

# Planning Commission

## Regular Session Agenda

April 1, 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 draft ordinance language
  - b. Tourism Zone - Refresher
6. New Business
7. Announcements
8. Adjourn



**DRAFT**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Town Hall**  
**March 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 Andy Buchholz, Dan Burke, Joan Natali, Bill Stramm and Mike Strub. Commissioner Sandra Salopek was not in attendance. Also present were Town Planner Rob Testerman and Assistant Town Clerk Amanda Hurley. There was one member of the public in attendance.

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

**PUBLIC COMMENTS**

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

**CONSENT AGENDA**

Dan Burke recommended adding an item for discussion under New Business, to allow any Commissioner to extend public comment by three minutes.

**Motion made by Dan Burke, seconded by Mike Strub, to accept the agenda format as amended. The motion was unanimously approved.**

The Commissioners reviewed the minutes for the February 4, 2014 Regular Meeting.

Bill Stramm noted a typographical error on page 2. Joan Natali noted a grammatical error on page 5.

**Motion made by Mike Strub, seconded by Andy Buchholz, to approve the minutes from the February 4, 2014 Regular Meeting as amended. The motion was unanimously approved.**

**REPORTS**

Rob Testerman reported the following: i) The Historic District Review Board met on February 18 and reviewed a prior decision on a single family home and approved removal of the chimney without replacement; ii) The Accomack-Northampton Planning District Commission (A-NPDC) had almost completed review of the Comprehensive Plan and the Planning Commission would be scheduling public meetings upon their completion; iii) Plans were received and reviewed for the Cape Charles Lofts project and a comment letter was sent to the applicant and architect citing necessary revisions that needed to be made; iv) The Planning Commission's Annual Report was presented to the Town Council at their February meeting; v) He attended the Virginia Working Waterfront Workshop at the Eastern Shore Community College on February 26 and several topics were discussed including how localities could protect waterfronts through zoning and comprehensive planning. Our Harbor District protected the working waterfront. The afternoon session of the workshop was geared more toward watermen and areas with undeveloped land; and vi) The JPA application had been received from the Army Corp of Engineers regarding the harbor dredging project and the Wetlands Board would be meeting March 24 to hold a public hearing on the application. Virginia Institute of Marine Science and Department of Game and Inland Fisheries would be involved for the protection of the tiger beetle.

## **OLD BUSINESS**

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

The concerns regarding backyard chickens were as follows: i) Noise – difficult to enforce. Barking dogs could be louder than hens. Dominant hens that crowed like roosters would have to be removed; ii) Odor – difficult to police. Code Enforcement would have to enforce; iii) Disease – No health risks to the general public as long as facility was kept clean and sanitary methods were practiced. Simple hygiene practices would greatly reduce risk to those handling chickens; iv) Predators – Chickens wouldn't attract any new predators to the area. There was concern that (pet) dogs would kill chickens. State code allowed animal control to shoot a dog if they witnessed it attacking a chicken. There was much discussion regarding this issue and Rob Testerman stated that he would see how other localities handled it; v) Lot sizes – a 40x140 lot was feasible to house chickens. It was discussed that a minimum lot size would need to be put in place and the chicken owners would be required to reside on the same premises; vi) Chesapeake Bay Preservation Act impact – no requirements; vii) Fire concerns – properly insulated coops vs. heat lamps; viii) Other Towns on the Eastern Shore – some towns allowed; ix) Enforcement – zoning violations could be issued and necessary steps taken to correct the issue; and x) What's next – turkeys, goats, pigs, etc.? Town Council may direct staff to research and staff would present findings to Planning Commission for recommendation to Town Council.

Rob Testerman stated that he would prepare a draft ordinance for the next meeting and would create a community survey for the Planning Commissioners to review. After gaining public input through a survey, public input session or both, a public hearing could be scheduled.

### **B. *Comprehensive Plan Review – Identify key items in the remainder of the Comprehensive Plan that are in need of update***

Rob Testerman stated that they would begin with § 3.D.4.

In § 3.D.4, It was discussed that the less than optimum access from the Harbor to the Historic District was not addressed in the bullet points. There was discussion on the bullet point regarding the recycling program/drop off site in town and the cost and health issues.

In § 3.D.5, “park, beach, fishing pier and harbor” were added to the first paragraph under amenities. In the second paragraph, the move of the hospital should be addressed. In the third paragraph, community college was deleted and the third bullet point regarding the relocation of the Library to a larger space was deleted.

In § 3.D.6, the language in the first paragraph was updated to state “free public beach” and “Bay Creek Marina” was changed to “Kings Creek Marina.” The language “newly extended” was deleted from the Fun Pier. Visitors’ activities were updated to include “kayaking, canoeing, and personal watercraft.” There was discussion regarding the basketball court and whether the language should state “proposed” or if “basketball court” should be deleted. The “youth activities” deserved delineation. The bullet point regarding relocation of the ball fields was deleted. There was much discussion regarding the Fun Pier fishing license.

§ 3.E.3 Broadband Communications was deleted.

Under § 3.E.4 Civic Partnerships, “Cape Charles Christian School”, “New Roots Youth Garden”, “Our Town Grant”, “Cape Charles Yacht Club” and “Eastern Shore Eventacular Inc.” were added. A paragraph or mission statement about each would need to be included.

In § 3.E.4.1, “public restrooms” was added.

In § 3.E.4.2, it was clarified that the Cape Charles Renewal Program was doing business as the Cape Charles Business Association. “Subsidiary” was deleted from the second paragraph. The “...” would be removed from the second paragraph and a mission statement added in its place.

In § 3.E.4.8, there was discussion whether Concerned Citizens of Cape Charles was a viable organization because there had not been any recent activity.

§ 3.E.4.11 Cape Charles Committee on Children and Youth (CCCCY) was deleted.

Boat Builders might be able to be added to § 3.E.4 if it was confirmed that they were a Virginia Corporation.

There was discussion on whether the Friends of the Eastern Shore Waterman’s Memorial should be added.

In § 4.1, there was much discussion regarding number 13 “Establish a Town Community Center” and the purpose of the old library building. Under number 17, “Research more” was replaced with “Continue.” An introductory paragraph was needed under § 4.1.

In § 4.2, number 13, Rob Testerman would verify if the Rosenwald School was historic at the State level.

There was much discussion regarding § 4.3 Cape Charles Community Trail Master Plan.

There was discussion concerning referencing of the items under § 4.5 Current Comprehensive Plan and where they were addressed in the plan. There was a recommendation to delete the section because it seemed self-referential.

There was some discussion regarding § 5 – Appendices, and the items in need of update. Each item should include a reference to where they could be located and dates would be deleted.

**NEW BUSINESS**

*A. Extending Public Comment*

**Motion made by Dan Burke, seconded by Bill Stramm, to amend the operating procedures to allow for any one commissioner to extend public comment by three minutes, not to exceed six total minutes for one member of the public. The motion was unanimously approved.**

**ANNOUNCEMENTS**

The May 6<sup>th</sup> Planning Commission meeting coincided with the Town Council elections which affected Commissioner Joan Natali. The Commission agreed to change the meeting date to Monday, May 5<sup>th</sup>.

**Motion made by Bill Stramm, seconded by Dan Burke, to adjourn the Planning Commission meeting. The motion was unanimously approved.**

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Chairman Dennis McCoy

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Town Clerk

# Planning Commission Staff Report

From: Rob Testerman

Date: March 27, 2014

Item: 4C – Reports

Attachments: None

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1. The Historic Review Board met March 18 to review three applications. All three applications were approved unanimously.
2. The Town Manager and Town Planner met with Elaine Meil of the A-NPDC on March 20 to discuss her findings in her review of the Comprehensive Plan. The A-NPDC is ready to facilitate the public kick off meeting.
3. Staff will compile all of the Comp Plan notes that have been made over the past months and provide them to the A-NPDC for inclusion into the plan.
4. The Wetlands Board hearing scheduled for March 24 was cancelled. Due to environmental concerns (Tiger Beetle habitat, SAVs, and nearby oyster leases), the Army Corps of Engineers has decided not to pursue the Bay Creek beach as a spoils site for the dredging. They are currently exploring new options. This will likely delay the dredging project by a month or two.
5. Site plans for Cape Charles lofts have been provided to VDOT for comment, we are awaiting their response.

# Planning Commission Staff Report

From: Rob Testerman  
Date: March 24, 2014  
Item: 5A – Backyard Chickens  
Attachments: Draft Ordinance Language

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## Background

In the past couple of meetings, we have discussed potential pros and cons of allowing backyard chicken raising in Cape Charles, as well as typical concerns relating to backyard chickens. Many of those concerns were given a more thorough look last month, and a couple are still to be addressed, as staff continues to gather information.

As a follow up to one of the concerns, regarding possible chicken abandonment once their production years are done, staff has contacted the local 4H. I was told that the 4H would likely be able to set up some kind of program to handle hens from residents who may no longer want them. In my opinion, realistically, in a town of Cape Charles' size, we would probably be talking about a handful of chickens every couple years.

As discussed last month, staff has prepared draft language that could be inserted into the zoning ordinance, if the Town desires. Staff has also prepared a community survey to better gauge the interests of those who live and own property in Cape Charles. As of Tuesday, March 25, 2014, the survey has been placed on the Town website.

## Item Specifics

Rather than a new, stand-alone ordinance, this draft is formatted to be inserted into existing zoning district regulations, under permitted uses, in Sections 3.1, 3.2 and 3.3.

Requirements to be allowed to raise chickens would be:

- Up to 5 hens would be allowed
- Main use of the lot must be for a single family dwelling, AND anyone raising chickens must occupy the residence.
- No roosters
- No slaughtering outdoors
- No hens roaming free
- Hen house and fenced enclosure required
- Hen house shall be covered, predator resistant and providing at least 2 minimum square feet per hen.
- Hen house and outdoor enclosure must be kept clean
- Only to be located in rear yards
- Minimum of 10 feet from property lines AND 30 feet from any adjacent dwelling unit.
- Food kept in rodent-proof container
- Permit must be obtained

## Discussion

Commissioners should discuss the proposed regulations, and determine if any of these should be adjusted, new regulations added, or proposed regulations removed from the draft. Ideally, we will have responses to the survey prior to the next meeting, and we can analyze the findings prior to scheduling any public hearings.

## **Section 3.2 Single Family Residential District R-1**

### **B. Permitted Uses**

8. Keeping of up to five (5) egg laying hens, provided the following requirements are met:
  - a. The principal use is a single-family dwelling
  - b. The person raising the hens must occupy the residence.
  - c. No person shall keep any rooster.
  - d. No person shall slaughter any hens outdoors.
  - e. The hens shall be provided with both a hen house and a fenced outdoor enclosure.
    1. The hens must be kept in the hen house or fenced outdoor enclosure at all times and shall not be allowed to roam free.
    2. The hen house shall be a covered, predator-resistant, well-ventilated structure providing a minimum of 2 square feet per hen.
    3. The outdoor enclosure shall be adequately fenced to contain the hens and to protect the hens from predators.
    4. The hen house must be kept in a clean, dry, and sanitary condition at all times.
    5. The outdoor enclosure shall be cleaned on a regular basis to prevent the accumulation of animal waste.
  - f. Hen houses and outdoor enclosures may only be located in rear yards
  - g. Hen houses and outdoor enclosures shall be located at least ten (10) feet from side and rear property lines, AND at least thirty (30) feet from any dwelling unit on an adjacent lot.
  - h. Food for the hens must be kept in a rodent-proof container.
  - i. Eggs shall not be sold.
  - j. A permit must be obtained from the Zoning Administrator.

**Language would also be inserted in as Section 3.3 Residential Mixed (R2) (B)4, and 3.1 Residential Estate (RE)(B)6**

# Planning Commission Staff Report

From: Rob Testerman

Date: March 26, 2014

Item: 5B – Tourism Zone

Attachments: Staff Reports and Minutes Excerpts from previous Tourism Zone Discussions

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## Background

Previously, the Planning Commission had begun discussion and working on a Tourism Zone for Cape Charles. In the near future staff and the commission will begin resuming work on the tourism zone. Attached to this report are previous reports that were prepared by my predecessor regarding the development of a Tourism Zone ordinance, also attached are the minutes from those discussions.

Commissioners should use these references as a sort of refresher, as we will resume these discussions in the near future, and provide Town Council with a recommendation.

## Discussion

Review prior Tourism Zone discussions, discuss any specifics (types of businesses that the zone would apply to, incentives, etc.) that the Commission would like staff to research before more in depth discussions continue.

The Tourism Zone will likely be written, and implemented in a similar fashion to that of the Technology Zone which was previously adopted by Town Council.

# JUNE 2010 REPORT

## Planning Commission Staff Report

**From:** Tom Bonadeo  
**Date:** June 1, 2010  
**Item:** 6A – Tourism Zone  
**Attachment:** Tourism Zone State Code and Blacksburg Ordinance

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### Item Specifics

During the exploration of the Technology Zone the Planning Commissioners expressed interest in finding information on the requirements for creating a Local Tourism Zone. This is nearly identical to the Technology Zone in code language but different in application.

### Discussion

The Tourism Zone is a designation applied to a geographic area allowing certain exceptions for the purpose of attracting businesses. The discussion would begin with the following:

1. What types of businesses would be qualified as "tourism" businesses?
2. What incentives would attract this kind of business to the zone?
3. What is the economic cost/benefit analysis if a business is brought in and incentives are provided?

### Recommendation

Review the documents and discuss the Tourism Zone and what it offers.

# JUNE '10 MINUTES

## OLD BUSINESS

### *Boundary Adjustment Discussion*

There was no further discussion regarding boundary adjustments since Tom Bonadeo updated the Commissioners as part of his report earlier in the meeting.

### *Connector Road*

Tom Bonadeo explained that the Town Council requested the Planning Commission to study the potential for a connector road between westbound Old Cape Charles Road (Route 642) and the entrance to Bayshore Concrete for the enhancement of attracting industrial / technology business to Cape Charles and further explained that roads of this kind could be funded by VDOT grants and/or private funds with Town support. After much discussion, the Commissioners agreed that representatives from surrounding businesses be invited to the next meeting of the Planning Commission to give them an opportunity to provide their input regarding such a road. Tom Bonadeo will develop a position paper and invite representatives from Bay Creek, Bayshore Concrete, Harbor Development Group and Southport to the July 6<sup>th</sup> meeting.

### *Technology Zone & Tourism Zone (New Business)*

Tom Bonadeo explained that the Town Council has requested that the Planning Commission study the potential of establishing a Technology Zone to attract certain types of businesses to the Town. Tom Bonadeo went on to state that at the May meeting, during the discussion of the Technology Zone, the Commissioners expressed an interest in finding information on the requirements for creating a Local Tourism Zone. Since the language is nearly identical to the Technology Zone, Tom Bonadeo suggested that these discussions be combined.

Tom Bonadeo explained that he had included the language from the Code of Virginia regarding the creation of a local tourism zone and the Code of Ordinances from Blacksburg, VA for review by the Commissioners. Also, the Technology Zone Workbook was distributed at the May meeting which contained the language from the Code of Virginia regarding the creation of a technology zone and sample ordinances from other jurisdictions in the State. Most of these jurisdictions offer tax abatements in these zones, some limiting the zone to a specific geographic area and some designating the entire jurisdiction as part of the zone. Tom Bonadeo went on to state that there were several questions that need to be answered as follows:

1. Why do we want to create a Technology and/or Tourism Zone?
2. What are some technology-related businesses that we want to attract to the Town?
3. What are some tourism-related businesses that we want to attract to the Town?
4. How much are we willing to spend and what types of incentives are we willing to offer to bring these businesses to Town?
  - a. Real estate tax abatement for a number of years
  - b. Possible sliding scale in regards to connection fees for water and sewer to be determined possibly by the number of employees.
    - i. Would the better "deal" be offered to the smaller businesses or larger businesses?
    - ii. A smaller business could benefit more from the discount.
    - iii. Could the Town even attract a larger company?

There was much discussion regarding this issue and Tom Bonadeo requested that the Commissioners think about possible incentives that could be offered to small businesses that rent their property such as Honey Moore's Gull Hummock. Ben Lewis informed the Commissioners that his company is in Belle Haven and he has thought about moving his business or opening an

extension of his business in Cape Charles and suggested that the Town could possibly offer incentives regarding BPOL taxes.

Tom Bonadeo added that it would be nice to have regulations for these zones on the books but would prefer not to set a standard of what the Town would offer or the types of businesses that would be considered. It would be more beneficial to have the basic language in the ordinance and have prospective businesses come to the Planning Commission for the specific programs that may be available to a potential business. Historic Tax Credits are available in the historic district if a certain percentage of improvements are made to the property. There may be incentives under the Enterprise Zone which is administered by the County. Bruce Evans suggested that the Town may need to do a better job of marketing what is currently available to potential businesses.

*Section 4.2.G Fences and Walls*

Tom Bonadeo explained that Roger Munz had requested that discussion regarding Section 4.2.G. – Fences and Walls be placed on the meeting agenda, specifically in regards to a fence that is currently in place on a property in the 500 block of Tazewell Avenue. Unfortunately, Roger Munz was not in attendance at the meeting to express his concerns.

**NEW BUSINESS**

*Tourism Zones*

Discussion regarding Tourism Zones was included with the Technology Zone discussion under Old Business.

Tom Bonadeo summarized that for the July meeting, the Commissioners will continue their discussion regarding the connector road and representatives from surrounding businesses will be invited, discussion regarding Technology and Tourism Zones will be continued and several members of the Cheriton Planning Commission will also be invited to attend a portion of the meeting to discuss the issues regarding a boundary adjustment.

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Dennis McCoy, seconded by Malcolm Hayward to adjourn the Regular Meeting of the Planning Commission. The motion was approved by unanimous consent.**

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Town Planner Tom Bonadeo

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Town Clerk

# JULY 2010 REPORT

## Planning Commission Staff Report

**From:** Tom Bonadeo  
**Date:** June 1, 2010  
**Item:** 5C – Technology/Tourism Zones  
**Attachment:** Please bring your Tech Zone Work Book

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### Item Specifics

The Town Council has asked that the Planning Commission to study and report on the possibility of establishing a Technology Zone to attract certain types of businesses. Even with many studies and potential projects and real projects like the STIP, Cape Charles has not had any significant new employers.

Please bring the Technology Zone Workbook so that we can review pertinent facts about other zones around the states.

Staff has found some interesting facts.

1. Many of the zones were built and owned by the locality.
2. Many of the zones were targeted at one interested business.
3. Only a small number were built on speculation with no businesses in mind.

### Discussion

The concept of a Technology/Tourist Zone with incentives to attract business sounds good. The types of businesses, size of businesses and the quality of jobs created will certainly drive the amount of benefits a potential company might qualify for.

The discussion could focus on creating lists:

1. A list of businesses qualified for each zone
2. A list of business sizes by employees
3. A list of costs to be incurred by businesses
4. Cost of incentives to the Town of Cape Charles

### Recommendation

Review the documents and discuss which style of ordinance fits Cape Charles. Work on the lists and plan to invite stakeholders for next months meeting.

JULY 2010

MINUTES

At this time, Joan Natali opened the floor for questions or comments from the Commissioners.

Roger Munz began by stating that he felt that Mr. Berkley Rayfield might have a problem with the alternate route of the connector proposed by Mr. Scott Walker and added it was borderline unsafe travelling on Route 642, especially with the industrial trucks travelling the road. Mr. Bonadeo clarified that the proposed road would only connect Route 642 to the industrial park and did not include plans to redo the existing road because the pool of money was earmarked for new roads only.

Michael Strub asked if the recent accident with a truck hauling a concrete form was typical. Tom Bonadeo stated that it was not typical and explained the accident as having been caused by human error.

Joan Natali asked what types of businesses Southport was expecting to attract if this road were built. Mr. Baldwin and Ms. Bosworth stated that the primary focus was on business in the boating industry but there were 80 acres available on the property and a portion of the property could be used for other businesses and added that a distribution warehouse had expressed an interest.

#### *Boundary Adjustment Discussion*

Tom Bonadeo stated that the Boundary Adjustment Committee did not meet in June and that a joint meeting of the Cheriton and Cape Charles Planning Commissions had not been successfully arranged.

Tom Bonadeo went on stating that a letter was received from the Northampton County Planning Commission requesting a joint meeting to discuss and develop a process regarding a Town Edge Plan. Tom Bonadeo recommended scheduling the joint meeting on either July 19<sup>th</sup>, which was the Planning Commission's alternate meeting date, or July 21<sup>st</sup>, which was the County Planning Commission's alternate meeting date.

Joan Natali and Roger Munz stated that they were available for both dates. Joan Natali asked that Bruce Evans, Dennis McCoy and Michael Strub check their calendars and let Libby Hume know their availability tomorrow. Joan Natali also asked Libby Hume to contact the Commissioners who were not in attendance to get their availability.

#### *Technology Zone & Tourism Zone*

Tom Bonadeo explained that the discussion regarding the Technology Zone and Tourism Zone would be combined since the requirements were basically the same. The Planning Commission discussed the possibility of creating Technology and Tourism Zones in Cape Charles to attract certain types of businesses to the Town. Tom Bonadeo stated that the concept of Technology and Tourism Zones with incentives sounded good and referred to information from other municipalities that were included in the Technology Zone Workbook provided to the Commissioners at a previous meeting. Tom Bonadeo explained that the majority of the Technology Zones were owned by localities and many of the zones were targeted at one specific business. These zones could be either a specific area within the Town or encompass the entire Town. Tom Bonadeo stated that he was building a spreadsheet with various business types and asked the Commissioners to email, by the end of this week, a list of possible technology and tourism businesses to include in the spreadsheet. Tom Bonadeo added that he would also include some possible cost incentives, such as tax relief, discounts, etc. for review by the Commissioners at the next meeting.

Ms. Bosworth stated that previously, Southport had asked about a discount in the hook-up fees for new businesses and were told that the Town could not make any exceptions. With the creation of a Technology Zone, the hook-up fees could be negotiated. Tom Bonadeo responded that the Town could put something in place with items that could be negotiated.

Joan Natali suggested that once the Commissioners compiled the list and were comfortable with a plan, maybe the County could be contacted to see if they may be interested in joining Cape Charles on these zones which could offer new businesses a larger incentive. Tom Bonadeo agreed and added that in Cape Charles, the businesses pay 2/3 in County taxes, and 1/3 in Cape Charles taxes.

Joan Natali stated that one locality referred to "non-carbon energy" and felt that this should be included in the Cape Charles ordinance. Tom Bonadeo stated that Caroline County's ordinance was one page and may be too simple. Dennis McCoy added that Front Royal's ordinance was also one page, but contained more information which could be helpful.

Tom Bonadeo stated that the technology/tourism zone matrix would be reviewed at the next meeting and that more input would be requested from the other businesses in the area. Mr. Baldwin stated that businesses in the insurance industry were needed. Bruce Evans added that businesses dealing with interiors and repairs of boats need to be included.

Mr. Baldwin asked the Commissioners to look at [www.newportshipyard.com](http://www.newportshipyard.com) to see a template of what Southport was trying to do.

Mr. Baldwin stated that his sister had been meeting regularly with the Federal Economic Development Authority (EDA) and that he would have her attend a future meeting to discuss what she has learned and that the Federal EDA could possibly assist the Town in the process.

Mr. Patterson stated that some factors were the number of new employees which would be hired, the amount the employees would be paid and the capital investment. Mr. Baldwin and Ms. Bosworth added that in this area, the minimum pay was \$10 per hour and 10-12 employees to be eligible for funding.

Tom Bonadeo stated that the Planning Commission was still trying to do their homework with several new members. As soon as the matrix is compiled, it would be distributed to the Commissioners and stakeholders for their review. Joan Natali stated that this should include Southport, Bay Creek, Bayshore Concrete, Harbor Development and others.

The representatives from Southport Investors left the meeting at 7:05 p.m.

Tom Bonadeo stated that several incentives needed to be looked at closely. Reduction in tap fees would be a direct cost to the Town. A reduction in business licenses may be beneficial to some businesses.

#### **NEW BUSINESS**

##### *HB 1308 – Temporary Family Health Care Structures*

Tom Bonadeo explained that the next two items were new sections of the Code of Virginia and added that he was glad that Mr. Sterling was in attendance to help with the interpretation.

House Bill 1307 requires all zoning ordinances to make allowances for temporary family health care structures and a locality cannot require a special use permit or subject these structures to any other local requirements beyond those imposed upon other authorized accessory structures.

## Planning Commission Staff Report

**From:** Tom Bonadeo  
**Date:** October 5, 2010  
**Item:** 5A – Technology/Tourism Zones  
**Attachment:** Lynchburg's Executive Summary of Tech Zones

Please bring your Tech Zone Work Book & matrix

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### Item Specifics

The Town Council has asked that the Planning Commission to study and report on the possibility of establishing a Technology Zone to attract certain types of businesses. Even with many studies and potential projects and real projects like the STIP, Cape Charles has not had any significant new employers.

Please bring the Technology Zone Workbook and matrix for the discussion.

### Discussion

The concept of a Technology/Tourist Zone with incentives to attract business has proven effective for many large localities. It could be effective for Cape Charles given the right company. There are several factors to consider:

1. Zone Definition for qualifying company
2. Criteria for incentives
3. Actual Incentives
4. Cost – Benefit for Cape Charles and Northampton County
5. Geography for new businesses

The Town of Cape Charles is attractive to several types of "technology" businesses. We have:

1. The Betus Group, a computer technology company, has located here because of the general overall environment.
2. Individual computer programmers working from homes in the area because of the general overall environment.
3. We have had serious inquiries by outside "technology" companies attracted to the Bay Creek environment as a great "live – work – play" environment for establishing a new location for their company. Outside factors played an important role in these businesses not locating in Cape Charles.

The broader definition of technology as "Applied Technology" could be more beneficial to attracting businesses to Cape Charles. A great feature of Cape Charles is our connection to the Chesapeake Bay and Atlantic Ocean. Our definition should include the application of technology in the marine industry as well as the development of the actual technology itself.

The Office of Economic Development (Virginia) drafted 2006 Technology Zone Guidelines and offers a definition of technology businesses. This definition states that a "Technology Business" derives its gross income from the design, development or other creation, for lease, sale or license, of technology based products, processes or related services. We should emphasize the "related service" aspect of the definition to include such things as the "installation" of technology and the "maintenance" of technology in the maritime industry. This can also extend to the training

of marine technology personnel creating an ideal foundation for apprenticeship programs and an incentive based program to do so.

The incentives are generally divided into two categories, tax relief and fee relief. The larger the investment the larger the incentives provided. The incentives are also based on capital investment and jobs created above the average wage scale. Since most new businesses are fragile it is recognized by many existing technology zones that a new business pays the fees and taxes initially and then rebates are offered when it is determined that the business has met the criteria of the zone.

If a new qualifying business is going to invest \$1,000,000 in a building and create 100 jobs they could pay the fees required and after the creation of 100 new jobs have the fees rebated. Likewise, the business could predict new first year business at \$1,000,000 pay the BPOL tax accordingly and have the tax rebated if the required goal is met.

There are potential scenarios for a business to qualify for the incentives.

1. A new business, buying land, building a new building, investing in new equipment and creating new jobs.
2. A new business, leasing land and building a building or structure and creating new jobs
3. A new business, leasing land and building but investing in equipment and creating new jobs.
4. An existing business, expanding by any of the above means and creating additional jobs above some mark.

This sets the stage for different levels of incentives based on company performance. Businesses in Cape Charles would pay several fees. Using the first scenario above the following costs would be incurred by a new business:

1. Town real estate taxes
  - a. No payment until after construction and not included in budget until it's "real".
2. Water and Sewer Facility fee
  - a. Reserve fund for future construction
3. Water and Sewer Connection fees.
  - a. Part of the general fund used to offset costs.
4. Building permit and associated fees.
  - a. Part of the general fund used to offset costs.
5. Business, Professional and Occupational License (BPOL) Tax
  - a. Not included in a current budget until after first year.

This means that some of the costs and fees are not in an existing budget due to the fact that the towns budgets are made up of know revenues. Facility fees are not used a s part of the current operating budget but are put into a reserve or savings account to build future capacity to replace the current capacity used up by a new building. An example of real estate tax for a new business would be:

1. Build a building assessed at \$1,000,000.
2. Cape Charles real estate tax would be about \$1820 annually or \$9100 over 5 years.
3. For a repair and maintenance company with \$1,000,000 in gross receipts the BPOL would be \$3600 annually

Those jobs that are at or below the county-wide average have very little benefit to the Town. An example is that the majorities of Bayshore employees live in the county and spend the majority of their pay in the county. Those technology jobs that have come to Cape Charles for the general way of life, live in Town and have incomes higher than the county average. Their pay stays generally in Town.

1. Giving up BPOL income for higher than the county average paying jobs would result is more pay dollars staying in town and helps the existing businesses.
2. Rebating BPOL and Town real estate taxes does not reduce the available funds as they are not yet accounted for in the budget.

3. Rebating Facility Fees does reduce the capital available for future water and sewer facilities and that burden would be shared by all tax payers.
4. Rebating some fees should be considered as not all new businesses meet expectations

The opportunity for technology and applied technology businesses is greatest in the commercial zones and most Technology Zones are targeted at specific locations. Commercial and Industrial zones will have the most impact for new or additional jobs. The zones involved could be:

1. Harbor
2. C-1,2,3,
3. GBI and Industrial

### **Recommendation**

Review the documents and discuss recommendations:

1. Town's definition should include the standard technology development definition and an applied technology definition specifically related to the maritime industry, one of our greatest strengths.
2. The incentives could be pay and rebate based on the amount of investment and job creation for jobs at twice the county average.
3. Rebate and/or forgive some fees and Town taxes.
4. Consider all property in commercial zones as the "zone".

and several contractors that did not bid the project stated that they could not find electrical contractors. Also, the plans called for 24" pilings and there are no contractors on the Eastern Shore equipped to drive pilings of that size; iii) The Central Park Trail project has reached substantial completion and a punch list of items has been created. A meeting has been scheduled for October 7<sup>th</sup> with the engineers and contractor to review the list. Malcolm Hayward stated that a trail or path needed to be created for golf carts between Bay Creek South and the Town; iv) The construction on the wastewater treatment plant is moving along. The force main connector pipe to Bay Creek has been installed along Old Cape Charles Road; v) The bids for the pump station upgrades also came in high. The engineering is being reviewed to bring the prices within budget; vi) Beach grass will be planted this fall by local high school students as an ecological project. Approximately 15K plants will be planted. The Public Works crew will also be installing winter snow fence along the beach; vii) The Council met regarding the boundary adjustment and it was decided to move forward with the boundary adjustment process. A Boundary Adjustment Committee (BAC) meeting was held on September 29<sup>th</sup> and Cheriton is also planning to move forward. Since the BAC met, correspondence has been received from residents in the area subdivisions stating that they were not interested in becoming part of Cape Charles; and viii) Invitations for Bids have gone out for fuel services and repairs to the fishing pier and boardwalk.

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**OLD BUSINESS**

*Technology/Tourism Zone*

OCT 2010 MINUTES

Tom Bonadeo explained that a Technology Zone would require a change to the Town Code vs. a zoning ordinance change. The job of the Planning Commission was to review various materials in order to make a recommendation to the Council regarding the establishment of a Technology Zone. The Council would review the Commission's recommendations to determine what incentives could be offered.

Tom Bonadeo stated that the concept of Technology and Tourism Zones with incentives to attract business had proved effective for many large localities and it could be effective for Cape Charles given the right company. Several factors to consider were: i) Zone definition for qualifying company; ii) Criteria for incentives; iii) Actual incentives; iv) Cost and the benefit for Cape Charles and Northampton County. If revenue is given up, what would the Town and County gain in return; and v) Geography for new businesses. Several "technology" businesses were already in Town: i) The Betis Group is a computer technology company and located here because of the general overall environment; ii) Individual computer programmers working from their homes because of the general overall environment; and iii) The Town has had serious inquiries by outside "technology" companies attracted to the Bay Creek environment as a great "live/work/play" environment for establishing a new location for their company. Outside factors played an important role in these businesses not locating in Cape Charles.

Tom Bonadeo went on to state that the broader definition of "applied technology" could be more beneficial to attracting businesses to Cape Charles and a great feature of Town is the connection to the Chesapeake Bay and Atlantic Ocean. Tom Bonadeo suggested that the definition include the application of technology in the marine industry as well as the development of the actual technology itself. The "related service" aspect should be emphasized to include the "installation" and "maintenance" of technology in the

maritime industry and could extend to the training of marine technology personnel creating an ideal foundation for apprenticeship programs and an incentive based program to do so.

In looking at information from other localities, the incentives were generally divided into two categories – tax relief and fee relief – based on the amount of the investment and number of jobs created above the average wage scale. Potential scenarios for a business to qualify for incentives and various possible incentives were reviewed. Tom Bonadeo explained the BPOL process for a new business and added that some of the costs and fees were not included in an existing budget due to the fact that the Town's budget was made up of known revenues and several examples were given.

The Commissioners reviewed language in the Executive Summary from the Lynchburg Economic Development Authority and the ordinance from Stafford County regarding their technology zones.

Tom Bonadeo stated that all commercial zones in Town would be included in the recommended Technology Zone. There was discussion regarding limiting the areas to the commercial zones vs. allowing the Technology Zone to include the entire Town.

Tom Bonadeo summarized the recommendation to include: i) The Town's definition should include the standard technology development definition and an applied technology definition specifically related to the maritime industry which was one of the Town's greatest strengths; ii) The incentives could be pay and rebate based on the amount of investment and job creation for jobs at twice the county average; iii) Rebate and/or forgive some fees and Town taxes; and iv) Consider all property in commercial zones for inclusion in the Technology Zone.

Malcolm Hayward stated that he agreed but felt that it would be more beneficial for the Town to establish a Tourism Zone since more businesses could fall under the definition of a tourism-related business. Tom Bonadeo stated that he would include Tourism Zone as part of the Planning Commission recommendation to Council.

**Motion made by Bruce Brinkley, seconded by Mike Strub, to recommend the establishment of a Technology Zone as presented and to ensure that all issues assigned to the Planning Commission by Council were addressed in the letter of recommendation.**

#### *Group Home*

Tom Bonadeo explained that during the last General Assembly session, the Code of Virginia § 15.2-2291 was modified to include a group home of eight or less with one or more resident advisors was equal to residency by a single family and no conditions more restrictive could be placed on the group home than was placed on the single family. Currently, the Cape Charles Zoning Ordinance considered a group home as a Home Occupation and did not allow group homes in any residential district.

There was much discussion regarding this legislation and Malcolm Hayward expressed his concern regarding the number of group homes which could be permitted in Town. Bruce Brinkley stated that the group homes would still have to abide by the building