



TOWN COUNCIL
Regular Meeting
Town Hall
September 9, 2010
Immediately Following Public Hearing

At 6:02 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, Sullivan and Veber and Councilwoman Natali. Councilman Evans was not in attendance. Also in attendance were Town Manager Heather Arcos, Town Consultant Bob Panek, Town Planner Tom Bonadeo, Treasurer JoAnna Leatherwood, Harbor Master Smitty Dize and Town Clerk Libby Hume. The Department Heads were also in attendance along with nine (9) members of the public.

Councilwoman Natali offered the invocation and led the Pledge of Allegiance.

PUBLIC COMMENTS:

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

CONSENT AGENDA:

Town Manager Heather Arcos stated that under New Business, Item 7E – Planning Commission Recommendation for Industrial Access Road was being added.

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

The Town Council reviewed the minutes of the August 12, 2010 Executive Session, August 12, 2010 Regular Meeting and the August 26, 2010 Work Session.

Motion made by Councilman Bennett, seconded by Councilman Sullivan to approve the minutes for the August 12, 2010 Executive Session, August 12, 2010 Regular Meeting and the August 26, 2010 Work Session as presented.

Councilman Veber welcomed all the members of the public in attendance stating that it was great that they came to the meeting and that even though the meetings usually are not open for public questions, if anyone had any questions, the Mayor and Council would be glad to answer.

REPORT PRESENTATIONS:

A. *Town Manager's Report:*

Town Manager Heather Arcos reported the following: i) She and Tom Bonadeo have been working with the Public Works Dept regarding plans to winterize the beach. Additional snow fence will be installed, additional grass is being purchased and the volleyball area is being relocated; ii) The third inspection was performed on the Breakwater Project on Tuesday, September 7th, but again, it did not pass since the work was not finished. The fourth inspection is scheduled for next Monday, September 13th; iii) The pre-bid meeting for the Invitation for Bids for the Mason Avenue Pump Station Upgrade and Forcemains Project was held earlier today and 3-5 general contractors attended; iv) Staff heard back from the Cape Charles Christian School regarding the lease of the old Cape Charles School. They have hired a new

attorney who is reviewing the lease; v) An Executive Session will need to be scheduled with legal counsel. She will send Council the information regarding this meeting next Monday, September 13th; and vi) She looked into the Infrastructure Grant and it would pay for the design and installation of the proposed billboard along Route 13 but the cost of the \$880 monthly rental fee would not be covered. Funds could possibly be moved from other areas in the budget to cover the costs for this year.

Councilman Veber added that he has spoken to a representative of the billboard company and she stated that the billboard would remain empty through the winter so the Town may be able to get it for a reasonable price. Councilman Veber continued to state that he had talked to several business owners to help with the rental costs.

Councilman Bannon stated that he has received several complaints that the sand dunes at the beach were too tall that residents could not sit on their porches and see the Bay and that the temporary signs at the park informing visitors not to swim or wade in the fountain needed to be lowered. Councilman Bannon also congratulated everyone on the success of the Central Park Grand Opening.

B. *Treasurer's Report:*

The Treasurer's report dated August 31, 2010 showed \$169,489 in the Bank of America checking account and \$1,176,333 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$1,345,822. The Council did not have any questions for Treasurer Jo Anna Leatherwood.

Hearing no objections, Mayor Sullivan stated that the Treasurer's Report was approved as presented by unanimous consent.

C. *Recreation Report:*

Community Events / Recreational Coordinator Jen Lewis reported the following: i) The Birding Festival website was now up. Tickets could be purchased online and interested parties could review and sign up for the various tours that were available. This year's Birding Festival was scheduled for October 7 - 10, 2010 and the activities in Cape Charles would be from October 8 - 10, 2010. There was a link to the Birding Festival website on the Cape Charles website; ii) The Fall Tomato Festival would be held on September 25 - 26, 2010. She completed two radio spots for WESR which should begin playing on September 10th. She would be on the morning show on September 15th at 8:30 a.m.; iii) Also on September 25 - 26, 2010, the German Shepherd Club of America would be holding a variable tracking event in Central Park; iv) The Northampton High School Science Class will be planting grasses on the Cape Charles Beach; and v) The Central Park Grand Opening was a great success with an estimated 1K people in attendance. There were lots of children who all had a great time.

Councilman Bannon stated that he would like to see more activities at Central Park. Jen Lewis stated that she had been talking to a company that would provide a screen and projector to show movies at the park.

D. *Library Report:*

The Council did not have any questions for Librarian Ann Rutledge.

E. *Harbor Report:*

The Council did not have any questions for Harbor Master Smitty Dize.

F. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber reported the following: i) The pumps have been installed in the wells on the Keck property and they are ready for the aquifer test. The Town is still waiting on approval from the Department of Environmental Quality (DEQ) for the aquifer test; ii) There was an issue regarding an odor from the lake in Marina Village which was connected to the fish kill over the weekend. Bay Creek was in the process of testing the water; iii) The water softener was still down. The part that was purchased needed to be programmed to work with the Town's water system. He was trying to get pricing for a new digital control panel.

Mayor Sullivan asked if many complaints had been received regarding the softener. Dave Fauber stated that he had received approximately 5-10 complaints and Heather Arcos stated that she had received several. Dave Fauber stated that the softener should be repaired by the weekend of September 18th since the installer can only come to this area on weekends.

There was some discussion regarding having spare parts on hand for the water system in case this happens in the future. Bob Panek added that the Town's system was antiquated and parts were no longer manufactured. It would be costly to replace the system but it was something that needed to be done, even though it probably could not be done in this year's budget.

Councilman Bannon asked whether the old pump house on Stone Road coming into Town would be demolished. Dave Fauber responded that it would be demolished sometime in the future.

G. *Code Enforcement / Central Park Trail Update:*

The Council did not have any questions for Combination Inspector Jeb Brady.

H. *Planning Report:*

The Council did not have any questions for Town Planner Tom Bonadeo.

OLD BUSINESS:

A. *Wastewater Treatment Plant Construction Update:*

Bob Panek gave a status update on the construction of the new wastewater treatment plant as follows: i) Approximately 75% of the concrete work has been completed; ii) The electrical duct work has been completed; iii) The storm drainage has been completed; iv) Mobilization for the outfall extension along Bayshore Road should commence soon. This work should take approximately two weeks; v) Mobilization for the Bay Creek force main and reuse pipeline along Old Cape Charles Road should also commence soon; vi) There has been one introductory fraud prevention visit from the Environmental Protection Agency (EPA) Inspector General's office and the American Recovery and Reinvestment Act (ARRA) compliance inspections by both the DEQ and EPA. Several minor ARRA administrative issues have been corrected; vii) Approximately \$2.6M has been billed to date, which was within the reimbursement limits of the grants; and viii) The bids for the Mason Avenue Pump Station and Forcemains Project were due September 28, 2010 and the contract should be awarded in October. This project is expected to cost approximately \$1.2M and should take approximately 6 months to build.

Councilman Bennett asked whether the contractor had gained back any of the time lost in the construction of the wastewater treatment plant. Bob Panek responded that he had not received a request for an extension yet.

B. *PSA/Regional Wastewater Update:*

Bob Panek informed the Council that the Preliminary Engineering Report (PER) for the Southern Node has been completed and an application for financial assistance to design and

build the system has been submitted to the DEQ and the consulting team has met with the DEQ and USDA Rural Development (USDA RD) to explore blends of grants and loans to yield affordable rates. Grants were needed to cover approximately 80% of the cost in order for the rates to be affordable for the citizens in the proposed areas. Representatives from these agencies will meet with the Project Management Team (PMT) and PSA in October. The revised PSA was approved by the State Corporation Commission and the members of the board have been sworn in. The PSA Board held their first meeting on August 24, 2010 and the Board elected Bob Meyers as Chairman and Bob Panek as Vice Chairman who subsequently met with Riverside Shore Memorial Hospital (RSMH) Administrator Joe Zager and representatives from the other facilities currently supported by the RSMH utilities system to discuss service needs after the hospital relocates. All parties expressed a desire to work cooperatively to integrate these needs into the Northern Node planning and to transfer operation of the new system to the PSA.

Councilman Bannon asked about the progress of the door-to-door surveys in the various areas and how the results were turning out. Bob Panek stated that he believed that Cheriton was almost done but there was a lot of negativity regarding hooking up to the regional wastewater system. The PSA must have 80% voluntary hookups in order to be eligible for the funding. The alternative would be mandatory hookups.

Councilman Veber asked who would be responsible for funding. Bob Panek responded that the funding would be through grants and loans issued by the DEQ, USDA RD and Department of Housing and Community Development.

Heather Arcos asked when the DEQ response was expected. Bob Panek stated that he thought it was in September but that he would check and notify Council.

A citizen stated that she lived in the Cape Charles Section of Fairview and asked whether this was part of Cape Charles. Bob Panek responded that this section was not part of Cape Charles but Mayor Sullivan added that the section would be included as part of the PSA.

C. *FY 2009 Audit Report:*

JoAnna Leatherwood stated that this item was a follow-up from the August meeting since the Council did not have a chance to review the audit report prior to that meeting and asked if the Council had any questions after reviewing the report. The Council did not have any questions.

D. *Harbor Area Design Guidelines:*

On July 22nd, a joint work session was held with the Town Council, Planning Commission and the Harbor Area Review Board and Mr. John Crouse, from H&A Architects & Engineering (formerly CMSS Architects) gave a presentation giving an overview of the Harbor Area Design Guidelines. Several additional changes were suggested which have been incorporated into the guidelines.

A public hearing was held earlier this evening to receive public comments and to review the guidelines with the citizens of the Town and no comments were heard.

Motion made by Councilman Bennett, seconded by Councilman Bannon, to adopt the Harbor Area Design Guidelines as an addendum to the Town's Comprehensive Plan. The motion was approved by unanimous consent.

NEW BUSINESS:

A. *Peddler's License Ordinance Update (§38-36) / Schedule Public Hearing:*

A work session was held on August 26th, where staff presented retail license options related to peddlers and itinerant merchants and the concern was for the preservation of existing businesses and their ability to compete in the “peddler” environment. The proposed changes resulting from the work session were reviewed. The state code requires that business licenses be issued for specific places of business which would require an existing business to obtain a peddlers license but only pay tax at the existing rate for their primary location. Tom Bonadeo reviewed the changes made to the categories as a result of the work session.

Councilwoman Natali questioned that “retail” was still included in the various categories as well as “other goods” in category (g) all with a license fee of \$50. Tom Bonadeo stated that there was some discussion at the work session regarding limiting peddlers to food vendors only but no definitive decision was made at that time. There was much discussion regarding retail peddlers and whether they should be permitted in Town since they may compete with the existing business owners. The Council reached a consensus that non-food vendors would not be permitted in Town and references to “retail” would be deleted.

Councilman Veber asked about the enclosed trailers which still show a license tax of \$500 and whether the Town wanted to discourage these types of vendors. Mayor Sullivan stated that she thought the complaint was more about the large generators that are used by these types of trailers. Tom Bonadeo added that vendors with enclosed trailers used generators to power cookers or fryers which emitted an odor as well as the noise of the generators which could be a problem for the residents possibly living across the street from the location of the trailer.

Heather Arcos asked whether the number of vendors could be limited.

Councilman Bennett stated that limitations on the number of vendors and their locations were discussed at the work session. Tom Bonadeo referred to Section 62-11 of the Town Code which placed limitations on the use of streets for sales. Each category contains language referring to Section 62-11.

It was also suggested that language regarding the requirement of certification from the Department of Health for food sales be added to category (g).

Motion made by Councilman Bennett, seconded by Councilman Veber, to schedule a public hearing on October 14, 2010 to hear public comment on the proposed modifications to Section 38-36 of the Zoning Ordinance as discussed. The motion was approved by unanimous consent.

B. *Signs/Political – Zoning Ordinance Change:*

Tom Bonadeo stated that the Zoning Ordinance allows temporary signs in every zoning district and Section 4.1.C.5.g.iv. allows “political campaign signs provided proper and prompt removal of such sign within seven days of the election.” Northampton County only allows a political sign no earlier than 45 days prior to the election but Cape Charles currently does not have a time limitation prior to the election. The Cape Charles Zoning Ordinance limits contractor and real estate signs to 4 square feet but no size limitation is imposed on political signs.

A public hearing was held earlier this evening to receive public comments regarding the proposed modifications and no comments were heard.

Tom Bonadeo added that the Town will develop brochures containing this ordinance to provide to candidates to inform them of the sign regulations.

Motion made by Councilman Veber, seconded by Councilwoman Natali, to adopt the proposed modifications to Section 4.1.C.5.g.iv. of the Zoning Ordinance as presented. The motion was approved by unanimous consent.

C. *Invitation for Bids – Town Fuel Contract:*

Harbor Master Smitty Dize informed Council that the current fuel services contract was awarded to Bagwell Oil beginning December 1, 2005 and with several extensions added was scheduled to expire on November 30, 2010. The Town would need to advertise for bids for all fuel, gas and propane services in order to award a new contract effective December 1, 2010.

Motion made by Councilman Bannon, seconded by Councilman Veber and unanimously approved to authorize the Town Manager to advertise an Invitation for Bids for all fuel services.

D. *Request for Proposal – IT/Computer Support:*

Heather Arcos stated that over the past several years, Mike Sullivan has been the IT Support consultant for the Town. In order to formalize this service, a Request for Proposal was recommended to accept proposals from qualified sources for IT Support for services to include network management, PC services, desktop and laptop management, printer management, website and email management and remote site management for the Harbor, Water and Wastewater Plants and the ADP Time Clocks. The contract term shall be for two years.

Councilman Bennett questioned why the IT contractor should serve at the will and pleasure of the Council. Heather Arcos stated that she had removed this language from the RFP.

Motion made by Councilman Veber, seconded by Councilwoman Natali to authorize the Town Manager to advertise the Request for Proposal for an IT contractor as discussed. The motion was approved by unanimous consent.

E. *Planning Commission Recommendation for Industrial Access Road:*

Tom Bonadeo reviewed the Planning Commission recommendation regarding the industrial access road which was being proposed by Southport Investors and would connect Old Cape Charles Road to the Bayshore Concrete entrance and may qualify for funding through the VDOT Economic Development Access Program (EDAP). Tom Bonadeo continued to state that there were two types of projects eligible for this program – Regular Projects and Bonded Projects. If there was a new, named qualifying establishment under firm contract to build in the industrial park, the locality would be eligible to request funding for the road and the funding would be limited to 20% of the qualifying capital investment up to \$500K. If there was no firm contract to build or the qualifying establishment was confidential, the locality would use a bonded project and the maximum amount of the grant would be approximately \$500K. If the cost of the road exceeds \$500K, the locality could request an additional \$150K which requires a one for one match. Under the bonded project, if a qualifying establishment does not move into the industrial park within five years, the locality would be responsible to repay the funds received. During a presentation to the Planning Commission, Southport Investors indicated their willingness to support all costs over the grant amount and the Town should not expect to contribute any funding. The Planning Commission heard comments from most of the nearby stakeholders and all comments favorably support the road construction. Based on their findings, the Planning Commission supports the construction of the industrial access road using the EDAP program administered by VDOT. Tom Bonadeo concluded by requesting that the Council review the EDAP Guide, especially the flow chart on page 13, which was attached to the Planning Commission recommendation.

Councilman Bennett stated that he wanted to make it clear that the Town would support the construction of the proposed road but did not want the Town to commit to anything other than submission of the application. Tom Bonadeo stated that the Planning Commission felt the same but that there would be significant staff time involved with this project and grant administration. There were several issues that needed to be resolved and the plan needed to be reviewed by legal counsel.

OTHER ISSUES:

Councilman Bannon stated his concern regarding keeping people, especially children, out of the fountain in the park. Heather Arcos stated that staff was working on obtaining signage for the park.

ANNOUNCEMENTS:

- September 23, 2010 – Town Council Work Session @ 6PM regarding modifications to the water and sewer ordinance. Heather Arcos added that the proposed changes would be sent to Council but that only the water ordinance would be reviewed at this meeting.
- September 23, 2010 – Cape Charles Open – A golf event at Bay Creek with proceeds benefiting the Eastern Shore United Way
- September 25-26, 2010 – Cape Charles Fall Tomato Festival
- September 25-26, 2010 – The American Kennel Club Variable Tracking Seminar at Central Park
- October 7-10, 2010 – The Birding Festival. Opening festivities were scheduled for October 7th in Onancock, but the events on October 8-10 would be held in Cape Charles.
- October 11, 2010 – Town Offices Closed in Observance of Columbus Day
- October 14, 2010 – Town Council Regular Meeting @ 6PM
- October 28, 2010 – Town Council Work Session @ 6PM – *tentative*

Mayor Sullivan thanked the attendees for coming to the meeting this evening.

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

Mayor Sullivan

Town Clerk