



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
February 11, 2010
Immediately Following Public Hearing

At 7:05 p.m. Mayor Dora Sullivan called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Councilmen Bannon, Bennett, Burdiss, Evans and Veber. Councilman Elliott was not in attendance. Also in attendance were Town Manager Heather Arcos, Town Consultant Bob Panek and Town Clerk Libby Hume. The Department Heads were also in attendance along with five members of the public.

PUBLIC COMMENTS:

Mr. Tom Bonadeo, 579 Mason Avenue, addressed the Council requesting support for the Rosenwald School Restoration Initiative. Tom Bonadeo continued by reading a letter dated February 11, 2010 regarding the Cape Charles Rosenwald School Restoration Initiative. (see attached)

Ms. Valentine Evans, Jefferson Avenue, addressed the Council stating that she was a former student of the Rosenwald School in Cape Charles. There is an initiative to place a historic marker that identifies the historic nature of the school.

There were no further comments from the public in attendance nor any written comments submitted prior to the meeting.

Councilman Veber stated that he would like to compliment the members of the Cape Charles Volunteer Fire Department for their quick action when a tree fell on the roof of a house in the 500 block of Monroe Avenue and thanked them for all their hard work.

CONSENT AGENDA:

Mayor Sullivan stated that beginning this month; Combination Inspector Jeb Brady would be giving monthly updates on the Central Park Trail project. Mayor Sullivan added that she would like to add this report to the beginning of the Report Presentations before Item 5A.

Motion made by Councilman Bennett, seconded by Councilman Veber to approve the agenda as amended. Hearing no objections, the motion was approved by unanimous consent.

The Town Council reviewed the minutes of the January 11, 2010 Joint Work Session with the Cheriton Town Council, the January 14, 2010 Public Hearing, the January 14, 2010 Regular Meeting and the January 28, 2010 Work Session.

Motion made by Councilman Burdiss, seconded by Councilman Bennett to approve the minutes for the January 11, 2010 Joint Work Session with the Cheriton Town Council, the January 14, 2010 Public Hearing, the January 14, 2010 Regular Meeting and the January 28, 2010 Work Session. Hearing no objections, the motion was approved by unanimous consent.

REPORT PRESENTATIONS:

A. Code Enforcement / Central Park Trail Update

Combination Inspector Jeb Brady stated that the Central Park Trail Project was at a slow crawl due to the weather. At least two inspections are made daily to check the progress. Weekly

construction meetings have started and are used as a guide for any outstanding issues and to discuss future work. The flooding during the last storm became a problem on the corner of Park Row and Strawberry Street but was taken care of immediately once the weather cleared up. The first Best Management Practice (BMP) on the northwest corner of the park is being dug and water is being pumped to establish the BMP.

Heather Arcos thanked Jeb Brady and Tom Bonadeo for their hard work on this project and asked that the minutes from the weekly construction meeting be included in the monthly Town Council packets.

B. *Town Manager's Report:*

Town Manager Heather Arcos reported the following: i) The Public Works and Public Utilities crews did a great job in preparing and maintaining the roads before and after the snow storm last weekend. The Police Department also did a great job taking care of the safety of the citizens and visitors. Thank you all for the hard work; ii) The Breakwater Project is under contract and in the process of mobilization. Staff is working on the schedule of work which is behind due to the weather. Once the work has started, the contractor has 150 days to complete the project; and iii) The Virginia Port Authority meeting which was scheduled for today, was postponed until 10:00 AM February 16th.

C. *Treasurer's Report:*

Treasurer JoAnna Leatherwood reported that the Treasurer's Report dated January 31, 2010 showed \$827,662 in the Bank of America checking account and \$2,874,061 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$3,701,723.

Motion made by Councilman Bennett, seconded by Councilman Bannon to approved the Treasurer's Report as presented. Hearing no objections, the motion was approved by unanimous consent.

D. *Library Report:*

Librarian Ann Rutledge reported the following: i) The Friends of the Cape Charles Memorial Library will be presenting *Slammin' at the Hall, a Family Poetry Slam* on February 13th at 1:00 PM at the St. Charles Parish Hall; ii) An Identity Theft Workshop has been scheduled for February 25th at the St. Charles Parish Hall; iii) This month's book display is "Valentine's Day;" iv) A customer checked out a John Grisham book and found a deposit slip along with \$200 in cash inside. The customer took it to the Bank of America in Town but they could not identify the account and told her she could keep the money. The customer came back and gave the Library \$100 as a donation; v) Storytime is being held in the Baptist Church Hall; vi) The old doors of the Library do not close completely and the building is very drafty. The Library ran out of gas recently since it cannot be kept warm. New doors are needed.

E. *Recreation Report:*

Community Events / Recreational Coordinator Jen Lewis reported the following: i) The Health Department will be giving free H1N1 shots from 12:30 – 2:00PM on February 16th at the Fire Hall; ii) There will be a Valentine's Day Gift Exchange on February 13th at 2:00 PM at Aqua; iii) Arts and Crafts at Heritage Acres has been rescheduled to February 12th due to the snow.

F. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber reported the following: i) He met with FEMA representatives and paperwork was signed for monetary assistance to repair a portion of the boardwalk and mitigation repairs for the pier; and ii) The Public Works crew is working on the Library doors. The doors are not historical and it is time to replace them. Councilman Evans

added that the Historic District Review Board would need to review replacement doors for the building. Dave Fauber distributed the Task Order Summaries and Updates for water and wastewater adding that task orders #8, 9 and 10 for wastewater were very brief and would be updated at a later date. Councilman Evans brought up the issue with VDOT cutting back the crape myrtle trees in Town. They were cut back too drastically which was not necessary. These trees were over 16 years old and over 20' tall and were not in the VDOT right-of-way and felt that a letter needed to be sent to VDOT regarding this issue. Heather Arcos stated that she spoke with Mr. Fitchett of VDOT and that she will also send him a letter. Councilman Evans added that he would also send a letter as an individual. Councilman Veber asked about the number of houses in Town that had broken pipes. Dave Fauber responded that approximately 9 or 10 had confirmed broken pipes and 14 or 15 residences had very high meter reads. Many of these properties are not full time residences. Dave Fauber added that the Town is losing a lot of money by making adjustments to water bills and may want to revisit the subject of adjustments. Currently, one adjustment is permitted on a property every three years. Mayor Sullivan asked how the Town determines where the problem lies and Dave Fauber stated that if the water goes through the meter, the leak is within the property owner's realm of responsibility.

G. *Harbor Report:*

Heather Arcos mentioned that Harbor Master Smitty Dize was not able to attend this evening's meeting and added that the Third Annual Blessing of the Fleet was scheduled for April 9th and 10th.

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

Town Planner Tom Bonadeo reported the following: i) He received a letter from VDOT explaining their requirements regarding traffic studies and denying the Town's request to reduce the speed limit on Old Cape Charles Road to 25 MPH. There was some discussion regarding the letter and the Council agreed that the Town should continue in the efforts to get the speed limit reduced and that another letter should be sent to include the issue of golf cart usage in the Town; and ii) He has been informed by Heritage Acres that they are interested in remodeling.

OLD BUSINESS:

A. *Cape Charles Harbor "No Wake Zone"*

Tom Bonadeo stated that a public hearing was held earlier this evening to hear comments regarding the proposed changes to Section 14-32 of the Town Code entitled "No Wake Zone for Vessels" removing references to specific boundaries and generalizing the area "as designated by the Department of Game and Inland Fisheries" (DGIF) since the area controlled by the DGIF was subject to change. Ordinance #20100211 was reviewed by the Council.

Mayor Sullivan moved for adoption of Ordinance #20100211-Modifying Section 14-32 of the Cape Charles Town Code Regarding the Cape Charles Harbor "No Wake Zone." Ordinance #20100211 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Burdiss, yes; Evans, yes; Veber, yes.

B. *Collection of Delinquent Taxes Prior to Permit Issuance*

Jo Anna Leatherwood stated that a public hearing was held earlier this evening to hear comments regarding the proposed addition of Section 66-4 to the Town Code entitled "Payment of Delinquent Real Estate Taxes Prior to Issuance of Any Permits" and the proposed changes to Article II, Section 2.4.2.A. of the Cape Charles Zoning Ordinance entitled "Permits" requiring that all delinquent real estate taxes owed to the Town must be paid in full before any permits would be issued on a property. Ordinance #20100211A was reviewed by the Council.

Mayor Sullivan moved for adoption of Ordinance #20100211A-Requiring That All Delinquent Real Estate Taxes Be Paid Prior to the Issuance of Any Conditional Use Permit, Variance, Rezoning or Other Land Disturbing Permit, Building Permits and Erosion and Sediment Control. Ordinance #20100211A was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Burdiss, yes; Evans, yes; Veber, yes.

C. Conditional Use Permit Application for a Bed & Breakfast at 302 Fig Street

Tom Bonadeo stated that a Conditional Use Permit (CUP) application was received to operate a six-bedroom bed and breakfast at 302 Fig Street. A joint public hearing with the Planning Commission was held and no public comment was heard regarding this application.

Motion made by Councilman Burdiss, seconded by Councilman Bennett to approve the CUP as forwarded by the Planning Commission for the applicant to operate a six-bedroom bed and breakfast at 302 Fig Street. Hearing no objections, the motion was approved by unanimous consent.

D. Modifications to §3.14 – PD-STIP District of the Cape Charles Zoning Ordinance

Tom Bonadeo stated that the Planning Commission recommended allowing building heights in the PD-STIP District to be over 40' but less than 55' with a CUP which is the same as what is permitted in the Harbor District. The proposed changes to Section 3.14.C of the Zoning Ordinance were reviewed. A joint public hearing with the Planning Commission was held and no public comment was heard regarding this issue.

Motion made by Councilman Evans, seconded by Councilman Veber to approve the changes to Section 3.14.C of the Cape Charles Zoning Ordinance as presented. Hearing no objections, the motion was approved by unanimous consent.

E. Modifications to §4.3.D – Conditional Use Permits of the Cape Charles Zoning Ordinance

Tom Bonadeo stated that at the request of the Council, the Planning Commission recommended the following modifications to Section 4.3 of the Zoning Ordinance: i) The application for CUP will include a list of additional permits and their approximate time requirements; ii) The Planning Commission will review, hold a public hearing and make their recommendations to the Council; iii) The Council will review, hold a public hearing and approve or deny the permit; iv) If the permit is approved the applicant will have time to obtain the other permits listed in the application; v) The applicant will be required to submit a progress report to the zoning administrator within the first nine months after approval of the CUP and the zoning administrator will report the ongoing status to the Council; vi) Once the other permits have been obtained, staff will advise Council of the start date of the one-year CUP; vii) Requirements for the permit being “acted upon” during the year would include the following: obtaining a building permit, payment of connection fees and approved building plans properly authorized by a Virginia Licensed Professional; viii) The applicant may apply for one CUP extension not exceeding one year for good cause shown before the expiration of the original one-year period. There was much discussion regarding this process and any recourse for the Town if an applicant were to “stall” in obtaining the other permits that may be required. Councilman Evans suggested having legal counsel review the proposed revisions.

Motion made by Councilman Bannon, seconded by Councilman Burdiss to approve the proposed modifications to Section 4.3 of the Cape Charles Zoning Ordinance as recommended by the Planning Commission. The motion was denied with Councilmen Bannon and Veber voting for and Councilmen Bennett, Burdiss and Evans voting against.

Motion made by Councilman Evans, seconded by Councilman Bannon and unanimously approved to table the decision regarding the modifications to Section 4.3 of the Cape Charles Zoning Ordinance until after review by legal counsel.

NEW BUSINESS:

A. FEMA Beach Report

Tom Bonadeo stated that he and Dave Fauber met with engineers from FEMA regarding the Town's request for monetary assistance regarding the damages to the beach caused by the November nor'easter. The Town's request for funding was denied due to a technicality in that the Town did not have an official beach management plan which called for regular sand replenishment. Tom Bonadeo reviewed FEMA's requirements for beaches and beach maintenance to qualify for aid as follows: i) The beach was constructed with imported sand of the proper grain size. The Town met this requirement by using local sand that was .38 to .30 mm in grain size; ii) A maintenance program involving periodic nourishment with imported sand that has been adhered to by the applicant. The Town did not meet this requirement in that beach nourishment was not funded in the last budget cycle and the Town did not have an official beach maintenance program; and iii) The program preserves the original design. The Town's measurements and data supported the original design and sand requirements referenced the original design but since the nourishment was not funded, the Town did not maintain the original design. FEMA recognized the "good faith" efforts of the Town and offered recommendations on the development of an official maintenance plan. Staff will implement an Official Beach Nourishment Plan and will submit such plan to Council for funding in the new budget. Dave Fauber added that the FEMA representatives strongly recommended that the Town appeal the decision to Richmond stating that they feel that the Town does have a plan in place.

B. Boundary Adjustment Committee Update

Tom Bonadeo informed the Council that the Boundary Adjustment Committee met on January 25th and reviewed the Northampton County Zoning Map showing the Cheriton / Route 13 area and their classifications and agreed to spend time looking at maps and to analyze the pros and cons of taking in the additional area. The Committee agreed that the process should begin with a Memorandum of Agreement between the two towns and the publication of the press release. Since that time, numerous emails and calls have been received from concerned County citizens that are not aware of the process involved regarding a boundary adjustment and seem to believe that the Towns and the County Board of Supervisors can easily approve a boundary adjustment at any time. These citizens were notified of the Council meeting this evening, but are not in attendance.

C. Potential Regional Wastewater System

Consultant Bob Panek stated that, at the request of the Virginia Secretary of Natural Resources, a working group was formed with Northampton County and Cheriton officials to explore the possibility of implementing a regional wastewater system to serve Cape Charles, Cheriton and the surrounding area of Northampton County. A similar working group has been formed in the northern section of the county near Exmore and Nassawadox. Last week, the County Administrator submitted the application for the planning grant to the Virginia Department of Housing and Community Development. After completion of the preliminary engineering report, the application to USDA Rural Development for the grant and loan package for the final engineering and construction of the sewer collection, pumping and pipeline systems must be submitted in June 2010 to allow for the grant award by September 30, 2010 which is the expiration of the American Recovery and Reinvestment Act of 2009 (ARRA) funds. The existing county Public Service Authority (PSA) will need to be appropriately modified to function as the grantee by June 2010. A meeting was held on February 3rd to discuss the PSA concept. Representatives from the County, Exmore, Nassawadox, Cheriton and Cape Charles

attended the meeting and the consensus of the group was to form a coordinating committee, consisting of a representative and alternate from each of the four towns and the county, to recommend the necessary modifications to the existing county PSA. The final recommendation of the committee would be brought to each governing body for approval after appropriate public notice. Bob Panek added that the Council needed to designate a representative and alternate to serve on this committee.

Motion made by Councilman Veber, seconded by Councilman Burdiss, and unanimously approved to designate Councilman Bannon and Staff Consultant Bob Panek as representative and alternate, respectively, to the PSA coordinating committee.

ANNOUNCEMENTS:

- February 15, 2010 Town Offices closed for Presidents' Day
- February 13, 2010 Poetry Slam at the Cape Charles Memorial Library
- February 25, 2010 ID Theft Workshop presented by Officer Nick Braatz at St. Charles Parish Hall
- March 11, 2010 Town Council Regular Meeting

Motion made by Councilman Bennett, seconded by Councilman Bannon to adjourn the Town Council Regular Meeting. Hearing no objections, the Town Council Regular Meeting was adjourned by unanimous consent.

Mayor Sullivan

Town Clerk