



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
October 14, 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 Vice Mayor Bannon, Councilmen Bennett, Evans, Sullivan and Veber and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Town Consultant Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume. The Department Heads were also in attendance along with fourteen (14) members of the public.

Vice Mayor Bannon offered the invocation and led the Pledge of Allegiance.

PUBLIC COMMENTS:

Mrs. Terry Strub, 552 Washington Avenue:

Mrs. Strub addressed the Council expressing her concern over the lack of school zone signs for the Cape Charles Christian School (CCCS). Mrs. Strub added that there was quite a bit of traffic on the streets and the children are crossing the streets without assistance.

Mayor Sullivan asked Chief of Police Charles Brown to address Mrs. Strub's concerns. Chief Brown stated that the Town needed permission from the State and that he had been in contact with them. Also, the CCCS was in the process of renovating a second building to be added to the school complex and measures would be taken at that time. In the meantime, police officers are at the school every day to help with traffic to ensure the safety of the students.

Mrs. Strub also stated that there were nice trash cans throughout the Town but new trash cans needed to be installed at Central Park.

Town Manager Heather Arcos stated that new trash cans had been ordered and would be installed soon.

Ms. Dianne Davis, 601 Jefferson Avenue:

Ms. Davis addressed the Council regarding properties in Town with overgrown vegetation and wooded areas that she felt caused a safety and health hazard and asked the Council to look into the situation to rectify the problems. A copy of the property addresses were provided to Code Enforcement Officer Jeb Brady.

Ms. Gwyn Coghill, 3125 Bluff Court and CCCS Principal:

Ms. Coghill thanked the Mayor, Council and Town for their assistance and support in making the CCCS such a success in its first two years and that it is now expanding into a second building. Ms. Coghill added that the school feels very welcome in Town and also thanked Town Manager Heather Arcos, Code Enforcement Officer Jeb Brady, Recreation Coordinator Jen Lewis, Librarian Ann Rutledge, Library Assistant Sharon Silvey and Chief Charles Brown. Ms. Coghill concluded by presenting a copy of the first annual yearbook from the CCCS to Mayor Sullivan.

There were no other comments to be heard nor any written comments submitted prior to the meeting.

CONSENT AGENDA:

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett to approve the agenda as presented. The motion was approved by unanimous consent.

The Town Council reviewed the minutes of the September 9, 2010 Public Hearing, the September 9, 2010 Regular Meeting and the September 23, 2010 Executive Session.

Motion made by Councilman Bennett, seconded by Councilwoman Natali to approve the minutes for the September 9, 2010 Public Hearing, September 9, 2010 Regular Meeting and the September 23, 2010 Executive Session as presented. Councilman Evans stated that he would abstain from the vote since he was not in attendance at the September 9th meetings. The motion was approved by unanimous consent.

REPORT PRESENTATIONS:

A. *Town Manager's Report:*

Town Manager Heather Arcos reported the following: i) She and Bob Panek attended the Town and County Utilities Project (TCUP) meeting on October 13th and met with representatives from the Department of Environmental Quality (DEQ), US Department of Agriculture (USDA) and the Department of Housing and Community Development (DHCD) to discuss funding opportunities for the Southern and Northern Nodes of the Regional Wastewater Treatment Project. Northampton County is on the DEQ list for funding. A funding application still needs to be submitted to the other agencies. Consultant Bob Panek explained that the Southern Node would link the Town of Cheriton and surrounding areas to the Cape Charles Wastewater Treatment Plant and consisted of approximately 600 residents and businesses. The Northern Node would link the Towns of Exmore and Nassawadox with either one or two treatment plants. Bob Panek also stated that he had detailed maps of the proposed coverage areas and if anyone had any further questions or wanted more information, they could stop by his office and he would give them any details. Bob Panek went on to state that the Southern Node was on the DEQ list for up to \$10M in funding which, except for a small portion which may qualify for a principal forgiveness loan, would be provided through a revolving loan fund at a low interest rate; ii) Dave Fauber is in training this week and if there were any questions regarding his department report, she would try her best to answer them; iii) A science class from Northampton High School would be planting grasses on the dunes at the beach; iv) The Library doors are expected to be delivered any day and would be installed immediately upon receipt; and v) The bids for the Harbor Redevelopment Project were opened and more information will be provided during the Harbor Report.

B. *Treasurer's Report:*

The Treasurer's report dated September 30, 2010 showed \$34,476 in the Bank of America checking account and \$1,403,287 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$1,437,763. Treasurer Jo Anna Leatherwood stated that the low balance in the Bank of America checking account was due to a transfer of funds into the investment account. Jo Anna Leatherwood informed the Council that the real estate data from the County was able to be imported electronically on October 13th and the real estate tax bills should be mailed out between October 20th and 25th. The personal property tax data should be imported next week and the bills should be mailed out at the same time as the real estate tax bills.

Motion made by Councilman Veber, seconded by Councilman Bennett to accept the Treasurer's Report as presented. The motion was approved by unanimous consent.

C. *Recreation Report:*

Community Events / Recreational Coordinator Jen Lewis reported the following: i) The Birding Festival was held on October 7-10 and was a successful event with 170 registrants this year. 152 children were involved in the Passport Program and over 300 people attended the Virginia Aquarium Ocean in Motion Program; ii) Trunk-or-Treat would be held on October 23rd from 3:00-5:00 PM on Mason Avenue. Jen Lewis explained what the event was and added that she was looking for people to register their vehicles (trunks), golf carts, etc. Games and other activities would be held following the Trunk-or-Treat; iii) Teen Movie Night would be held on October 15th from 7:00-9:00 PM at the Library and pizza and drinks would be served. This was also an opportunity to find out what type of programs / activities the teens would like since the majority of the current activities are aimed at the younger children.

D. *Library Report:*

The Council did not have any questions for Librarian Ann Rutledge. Vice Mayor Bannon reported the following: i) On October 18th at 7:00 PM, Ms. Heather Travis from New Ravenna would be presenting a mosaic demonstration at the St. Charles Parish Hall; ii) The Friends of the Library were sponsoring a trip to the Harrington Casino on November 10th. The bus would leave the Food Lion parking lot at 8:00 AM and return at 8:00 PM. Cost is \$50 per person. Each participant would receive \$15 in chips and a free buffet lunch. Call him to make a reservation.

Ann Rutledge added that the Picture Book and Overflow sections at the Library were full and staff was utilizing space where it could be found and added that the Library has been very busy.

E. *Harbor Report:*

Heather Arcos informed Council that one bid for the Harbor Redevelopment Project was received on October 4th which was well over the budgeted amount. Harbor Master Smitty Dize informed the Council that the base bid was approximately \$1M over budget and the overall bid was approximately \$2.8M over budget. The engineering firm talked to the contractor and it was determined that the project plans and design would be modified and would be re-advertised as two separate projects – the marina portion for the boat slips and the land portion for the bath house. Heather Arcos stated that the marina portion was expected to be re-advertised on November 4th with a deadline of December 2nd. The land portion was expected to be re-advertised on November 10th with a deadline of December 8th. Smitty Dize added that a meeting was held earlier in the day with Mr. Tom Langley of Langley & McDonald and Ms. Donna Phaneuf of Via Design to discuss plan and design revisions and added that the changes to the bath house would not affect the aesthetics of the building. There was some further discussion regarding the changes and the re-advertisement for bids.

F. *Public Works / Public Utilities Report:*

The Council did not have any questions regarding the Public Works or Public Utilities reports.

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

Councilwoman Natali stated that she reviewed the Permit/Construction Fee Report and asked Jeb Brady whether he could modify the report to show the properties in order by property address stating that it would be easier to track the various permits obtained for a property. Jeb Brady responded that he would have to contact the software company to re-write the program for this report but added that he would prepare this report manually in the future in order to list the permits in order by property address.

H. *Planning Report:*

Town Planner Tom Bonadeo reported the following: i) The first inspection of the park had been completed and a 4-5 page punch list was received which consisted of mostly small items. The fountain pool needed to be drained, re-caulked and sealed to repair the leak and the lights are

not coming on because the circuit breaker keeps getting tripped. A meeting with the engineer was scheduled for October 15th to review the punch list; ii) The first round of the Chesapeake Bay Preservation Act Ordinance compliance review went well. The objective was to eliminate runoff into the Chesapeake Bay. The water is now staying in the park and soaking into the ground, unfortunately, the water is standing longer than anticipated due to the clay beneath the topsoil. This issue was on the punch list and the Town is working with the engineers on a solution to this problem.

Councilwoman Natali stated that a problem was reported to her regarding underage children driving golf carts in the Bay Creek community. Police had been called but were unable to issue a ticket. Chief Brown explained that the law stated that a traffic summons could only be written on State or Town roadways. The streets within Bay Creek are private property and in order for the Town's police officers to be able to write a summons on private property, the homeowners' association (HOA) would have to submit a written request asking the Town to enforce the traffic laws in the community. Councilwoman Natali stated that she was concerned that since the laws could not be enforced within Bay Creek, the Bay Creek residents would think that children were permitted to drive golf carts on the public roadways as well. Chief Brown also stated his concern regarding this issue in that more golf carts are being brought into Town by residents and visitors. There was some further discussion regarding this issue but Chief Brown reiterated that without a written request from the HOA, the traffic laws could not be enforced within Bay Creek.

OLD BUSINESS:

A. *Boundary Adjustment Committee Update:*

Tom Bonadeo informed Council that the Cape Charles-Cheriton Boundary Adjustment Committee met recently with Supervisor Sam Long and continued discussions regarding a possible boundary adjustment request and reviewed the County's guidelines for boundary adjustments. Emails from property owners within the adjustment area, in the Tower Hill and Kings Creek Landing subdivisions, expressing their nonsupport, were also reviewed. The Town of Cheriton has reduced the size of its boundary adjustment excluding the land south of the railroad tracks which includes Food Lion and points south and adding some locations on the northern end. Supervisor Long indicated that the Town of Eastville is currently going through the boundary adjustment process and staff was trying to obtain a copy of Eastville's application. Supervisor Long also stressed the importance of obtaining support from the property owners in the affected area. Tom Bonadeo stated that Councilman Veber had suggested that Cape Charles schedule a public meeting for property owners in the proposed area to inform them of the Town's intent. Councilman Veber added that the property owners had a misconception that Cape Charles wanted their tax dollars when the Town's goal was to gain control of the corridors into Town, along Routes 184 and 642, and the decisions to be made regarding future development.

Mayor Sullivan asked whether the Town could protect the gateway into Town without including the Tower Hill and Kings Creek Landing subdivisions. Tom Bonadeo stated that the Town could omit these subdivisions from the proposed area. Councilman Evans agreed but added that his major interest in including these subdivisions regarded the possible number of individual septic systems in the area when the subdivisions were fully developed and added that infrastructure for a sewer system would be better for the environment.

Tom Bonadeo concluded by informing the Council that the Cape Charles and County Planning Commissions would be working together regarding the Corridor Overlay along Routes 184 and 642. The County Planning Commission had the Town's language regarding the Corridor Overlay and would be reviewing it soon.

B. *Peddler's License Ordinance Update:*

Tom Bonadeo stated that the Town Code section for retail licenses had an incomplete definition of retail sales categories and the proposed modification was intended to better define the "peddler" and "itinerant merchant" sections of the Code and clarify the retail licenses that were available in Cape Charles. A public hearing was held earlier in the evening and no comments were heard.

Mayor Sullivan moved for adoption of Ordinance #20101014 – To Modify Section 38-36 - Retailers of the Cape Charles Town Code. Ordinance #20101014 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

C. *Industrial Access Road – Economic Development Access Program (EDAP):*

Tom Bonadeo stated that the Council had asked the Planning Commission to review and make a recommendation for the possible participation in an EDAP road project for a road to connect Old Cape Charles Road with Bayshore Road without going by the Harbor entrance keeping the industrial traffic separated from other Harbor traffic. After thorough review of the road location and the EDAP as managed by the Virginia Department of Transportation (VDOT), the Planning Commission recommended the development of the road based on input from stakeholders, review of old and new road projects and the potential financial cost to the Town in their relation to the value to the stakeholders. The construction of this road is currently contingent upon the application and funding of an EDAP grant. The Commission recommended the road but also recognized that the details were really in the EDAP process and numerous items needed to be satisfied prior to submission of the application. The EDAP process was between VDOT and the locality which presented some caution as many of the requirements pertain to the locality, the locality's wiliness to pay, public vs. private land, adequate access and the choice of project type. South Port Investors had verbally offered to donate the land to the Town and cover the costs but this offer needed to be obtained in writing. The Commission recommended thorough legal review of the process prior to any action. The VDOT manual details the rules and requirements which presented some hurdles to overcome prior to preparation of the application. There was some discussion regarding this issue and the fact that written confirmation of South Port's commitment needed to be obtained.

Councilman Bennett stated that he supported this project but had strong objections to the Town spending any money on this road until a written commitment was received confirming that the Town would not be expected to pay anything towards the road because the road did not do anything for the Town of Cape Charles. Councilman Bennett added that it would open up Bayshore Concrete and the South Port property and it would be nice to have a road dedicated for trucks, but he was totally opposed to the Town spending any staff time, any legal counsel time or any town money on this project.

After further discussion, it was agreed that the Town would notify South Port to provide a written agreement.

Motion made by Councilman Bennett, seconded by Councilman Bannon, to notify South Port Investors to have their attorneys draft a written agreement to confirm South Port's commitment regarding the requested Industrial Access Road. The motion was approved by unanimous consent.

D. *Mason Avenue Pump Station Upgrade and Force Mains Project:*

Bob Panek began by informing the Council that even though this item was marked as an action item, it would be informational only since the negotiations with the lowest bidder were not completed, then went on to explain that the Town had been planning to upgrade the Mason Avenue pump station and re-route the force mains from the Fig Street and Mason Avenue pump

stations directly to the new wastewater treatment plan in order to minimize the potential of sewage overflows. The Town had planned to spend approximately \$1.2M on this effort with approximately \$663K funded by an Environmental Protection Agency grant which was transferred to the Town from Northampton County. The balance would be funded via low interest Recovery Zone Economic Development Bonds provided by the American Recovery and Reinvestment Act. On September 28, 2010, four construction bids were received from contractors ranging from a high of \$3.15M to a low of \$1.86M. The low bid from Mid-East Builders (MEB) is well above both the original budget and the engineer's estimate. GHD (formerly Stearns & Wheler) is currently negotiating with MEB to tailor the work to reduce the price. The original \$1.2M project would add approximately \$2.65 to the monthly sewer rate. Each \$100K above that amount would add another \$0.49. Several significant problems were discovered as the design progressed to include: i) The Mason Avenue pump station was built below the flood plain contrary to state regulations; ii) The pumps were not maintained properly; iii) The Mason Avenue force main to the wastewater treatment plant was inadequate with 6" pipes vs. 10" pipes. The original plan for the existing wastewater treatment plant showed 10" pipes but it was reduced to 6" pipes at some point which cannot be determined; iv) The Fig Street force main was allowed to terminate at the Mason Avenue gravity line vs. going to the wastewater treatment plant. If GHD and MEB have not made significant progress by next Tuesday, the Town will approach the second lowest bidder. The Town was trying not to have to rebid the project since there were significant costs involved in changing the plans. Bob Panek concluded by stating that if Council had no objection, staff and GHD would continue along this path and report back once negotiations have been completed. Council indicated agreement with this approach.

E. *PNC Bank Credit Line Resolution:*

Heather Arcos stated that during the budget work sessions, Council agreed that obtaining a credit line would be beneficial for Town operations in that the amounts could be repaid within several years vs. stretching repayment over 20 to 30 years and would allow the Town to take care of maintenance issues caused by years of neglect. Staff met with representatives from several banks regarding their offerings for credit lines and PNC Bank offered the Town a \$500K line of credit at an attractive rate as well as other services which could benefit the Town and its employees.

Councilwoman Natali asked for clarification of the term "ad valorem tax" which was included in the resolution under Article I-General Provisions, Section 1.3-Pledge of Full Faith and Credit. Heather Arcos explained that this term meant that if regular tax revenue falls short of the amount owed, the Town could levy a special tax to cover the cost repayment of the note.

Councilman Bennett stated that he was having a difficult time with the resolution and was concerned that the note was for this fiscal year only and the entire balance of the note had to be repaid by June 30, 2011. JoAnna Leatherwood stated that the line of credit was renewable and that the Town could repay the note by June 30th and immediately re-borrow the funds. Councilman Evans expressed his concern that if the line of credit had to be paid off yearly and renewed, the bank could implement new rules on a yearly basis. There was much discussion regarding the resolution language and several discrepancies were noted. Councilman Veber asked whether there was any cost to the Town to have this credit line and not use it. JoAnna Leatherwood stated that at this point, the only costs would be legal fees which have already been incurred. JoAnna Leatherwood added that with the changes in the banking industry, traditional credit lines, where amounts could be borrowed and repaid over several years, were no longer being offered. Several banks offered revolving credit lines that were similar to a credit card where balances had to be paid off on a monthly basis.

Councilman Bennett stated that the purpose of obtaining a credit line was to enable the Town to do things such as necessary maintenance to equipment and to cover any unforeseen expenditures and only budget a portion of the cost to make payments on the loan. This credit line would not serve this purpose since it must be paid off annually. If the money was not budgeted, the Town would not be able to pay off the note by the end of the fiscal year. There was further discussion regarding the terms of the proposed credit line and it was noted that the language did not state that the loan was renewable.

Motion made by Councilman Bennett, seconded by Councilman Sullivan, and unanimously approved to table further discussion and the decision regarding the line of credit through PNC Bank.

NEW BUSINESS:

A. *Reappointment of Members for Planning Commission and Other Boards:*

Tom Bonadeo explained that there were several members of appointed boards and commissions whose terms have expired or will be expiring within the next month and recommended the Council review the list of members and reappoint them to their respective boards and commission for another term as follows:

- Planning Commission – Benjamin Lewis, Dennis McCoy, Roger Munz and Michael Strub whose terms would expire October 31, 2010. Tom Bonadeo explained that these members were relatively new to the Planning Commission but they completed the unexpired terms of their predecessors.
- Board of Zoning Appeals – Roger Munz whose term would expire October 31, 2010.
- Building Code Board of Appeals – Barry Tyndall whose term expired September 10, 2010.
- Wetlands Board – Russ Dunton whose term would expire November 12, 2010.

Motion made by Councilman Bennett, seconded by Councilman Evans, to reappoint the members to their respective boards and commission for another term as discussed. The motion was approved by unanimous consent.

B. *Technology Zone:*

Tom Bonadeo explained that the concept of a Technology/Tourism Zone with incentives to attract business has proved effective for many large localities and could be effective for Cape Charles given the right company. Tom Bonadeo went on to review several factors for consideration including incentives and the various types of technology companies. After further discussion it was agreed to schedule a work session to review the information in more detail and to develop the zone definition.

C. *Cape Charles Rosenwald School Restoration Initiative (CCRSRI):*

Heather Arcos stated that Ms. Valentine Evans informed the Council at the February 11, 2010 meeting of plans to place a historic marker on the Rosenwald School property identifying the historic nature of the school and requested that the Town support this initiative by allowing the sign to be erected in the public right-of-way adjacent to the school and possibly budgeting a financial contribution towards the endeavor which was estimated to cost approximately \$1,350. On September 10, 2010, a letter was received from Ms. Tevya Griffin, President of the CCRSRI informing Council that the State Historic Marker application had been submitted and the approved applications would be announced in December 2010. The letter stated that the CCRSRI was raising funds for the marker and added that any monetary contribution from the Town would be welcomed and appreciated. Heather Arcos requested that upon approval of the application, the Town donate \$1,350 to the CCRSRI for the cost of the sign. Councilwoman Natali questioned why the Town would pay the full amount of the cost of the sign when the CCRSRI stated they were raising funds to help with the cost. Councilman Bennett agreed that he

would like to see how much the CCRSRI could raise and the Town could pay the difference. Councilman Evans expressed his concern that the sign was to be placed in the right-of-way and he did not believe that the owner of the property had agreed as yet and added that he wished there was a way that the Town could protect the property but unfortunately, it was private property.

Motion made by Councilwoman Natali, seconded by Councilman Evans, and unanimously approved to table the decision regarding the Town's contribution toward the cost of the sign until the amount of the other donations had been determined.

D. November Town Council Meeting Dates:

Heather Arcos stated that the Town Council regular meetings were scheduled for the second Thursday of each month and work sessions were scheduled for the fourth Thursday of each month. This year, the second Thursday falls on November 11th which is Veterans' Day and the fourth Thursday falls on November 25th which is Thanksgiving. Section 15.2-1416 of the Code of Virginia provides that if the regular meeting date of the governing body falls on any legal holiday, the meeting shall be held on the next following regular business day without action of any kind by the governing body. The next regular business day is Friday, November 12th and no advertising would be necessary if the regular meeting was scheduled for this date. If the Council opts to schedule the regular meeting on any other day, notice must be posted and advertised at least seven days prior to the meeting date. The rescheduling of the work session does not require advertisement. There was some discussion regarding available dates and the regular meeting was rescheduled for Monday, November 8th, and the work session was rescheduled for Thursday, November 18th.

OTHER ISSUES:

Councilman Veber informed Council that he had spoken with the Cape Charles Business Association (CCBA) and they have agreed to pay 50% of the costs for a billboard advertising the Town and its businesses along Route 13. Councilman Veber stated that he felt this would be good for the Town and the billboard representative told him that the Town should make an offer.

Mayor Sullivan thanked the members of the public for attending this evening's meeting

ANNOUNCEMENTS:

- October 25, 2010 – Town Council Executive Session @ 6PM
- October 28, 2010 – Town Council Work Session @ 6PM
- November 8, 2010 – Town Council Regular Meeting @ 6PM
- November 18, 2010 – Town Council Work Session @ 6PM
- The Town Council Retreat will be scheduled for a date in January 2011.

Mayor Sullivan adjourned the Town Council Regular Meeting by unanimous consent.

Mayor Sullivan

Town Clerk