



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
July 8, 2010
7:00 PM

At 7:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Councilmen Bannon, Bennett, Evans, Sullivan and Veber and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Town Planner Tom Bonadeo, and Town Clerk Libby Hume. The Department Heads were also in attendance along with nine (9) members of the public.

Mayor Sullivan offered the invocation and led the Pledge of Allegiance.

PUBLIC COMMENTS:

Mr. Erin Harvey, 123 Peach Street, addressed the Council regarding volleyball at the beach. Prior to the beach replenishment project, the volleyball net was moved to the south end of the beach by the fishing pier which is not a good location due to the narrowness of the beach in this area by a sandy cliff on a dune. There was no room for spectators to sit and watch the games. Mr. Harvey asked that the volleyball net be moved back to its original location where there would be enough room for two nets. Mr. Harvey went on to inform the Council that he spoke to Wagner Brothers and was told that the cost to move the sand, relocate the sand fence and install the nets would be approximately \$1K but if the Town were to do the work, the cost would be reduced to approximately \$400. Mr. Harvey concluded by stating that he would appreciate help from the Town Manager, Recreation Coordinator, Town Planner and Town Council in getting the volleyball net moved so more citizens could enjoy it.

Mr. Mike Kuzma, 209 Monroe Avenue, thanked the Town Manager, Chief of Police and Code Enforcement for their quick response regarding 211 Monroe Avenue. Approximately 12-15 people were living there frequently abusing alcohol and using vulgar and profane language. Mr. Kuzma stated that he called the Chief of Police who responded promptly and professionally. Mr. Kuzma also thanked Tammy Teague for her diligence in noticing a significant increase in his water bill and ordering a re-read of the meter. Mr. Kuzma concluded by expressing his thanks to the Town for all the great employees.

Ms. Judy Morgan, Landmark Holdings, addressed the Council asking for their support in extending the Conditional Use Permit (CUP) for Cape Harbor, either to 2014 as provided for under the Governor's new bill or on a year-to-year basis. Ms. Morgan concluded by stating that she would not want to see their investment in the project and the Town to go away.

Town Clerk Libby Hume read the following comments submitted in writing:

Mr. Daniel Brown wrote regarding relocation of the volleyball net to its original site. (See attached)

Mr. Jim Mahaffy wrote regarding an issue with the water meters for 415 and 417 Tazewell Avenue. (See attached)

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

CONSENT AGENDA:

Mayor Sullivan stated that there were several changes to be made to the agenda as follows: Under Report Presentations, Item 5C-Recreation Report would be deleted since Community Events/Recreational Coordinator was not in attendance, and Item 5G-Code Enforcement/Trail Update would be moved to the beginning of the Departmental Reports.

Motion made by Councilman Bennett, seconded by Councilman Evans to approve the agenda as amended. The motion was approved by unanimous consent.

The Town Council reviewed the minutes of the June 10, 2010 Public Hearing, the June 10, 2010 Regular Meeting, the June 15, 2010 Special Meeting, the June 24, 2010 Executive Session, the June 24, 2010 Work Session, the June 28, 2010 Joint Public Hearing and Special Meeting with the Northampton County Board of Supervisors and Town Councils from Cape Charles, Cheriton, Exmore and Nassawadox, and the June 30, 2010 Work Session.

Councilman Veber stated that he would abstain from the vote on the June 10, 2010 Public Hearing and June 10, 2010 Regular Meeting since he was not in attendance at those meetings. Councilwoman Natali stated that she would abstain from the vote on the June 24, 2010 Executive Session, the June 24, 2010 Work Session, the June 28, 2010 Joint Public Hearing and Special Meeting with the Northampton County Board of Supervisors and Town Councils from Cape Charles, Cheriton, Exmore and Nassawadox, and the June 30, 2010 Work Session since she was not in attendance at those meetings.

Councilman Bennett noted that the June 15, 2010 Special Meeting should show "Councilwoman-elect Natali" vs. "Councilwoman Natali" since her term did not begin until July 1st. Councilwoman Natali noted that the tenth line of the third paragraph of the June 15, 2010 Special Meeting minutes, has a typographical error showing "quality" vs. "qualify."

Motion made by Councilman Bannon, seconded by Councilman Bennett to approve the minutes for the June 10, 2010 Public Hearing, the June 10, 2010 Regular Meeting, the June 15, 2010 Special Meeting, the June 24, 2010 Executive Session, the June 24, 2010 Work Session, the June 28, 2010 Joint Public Hearing and Special Meeting with the Northampton County Board of Supervisors and Town Councils from Cape Charles, Cheriton, Exmore and Nassawadox, and the June 30, 2010 Work Session as amended. The motion was approved by majority vote with Councilman Veber and Councilwoman Natali abstaining as previously noted.

REPORT PRESENTATIONS:

G. Code Enforcement / Central Park Trail Update:

Combination Inspector Jeb Brady reported the following regarding the Central Park Trail Project: i) Both shallow wells have been drilled and the pumps are being connected; ii) The irrigation system should be installed next week, followed by the laying of the sod; iii) Trash cans have been ordered; and iv) The landscaper/arborist recommended waiting until the fall to plant the 67 trees. Everything should be done within the next couple of weeks with the exception of the west node. The brick pavers cannot be laid until after the installation of the fountain which is on order. A grand opening event is being planned for the Labor Day weekend. Town Manager Heather Arcos added that a Citizens for Central Park meeting was scheduled for this Saturday, July 10th at 3:00 p.m. and the grand opening was the topic of discussion.

Councilman Bennett asked Jeb Brady his impression of the contractor doing the work at the park. Jeb Brady stated that he felt that the owners and foreman were doing a very good job.

Communications with the contractor in general are adequate and his overall opinion was that the contractor as a whole was doing a good job.

Councilman Bennett asked about the status of the code enforcement case in Bay Creek. Jeb Brady stated that the Town had received a letter from the SunTrust's attorney and that the bank was obtaining quotes from contractors. Mold remediation testing was being completed. The Town has approved a deadline extension in an effort to work with the bank.

Councilman Bennett thanked Jeb Brady for his hard work stating that he liked seeing the detailed monthly reports but asked that a summary be provided on a monthly basis and detailed reports be provided on a quarterly basis in the future with the intent to save paper.

A. *Town Manager's Report:*

Town Manager Heather Arcos reported the following: i) Heather Arcos thanked Mr. Mike Kuzma for his comments; ii) The Town staff will review the issue regarding the volleyball site as requested by Mr. Erin Harvey; iii) The Town staff will also review the water meter issue brought up by Mr. Jim Mahaffy; iv) The Cape Charles Central Park Project is making great progress. Two large elm trees, diseased with Dutch elm disease and over 50% rotten, were cut down along Plum Street. Several calls were received from citizens regarding the removal of these trees, but once the situation was explained, the citizens understood; v) The Breakwater Project is near completion for the first two sections. The contractor is awaiting additional stone to complete the project which should take approximately one week after receipt of the stone; vi) The Cape Charles Beach Project is nearing completion as well. The handicap-accessible ramp at the South end of the beach was able to be used over the July 4th holiday weekend. The railing for the ramp should be installed within the next week. The construction of the beach access walkways should begin next week. Special thanks to Dave Fauber, Public Works / Utilities Director, for constructing the handicap-accessible ramp; vii) The Town will be advertising to solicit bids regarding a 40-year lease of the old school building;; viii) The 4th of July festivities were well attended. The food vendors ran out of food. The Town received several complaints that the fireworks could not be seen from the beach. The wind caused problems and the fireworks display was almost cancelled. The Town will look into a different setup for next year.

Councilman Veber stated that the Town has had tremendous success with grants for the new wastewater treatment plant, the various work at the Cape Charles Harbor, Central Park, etc. and asked for an estimated total of grant funding received by the Town. Treasurer JoAnna Leatherwood stated that the Town had received approximately \$25M – 30M in grant funding.

Councilman Bannon stated that recently, the Eastern Shore News published a very nice article regarding all the work being done in Cape Charles and suggested that a letter be sent to Ms. Ceri Danes and the Eastern Shore News thanking them.

C. *Recreation Report:*

Heather Arcos reported that the Town's first summer camp began June 28th with twelve children in attendance for the first day. The first camp was field hockey and girls from the local high school volunteered their time to help with the camp.

Councilman Bennett commented on an item on the monthly Recreation Report regarding the future of Riverside Shore Memorial Hospital. The report showed that Mr. Joe Zager, hospital administrator, stated that there were fewer overnight visits and more procedures were being done on an outpatient basis and that he felt that in the future, more outpatient centers would be constructed vs. a traditional hospital with accommodations for inpatient services. Councilman Bennett stated that it was a long ride across the Bay to get to a hospital in Virginia Beach.

Heather Arcos explained that she believed that there would be several emergency centers, possibly one at the north end and one at the south end of the Shore. Councilman Evans added that approximately 40-50% of the Accomac County residents go to Salisbury for medical attention.

B. *Treasurer's Report:*

Treasurer JoAnna Leatherwood stated that due to the end of the fiscal year and the July 4th holiday she did not have a report this month. The final audit entries are being made. The Town received confirmation that the County will again provide \$15.5K for the Cape Charles Memorial Library. The County is still reviewing information regarding the possibility billing the taxes on a semi-annual basis vs. once each year. The Town's software has the ability to process semi-annual billings and the Town will follow suit with the County's decision regarding tax billing.

D. *Library Report:*

Librarian Ann Rutledge reported the following: i) The summer movie nights have been popular. 28 kids attended the first movie and 16 attended last night; ii) 77 kids have signed up so far for the 2010 Summer Reading Program. The total number last summer was 55; iii) Computer usage has increased; iv) Quite a few tourists are coming in; and v) Special thanks to the Friends of the Library for all their support. Without the Friends, the Library would not be able to offer many of its programs.

Councilman Bannon added that information for the many programs offered by the Library have been placed in the rental units at Bay Creek.

E. *Harbor Report:*

Harbor Master Smitty Dize reported the following: i) The Harbor crew has been busy tending to the numerous customers. It takes approximately 3-5 hours every day to clean the trash and bathrooms; ii) Precon Marine is expecting the barge of stone any day and after receipt, it should be approximately 6-7 days to completion of the breakwater sections; and iii) Smitty Dize and Heather Arcos will be meeting with Mr. Tom Langley on July 9th to review the bid documents for the Harbor Redevelopment Project.

F. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber reported the following: i) The wells on the Keck property were drilled today and the pumps should be installed next week; ii) Work on the aquifer plan for the DEQ continues; iii) Billy Powell worked the holiday weekend. There was a problem with the Fig Street Pump Station. Every time the water level came up, the alarm would go off and someone had to go to the pump station to turn on the pump. The problem has been repaired and the pump had been working automatically again; iv) There was another problem with the emergency generators. During the last power outage, 5 of the 11 emergency generators did not come on which could be the result of weak batteries; and v) New construction has picked up in Town. Construction will start soon on a house in Bay Vistas.

Councilman Bennett asked about the production wells on the Keck property and whether easements have been approved to get the water to the water plant and how power would be supplied to the wells. Dave Fauber stated that A&N Electrical Cooperative would install underground cable to the site for \$1500. Dave Fauber went on to state that he was confident that the new wells had ample water with good quality.

H. *Planning Report:*

Town Planner Tom Bonadeo reported the following: i) ADA ramps will be installed along Plum Street. VDOT will be grinding down the pavement in the area to level off the road with the bottom of the ramp; ii) Brick pavers are still being installed in the South node of the park along Peach Street; iii) The Planning Commission continued their discussion regarding the Connector Road. Representatives from Southport Investors participated in the meeting and gave their input to the Commission. The Commission will continue these discussions at their August meeting and input from other stakeholders will be solicited; iv) The Planning Commission also discussed the possibility of creating a Technology Zone and will review a matrix of businesses conducive to such a zone; and v) 17 three-phase service lights are being installed at the park and along Plum Street to the pump station. The wiring has been completed for an additional 17 lights in the park which will be installed in the future.

Councilman Bannon mentioned an editorial that was published in the Eastern Shore News regarding an establishment outside of Cape Charles and asked Police Chief Charles Brown how often the Cape Charles Police Department gets called to help. Chief Brown stated that the police department usually gets a call every weekend to assist with a problem at the establishment.

OLD BUSINESS:

A. *Financial Assistance for Regional Wastewater System:*

Heather Arcos introduced Messrs. Eldon James from EJ&A Inc. and John Warwick from Hurt & Proffitt who gave an overview of the proposed regional wastewater system project and updates from the July 7th PSA Project Management Team meeting. Since the Cape Charles-Cheriton area is farther along, the PSA will be moving forward with the South Node. The application should be submitted to the Department of Environmental Quality (DEQ) by July 16th. The County is the applicant but a resolution requesting application for financial assistance for a regional wastewater system needs to be adopted tonight by the Cape Charles Town Council. Mr. James stated that the Town will get a copy of the Preliminary Engineering Report (PER) prior to submission to the DEQ.

Mayor Sullivan invited the Council to attend future PSA Project Management Team meetings to learn more about the project. The next meeting was scheduled for Wednesday, July 21st, beginning at 7:00 p.m. at the former middle school in Machipongo.

Mayor Sullivan moved for adoption of Resolution #20100708 – Requesting Application for Financial Assistance for a Regional Wastewater System. Resolution #20100708 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

B. *Wastewater Treatment Plant Status:*

Heather Arcos informed the Council that the Town was anticipating a mid-August closing on the zero interest loan. Heather Arcos reported the following regarding the wastewater treatment plant status: i) Concrete work for the UV/Post Aeration Facility, Bio-Reactor/Membrane Tanks is well underway; ii) The underground utilities for the Process Building have been installed; iii) Foundation work for the Headworks, for screening/grit removal, is underway; iv) The storm drainage system is being installed; and v) Mobilization for outfall extension along Bayshore Road. A few significant changes have been made or are underway as follows: i) The membrane specification was upgraded to the latest model at no cost and will increase the hydraulic capacity to about 330K GPD; ii) the UV/Post Aeration Facility design was revised to accommodate the water reuse system; iii) Additional excavation and structural fill were required due to the discovery of more extensive unsuitable soils at the locations of heavy structures. The negotiated cost of \$164,150 will be accommodated within the \$712,200 contingency amount in the total

project estimate; and iv) The Town has requested a proposal to delete about 580' of force main extension from the contract and add about 100' to connect the Headworks to the re-routed Mason Avenue force main to be installed as part of the Mason Avenue Pump Station project which will result in a cost reduction.

NEW BUSINESS:

A. *Vice-Mayor Election:*

Heather Arcos stated that each election year, a new vice mayor must be elected at the first regular meeting with the new Council.

Councilman Veber nominated Councilman Bannon to continue as Vice-Mayor stating that he has done an excellent job as Vice-Mayor for the past two years. Councilman Sullivan seconded the nomination. There were no other nominations.

Councilman Bannon was unanimously re-elected as Vice-Mayor for a two-year term ending June 30, 2012.

B. *Boundary Adjustment Committee Representative:*

Heather Arcos stated that the Council needed to appoint a representative from Council to the Boundary Adjustment Committee to replace out-going Councilman Burdiss.

Motion made by Councilman Veber, seconded by Councilman Bannon to appoint Councilman Sullivan to the Boundary Adjustment Committee to replace out-going Councilman Burdiss. The motion was approved by unanimous consent.

C. *Town Council Representative to Planning Commission:*

Heather Arcos explained that Article Two of the Town of Cape Charles Planning Commission By-Laws states that one member of the Commission shall be a representative of the Town Council. In September 2009, Councilman Evans submitted his resignation as the Town Council representative to the Planning Commission effective upon his replacement being named. This position was discussed in October 2009 and there were no volunteers to serve on the Commission at that time. Since Councilman Evans was willing to continue on the Planning Commission until a replacement was named, the Council agreed to wait until after the election to fill this position. On May 4, 2010, Councilwoman Joan Natali was elected to the Town Council and has also been a member of the Planning Commission for a number of years and was currently serving as chairperson through October 2010.

Councilman Veber asked if there would be a problem with Councilwoman Natali being chairperson of the Planning Commission and also the Town Council representative. Tom Bonadeo stated that there was nothing in the Planning Commission By-Laws to restrict the Council representative from also being named the chairperson of the Commission. Tom Bonadeo added that the current Commissioners were very new and Councilwoman Natali was the senior representative with Councilman Evans' resignation. The Planning Commission elects a new chairperson in November and it would be helpful if Councilwoman Natali remained the chairperson until that time.

Motion made by Councilman Evans, seconded by Councilman Sullivan to appoint Councilwoman Natali as the Town Council representative to the Planning Commission to replace Councilman Evans. The motion was approved by unanimous consent.

D. *Appointments to Planning Commission and Library Board:*

Heather Arcos stated that on June 24th, the Town Council interviewed prospective candidates to fill vacancies on the Planning Commission and Library Board. The following citizens were appointed:

Mr. Michael Strub was appointed to the Planning Commission to complete Eileen Cobb's term which expires October 31, 2010. Mr. Strub will be re-appointed to a four-year term at that time.

Ms. Valerie Travis was appointed to the Library Board to complete Kathy Bonadeo's term which expires August 8, 2011 and Ms. Linda Schulz was appointed to the Library Board to complete Eileen Cobb's term which expires August 8, 2011.

E. *Cape Harbor Conditional Use Permit Extension:*

Tom Bonadeo explained that on July 9, 2009, the Town Council finalized the approval of the conditional uses for Cape Harbor and adopted a resolution affirming the conditional uses with all conditions. Landmark Holdings has a major permit to be obtained before the project could apply for building permits. The Town Council must issue a Harbor Development Certificate based on an application and review by the Harbor Area Review Board (HARB). Landmark made general application to the HARB, who reviewed the application and gave Landmark the approval to move forward to the Detailed Application Process. Landmark has requested a one-year extension of the Conditional Use Permits to continue the Harbor Development Certificate application process.

Motion made by Councilman Bennett, seconded by Councilman Bannon to approve the one-year extension of the Conditional Use Permits to enable Landmark Holdings to continue the Harbor Development Detailed application process. The motion was approved by unanimous vote.

F. *Code 42.3 – Adoption of State Law:*

Mayor Sullivan stated that each year, a new ordinance must be passed accepting any and all amendments to the provisions and requirements set by State Code in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations.

Mayor Sullivan moved for adoption of Ordinance #20100708 – An Ordinance to Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 18.2-278, Et Seq.), Chapter 7, Article 2 (§ 18.2-266 Et Seq.), If Any, For Incorporation Into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic. Ordinance #20100708 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

G. *Virginia Department of Transportation Resolution:*

Heather Arcos explained that the Town of Cape Charles obtains permits from the Virginia Department of Transportation (VDOT) to install, construct, maintain and operate certain public works and public utilities projects along, across, over and upon highway systems of the Commonwealth of Virginia. In order to expedite the permit process for the Town, VDOT requested that a continual resolution be adopted.

Mayor Sullivan moved for adoption of Resolution #20100708A – Agreeing to the Provisions of the Land Use Permit Manual of the Virginia Department of Transportation. Resolution #20100708A was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

ANNOUNCEMENTS:

- July 7, 2010 – Mayor Sullivan, Councilman Bannon, Tom Bonadeo and Ms. Carol Evans attended the luncheon with Senator Mark Warner. It was a very informative meeting.
- July 10, 2010 – Chamber of Commerce Harbor Party, 6PM – 10PM
- July 15-17, 2010 – VML 2010 Newly Elected Officials Conference. Councilman Sullivan and Councilwoman Natali will be attending this conference.
- July 21, 2010 – PSA Project Management Team Meeting
- July 22, 2010 – Town Council Work Session, 6PM
- July 26, 2010 – Boundary Adjustment Committee Meeting, 5PM - *tentative*
- August 12, 2010 – Town Council Regular Meeting, 7PM
- August 26, 2010 – Town Council Work Session, 6PM - *tentative*

Hearing no objections, Mayor Sullivan adjourned the Town Council Regular Meeting by unanimous consent.

Mayor Sullivan

Town Clerk

From: Daniel Brown [mailto:danbrown.va@gmail.com]
Sent: Thursday, July 08, 2010 10:56 AM
To: clerk@capecharles.org
Subject: Volleyball Response

Dear Town Council,

I am writing in support of a recent campaign to return Cape Charles volleyball operations back to its original site. My family and I are frequent beach goers and summer sports enthusiasts. The new court location is not nearly as desirable nor as safe as the location near Monroe Street. The prior site allowed players and spectators to set up chairs and beach blankets on any of all four sides of the court. The current site is compromised lengthwise by a dune on one side and cramped by the rocks on another. Additionally, parking in the new location isn't as safe. The old location offered a long stretch of road to park and on/offload of children and gear. Current parking is situated on a 90 degree turn in the road. The area is much more congested as it is a frequent parking area for pier visitors and folks fishing.

The beach's new look is great. If the volleyball court could be returned to it's old location the allure of our beach can only be increased.

Thank you.

Dan Brown

Date: July 8, 2010

To: Heather Arcos, Town Manager
Libby Hume, Town Secretary

cc: Dora Sullivan, Mayor
Town Council

Libby, please enter this in the next town council meeting minutes and read this memo aloud at the council meeting.

Subject: Water Meters for 415 and 417 Tazewell Avenue

When we purchased the duplex at the subject address, the two water meters were reversed out of sequential order, so that, reading from west to east the group of four meters were for 417, 415, 419 and 421 Tazewell.

Back in about 2002 when I was completing plumbing rough-in I ran new water tubing to the 415 and 417 meters. The then town manager told me that I would have to get the approval of Public Works to make the hook-ups in numerical sequence. First Gerald Elliot and then Billy Powell both refused to allow the change stating that they were used to the current sequence and any change would only confuse the issue. So, under protest, I crossed the water lines and hooked the lines and meters up as instructed.

Over the years the town regularly read the meters incorrectly and the bills show usage at the vacant duplex and none on the side being lived in. Periodically (every two or three years) I ask the billing department to correct the billing information, which she does reluctantly – usually telling me that it is NOT her problem or responsibility. For a few months the bills are correct – then revert to being billed incorrectly.

The last time (about three years ago), the billing clerk told me she wasn't going to do anything or change the billing. I then talked with Dave Fauber about the situation, he came over to look at the meters and told me he would take care of it – that this was a common problem all over town and that the town was installing labels on all the meters to identify the proper street address for each meter.

The labels were never installed at my meters and the billing problem is back to being incorrect.

I have couples interested in leasing the 417 residence and I plan on renting it this summer. The water billing problem needs to be properly taken care of. Please take steps to assure that the meters are read correctly.

Thank you,

Jim Mahaffy