

# Planning Commission

## Regular Session Agenda

Cape Charles Civic Center

November 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
6. New Business
  - a. Parking – Discuss parking plans for lots behind the library
  - b. Water Discussion
7. Announcements
  - a. November 22, 2014, 10:00am – Public Input Meeting
  - b. December 2, 2014, 6:00pm – Public Input Meeting
  - c. January 6, 2015, 6:00pm – Comp Plan Meeting with ANPDC
  - d. January 19, 2015 6:00pm – Regular Meeting (need to reschedule, offices are closed for Martin Luther King Jr. Day)
8. Adjourn



**DRAFT**  
**TOWN COUNCIL & PLANNING COMMISSION**  
**Joint Public Hearing**  
**Cape Charles Civic Center**  
**October 7, 2014**  
**6:00 p.m.**

At 6:00 p.m. Chairman Dennis McCoy, having established a quorum, called to order the Public Hearing of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Andy Buchholz, Dan Burke, Joan Natali, Sandra Salopek, Bill Stramm, and Mike Strub. Also in attendance were Town Planner Rob Testerman and Assistant Town Clerk Amanda Hurley. There were 6 members of the public in attendance.

Vice Mayor Chris Bannon, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Vice Mayor Bannon, present were Councilmen Bennett, Brown and Godwin and Councilwoman Natali. Mayor Proto and Councilman Wendell were not in attendance.

Dennis McCoy announced that the evening's Joint Public Hearing was to hear public comment regarding the proposed modifications to the Cape Charles Zoning Ordinance Section 3.9 – Harbor District.

**PUBLIC COMMENTS:**

*Deborah Bender, 300 Fulcher Street*

Ms. Bender spoke in opposition of the chicken ordinance. Please see attached.

*Karen Gay, 506 Monroe Avenue*

Ms. Gay spoke in support of the chicken ordinance.

*Veann Duvall, 110 Tazewell Avenue*

Ms. Duvall spoke in opposition of the chicken ordinance.

*Sherry & Paul Eulitt, 102 Madison Avenue*

Mr. & Mrs. Eulitt submitted their comments in writing and Assistant Town Clerk Amanda Hurley read the comments into the record. Please see attached.

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

**Motion made by Dan Burke, seconded by Joan Natali, to close the Planning Commission Public Hearing. The motion was approved by unanimous consent.**

**Motion made by Councilman Brown, seconded by Councilman Bennett, to adjourn the Town Council Public Hearing. The motion was approved by unanimous consent.**

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Chairman Dennis McCoy

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Vice Mayor Chris Bannon

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Asst. Town Clerk

**Comments Submitted in Writing  
October 7, 2014 Joint Public Hearing**

*Deborah Bender, 300 Fulcher Street*

Over a year ago someone came to the town with a desire to have chickens in their yard. All well and good if you have a wide lot and neighbors that don't mind. I, however, would mind.

Chickens are farm animals and should have more space than the little coops that would be appropriate in a town of this size.

To allow chickens in town is wrong. Many of the lots in this town are very narrow. Imagine it if people on both sides of your home have chickens and you want to entertain in your backyard on a hot summer day. The coops could be smelly, very smelly.

Who will be the person to check out these coops and see that they are cleaned regularly?

If you, as our council, decide to allow chickens it should be on a case by case basis. If I, for instance, want to have chickens, I should be required to ask my neighbors, in writing if they would mind. The neighbors behind my house and the houses on both sides would all have to agree. If any of my neighbors are renting and move I would have to get permission from the new tenants. If just one neighbor says no chickens...case closed.

We as a town have paid our town planner at least \$25,000.00 to figure this out. We have paid the town's attorney to "think about this."

This is getting ridiculous.

You say people were surveyed concerning this issue. I never got any kind of questionnaire in the mail.

It is my understanding that many residents in Bay Creek said no regarding the chickens and you want to disregard their answers.

If Bay Creek residents can vote for town council members then their votes and comments should be taken into account on the chicken issue.

You, as council, sure took the Bay Creek residents voices and comments seriously when you wanted to sell the one hundred year old school, the basketball court and a historic street to a developer.

Now you must, in all fairness, hear their voices now.

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*Paul & Sherry Eulitt, 102 Madison Avenue (via email)*

Libby/Rob,  
Regretfully we will not be able to attend tonight's joint public hearing on subject matter which is very important to us.

If you would convey the following we'd certainly appreciate it.

We continue to strongly oppose to any ordinance that would allow chickens (or other undomesticated [farm] animals) within the Town of Cape Charles. Virginia's Eastern Shore encompasses numerous acres of rural land on which this activity is allowed and precious little where those of us who would rather 'pay for eggs' enclave rather than be subjected to the nuisances surrounding this activity. We believe the Town of Cape Charles founding fathers meant to preserve this pristine and serene town environment for citizens who choose not live on or near a farm. This should continue to be the tenets of the "Historic District".

We appreciate you keeping us informed and look forward to a continued chicken-less Town of Cape Charles.

Sincerely,  
Paul & Sherry Eulitt



***DRAFT***  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Immediately following joint public hearing**  
**Cape Charles Civic Center**  
**October 7, 2014**

At approximately 6:07 p.m. in the Cape Charles Civic Center, 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, Sandra Salopek, Bill Stramm and Mike Strub. Also present were Town Planner Rob Testerman and Assistant Town Clerk Amanda Hurley. There were approximately three members 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 comments submitted in writing 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 September 2, 2014 Regular Meeting and the September 25, 2014 Town Council & Planning Commission Joint Work Session.

**Motion made by Joan Natali, seconded by Sandra Salopek, to approve the minutes from the September 2, 2014 Regular Meeting and the September 25, 2014 Town Council & Planning Commission Joint Work Session as presented. The motion was unanimously approved.**

**REPORTS**

Town Planner Rob Testerman reported the following: i) The HDRB met on September 16 to review two applications – one for a new home on Jefferson Avenue and one for a renovation at 9 and 11 Monroe Avenue. Both proposals were approved unanimously. The Board would be meeting in October to review proposals for a renovation and a new home; ii) A revised site plan had been received for Cape Charles Lofts. The revision was at the request of VDOT and entailed adding a note to the plans. The revision did not affect the Town’s approval of the plans; iii) Staff had received information from DEQ regarding portions of the local Chesapeake Bay Preservation Act that needed to be amended as a result of the requirements put into place by the Virginia Stormwater Management Act. Staff would compile the amendments to present to the Planning Commission for action; iv) He would be attending the DEQ sponsored Stormwater Management Training classes on October 15 and 16 and would enroll in additional training on October 29; v) The draft Floodplain Ordinance had been submitted to the Department of Conservation and Recreation. Staff was awaiting comments, but the review would be happening soon; and vi) Staff was researching the feasibility and potential requirements of posting a “designated swimming area” sign at the Town beach. Signage at beach entrances and possibly in the water warning swimmers of deep water ahead was also being discussed. Jen Lewis had contacted Daniel Jordan with Kiptopeke State Park regarding their designated swimming area and the process for creating one.

## **OLD BUSINESS**

### **A. *Backyard Chicken Ordinance – Discuss and make recommendation***

Rob Testerman began by stating that if the draft chicken ordinance was approved, it would allow property owners in the R-1, R-2 and RE zoning districts to raise up to five hens which would be permitted on a case by case basis through the issuance of a Conditional Use Permit (CUP). Roosters or hens that crowed in a manner resembling a rooster would not be allowed. The property where the chickens would be raised would have to be a single family dwelling and the individual raising the hens would have to own and occupy the property. The applicant would be required to provide both a hen house and a fenced outdoor enclosure in the rear yard where the hens would be kept at all times. The structures would be required to meet setback requirements as defined in the draft language. A permit would be required annually to continue to raise chickens. If the permit was not renewed or conditions of the CUP were not being met or corrected, the CUP would become null and void and the chickens would be required to be removed. Flocks and coops would be inspected annually, at a minimum, to ensure compliance. Inspections would also result if a complaint were received or if the Zoning Administrator observed a violation. If an individual raising the chickens were to relocate, the CUP would expire. Any additional issues would be addressed as conditions for approval. Virginia Code had been amended to allow police officers to seize any dog found attacking chickens.

Of the 55 historic district residents who responded to the chicken survey, 31 (56.36%) were in favor of allowing chickens in town, 20 (36.36%) were opposed and 4 (7.27%) answered with maybe. Rob Testerman pointed out that this was a small sample size compared to how many homes were in Town. The survey had been posted on the Town's website and in the Cape Charles Gazette for several months, notices had been included on the utility bills and printed copies had been available at Town Hall.

**Motion made by Mike Strub, seconded by Andy Buchholz, to recommend disapproval of the draft chicken ordinance amendment regarding chicken keeping in Town, thus continuing the position that raising chickens in Town was prohibited. The motion was unanimously approved.**

### **B. *Tourism Zone***

Rob Testerman stated that he had been in contact with the Virginia Tourism Corporation (VTC) and had developed a draft tourism zone. The Commission would need to decide if Cape Charles would like to require both jobs and investment or simply one or the other. Specific requirements and benefits would also need to be determined.

Joan Natali asked how one could classify a business that did some of the things that a qualified seasonal or full time tourism business did but also did other things that didn't qualify for tourism. One example was Cape Charles Yacht Center. Joan Natali did not consider non-tourism repair and maintenance as tourism. There was much discussion regarding the yacht center and whether it qualified as tourism or not. Bill Stramm stated that he felt that anything to do with the Harbor qualified as tourism. Andy Buchholz stated that it would be difficult to manage. Joan Natali compared the boat repair to auto repair in relation to tourism. It was suggested that marinas and yacht centers or boat repair facilities could be added to the qualified businesses list.

There was much discussion regarding jobs and investment and seasonal businesses. It was noted that The Shanty had created jobs and added investment. There was discussion regarding businesses that generated partial tourism related business and how they could be validated. The definition of qualified business would need to include that the business would have to be in compliance with all town ordinances.

Rob Testerman suggested that he and any interested Commission members attend an upcoming Cape Charles Business Association meeting to receive the Association's input on the numbers for the Tourism Zone.

It was recommended that a minimum of two or three new full time jobs should be created and maintained for existing and new qualified tourism businesses. Joan Natali suggested that an existing or new qualified tourism business would need to make a new verified capital investment of no less than \$25K, excluding real estate.

**NEW BUSINESS**

There was no New Business to review.

**ANNOUNCEMENTS**

Rob Testerman pointed out that Dan Burke had volunteered for the Source Water Protection Committee and stated that the committee still needed one more volunteer. No one else from the Planning Commission was able to volunteer.

**Motion made by Sandra Salopek, seconded by Andy Buchholz, to adjourn the Planning Commission meeting. The motion was approved by unanimous consent.**

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Chairman Dennis McCoy

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Asst. Town Clerk

# Planning Commission Staff Report

From: Rob Testerman  
Date: October 30, 2014  
Item: 4C – Reports  
Attachments: None

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1. The Historic Review Board had two applications and met on October 21 to review a proposal for a renovation at 647 Madison Avenue, the second application was for a new home on Jefferson Avenue. The proposals were approved unanimously. Staff has not received any new applications.
2. VDOT has approved the Cape Charles Lofts plans that were resubmitted in September. Prior to beginning any site work within the VDOT right of way, a Land Use Permit must be obtained from VDOT.
3. Staff has received info from DEQ regarding portions of the local Chesapeake Bay Preservation Act that need to be amended as a result of requirements put into place by the Virginia Stormwater Management Act. Staff will compile the amendments and present it to the Planning Commission for action.
4. Staff has incorporated DCR comments into the draft Floodplain Ordinance, and resubmitted the draft to DCR for a final read through. If found acceptable by DCR, the town can then schedule a public hearing.
5. Erosion and Sediment Control and Stormwater Management permitting is underway for the cleanup of the uplands spoils site, in preparation for the upcoming dredge of the Cape Charles Harbor. Because the project is being done by a federal entity all site plan review, inspections, and enforcement for the uplands site is being handled by the Department of Environmental Quality.
6. Staff plans to attend the Cape Charles Business Association regular meeting to discuss the draft Tourism Zone. Because there is nothing new to report on the draft ordinance, it is not on the agenda for tonight's meeting.

# Planning Commission Staff Report

From: Rob Testerman  
Date: October 30, 2014  
Item: 6A – Parking  
Attachments: Draft Parking Concepts

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## Discussion

At the October 16, 2014 meeting, Town Council directed staff and the Planning Commission to discuss potential parking plans for the town owned lots behind the library. These two lots were acquired by the town during the purchase of the former Bank of America property (now the library). The intention was to evaluate the property for use as additional parking for the commercial district.

The conceptual plans include public parking, accessible dumpsters to serve nearby commercial properties, access to an alleyway to the buildings between Mason and Randolph, and appropriate screening.

Specific site challenges include:

- To address stormwater management needs, sufficient bio-retention must be maintained on the property.
- Access for a garage on an adjacent property must be maintained.
- Existence of a fully mature pecan tree must be considered.

The attachments show two concept plans developed by Land Studio, Plan A does not attempt to preserve the existing pecan tree, and Plan B attempts to do so. To compensate for the major root disturbance that will be caused by construction, significant tree canopy trimming would be required. It is estimated that due to the disturbance, the tree would likely die within a few years. Both concept plans provide locations for three dumpsters and an underground tank for used cooking oil. Both plans also provide access for the private garage, but Plan B is less desirable. Plan A would provide 34 parking spaces, versus 30 in Plan B.

Council has also requested that the Commission consider possible alternative locations for the dumpsters and underground tank, if feasible.

Because of the problems in preserving the tree, dropping of limbs and nuts, and the desirability of maximizing the availability of off-street parking, staff recommends Plan A.

## Recommendation

Discuss the conceptual plans, and develop a recommendation for Town Council.



14004

September 17, 2014

# Parking Lot - Concept A

CAPE CHARLES, VIRGINIA

SCALE: 1"=20'





14004

September 17, 2014

# Parking Lot - Concept B

CAPE CHARLES, VIRGINIA

SCALE: 1"=20'



# Planning Commission Staff Report

From: Rob Testerman  
Date: October 30, 2014  
Item: 6B – Water & Wastewater Discussion  
Attachments: None

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## Discussion

In a previous meeting with the ANPDC, there was discussion regarding water usage and wastewater. Assistant Town Manager Bob Panek and Director of Public Works and Utilities Dave Fauber will be discussing the issues to clarify any questions that the Commission may have.