

# Planning Commission

## Regular Session Agenda

March 4, 2014

6:00 P.M.

1. Call to Order – Planning Commission Regular Session
  - a. Roll Call – Establish a quorum
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
  - a. Approval of Agenda Format
  - b. Approval of Minutes
  - c. Reports
5. Old Business
  - a. Backyard Chickens – Discuss staff report and issues/concerns
  - b. Comprehensive Plan Review – Identify key items in the remainder of the Comprehensive Plan that are in need of update.
6. New Business
7. Announcements
8. Adjourn



**DRAFT**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Town Hall**  
**February 4, 2014**

At 6:00 p.m. in the Town Hall, Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Dan Burke, Sandra Salopek, Bill Stramm and Mike Strub. Commissioner Joan Natali arrived at 6:05 p.m. Commissioner Andy Buchholz was not in attendance. Also present were Town Planner Rob Testerman and Town Clerk Libby Hume. There were three members of the public in attendance.

A moment of silence was observed followed by the Pledge of Allegiance.

**PUBLIC COMMENTS**

*Sherry Eulitt, 102 Madison Avenue*

Ms. Eulitt addressed the Commission regarding backyard chickens. (Please see attached.)

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

**CONSENT AGENDA**

**Motion made by Mike Strub, seconded by Joan Natali, to accept the agenda format as presented. The motion was unanimously approved.**

The Commissioners reviewed the minutes for the January 7, 2014 Regular Meeting.

Mike Strub stated that District 1 Supervisor Granville Hogg was listed as a member of the public and added that he should be listed either as a member of the public or a member of the Board of Supervisors. Mike Strub went on to state that under Reports, the address where the chickens were being raised was incorrect and should show 109 Monroe Avenue. Mike Strub also noted a typographical error on page 2.

**Motion made by Joan Natali, seconded by Dan Burke, to approve the minutes from the January 7, 2014 Regular Meeting as amended. The motion was unanimously approved.**

**REPORTS**

Rob Testerman reported the following: i) The Historic District Review Board met on January 21 and approved an addition of a double door entrance way into the commercial store-front at 207 Mason Avenue and a handicap ramp and side entrance to 500 Tazewell Avenue, the former library building; ii) He was resuming work to update the planning application forms (Zoning Clearance, Conditional Use Permit, Rezoning, etc.) and informational sheets to inform property owners of what each of these processes were, what they involved and when/why they needed to apply for them. Once completed, the forms would be available online; iii) The Harbor Area Review Board met on January 2 and approved applications for proposed additions to The Shanty and a proposal for a waterman's memorial in the harbor area from the Friends of the Virginia Waterman's Memorial. The Town Council approved the Harbor Development Certificates for both projects; iv) Six signs from Eastern Shore Healthy Communities, whose mission was to create a healthier Eastern Shore, had been placed in the Town demarcating a walking trail around town; v) Elaine Meil of the ANPDC began drafting a recommendation of the topics to be covered at each public session for the Comprehensive Plan update. Once complete, the recommendation would be provided for review by

the Planning Commission. There was a conflict with the ANPDC regular meetings on the third Mondays, so Ms. Meil suggested the fourth Mondays for meetings with ANPDC. There was some discussion and the Commissioners were in agreement regarding the fourth Mondays; and vi) Letters regarding the preliminary flood maps would be sent to localities on May 5, 2014. Localities would have six months to adopt modified floor plain ordinances. Dan Burke asked about the impact of the new flood maps on insurance. Rob Testerman stated that currently, most of the Town was in a flood zone and flood insurance was required by FEMA. With the new maps, the majority of the Town would be out of the flood zones and other areas were reduced to the X zone. Lenders may require flood insurance in the X zone but FEMA did not.

#### **OLD BUSINESS**

##### **A. *Planning Commission Annual Report to Town Council***

Rob Testerman explained that § 15.2-2221.5 of the Code of Virginia stated that the local planning commission should "make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction." Rob Testerman stated that he had drafted the 2013 Annual Report modeling it after the Petersburg Report provided by Bill Stramm.

The Commissioners reviewed the draft report and made the following changes/corrections: i) The Code of Virginia section referenced in the Introduction paragraph was corrected; ii) The street address for the library building was added under Development in Cape Charles; iii) There was some discussion regarding the number of conditional use permits issued in 2013. The report showed one permit issued, but the Commission thought there were more. Rob Testerman would check the records and update the number if needed.

**Motion made by Bill Stramm, seconded by Mike Strub, to approve the 2013 Annual Report as amended and to forward the final report to Town Council for their information. The motion was unanimously approved.**

##### **B. *Backyard Chickens – Discuss Staff Report and Issues/Concerns***

Rob Testerman began by stating that no action was being taken at this time. Staff and the Commissioners were researching and reviewing information from various localities and would be discussing benefits and other issues related to backyard chickens. Dennis McCoy added that it was important for the public to know that the Planning Commission did not make the law. The Commissioners researched and reviewed an issue to provide a recommendation to the Town Council whose responsibility was to make the decision.

The Commissioners reviewed the report prepared by Rob Testerman outlining some of the benefits including: i) Source of fresh eggs – more nutritious than store-bought eggs and some tests showed that the eggs tasted better; ii) Chickens providing companionship as pets – Many people who owned small numbers of chickens considered them as pets and some localities regulated chickens as pets; iii) Chicken manure was a valuable fertilizer – Chicken waste provided necessary nutrients for plants and worked well as an addition to compost; iv) Chickens ate insects such as ants, spiders, ticks, fleas, slugs, roaches and beetles. Chickens also occasionally ate worms, small snakes and small mice. Small numbers of chickens were also a recommended method to eliminate weeds. This reduced the need to apply chemical weed killer or other insecticides in the owner's yard; and v) Chickens helped build community – Several studies found that urban agriculture could increase social connections and civic engagement in the community.

Some of the concerns outlined in the staff reports included: i) Noise – Roosters were noisy and Rob Testerman recommended that the Town not allow roosters. Hens would cluck excitedly after laying eggs but it was not generally sustained more than a few minutes. Hen clucking was

commonly compared to human conversation, around 65 decibels whereas a single dog barking registered decibels over 100. Dan Burke stated that he raised chickens when he was young and in some cases, a dominant hen grew a comb and began crowing. This issue needed to be taken into consideration; ii) Odor – The odor most associated with poultry was ammonia which was actually a product of poorly ventilated and moist coops; iii) Disease – According to a recent study by the City of Fredericksburg, the primary risk associated with poultry was salmonella, a type of bacteria present in the bird's intestines and fecal matter. These risks were to the people handling the chickens and not the public at large. There was no evidence found of avian influenza or other diseases; iv) Property values – Several studies showed that agricultural uses within a locality actually increased property values. Of the 2013 Forbes Top 10 Healthiest Housing Markets, nine allowed urban chickens; v) Slaughter – Most egg-laying breeds did not make for tasty meat. Legalizing backyard chickens did not require the legalization of backyard slaughtering. Rob Testerman recommended not allowing slaughtering; vi) Chickens running wild – Although a chicken could escape from time to time, similar to dogs, regulations should be written to ensure that the hens were kept in an enclosure at all times; and vii) Predators such as raccoons, foxes, snakes, cats and dogs could be attracted to the hens. These predators already lived in the area and were attracted to open spaces, such as golf courses, with rabbits, ducks and geese. They were attracted to bird feeders, pet food, gardens, fish ponds, bird baths, and trash waiting to be collected. With proper shelter requirements, the risk of the chickens attracting predators could be reduced.

The Commissioners reviewed a number of critical questions: i) What type of chicken would be permitted? The term “domestic laying hens” did not specify any variety of chicken; however, it would exclude roosters and other game birds. There was some discussion on the difficulty to tell the difference between hens and roosters at first. If a backyard chicken owner ended up with a rooster, it would have to be removed; ii) Where would they be allowed? Staff recommendation, if the Town Council decided to permit backyard chickens, was that domestic laying hens be permitted at single family homes in the R-1, R-2 and R-E districts. Some localities permitted backyard chickens at multi-family dwellings with written consent of all owners and tenants within the structure. Rob Testerman stated that he recommended that coops and runs be restricted to the rear yard. Dennis McCoy stated that there could be issues with tenant changes, etc. and suggested not permitting chickens in multi-family structures. Joan Natali questioned the limitation to the residential districts and added that the New Roots Youth Garden might want to add chickens to their programming. Some localities used chickens as a way to enhance community gardens and the Town needed to keep the different districts in mind. Rob Testerman stated that he did not include commercial areas or PUDs due to their covenants; iii) How many would be allowed? Chickens were flock animals but in an urban setting, a large flock would not be logistical or favorable. Most reports and ordinances showed that for backyard chicken flocks, at least four chickens should be allowed. Given the lot sizes in Cape Charles, four to six hens, at a maximum, could be allowed. Joan Natali suggested that square footage be used since lot sizes varied; iv) What were appropriate setbacks and structure standards? Setback requirements varied greatly by locality. Some used property line setbacks and others used setbacks from other dwellings or any door or window on an adjacent residential structure, and the distances ranged from 10 feet to over 100 feet. A setback should be imposed that would set a distance from both the property line and the adjacent structure, allowing the owner to use whichever one placed the coop furthest from the nearest adjacent structure not owned by the applicant. An ordinance should require that the coop and outdoor enclosure be kept in a sanitary condition and free from offensive odors. Structures should be required to be cleaned on a regular basis to prevent waste buildup. Feed should be stored in a rodent-proof container to reduce the attraction of pests. Hens would be required to remain in the coop or outdoor run at all times, except when an adult was directly supervising them. Enforcement would be based on receiving complaints. There was some discussion regarding a project for kids through an organization such as 4H. The Commissioners recommended that

Rob Testerman contact the 4H Club. It was suggested that a residential structure needed to be defined since some people worked in a detached studio/garage. These types of structures should be included. The materials for fencing needed to be defined since wire mesh fencing was not permitted. Dan Burke commented on weather conditions and added that he used to have a heater for the chickens in the winter months. Bill Stramm stated that he had a friend in NY who used flood lights for heat for his chickens. It was suggested that the Cape Charles Volunteer Fire Company could have an issue with heat sources for the coops; and v) How would they be permitted and who would be responsible for enforcement? Staff recommended a permit be required. The applicant would be required to submit an application stating the number of chickens desired, description of coops and outdoor runs, etc., a sketch of the proposed structures in relation to property lines, adjacent residential structures, etc. in order to determine setbacks. Some localities required a yearly permit, requiring the chicken keeper to renew the permit each year. If the proposed ordinance were to be included in the Zoning Ordinance, enforcement would be the responsibility of the Zoning Administrator. After issuance of a permit, the Zoning Administrator would be authorized to periodically inspect the coop and run to ensure that the standards continued to be met. In the event of a neighbor complaint, an inspection would be conducted to determine if any aspect of the regulations were in violation. If the ordinance were to be included in the Town Code, enforcement would be the responsibility of the Code Official.

Dan Burke provided an article which described chickens being left at shelters. Town Clerk Libby Hume would scan the article and email it to the Commissions for their review. (Please see attached.)

Bill Stramm commented that it would be interesting to know why no other towns on the Eastern Shore had ordinances for chickens. Rob Testerman stated that when he lived in the Town of Onancock, his neighbor had 12-13 chickens with 2-3 roosters. If not for the roosters, and the fact that the owner did not keep the chickens in coops, he would not have known that the neighbor had chickens. Rob Testerman added that he would double check with the counties and towns on the shore regarding chicken ordinances. The City of Chesapeake adopted an ordinance initially for a one-year trial period. At the end of the one-year period, the number of complaints and other issues were reviewed. The City Council recently voted to adopt the ordinance on a permanent basis.

There was discussion regarding the vast differences in the ordinances currently adopted by localities.

Rob Testerman stated that the items listed in his staff report were not his recommendations but information that he found on the internet. Rob Testerman added that he would do more research on the pros and cons for further review at the next meeting. Dan Burke requested that research be done regarding humane treatment of the chickens as well.

C. *Comprehensive Plan Review - §§ 3.C through 5*

Rob Testerman stated that he would contact Elaine Meil of the ANPDC regarding the fourth Mondays for meetings. Upon receipt of the draft schedule, it would be provided to the Commissioners for their review.

The Commissioners reviewed §§ 3.C through 3.D.3 and noted the areas needing to be updated.

In the opening of § 3.C, the following was discussed: i) In the second paragraph, the part of town laid out in 1885 was corrected to show six blocks by seven blocks; ii) In the next paragraph, "recent" was removed from "2008 traffic study" and there was some discussion re: the last sentence in that paragraph regarding land being available for a roundabout since one corner

was now the home of the New Roots Youth Garden. More research regarding this issue needed to be done. Rob Testerman would check with VDOT regarding their continued plan for a roundabout at the intersection of Fig Street and Randolph Avenue; iii) Joan Natali stated that several months ago, at the ESLand Presentation, enhanced port facilities was mentioned on the east side of the harbor and she felt this needed to be included in the updated Comp Plan. Joan Natali asked that, if possible, a copy of the presentation be provided to the Commission for their review. The plan needed to be reviewed and the Commission could decide to include it in the Comp Plan update if they felt it was in the best interest of the Town; iv) Joan Natali also stated that the Railroad needed to be added as a subsection. Bill Stramm agreed and suggested that Rob Testerman contact Larry LeMond for information; v) A subsection needed to be added for the Cape Charles Town Harbor with language regarding harbor dredging and water transportation businesses; and vi) Reference to Walkability needed to be added as well.

There was some discussion regarding the ceremony held earlier in the day at Bayshore Concrete where Governor McAuliffe announced Bayshore Concrete's planned \$4M investment which would create 135 new jobs.

In § 3.C.1, the first sentence was changed to show that "Cape Charles is a golf cart-friendly community."

In § 3.C.2, the language needed to be updated to state that the first phase of the Community Trail was complete and the second phase was underway.

In § 3.C.4, the following was discussed: i) Reference to Bay Creek Marina was changed to Kings Creek Marina; ii) "Certified pump-out facilities" was added. Staff would check with Kings Creek Marina to ascertain whether their facilities were certified; iii) youth garden was added; and iv) A notation would be made regarding the hospital stating that "As of this writing, the hospital was planning to relocate further north into Accomack County..."

In § 3.C.5, the paragraphs would be updated to state that the wastewater treatment plant replacement was complete, met and exceeded the projected growth and also met State and Federal guidelines. Language would be included to show that the Town was collaborating with Bay Creek Resort & Club to accept the treated effluent in to their retention ponds.

§ 3.C.6 was modified to show the completion of the Broadband Communications project.

In § 3.D.1, the Commissioners felt that this entire section needed to be updated to include all the recent enhancements at the Harbor such as the floating docks, walkway, bath house, restaurant, Cape Charles Yacht Center, and Tall Ships events.

In § 3.D.2, the following was discussed: i) In the first sentence, "free" was added to show that the Cape Charles Beach was the only free public beach on the Eastern Shore; and ii) The third paragraph needed to be updated with the new FEMA information.

In § 3.D.3, the Commissioners felt that a new paragraph needed to be added regarding Kings Creek Marina since the area with Aqua restaurant and the shops were no longer part of Bay Creek.

Due to time restraints, the Commissioners agreed to stop this evening's review after § 3.D.3.

For the March meeting, the Commissioners would review from § 3.D.4 to the end of the Comp Plan, pages 43-51.

**NEW BUSINESS**

There was no New Business to review.

**OTHER**

Dan Burke asked about the “Got Ammo” sign in the back of the pickup truck at the Northampton Firearms store on Randolph Avenue coming into Town. Rob Testerman stated that he had not seen the sign but would check into the issue.

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Joan Natali, seconded by Mike Strub, to adjourn the Planning Commission meeting. The motion was unanimously approved.**

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Chairman Dennis McCoy

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Town Clerk

DRAFT

Public Comments Provided in Writing  
February 4, 2014

Dear Town Council:

I am a part time, soon to be full time, resident of Cape Charles.

I have owned property on Madison Avenue for almost 10 years. Approximately eight months ago, a neighbor obtained chickens and erected a chicken coop in her yard. I am writing to voice my strong objection to this conduct, which is both a nuisance, and prohibited by current town regulations.

The bedroom area of our home is only a matter of yards from the chicken coop, and on almost a daily basis, we are awakened because of noise from the chickens. Moreover, the smell of the chickens and the area where they are maintained is particularly unpleasant.

We came to Cape Charles to enjoy the beach community. We do not live in a rural area and did not anticipate that we would be confronted with livestock in the confines of our town. We believe that individuals who want to engage in farming activities should reside in areas that are zoned and suitable for farming. The small lots of a municipal township are not appropriate for farm animals. To be clear, these chickens are not pets. They remain outside and their main purpose is to produce eggs for consumption.

I have been advised that there are specific town regulations, which absolutely prohibit this conduct. I merely write to ask that the town enforce those regulations and require the individuals in town who are maintaining chickens to remove this nuisance from their properties.

Sincerely,  
Paul and Sherry Eulitt

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NBC News Article by JoNel Aleccia, July 7, 2013.  
Provided by Dan Burke

### **Backyard chickens dumped at shelters when hipsters can't cope, critics say**



Susie Coston, national shelter director at the Farm Sanctuary based in Watkins Glen, N.Y., is holding Becky, a pet hen, as former backyard birds wander nearby. About 250 abandoned backyard birds are waiting for homes at the shelter's three sites on both coasts.

Despite visions of quaint coops, happy birds and cheap eggs, the growing trend of raising backyard chickens in urban settings is backfiring, critics say, as disillusioned city dwellers dump unwanted fowl on animal shelters and sanctuaries.

Hundreds of chickens, sometimes dozens at a time, are being abandoned each year at the nation's shelters from California to New York as some hipster farmers discover that hens lay eggs for two years, but can live for a good decade longer, and that actually raising the birds can be noisy, messy, labor-intensive and expensive.

"Many areas with legalized hen-keeping are experiencing more and more of these birds coming in when they're no longer wanted," said Paul Shapiro, spokesman for the Humane Society of the United States. "You get some chicks and

they're very cute, but it's not as though you can throw them out in the yard and not care for them."

That accusation is disputed by advocates of home-grown chickens, who say that a few negative incidents shouldn't give a bad name to a practice that encourages both self-sufficiency and the consumption of sustainable food grown in a humane manner.

"We've experienced smell, noise, pests, etc., way more from improperly cared for dogs and cats than we have from backyard chickens," said Rob Ludlow, owner of the fast-growing website, BackYardChickens.com, which started with 50 members in 2007 and now boasts 200,000 members. He is the author of three books, including "Raising Chickens for Dummies."

"Hundreds of thousands of people are realizing the wonderful benefits of raising a small flock of backyard chickens, the pets that make you breakfast," he said, noting that cities nationwide have agreed, passing ordinances making it legal to keep small flocks of urban chickens.

However, at the Farm Sanctuary headquartered in Watkins Glen, N.Y. -- which operates three shelters on two coasts -- some 225 former backyard chickens are waiting now for new homes, said National Shelter Director Susie Coston. They're among at least 400 to 500 abandoned chickens that show up every year, including many suffering from maltreatment or illness.

"They're put on Craigslist all the time when they don't lay any more," said Coston, 48. "They're dumped all the time."

It's the same scenario at the Chicken Run Rescue in Minneapolis, Minn., where owner Mary Britton Clouse has tracked a steady climb in surrendered birds from fewer than 50 in 2001 to nearly 500 in 2012.

She traces that rise to the so-called "locavore" movement, which spiked in popularity in 2008 as advocates urged people to eat more food grown and processed close to home.

"It's the stupid foodies," said Britton Clouse, 60, who admits she speaks frankly. "We're just sick to death of it."

People entranced by a "misplaced rural nostalgia" are buying chickens from the same hatcheries that supply the nation's largest poultry producers and rearing them without proper space, food or veterinary care, she said.

The most commonly available hens have been bred to be good egg layers. At the same time, backyard farmers often use enhanced feed, light or other tools to prompt hens to lay constantly. After keeping up that pace for 18 months to two years, however, hens often develop reproductive problems including oviduct diseases that can kill them, veterinarians say. However, healthy hens can live for years longer, up to a decade after they stop laying.

Because chickens are notoriously hard to sex, some backyard farmers wind up with roosters, which are often culled and killed because they can be noisy, aggressive and illegal, and, of course, they don't lay eggs at all.

In addition to the noise, many urban farmers are surprised that chickens attract pests like rats, and predators including foxes, raccoons, hawks, and even neighborhood dogs.

When they get sick or hurt, they need care that can run into the hundreds of dollars, boosting the price of that home-grown egg far beyond even the most expensive grocery store brand.

Enthusiasts who start out with good intentions frequently wind up posting messages like this one delivered to Britton-Clouse last month:

"One of our hens grew up into a rooster and our neighbors are starting to complain. Do you know someone who might take him?"

"People don't know what they're doing," Britton Clouse said. "And you've got this whole culture of people who don't know what the hell they're doing teaching every other idiot out there."

But Ludlow, the backyard chicken enthusiast, said that "it's very rare" that people make such mistakes or underestimate how difficult it is to raise chickens.



Many people would be surprised to know that chickens are smart, with funny, quirky personalities, Coston said.

“While we definitely want to see more education around the lifespan and laying lifespan of chickens, we find that most people become so attached to their hens as pets, that even though they planned to eat or cull their hens at the end of their laying life, they decide to keep their girls around even without laying eggs,” he said.

Coston, the Farm Sanctuary shelter director, said she wished that were true. Most people don’t realize that chickens are funny, with quirky habits and affectionate personalities as distinct as any other pet’s.

“Oh, my god, they’re amazing,” said Coston, who frequently cuddles her chickens. “We have some of the sweetest ones here. They just sit beside you and they let you pet them. And they’re big and dumpy.”

She hopes the enthusiasm for raising backyard chickens will fade and that consumers will take a second look at their appetite for eggs and poultry.

“To go back in time sounds wonderful,” she said. “But there is not enough land on this earth to sustain the amount of meat, dairy and milk that people want.”

DRAFT

# Planning Commission Staff Report

From: Rob Testerman

Date: February 27, 2014

Item: 4C – Reports

Attachments: None

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1. The Historic Review Board met February 18 to review one application. The Board decided to revisit a prior decision on a single family home, the request was to remove the chimney without having to replace it. The application was approved unanimously.
2. The A-NPDC is nearly complete doing its initial read and review of the Comprehensive Plan. Upon completion, we will begin scheduling public meetings.
3. Plans have been received for the Cape Charles Lofts project. Staff has reviewed the plans and sent a comment letter to the applicant and architect citing necessary revisions that need to be made.
4. The Planning Commission's Annual Report was presented to the Town Council at their February meeting.
5. Staff attended a Working Waterfront Workshop at Eastern Shore Community College, Wednesday, February 26, presented by A-NPDC and VIMS. Several topics were discussed, including how localities can protect working waterfronts through zoning and comprehensive planning.
6. The JPA application has been received from the Army Corp of Engineers regarding the harbor dredging project. The Wetlands Board will meeting March 24 to hold a public hearing on the application.

# Planning Commission Staff Report

From: Rob Testerman  
Date: February 25, 2014  
Item: 5A – Backyard Chickens  
Attachments: None

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## Background

Last month, we began discussing pros and cons of backyard chickens in residential districts, as well as some of the recommended specifics of how certain regulations could be incorporated regarding setbacks, number of chickens, etc.

Tonight, rather getting into regulation specifics, I feel it would be valuable to further investigate the concerns regarding “backyard chickens”.

## Item Specifics

### **Concerns regarding backyard chickens:**

- Noise
  - Hens will cluck rather excitedly after laying eggs, but it is not generally sustained more than a few minutes.
  - Hen clucking typically registers at between 60-70 decibels after laying an egg. For comparison:
    - Light traffic registers at 50dB
    - Normal human conversation typically registers at 60dB
    - Normal street noise registers at 70dB
    - A garbage disposal registers at 80dB
    - A large barking dog can register between 80-100dB
  - As mentioned at last month’s meeting, at times, a dominant hen can take on the role of the rooster and begin to crow. Based on the information that I have seen, it seems to be a rather rare occurrence, but it does happen from time to time. In the event that this were to happen, the Town does have a noise ordinance in its Town Code.
  - Regarding the noise, I can only speak to my personal experience living next door to 10-15 chickens, approximately 35 feet from my house; the only noise I regularly heard was the couple of roosters.
- Odor
  - The odor most associated with poultry is ammonia. This is actually a product of a poorly ventilated and moist coop.
  - In *The Backyard Homestead Guide to Raising Farm Animals*, Gail Damerow states that “a chicken coop that smells like manure or has the pungent odor of ammonia is mismanaged. These problems are easily avoided by keeping litter dry, adding fresh litter as needed to absorb droppings, and periodically removing the old litter and replacing it with a fresh batch.”
  - Again, I will reference that in my personal experience, I only can say that when I lived next door to 10-15 chickens, approximately 35 feet from my house, I never smelled them.
- Disease
  - Based on last month’s discussion, staff has contacted our local health district for their opinion. Kimberly Wright, District Epidemiologist with the Virginia Department of Health stated that “*there are no health risks to the general public*”

*regarding backyard chicken keeping as long as the facility is kept reasonable clean and sanitary methods of manure and dead animal disposal are practiced.”*

- Salmonella is the first health issue that many people think of when thinking of chickens. Salmonella is not contracted by humans the way you would catch a cold. There are two possible ways for humans to contract salmonella, eating infected meat or eggs that have been improperly prepared (not completely cooked), or getting your hands or something else contaminated with feces of an infected bird, then putting that object in your mouth. Simple hygiene practices will greatly reduce risk to those handling chickens.
- According to Wright, there could be some zoonotic health risks to those people handling the poultry. Again, basic hygiene reduces these risks, and they are “typically self-limiting GI illnesses”.
- The third “hot topic” is avian influenza. Avian influenza is rare in poultry in the U.S. and according to Wright, all recent cases in humans worldwide can be linked directly to live poultry in Asia.
- National Poultry Improvement Plan (NPIP) is a program sponsored by the USDA which tests flocks for diseases such as Avian Influenza, Avian Mycoplasmas, Salmonella Pullorum, and more. According to the NPIP checklist, the only cost associated with NPIP certification is the cost of testing.
- I have contacted Chris McNeil, Regional Veterinary Supervisor, Virginia Department of Agricultural & Consumer Services. Regarding the NPIP certification and whether a requirement in the zoning ordinance for certification might be beneficial. He stated that he is not aware of any municipality who require participation in the NPIP program, and that it *“might create a false sense of security as Salmonella is not as big of an issue as it used to be.”* McNeil stated that *“practicing biosecurity and keeping the premises clean would accomplish as much or more than NPIP participation.”*
- Predators
  - Predators such as raccoons, foxes, snakes, cats and dogs may be attracted to the hens. These predators already live in the area, and are already attracted to open spaces (such as golf courses) with rabbits, ducks and geese. They are also already attracted by bird feeders, pet food, gardens, fish ponds, bird baths, and trash waiting to be collected.
  - With proper shelter requirements, the risk of the chickens attracting predators should be reduced.
- Lot sizes
  - Standard lot size in the Residential District is 5,600sq. ft. (40x140). Some feel that this area is too small to house a small poultry flock.
  - For comparison, Madison WI allows up to 4 hens per household in all residential districts. Madison has many different residential districts, with various minimum lot sizes, the smallest being 3,000sq. ft.
  - Richmond, VA allows up to 4 “female chickens” per household in their R-1 thru R-5 districts, the smallest minimum lot size being 6,000 square feet.
  - Some localities with lot sizes smaller than those in Cape Charles allow for chickens, some localities with lot sizes larger than those in Cape Charles allow for chickens, some do not. It is feasible on the standard 40x140 lot, if the Town wishes to allow it.
- Chesapeake Bay Preservation Act impact
  - I have spoken with two Department of Environmental Quality employees regarding concerns to the Bay resulting in urban chicken raising. I have been told that from a Bay Act perspective, backyard chickens are fine, and there are no requirements pertaining to them.
- Fire concerns
  - The combination of dry bedding, a hot bulb, electricity and active chickens would be a fire hazard.
  - Information that I have found indicates that having a heated coop is unnecessary. According to Backyard Poultry Mag, chickens are just fine in temperatures well below freezing. Chickens put off a good amount of body heat and will snuggle up

close, fluffing feathers to trap the warm air. Keeping the coop warm enough in the winter time is merely a matter of properly insulating and “winterizing” the coop.

- Other Towns on the Eastern Shore
  - I have contacted several towns regarding backyard chickens, responses received to date:
    - Exmore – Not allowed
    - Eastville – Allows raising of a small poultry flock and/or minimal livestock on one acre lots
    - Onancock – Livestock is allowed in town limits with no restrictions, other than they must be properly housed. In the past two years they have received one complaint stemming from noise that a rooster was making. Some existing lots are as small as 3,200sq. ft., however any new lots in the residential district must be 10,000sq. ft.
    - Wachapreague – Not allowed
    - Chincoteague – Chickens allowed. Chincoteague’s Planner will be providing me with the text or their code regarding chicken and livestock, at this time it has not been received. It will be presented at the meeting.
- Enforcement
  - Should not be any more of a burden than any other zoning code already on the books. If a permit or zoning clearance would be required, staff would review a sketch plan to ensure the requirements are met, as with any other zoning clearance.
  - If staff sees a possible violation, or if a complaint is filed, after investigation, if warranted a zoning violation would be issued, and necessary steps taken to correct the issue. Of the localities that I have researched, there have been very few additional complaints since allowing chickens.
- What’s next?
  - A common argument seems to be, “if we allow chickens, what’s next? Turkeys? Goats? Pigs?”
  - The simple answer to this question is that if Town Council directs staff to research any one of those things, staff will research it, and present findings to the Planning Commission for a recommendation to Council.

### **Conclusion**

Backyards, or urban chickens, are allowed in residential districts in various localities across the country, state, and eastern shore, from city settings such as Madison WI, Chicago IL and Brooklyn NY, to small rural towns like Onancock and Eastville. They are allowed on lots as small as 3,000sq ft., or in some cases the minimum lot is much larger.

If written properly, a backyard chicken ordinance is feasible for Cape Charles. It boils down to whether or not the Town wants it.

### **Next Steps**

Staff will prepare a draft ordinance for the next meeting that will be a starting point for specific requirements. At that time, the Planning Commission may discuss/change any of the specific requirements and regulations.

Staff has been discussing the possibility and feasibility of creating a community survey, to better gauge the feelings of the property owners. Logistics and possible costs need to be determined before proceeding.

After gaining public input (whether that is through a survey, a public input session, or both), and modifying the upcoming draft. We can then schedule a public hearing.

# Planning Commission Staff Report

From: Rob Testerman

Date: February 27, 2014

Item: 5B – Comprehensive Plan Review

Attachments: Sections III-D.4 through the end of the Comprehensive Plan

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## Item Specifics

This month, we will be reviewing the remainder of the plan, as with previous discussions we will simply be identifying those areas in need of revision. We will begin with *Section III-D.4 The Streetscape*.

## Recommendations

Identify areas of the remainder of the Comprehensive Plan that are in need of updating.

emergency of this resort and residential amenity has also served as the stimulus for rail experiences on the Bay Creek Railway which offers a variety of dining and sightseeing excursions.

### **III-D.4 The Streetscape**

During the last decade, bicycling, walking for pleasure and exercise, bird watching and general concern for the environment have become a prime consideration to many residents and visitors to Cape Charles. The grid plan of the Historic District affords Cape Charles with clear patterns of access and movement to its commercial, residential and public spaces. New development occurring in areas outside the historical town grid needs to have access as well. And by virtue of its location, Cape Charles is also a focus in three regional plans: the Eastern Shore of Virginia Bicycle Plan, the Eastern Shore of Virginia Heritage Trail and the Virginia Birding and Wildlife Trail.

Increased interest in recreational opportunities, renovation of the Historic District, in-fill building, easy access to natural areas and connectors with new parts of Town has prompted assessment of the quality of the Town's environment. The aesthetics of the streetscape and ease of circulation, especially between the Harbor and the Historic District, were found to be less than optimum. In response, the Town has adopted a Master Tree Plan, a tree ordinance, and the Cape Charles Community Trail Master Plan. It is imperative to establish aesthetically pleasurable as well as easy, safe and interesting movement around town for residents and visitors. Open space with inviting areas in which to sit and relax, stroll, bicycle or skate connected by trails and safe sidewalks is necessary to promote the small town friendly atmosphere desired. Coordinated landscaping, lighting and street furniture throughout Town will enhance the sense of Cape Charles as a special place. To achieve this, the Town will:

- Actively work with VDOT and ANEC to repair streets, sidewalks, lighting and landscaping in easement areas
- Develop and implement a Streetscape Planting Plan
- Encourage citizens to participate in stewardship programs to help maintain the streetscape
- Support construction of the Cape Charles Community Trail
- Coordinate with Northampton County to develop a corridor overlay district for Routes 184 and 642 which will include architectural and landscape guidelines
- Develop a gateway plan for the entrance to Town at Route 13/184 for a more welcoming arrival
- Coordinate with Northampton County to develop shared use paths to connect with the Bicycle Plan, the Virginia Heritage Trail and the Virginia Birding and Wildlife Trail
- Move or radically modify the pump station at Mason and Bay Avenues to reduce odors and visual impact on the beach environs
- Establish a recycling program/drop off site in town
- Work with the landowners to complete a connecting trail between the harbor and the Coastal Dune Natural Area Preserve
- Acquire land to increase future potential park, waterfront and trail areas

- Develop story boards of Town history and environmental features for installation along the Trail

### **III-D.5 Public Services and Programs**

Public services and facilities supporting growth in Town is a major concern for all its present and potential citizens. Newcomers, businesses and visitors alike have an expectation that the Town has in place all the required facilities and services to accommodate them. These include physical facilities such as water and waste water systems, police, as well as amenities such as a library, recreational programs and town events. The State requirements supporting its citizens in the Town must also be met. The Comprehensive Plan serves to guide continued improvement in the various systems and put in place new programs to achieve a greater level of comfort and convenience.

Presently, Cape Charles has the basic services required for the safety and convenience of its citizens. The Cape Charles Police Department works in conjunction with county and state resources to provide for a safe community. The Cape Charles Volunteer Fire Company and the Cape Charles Rescue Service, Inc. also work cooperatively with other local fire companies and rescue squads to provide fire protection and emergency medical services. It is important for the Town to continually provide support to the police and volunteer fire companies to upgrade the technology and equipment and education needed for them to do their jobs successfully.

Other community services and facilities available include the town offices, the library, a community college and museum. Several of these facilities are housed in inadequate buildings. Growth of the Town will require an increase in space for community services, therefore, the Town plans include:

- The restoration of the Cape Charles School as an adaptive reuse to preserve this structure
- Establishing a Community Center
- Relocating the Library to a larger space with adequate provision for increased patronage, meeting rooms and technology
- Relocating the Town offices including space for archives and the police department
- Developing educational programs with the community college to support town endeavors such as a tree stewardship program
- Acquiring strategic undeveloped properties (e.g., the Rosenwald School, Schlegel property)

### **III-D.6 Recreational, Cultural and Youth Activities**

The Town of Cape Charles offers a variety of recreational and cultural opportunities which attract its citizens, tourists, visitors and sportsmen. Boaters enjoy access to the Chesapeake Bay and Atlantic Ocean from the Town's harbor and Bay Creek Marina and fishermen make excellent use of the newly extended Fun Pier. Cape Charles offers the only public beach on the Chesapeake Bay along the Eastern Shore, and it is a very popular spot for visitors to swim, bird watch, kiteboard, water ski, etc. While water oriented activities are certainly the most visible, Cape

Charles also offers a skateboard park, a basketball court, a children's playground, a museum, a library, community college, a historical theater and Central Park. The Town has partnered with various organizations to host events such as the Christmas Progressive Dinner, art shows, music fests, and a 4<sup>th</sup> of July parade and fireworks. Golfers have access to two world class courses in the Bay Creek development. Birders can enjoy the sights at the beachfront, the Coastal Dune Preservation Area as well as at Kiptopeke State Park and The Eastern Shore of Virginia National Wildlife Refuge which are within easy travel distance of Town. In fiscal year 2007-08 the Town hired a recreational program director and established a citizens' committee to develop youth activities in Town. It is necessary that the Town continue to provide and enhance these facilities and activities by:

- Supporting the Master Trail Plan for use as a connector between the various recreational, cultural, and work facilities
- Supporting partnerships with organizations to increase and improve cultural and art programs
- Developing a maintenance plan for the beach and Fun Pier
- Continuing to pay for the Fun Pier fishing license
- Supporting construction of a dune crossover at the north end of the beach for access by kayakers and others with non-motorized recreational watercraft
- Continuing to develop recreational programs for youth and seniors
- Supporting the relocation of the ball fields in cooperation with Little League and Northampton County
- Encouraging cooperation between the Town and event sponsors
- Maintaining support of the Library

## **Section III-E - Active and Engaged Partnerships**

The Town of Cape Charles has numerous major initiatives and partnerships underway as town projects, county projects and private initiatives. These will shape the future of Cape Charles and this section provides a guide through these initiatives.

### **III-E.1 Northampton County Comprehensive Plan and Rezoning**

The County Comprehensive Plan has several elements that will impact the systems of Cape Charles. The first element is the movement of county residential development from the rural parts of the county to the edges of the towns. This is a new concept for the county as it rewrites the zoning ordinances to implement these concepts. The second element in the county plan is an emphasis on affordable housing. Town Edge plans are proposed to be drafted suggesting cooperative plans for systems and services such as regional water and sewer systems.

### **III-E.2 Water and Wastewater Partners**

Cape Charles is actively working with other political subdivisions and private partners to study the potential for regional WTP and WWTP projects. The protection of the environment and the natural resources are important and a regional approach may allow more service with less impact.

### **III-E.3 Broadband Communications**

The Eastern Shore Broadband Authority has been formed to develop and manage the shore-wide project to deploy high speed Internet service backbone fiber network through the shore. This backbone will connect to Maryland Broadband Cooperative in the north with high speed network centers in Norfolk. This connection would allow communities to form local open networks and receive high speed services at a lower cost. The Towns and Counties of the Eastern Shore are participating in this venture. Cape Charles has been awarded a grant to connect to the backbone and deploy a fiber optic ring around Town.

### **III-E.4 Civic Partnerships**

#### **III-E.4.1 Citizens for Central Park (CCP)**

This is a cooperative volunteer body formed to support the development of the Cape Charles Central Park. The Town is listed on the National Register of Historic Places and has been placed there for several contributing factors, one of which is the Park and layout of the adjoining streets. The park is the center of the "compass rose" and the four streets radiate from it following the four lines of the compass. The CCP has raised thousands of dollars to restore and beautify the park by planting trees, building the pergola, funding the construction of the gazebo, installing watering systems, park benches, volunteer maintenance of planting each year and many other items. The volunteer group provides a fundraising event each year. This organization is a vital

resource to the Town as it provides funds and energy to the beautification of a major feature in Cape Charles.

#### **III-E.4.2 Cape Charles Renewal Program**

This volunteer program works to revitalize the commercial areas of Cape Charles. This action is in addition to the work of the Northampton County Chamber of Commerce. This is similar to downtown revitalization programs in other small towns and provides input to the Town on ways to improve and develop the downtown business area.

A newly organized subsidiary of the Cape Charles Renewal Program is the Cape Charles Business Association.....

#### **III-E.4.3 Historical Society and Museum**

Cape Charles Historical Society is a volunteer organization that owns and operates the Cape Charles Museum and has made major investments into the preservation of the history of Cape Charles. The Society has two major fundraisers each year and works on grants for additional funds. The funds provide for the protection of buildings and documents that preserve the heritage of the Town of Cape Charles. These volunteer organizations provide the energy, funding and people power to preserve and enhance the character of the Town.

#### **III-E.4.4 Friends of the Cape Charles Memorial Library**

The library is the oldest memorial library in the state. While the Town and regional library system provide basic funding for the operation of the library, the Friends organization is a volunteer organization that raises extra funds to allow the library to provide programs over and above the regular operation of the facility. Volunteer organizations, such as the Friends of the Library, are the fabric that makes small towns like Cape Charles exceptional places.

#### **III-E.4.5 Youth, Recreation and Churches**

Cape Charles also has volunteer organizations to support youth activities and to help supplement the beginning of a Recreation Department. Cape Charles has a large number of churches, a few of which have active youth programs. No one group alone has the resources to provide all kinds of activities, but as a group, these organizations provide a wide range of activities for the young people of the Town and surrounding area. Other organizations like the Northampton Anglers Club provide annual programs for the youth.

#### **III-E.4.6 The Northampton County Chamber of Commerce**

This organization is made up of businesses in and around the County. This is a business to business organization that provides help to local merchants and business people. They provide volunteers to manage civic functions for fundraising purposes. The Town of Cape Charles is a dues paying member of the Chamber.

#### **III-E.4.7 Eastern Shore Tourism Commission**

This organization is not strictly a volunteer organization, but it provides a function larger than the Town is able to provide and a majority of its funding is from Accomack and Northampton Counties. Its function is to market the Eastern Shore on a larger geographic scale than the Town would be able to do on its own. The Tourism group has developed an Eastern Shore Brand and the Town is part of that project.

#### **III-E.4.8 Concerned Citizens of Cape Charles (CCCC)**

CCCC is an organization of local citizens whose mission is to improve the lives and living conditions of low-income residents through human development and the creation of a sustainable community. Homebuyers and home sellers clubs have been formed for the purpose of helping local residents with this process. This work is done through community newsletters, collaboration with other groups, festival organizations, and community youth work.

#### **III-E.4.9 Cape Charles Volunteer Fire Company**

The Fire Company is located in the Historic District of Cape Charles in a building adjoining the Town Hall. The volunteer group provides the firefighting power for the Town and Lower Shore area. Members come from the Town and surrounding area.

#### **III-E.4.10 Arts Enter**

The Town of Cape Charles supports this group to provide access to the arts on the Shore. Arts Enter brings music, drama and dance entertainment to Town in a restored 1940 Art Deco Historic Palace Theater. A wide range of musical and art classes are available as well as access to local artists through the Stage Door Gallery.

#### **III-E.4.11 Cape Charles Committee on Children and Youth (CCCCY)**

The CCCCY supports the youth of Cape Charles through mentoring programs, youth athletic programs and by providing youth advocacy.

#### **III-E.4.12 Cape Charles Food Pantry**

The Cape Charles Food Pantry is operated by Trinity United Methodist Church. It is the local distribution center serving the needy in our Town. It is the authorized extension of the FDA Food Bank and gets some of its items from them along with local donations of cash and food.

## **Section IV - Implementation**

Tom to do intro paragraph (per Steve's recommendation)

### **IV.1 Town Council Priorities**

1. Prepare and maintain a rolling 5 year CIP
2. WTP and WWTP Improvements
3. Business Development. Create Economic Development Committee
4. Future Land Use Plan - Boundary Adjustment
5. Establish a Corridor Overlay for Routes 184 and 642
6. Continue Alley Easement and Ownership Project
7. Explore Public Works locations
8. Work to eliminate substandard housing in Town
9. Work with non-profits to aid property owners who cannot repair their homes
10. Comprehensive Review of Town Code
11. Continue development of a Recreation Program
12. Continue Support of Chamber of Commerce and Tourism
13. Establish a Town Community Center
14. Develop Town Parking Solutions
15. Promote water and energy conservation
16. Research Chesapeake Bay Meteor Impact interpretive center
17. Research more cooperative agreement with County Sheriff and more flexible Police Schedule

### **IV.2 Harbor Conceptual Master Plan**

1. Inventory historic sites in the Harbor area and encourage rehabilitation
2. Commemorate historic sites such as the Meteor Site
3. Establish an Architecture Plan for the Harbor
4. Encourage rail development for commuter and scenic routes
5. At-grade railroad crossings should be encouraged where feasible
6. Integrate a pedestrian network from town to harbor
7. Develop additional docking facilities at the Harbor
8. Keep parking areas green by using means such as pervious material
9. New parking structures, if used, should be compatible with adjacent structures
10. Incorporate traffic calming features to slow traffic in the Historic Core
11. Maintain the harbor as a multi-modal transportation hub
12. Minimize dependence on private auto transportation
13. Preservation and restoration of the Rosenwald School
14. Enhance Jetty Maintenance
15. Create a public recreational meeting area
16. Raise the level of the channel jetty to above mean high water

### **IV.3 Cape Charles Community Trail Master Plan**

1. Continue the trail plan in the Historic District
2. Establish major nodes and gateways around town in accordance with the trail plan
3. Establish the Fig and Randolph intersection as a roundabout
4. Create a linear park along Washington Ave
5. Improve the Bay Avenue boardwalk
6. Provide plazas on the north and south ends of Bay Avenue
7. Improve the south side of Mason Avenue with the trail
8. Restore the Peach Street Corridor
9. Improve Central Park as part of the trail
10. Create a harbor linkage with the trail
11. Strawberry Street Pedestrian Way
12. North End Beach access and protection

### **IV.4 Master Tree Plan**

1. Design a planting plan for the future
2. Create a long term and short term funding plan
3. Provide an update of the Tree Inventory every five years
4. Improve landscapes and streetscapes

### **IV.5 Current Comprehensive Plan**

1. Promote water and energy conservation
2. Work to eliminate substandard housing in Town
3. Work with non-profits to aid property owners who cannot repair their homes
4. Prepare and maintain a rolling 5 year CIP

## **Section V - Appendices**

- V.1 Preservation Plan for the Town of Cape Charles (1996)**
- V.2 2020 Transportation Plan (1999)**
- V.3 Historic District Guidelines (December 2001)**
- V.4 Master Tree Plan (2006)**
- V.5 Accessory Unit Study (July 2006)**
- V.6 Sidewalk and Curb Assessment (July 2006)**
- V.7 Harbor Area Conceptual Master Plan & Design Guidelines (August 4, 2006) *[Historic Harbor Architectural Guidelines will go here once completed]***
- V.8 Public Workshop – Vision for the Future (September 19, 2006)**
- V.9 Land Use Policy Framework – Guiding Decisions for Coming Decades (November 9, 2006)**
- V.10 Cape Charles Comprehensive Plan Draft Existing Conditions (May 25, 2007)**
- V.11 Cape Charles Comprehensive Plan Update – Draft Land Use, Community Design & Future Development Chapter (May 25, 2007)**
- V.12 Cape Charles Community Trail Master Plan (October 1, 2007)**
- V.13 Water and Wastewater Utility Plan (November 2008)**