September 10, 2009 Regular Meeting, the September 24, 2009 Executive Sessions and the September 24, 2009 Special Meeting since he was not in attendance. Councilman Burdiss added that he would abstain from the vote for the September 10, 2009 Regular Meeting and the September 24, 2009 Executive Session regarding the Wastewater Treatment Plant since he was not in attendance.

Motion made by Councilman Veber, seconded by Councilman Bennett to approve the minutes for the September 10, 2009 Regular Meeting, the September 21, 2009 Joint Meeting with the Northampton County Board of Supervisors and Mayor Lewis of Cheriton, the September 24, 2009 Executive Session regarding the Wastewater Treatment Plant, the September 24, 2009 Special Meeting, the September 24, 2009 Executive Session regarding Groundwater Options as presented. The motion was approved by a majority vote with Councilmen Evans and Burdiss abstaining from the votes of several meetings as described above.

REPORT PRESENTATIONS:

A. *Town Manager's Report:*

Town Manager Heather Arcos thanked Harbor Master Smitty Dize for organizing the Seafood Fest at the Harbor last Friday night for the employees, members of the Town Council, Planning Commission and Boards. Heather Arcos also informed the Council that 27 applications have been received to date for the part-time Library Assistant. The application deadline is close of business tomorrow, October 9th.

B. *Treasurer's Report:*

Treasurer JoAnna Leatherwood reported that the Treasurer's Report dated September 30, 2009 showed \$254,199 in the Bank of America checking account and \$1,165,440 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$1,419,638. \$220,940 of the \$254,199 in the Bank of America checking account represented 20 prepaid connection fees and will be moved to a reserve account.

Motion made by Councilman Evans, seconded by Councilman Bennett and unanimously approved to accept the Treasurer's Report as presented.

C. *Library Report:*

Librarian Ann Rutledge was not able to attend the meeting.

D. *Recreation Report:*

Heather Arcos reported the following: i) Jen Lewis met with Heritage Acres and will be hosting a movie day on October 21st and a Bingo & Halloween Party on October 29th. The residents of Heritage Acres were all excited about the upcoming activities; ii) A Cornhole tournament will begin on October 10th at 5:00 PM at the corner of Mason and Bay Avenues. If it rains, the location will be the Cape Charles Fire House; iii) There are 21 planned events in October.

E. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber reported the following: i) The directional sign in front of Bay Creek has been taken down for repairs and should be replaced later this week; ii) The Town is working on a landscaping design for the Cape Charles sign at Route 13. There is an area below the sign reserved for event banners so the landscape design will take this height limitation in to consideration; iii) The Discharge Permit for the Wastewater Treatment Plant (WWTP) has been received and includes the limitations for the old plant and the pollutant and nutrient limitations for the new plant; iv) Under "Upcoming Projects" on the Public Utilities Report, Dave Fauber added that the contractor selection for the WWTP has been completed.

F. *Harbor Report:*

Harbormaster Smitty Dize informed the Council that he did not have anything to add to his written report which was included in the Council agenda packet.

G. *Planning Commission / Historic Review Board / Harbor Area Review Board Report:*

Town Planner Tom Bonadeo reported the following: i) The survey mentioned in his report was regarding the relocation of Bayshore Road which was completed "on paper" and the deed and survey were updated when the STIP was developed, but the physical road was never moved. VDOT and the railroad are reviewing the deed at this time; ii) VDOT has completed their review of the Keck Property and the deed is in review by both

parties' legal departments and completion is expected soon; iii) The Harbor Area Review Board (HARB) met on September 17th and included in the report was an example of the criteria scoring sheet which was completed by the members of HARB in reviewing the Cape Harbor Project.

OLD BUSINESS:

A. Cape Charles Harbor "No Wake Zone" Application:

Smitty Dize explained that in 1982, the Department of Game and Inland Fisheries (DGIF) revised the "No Wake Zone" in the Cape Charles Harbor to a triangle area around the boat ramp. Since that time, there have been numerous incidents where vessels were damaged due to the wakes being carried by the west dock and this also poses a problem for contractors working in the Harbor. The DGIF can only enforce the triangle area because coordinates are needed. The Town is submitting an application requesting that the "No Wake Zone" be designated to be between buoys placed south of Beacon 8 and north of the existing jetty. A Public Hearing was held earlier this evening to hear public comments regarding this modification. There was some discussion regarding the concerns expressed by Mr. Charles Dumouchelle, President of the Northampton County Anglers Club, stating that it would be impossible to maintain control of a boat going at such a slow speed against a strong wind. Councilman Bennett pointed out that while reading his staff report, Smitty Dize explained that in 1976, the "No Wake" ordinance was changed deleting the 3 MPH reference and adding that the boat should travel as slow as possible without losing steerage.

Motion made by Councilman Burdiss, seconded by Councilman Bennett and unanimously approved to authorize Town Manager Heather Arcos to sign the letter to the DGIF and submit the application as presented.

B. Potential Regional Wastewater System:

Consultant Bob Panek stated that over the last several weeks, at the request of Secretary of Natural Resources L. Preston Bryant, Jr., the Town has had a series of discussions, as well as a joint meeting on September 21, 2009, with the Town of Cheriton and Northampton County regarding the possibility of implementing a regional wastewater system. The conclusions gained from these discussions were that i) the service area should be limited by existing and planned development; ii) the Cape Charles Wastewater Treatment Plant should be the processing hub; iii) an effluent reuse component is desirable to reduce bay discharge; iv) additional grant funding or private investment is needed for collection, pumping and pipeline systems; and v) a mandatory connection ordinance is required in all jurisdictions. In order to make this a viable project and due to the considerable work that would be necessary, it was critical that the Town Councils of Cape Charles and Cheriton along with the Northampton County Board of Supervisors fully support the project. Bob Panek stated that this item is not an action item, but was being presented to get direction from the Council regarding their intent to proceed along this path for a regional wastewater system since this could be a lengthy and complicated process.

David Burden, District 2 Representative on the Northampton County Board of Supervisors, addressed the Council regarding the possibility of expanding the scope of Cape Charles' new wastewater treatment facility to increase the service area to serve more people, to lower the cost per user and to reduce or eliminate discharge into the Chesapeake Bay. There are some challenges to a regional wastewater system in that Cheriton and the County do not have collection systems in place and grants are needed to

get this infrastructure in place. This would be accomplished in phases, with Cape Charles moving forward in building their facility as planned and when Cheriton and the County get their infrastructure in place, they can proceed to hook up to the Cape Charles facility.

Mayor Sullivan stated that Bob Panek is a contract employee budgeted to work three days per week and was concerned that if Bob Panek is utilized in the process for this possible regionalization, who will be responsible to compensate him? David Burden responded that this was still very early in the process and that possibly the responsibility of compensation would fall on the Public Service Authority (PSA). As of this time, the majority of the work rests with Cheriton and the County in order for this process to move forward and Cape Charles needs to name two members, either staff or members of Council, to serve on this committee. There was much discussion with questions for David Burden and Bob Panek.

Bob Panek also informed the Council that the Town had received an amendment to the Water Quality Improvement Fund Grant allotting an additional \$1.2M totaling \$8M. The Town also received the principal forgiveness loan documents from the Virginia Resource Authority for the \$4.5M through the Clean Water Revolving Loan Fund. The Town should know by January 2010 whether we have been approved for the no interest loan, which could, in effect, cut the debt service in half. The State is on a deadline to obligate the Federal Stimulus money by February 17, 2010 and Cape Charles is second on the priority list for additional funding if other jurisdictions do not execute their projects in time.

After further discussion, a general consensus was reached to support a possible regional wastewater system and agreed that staff could move forward to pursue this goal.

NEW BUSINESS:

A. *Offshore Breakwater Project – MOA with Bayshore Concrete:*

Heather Arcos explained that the Town is currently preparing a bid package for the first phase of the Offshore Breakwater project and have met with Bayshore Concrete Products regarding the use of their overstocked concrete pieces in the construction of the breakwater. Bayshore Concrete has agreed to provide their products for the cost of loading it on to a barge which will be a considerable savings per ton from an all armor stone. The Memorandum of Agreement with Bayshore Concrete provides the following: i) Bayshore Concrete will hold the existing inventory and reserve any additional suitable inventory; ii) The procurement of the material is a sole-source procurement under the Town's procurement regulation since Bayshore Concrete is the only practicable source for this material; iii) Bayshore Concrete will load the material onto the contractor's barge which eliminates shipping costs; and iv) the Town can proceed with the bid process as proposed. There was some discussion regarding the aesthetics of the breakwater and the amount of concrete, if any, which would be visible above the water line. Tom Bonadeo explained that there are three (3) designs: i) all armor stone; ii) core of concrete with armor stone on one (1) side; iii) core of concrete with armor stone on two (2) sides. The main issue is the cost of the armor stone and the number of sections which could be built with the funds that are allotted for this project. Councilman Evans stated that he would like the designs to be brought to Council to make the decision to ensure the design with the best aesthetics is chosen.

Motion made by Councilman Burdiss, seconded by Councilman Evans and unanimously approved to authorize Town Manager Heather Arcos to execute the Memorandum of Agreement between the Town and Bayshore Concrete Products.

B. Town Council Representative on Planning Commission:

Tom Bonadeo stated that Councilman Bruce Evans has submitted his resignation as the Town Council representative to the Planning Commission effective upon his replacement. The Planning Commission By-Laws state that one member of the Commission must be a representative from the Town Council.

Tom Bonadeo added that Ken Kuttler's position on the Commission still has not been filled and stated that Mr. Mike Strub, who recently moved to Cape Charles, contacted him expressing his interest in service on the Planning Commission. Tom Bonadeo stated that he would provide Mr. Strub's contact information to the Town Manager to set up an interview with the Council.

There was some discussion regarding this position with no volunteers from Council offering to serve on the Planning Commission. Mayor Sullivan recommended that, since Councilman Evans is willing to continue on the Planning Commission until a replacement has been named, the Council should wait until after next year's election to fill this position.

C. Lease for New Police Car:

JoAnna Leatherwood explained that the Town's policy has been to lease patrol vehicles for the police department since the leases include a non-appropriation clause should the Town choose not to budget a lease for a future year. The annual lease payment for a new police car has been included in the FY2009/2010 budget to replace an older car which has been determined to no longer be appropriate for patrol use due to the increased number of major repairs needed to keep the car in service. \$12K was budgeted this year for police vehicles which will cover the final payment on one of the other vehicles as well as the first payment on this vehicle.

Motion made by Councilman Burdiss, seconded by Councilman Elliott and unanimously approved to authorize Town Manager Heather Arcos to sign the lease agreement as discussed.

D. Bid Procedure Approval:

Heather Arcos stated that the Code of Virginia allows a public body to negotiate with the apparent low bidder to obtain a contract price within the funds available as long as a written procedure is in place. The Offshore Breakwater project is planned to be built in segments or partial segment as funding and material will allow. The ability to negotiate with the low bidder to maximize the amount of breakwater footage being built, and not being restricted to full segments, is important. There was some discussion regarding the amounts of grant funding (\$500K) and the Town's match (\$166K).

Motion made by Councilman Evans, seconded by Councilman Veber and unanimously approved to adopt the written procedure for the Cape Charles Harbor Breakwater IFB in accordance with §2.2-4318 of the Code of Virginia.

ANNOUNCEMENTS:

- October 12, 2009, Town Offices closed in observance of Columbus Day
- October 21, 2009, Friends of the Library Bus Trip to Harrington Slots
- October 22, 2009, Tentative Town Council Work Session
- November 3, 2009, Election Day
- November 11, 2009, Town Offices closed in observance of Veterans' Day
- November 12, 2009, Town Council Regular Meeting
- October 11, 2009, Delmarva Fire Convention @ the Cape Charles Fire House

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

Mayor Sullivan

Town Clerk