

Planning Commission

Public Hearing and Regular Session Agenda

Cape Charles Civic Center

October 7, 2014

6:00 P.M.

1. Call to Order – Planning Commission Regular Session
 - a. Roll Call – Establish a quorum
 - b. Hear Public Comment on the proposed Zoning Ordinance amendment regarding “Backyard Chickens”
 - c. Close Public Hearing
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 Chicken Ordinance –Discuss and make recommendation
 - b. Tourism Zone – Continue discussion on tourism zone
6. New Business
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
September 2, 2014

At approximately 6:00 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, Joan Natali, Sandra Salopek, Bill Stramm and Mike Strub. Commissioner Dan Burke was not in attendance. Also present were Town Planner Rob Testerman and Town Clerk Libby Hume. 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 comments submitted in writing prior to the meeting.

CONSENT AGENDA

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

The Commissioners reviewed the minutes for the August 5, 2014 Regular Meeting, the August 25, 2014 Comprehensive Plan Work Session and the August 25, 2014 Special Meeting.

A minor change was made under Backyard Chickens to change "coop" under item iii. to the plural form "coops" for consistency.

Motion made by Joan Natali, seconded by Bill Stramm, to approve the minutes from the August 25, 2014 Comprehensive Plan Work Session and the August 25, 2014 Special Meeting as presented, and the August 5, 2014 Regular Meeting as amended. The motion was unanimously approved.

REPORTS

Town Planner Rob Testerman reported the following: i) The HDRB would meet in September to review two applications – one for a new home and one for a renovation; ii) Staff planned to revisit way-finding signs for the businesses located on side streets off Mason Avenue. Currently the stores on Strawberry Street were placing sandwich board signs at the corner of Mason Avenue and Strawberry Street. Off premise signs were technically billboards which were not permitted in the Town. Rob Testerman added that he had been receiving phone calls from a citizen reporting illegal signs throughout Town. Way-finding signs were discussed as part of the proposed Art Walk. A location needed to be determined and issues had to be worked out with VDOT; and iii) He was still making the recommended changes to the Floodplain Ordinance and would be emailing the draft ordinance to DCR tomorrow.

OLD BUSINESS

A. Backyard Chickens – Schedule Public Hearing

Rob Testerman reviewed the changes made to the draft Chicken Ordinance as a result of the discussions at the August Planning Commission meeting. Rob Testerman stated that he had

reviewed some information with the Town Manager who suggested a possible joint work session with the Town Council so the Commissioners could provide the reasoning behind the requirements in the ordinance and answer any questions prior to the public hearing. The Commissioners were in agreement to a joint work session which was tentatively scheduled for September 25, 2014 at 6:00 PM.

Motion made by Bill Stramm, seconded by Mike Strub, to schedule a joint public hearing with the Town Council on October 7, 2014 at 6:00 PM immediately preceding the Planning Commission Regular Meeting. The motion was unanimously approved.

B. *Tourism Zone*

Rob Testerman gave an overview of previous discussions and intent regarding the Tourism Zone. During the last discussion, the Commissioners determined that the Tourism Zone would be divided into two classifications – year round and seasonal businesses.

Andy Buchholz, who was also the Vice President of the Cape Charles Business Association, suggested that a flat business license rate should be adopted vs. charging a percentage of gross revenue to make the Town more business friendly. Rob Testerman stated that rebate of business licenses could be included as an incentive under the Tourism Zone.

Rob Testerman would draft language to be reviewed by the Commissioners at the October meeting.

NEW BUSINESS

There was no New Business to review.

ANNOUNCEMENTS

There were no announcements.

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

Chairman Dennis McCoy

Town Clerk



DRAFT
TOWN COUNCIL & PLANNING COMMISSION

Joint Work Session
Cape Charles Civic Center
September 25, 2014
6:00 PM

At approximately 6:00 p.m., Mayor George Proto, having established a quorum, called to order the Town Council Work Session. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilmen Bennett, Brown and Wendell. Councilman Godwin and Councilwoman Natali were not in attendance. Also present were Town Planner Rob Testerman and Town Clerk Libby Hume. There was one member of the public in attendance.

Planning Commission Chairman Dennis McCoy, having established a quorum, called to order the Planning Commission Work Session. In addition to Chairman McCoy, present were Commissioners Dan Burke, Sandra Salopek and Mike Strub. Commissioner Andy Buchholz arrived at 6:02 p.m. Commissioners Joan Natali and Bill Stramm were not in attendance.

Mayor Proto announced the business for the evening would be to review and discuss the draft chicken ordinance.

Town Planner Rob Testerman presented the background of the project as well as the following: i) benefits of backyard chickens; ii) concerns regarding backyard chickens; iii) how other Eastern Shore towns regulated chickens; iv) enforcement; and v) an overview of the urban chicken survey. (Please see attached.)

There was much discussion regarding the proposed ordinance and survey results. There was some concern regarding requiring tie downs for the chicken coops to meet wind load restrictions in case of hurricanes. Since the draft ordinance required conditional use permits to raise backyard chickens, a standing condition could be the tie down requirement.

There was also some concern regarding obtaining approval from adjacent property owners. Rob Testerman stated that legal counsel advised against this requirement, but notification would be sent to all adjacent property owners as part of the conditional use permit application process and the property owners would have the opportunity to speak or submit their comments for the public hearing.

Council requested that the survey responses from the residents and property owners in the Historic District be extracted and sent to them prior to the scheduled October 7th Joint Public Hearing.

Mayor Proto polled the Council members. Vice Mayor Bannon and Councilmen Bennett and Wendell stated that they were opposed. Councilman Brown stated that if the majority of respondents living in the Historic District were in favor of allowing chickens, Council would need to review this issue closer.

Concern was expressed regarding i) Heating the coops during the winter months could pose a fire hazard; ii) Annual inspections might not be enough; and iii) Enforcement issues.

Mayor Proto stated that he felt the ordinance was well written and appreciated the opportunity to have this discussion. Council now had a good understanding of the draft ordinance and the research and discussion that went into drafting the language. The joint public hearing was

scheduled for October 7th. Council would hear the public comments and discuss the issue further at the October 16th regular meeting.

Motion made by Councilman Bennett, seconded by Councilman Brown, to adjourn the Town Council Work Session. The motion was unanimously approved.

Motion made by Commissioner Dan Burke, seconded by Commissioner Mike Strub, to adjourn the Planning Commission Work Session. The motion was unanimously approved.

Mayor George Proto

Chairman Dennis McCoy

Town Clerk

DRAFT

Planning Commission Staff Report

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

1. The Historic Review Board had two applications and met on September 16 to review a proposal for a renovation at 9 & 11 Monroe Avenue, a duplex, the second application was for a new home on Jefferson Avenue. The proposals were approved unanimously. The Board will meet in October to review a proposal for a renovation.
2. A revised site plan for Cape Charles lofts has been received. The revision was at the request of VDOT and entailed adding a note to the plans. The revision does not affect the Town's approval of the site plans.
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 will attend the DEQ sponsored Stormwater Management training classes on October 15 and 16. Staff plans to enroll in additional Stormwater Management training on October 29 in Chesapeake.
5. The draft Floodplain Ordinance has been submitted to the Department of Conservation and Recreation. We are awaiting comments, it has been expressed to us that the review would be happening soon.
6. Staff is researching the feasibility and potential requirements of posting a "designated swimming area" at the Town Beach. Also being discussed is signage at beach entrances and possibly in the water warning swimmers of deep water ahead.

Planning Commission Staff Report

From: Rob Testerman
Date: September 30, 2014
Item: 5A – Backyard Chickens
Attachments: Draft Backyard Chicken Ordinance, survey results

Discussion

The draft “chicken ordinance”, if approved would allow the possibility for property owners in the R-1, R-2 and RE zoning districts to raise up to five hens, roosters (or hens that crow in a manner resembling a rooster) would not be allowed. This would be permitted through the issuance of a Conditional Use Permit, allowing town staff, the planning commission and the town council an opportunity to review each application on a case by case basis. A CUP also requires public hearings, giving interested parties an opportunity to speak on the matter.

As written, the principle use of the property where chickens would be raised must be a single-family dwelling, and the person who would be raising the hens must own and occupy the residence.

The applicant would be required to provide both a hen house and a fenced outdoor enclosure, hens would be required to be kept in the hen house or enclosure at all times. These structures would only be permitted in rear yards, as defined in the zoning ordinance. The structures would also 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 is not renewed, the Conditional Use Permit would become null and void, and the chickens would be required to be removed. The flocks and coops would be inspected annually, at a minimum to ensure compliance. Inspections would also result if a complaint were received, or if a possible violation were observed by the Zoning Administrator. If at any time, conditions of the CUP are not being met, and are not corrected, the CUP shall become null and void. Additionally, should the person raising the chickens relocate, the CUP will expire.

Additionally, as mentioned at the work session, as this language would allow chicken raising through CUP, any additional issues may be addressed as conditions for approval (i.e. proper wind load for structures, no electric heaters, etc.). Also as mentioned at the work session, Virginia Code was amended earlier this year to allow police officers to seize any dog found attacking chickens, rather than requiring them to kill the dog.

At the work session, staff was requested to take the survey results and look at responses from citizens who live in the historic district. Of the 55 historic district residents who responded to the survey, 31 (56.36%) were in favor of allowing chickens in town, 20 (36.36%) were opposed, and 4 (7.27%) answered with maybe.

Recommendation

After listening to public comment and discussing the draft ordinance make a recommendation to Town Council. Staff has prepared the following two motions for the Commission to consider:

Opposed:

Motion that the Planning Commission recommends disapproval of the draft ordinance amendment regarding chicken keeping in town, thus continuing the position that raising chickens in town is prohibited.

In Favor:

Motion that the Planning Commission recommends approval of the draft ordinance amendment regarding chicken keeping in town, allowing residents to raise hens once a Conditional Use Permit has been issued.

To be added as a conditional use permit to the R-1, R-2, and RE zoning districts.

1. Keeping up to five (5) hens, provided the following requirements are met:
 - a. The principle use is a single-family dwelling.
 - b. The person raising the hens must own and occupy the residence.
 - c. No person shall keep any rooster, or hen that crows in a manner resembling a 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.
 - i. The hens must be kept in the hen house or fenced outdoor enclosure at all times and shall not be allowed to roam free.
 - ii. The hen house shall be a covered, predator-resistant, well-ventilated structure providing a minimum of two (2) square feet per hen.
 - iii. The outdoor enclosure shall be adequately fenced to contain the hens and to protect the hens from predators.
 - iv. The hen house must be kept in a clean, dry, and sanitary condition at all times.
 - v. 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, in accordance with Town zoning regulations.
 - g. Hen houses and outdoor enclosures shall be located at least ten (10) feet from side property lines, AND at least thirty (30) feet from any dwelling on an adjacent lot.
 - h. Food for hens must be kept in a rodent-proof, metal container.
 - i. Eggs shall not be sold.
 - j. A permit must be obtained from the Zoning Administrator annually. An annual permit fee of \$15 shall be charged to the applicant.
 - k. Flocks must be registered with the Virginia Department of Agriculture and Consumer Services.
 - l. Backyard flocks and coops will be inspected annually to ensure continual compliance, as well as upon receiving a complaint.
 - m. Should the person raising chickens relocate, the Conditional Use Permit for raising chickens shall become null and void.
 - n. At such a time when the person raising chickens ceases from raising chickens, or relocates, the chicken coop and outdoor enclosure shall be dismantled. Should the Town be required to remove the structures, costs of removal shall be charged to the person previously raising chickens.

Historic District Residents' Survey Responses Comments

4 **Maybe (7.27%)**
31 **Yes (56.36%)**
20 **No (36.36%)**

"Maybe" Comments

I have two concerns: there would be run off into the Bay from badly managed chicken coops. Also, that people would let the chickens run loose. Absolutely, no roosters.

do they have to be full-time resident, or could part-timer do it and have someone come in to check-in/care for chickens when homeowner isn't here? what would coop requirements be? would fence around property be required? how many chickens? would people be required to sell eggs according to Dept of Health regulations or would we turn a blind eye and just let them sell if they want to? If they sell, will they be allowed to put sign on property? will you have to have business license if you sell eggs? will you be allowed to do by right or will you have to have permit/zoning approval? will there be only so many permits/total number of chickens allowed within Town limits? I support no roosters. I'd like more information on my questions before I can make an informed decision.

"No" Comments

Salmonella could be a problem with chickens kept in an area with the density in the Historic District not to mention the odor from the waste from the chickens. In addition over time chicken coops will be maintained to varying standards some very good and some very poorly. This could turn out to be a real liability to the reputation of the town. The state of these coops, I am concerned could turn into an enforcement nightmare.

I feel that chickens should not be allowed in the town of Cape Charles. We start allowing people to have chickens, next it will be something else. I know that people have said that this is a little Mayberry and want to get the town to be their ideal place since moving here. I am sure that the areas where some of them moved from did not allow chickens. Please do not allow this town to become rural as it is out of town. For people who want chickens, I would suggest that they lease some property out of town in order to raise their chickens. Unfortunately, many of the decisions about this town are made on personal agendas. Plus people moving here realize that most of the things they ask for they usually get. This survey is unfair because many of the locals do not have a computer to complete such a survey. It is always said that people can go to the library. They should not have to do this when others have computers that they are using all the time. No! No! No!

Chickens are not pets. They're poultry. Honestly, the town is already overrun with stray cats; I wish the town would address that problem before it permits more critters. Thanks for the survey. Nice to have input.

As one property & home owner in the historic district who will be directly impacted by this proposed ordinance, and affected by an abut property owner where chickens were illegally allowed for seven months and will no doubt be affected if an ordinance is allowed, we are against this wholeheartedly. There is an abundance of rural land in Northampton County where farms and associated animals are allowed. The founding fathers purposely made accomadations to not allow such activities within the Town of Cape Charles for those seeking an oasis from farm activity as evidenced by the current zoning ordinance. We the people of this town chose to live in a "TOWN" and not on or next to a farm and being exposed to farm animals and farm activities. Please keep Cape Charles a TOWN and don't turn it into a FARM!! What will you be asked to consider next pigs and then goats? Please, no Chickens!

I am strongly opposed to the maintenance of chickens within the historic district where I own my home. I believe the chickens pose both a health and noise problem. Additionally, I think livestock in town is inconsistent with the overall peace and enjoyment of living in a residential historic town.

Chickens and other farm animals do not belong within city limits, which is what most towns follow. This is not Green Acres but a beach community!

Houses in Cape Charles are built on small lots. The noise & smell of chickens cannot be buffered. Even hens make noise. In many cases houses in town are very close together limiting air flow. People cannot be trusted to properly keep the chicken pens clean. If they don't the town would do nothing about it. We have ordinances now covering building maintenance & trash that are not enforced. One can not expect any different if chickens were allowed.

Historic District Residents' Survey Responses Comments

My greatest concerns are; (1) The burden of code enforcement for keeping chickens given that the average lot within town is less than 5000 square feet. (2) Code enforcement should be consistent for the common good of the community. Bay Creek residents cannot keep chickens and neither should property owners within town. (3) The effect that chicken keeping would have on Tourism.

"Yes" Comments

I feel that chickens are fine but a limit to 6 per lot should be enforced. Chickens have proven to be a great way to control bugs and ticks. Chickens are very interesting and make great pets while providing a variety of benefits.

As the dollar is increasingly undermined, raising food will become paramount.

At this point a fairly large number of urban communities throughout Virginia and the United States allow residents to keep a few hens. They have done this for a number of good reasons. It's great to know where your food is coming from. Chickens provide natural fertilizer. Chickens eat insects. I encourage Cape Charles to allow owners to raise a few chickens. On a separate note, there seem to be a number of folks in Cape Charles that just let their dog wander around the city. Dogs should be with their owner when they are outside, unless they are in a fenced yard.

As long as the chickens and property are kept up, than it should be no bodies business what they have or do on their property.

We have worse eye sores in this town than clean, egg-producing chickens.

I have concerns about the portion of the population that is allergic or highly allergic to chicken feathers, but this is balanced by my support of vegetable gardening and other sustainable homesteading practices.

There is no harm in keeping a few chickens as pets or whatever you prefer to call them, or rabbits as long as they have enough room and do not disturb the immediate neighbors.

Not a problem. Sounds like a really interesting way to enrich the town.

Mr. Testerman did a great job with this draft. I feel it is fair and unobtrusive, and should meet the approval of most residents.

Having observed 'up close and personal' chicken keeping in a fenced residential setting I wholeheartedly support the idea and the practice as long as the guidelines set by the town are followed. I built my little 'granny cottage' on the rear of my daughter's home and was interested to learn about and interact with her six hens. My grandsons helped care for the chickens, helping to build and paint their very artistic chicken coop, changing their bedding every day, helping to feed and water them every day and gathering the daily fresh eggs. The chickens naturally went into their coop at sundown every day and were in general very quiet. They did come to 'visit' me as I sat on my swing in good weather. They got along well with my two cats...the kitties did not chase the hens. I observed the hens pecking at and eating bugs out of my garden and would settle under a bush to rest. Occasionally they would hop up on my swing to say 'hello' and to softly 'talk' to with gentle clucks, and study, this human creature- which I enjoyed. The hens were definately good pets and educational for the boys. And, the very fresh eggs they provided every day were delicious! We did not keep our hens for slaughter, only for the companionship and education they provided. At 74 years of age, my only prior interaction with chickens was when I was a child, observing my grandmother running after one of her chickens with a cleaver in her hand. So I was entranced by our fascinating chicken pets, their place in our family and in our fenced yard, and would recommend the practice of keeping a few hens to anyone.

Living once in Key West the roosters wake the whole town up. As long as there are no roosters I favor the keeping of chickens as long as the no rooster portion is enforced.

3-4 chickens... NO ROOSTERS... must be housed in a clean, movable, at least partially covered coop.

Urban Chicken Survey Responses

Totals:

Responses – 81 from Cape Charles property owners.

10-from non-property owners, 2-anonymous & 3-duplicates. (These have been omitted.)

Live in Cape Charles – 75

Live in Historic District – 55

Live in Bay Creek – 20

Own property in Town – 6

In support – 35

Maybe, need more information – 7

Not in support – 39

Comments:

In Support:

1. As the dollar is increasingly undermined, raising food will become paramount.
2. I have concerns about the portion of the population that is allergic or highly allergic to chicken feathers, but this is balanced by my support of vegetable gardening and other sustainable homesteading practices.
3. 3-4 chickens... NO ROOSTERS... must be housed in a clean, movable, at least partially covered coop.
4. We have worse eye sores in this town than clean, egg-producing chickens.
5. At this point a fairly large number of urban communities throughout Virginia and the United States allow residents to keep a few hens. They have done this for a number of good reasons. It's great to know where your food is coming from. Chickens provide natural fertilizer. Chickens eat insects. I encourage Cape Charles to allow owners to raise a few chickens. On a separate note, there seem to be a number of folks in Cape Charles that just let their dog wander around the city. Dogs should be with their owner when they are outside, unless they are in a fenced yard.
6. I feel that chickens are fine but a limit to 6 per lot should be enforced. Chickens have proven to be a great way to control bugs and ticks. Chickens are very interesting and make great pets while providing a variety of benefits.
7. There is no harm in keeping a few chickens as pets or whatever you prefer to call them, or rabbits as long as they have enough room and do not disturb the immediate neighbors.
8. Having observed 'up close and personal' chicken keeping in a fenced residential setting I wholeheartedly support the idea and the practice as long as the guidelines set by the town are followed. I built my little 'granny cottage' on the rear of my daughter's home and was interested to learn about and interact with her six hens. My grandsons helped care for the chickens, helping to build and paint their very artistic chicken coop, changing their bedding every day, helping to feed and water them every day and gathering the daily fresh eggs. The chickens naturally went into their coop at sundown every day and were in general very quiet. They did come to 'visit' me as I sat on my swing in good weather. They got along well with my two cats...the kitties did not chase the hens. I observed the hens pecking at and eating bugs out of my garden and would settle under a bush to rest. Occasionally they

would hop up on my swing to say 'hello' and to softly 'talk' to with gentle clucks, and study, this human creature- which I enjoyed. The hens were definitely good pets and educational for the boys. And, the very fresh eggs they provided every day were delicious! We did not keep our hens for slaughter, only for the companionship and education they provided. At 74 years of age, my only prior interaction with chickens was when I was a child, observing my grandmother running after one of her chickens with a cleaver in her hand. So I was entranced by our fascinating chicken pets, their place in our family and in our fenced yard, and would recommend the practice of keeping a few hens to anyone.

9. We plan to retire to CC in a few short years and my answer will remain the same. Yes, I support the chickens! (FYI, we are having this exact same discussion in Lexington VA.)
10. The urban chicken trend is so widespread COSTCO is now selling upscale chicken coops. There is a sample on display in the Norfolk store plus two more versions online: <http://goo.gl/4250n5>. I think the rules as written are fair and enforceable.
11. Bring on the chickens!!
12. Living once in Key West the roosters wake the whole town up. As long as there are no roosters I favor the keeping of chickens as long as the no rooster portion is enforced.
13. As long as the chickens and property are kept up, than it should be no bodies business what they have or do on their property.
14. Mr. Testerman did a great job with this draft. I feel it is fair and unobtrusive, and should meet the approval of most residents.
15. Not a problem. Sounds like a really interesting way to enrich the town.

Maybe:

1. I think the town has more important things to worry about than chickens, but if allowing chickens will stop the squawking (pun intended) of those who need to have something to complain about, please move forward with the chicken study. Please do not hire an outside consultant or use town funds to study this somewhat frivolous issue.
2. Do they have to be full-time resident, or could part-timer do it and have someone come in to check-in/care for chickens when homeowner isn't here? What would coop requirements be? Would fence around property be required? How many chickens? Would people be required to sell eggs according to Dept of Health regulations or would we turn a blind eye and just let them sell if they want to? If they sell, will they be allowed to put sign on property? Will you have to have business license if you sell eggs? Will you be allowed to do by right or will you have to have permit/zoning approval? Will there be only so many permits/total number of chickens allowed within Town limits? I support no roosters. I'd like more information on my questions before I can make an informed decision.
3. I have two concerns: there would be run off into the Bay from badly managed chicken coops. Also, that people would let the chickens run loose. Absolutely, no roosters.

Not in Support:

1. I can't believe that you would allow such a dirty and loud animal in the city where the houses are so close together.
2. My greatest concerns are; (1) The burden of code enforcement for keeping chickens given that the average lot within town is less than 5000 square feet. (2) Code enforcement should be consistent for the common good of the community. Bay Creek residents cannot keep

chickens and neither should property owners within town. (3) The effect that chicken keeping would have on Tourism.

3. Go to Key West and check out the chicken problems there.
4. Salmonella could be a problem with chickens kept in an area with the density in the Historic District not to mention the odor from the waste from the chickens. In addition over time chicken coops will be maintained to varying standards some very good and some very poorly. This could turn out to be a real liability to the reputation of the town. The state of these coops, I am concerned could turn into an enforcement nightmare.
5. I feel that chickens should not be allowed in the town of Cape Charles. We start allowing people to have chickens, next it will be something else. I know that people have said that this is a little Mayberry and want to get the town to be their ideal place since moving here. I am sure that the areas where some of them moved from did not allow chickens. Please do not allow this town to become rural as it is out of town. For people who want chickens, I would suggest that they lease some property out of town in order to raise their chickens. Unfortunately, many of the decisions about this town are made on personal agendas. Plus people moving here realize that most of the things they ask for they usually get. This survey is unfair because many of the locals do not have a computer to complete such a survey. It is always said that people can go to the library. They should not have to do this when others have computers that they are using all the time. No! No! No!
6. Chickens don't belong in a town where houses are almost touching each other. And if they are not almost touching, the distance provided by property lines aren't far greater. Noise, smell and even loud conversations can travel far enough to be annoying. There are people who let their dogs run free or never clean up after them while in public. Chickens don't belong because raising them is not cost effective in an urban setting, it requires additional responsibility on a daily basis from the owner (I hope the owner is not the one who let's Fido run freely) and it imposes the ill-behaviors of a few so that all the citizens must endure the consequences. Chickens shouldn't be on the list of priorities for the Town of Cape Charles.
7. I'm concerned about vermin and predators being attracted by the chickens. I believe chickens should be kept on farms or larger plots of land than we typically see in the Historic District.
8. Chickens are not pets. They're poultry. Honestly, the town is already overrun with stray cats; I wish the town would address that problem before it permits more critters. Thanks for the survey. Nice to have input.
9. This is a terrible idea. Chickens are noisy and should not be allowed in a residential town like CC where the houses are in such close proximity to one another. They would disrupt the quiet enjoyment of the property owner's homes.
10. My opinion is if you wish to have barnyard animals live on a farm.
11. Chickens and other farm animals do not belong within city limits, which is what most towns follow. This is not Green Acres but a beach community!
12. I don't understand your questions, why it matters whether we "live" (supposing full time) or whether we simply own property (without a house I presume) within the town limit or historic district (zoning issues? - not explained in this survey). Property owners are property owners and should have equal status whether they live within the town limits full time, part-time or simply own property. As one property & home owner in the historic district who will be directly impacted by this proposed ordinance, and affected by an abut

property owner where chickens were illegally allowed for seven months and will no doubt be affected if an ordinance is allowed, we are against this wholeheartedly. There is an abundance of rural land in Northampton County where farms and associated animals are allowed. The founding fathers purposely made accommodations to not allow such activities within the Town of Cape Charles for those seeking an oasis from farm activity as evidenced by the current zoning ordinance. We the people of this town chose to live in a "TOWN" and not on or next to a farm and being exposed to farm animals and farm activities. Please keep Cape Charles a TOWN and don't turn it into a FARM!! What will you be asked to consider next pigs and then goats? Please, no Chickens!

13. Houses in Cape Charles are built on small lots. The noise & smell of chickens cannot be buffered. Even hens make noise. In many cases houses in town are very close together limiting air flow. People cannot be trusted to properly keep the chicken pens clean. If they don't the town would do nothing about it. We have ordinances now covering building maintenance & trash that are not enforced. One cannot expect any different if chickens were allowed.
14. I am strongly opposed to the maintenance of chickens within the historic district where I own my home. I believe the chickens pose both a health and noise problem. Additionally, I think livestock in town is inconsistent with the overall peace and enjoyment of living in a residential historic town.
15. This is a community with many vacation rentals, second homeowners and full time residents with very close proximity from house to house, especially within the town limits. We have enough challenges with owner's lack of responsibility with dogs and other pets. We have a significant population of feral cats in town. I do not think the potential "hobby" benefit of a small group that wishes to partake in the latest "fad" outweighs the potential (and probable) negative impact for others. If you are renting a beach house for a week - do you really want to be next door to farm animals? Not the right environment. Nothing against chickens or fresh eggs. It's usually the negligent owners cause issues. We already hear the neighbor's dogs constantly barking, running loose and their fecal matter on our property. We have feral cats invading our deck and backyard. While chickens are relatively quiet (I grew up on a farm) they do require proper housing & husbandry to keep odor away from close neighbors. Please - not another animal to deal with. Thank you!

Planning Commission Staff Report

From: Rob Testerman
Date: September 26, 2014
Item: 5B – Tourism Zone
Attachments: Tourism Zone Draft Ordinance

Background

A tourism zone allows for qualifying businesses to receive tax credits or other incentives that would not be available to that business elsewhere, thus encouraging the business to locate within the tourism zone, increasing employment opportunity, and growth. Additionally, localities that are interested in pursuing the Commonwealth of Virginia Tourism Development Financing Program must have a defined tourism zone. More information about the Tourism Development Financing Program can be found at the following link: www.vatc.org/TDFinancingProgram/

Staff has developed the attached text for a draft tourism zone. The language was largely taken from the technology zone, with modifications to make it relevant to tourism businesses. Staff has been in contact with the Virginia Tourism Corporation who has expressed willingness to review our draft ordinance prior to adoption to give any feedback.

As a follow up to the question posed regarding the term “leakage” in the Pocahontas tourism zone, Wirt Confroy of the VTC explained it as referring to money that is spent in the locality, but the money then leaves the locality. As an example he used Starbucks, if Cape Charles had a Starbucks location, a certain percentage of their income would be going to their corporate office, or an owner who lives outside of town. This money that would leave town is considered leakage.

Mr. Confroy was not aware of any locality that has discussed breaking tourism businesses into two categories (seasonal and full time), but he indicated that we can absolutely do this, and he really liked the idea.

The numbers of jobs required and money invested, as well as the incentives listed in the draft language are just starting points, if the Commission feels that these numbers should be higher or lower, there is no issue with changing them. Additionally, some localities, Fredericksburg for example, require new jobs created **or** a minimum amount of capital invested. The Commission should consider if Cape Charles would like to require both jobs and investment, or simply one or the other.

The highlighted areas of the draft represent the specific requirements and benefits, which still need to be determined.

Discussion

The Planning Commission should discuss the draft language, and determine any modifications that may be needed.

- **Sec. XX-1. - Purpose.**

The town council finds that the creation of a local tourism zone, with incentives for growth, as authorized by Code of Virginia, § 58.1-3851, as amended, will foster the town's development, maintenance and expansion of commercial, tourist and industrial businesses engaged in the tourism industry , all of which would benefit the citizens of the town.

- **Sec. XX-2. - Administration.**

This chapter shall be administered by the town manager or his or her designee (the "administrator"). The administrator shall be responsible for determining if a business qualifies as a qualified seasonal tourism business or a qualified full time business, and shall determine and publish the procedures for obtaining the benefits created by this chapter.

- **Sec. XX-3. - Boundary area.**

The entire area of the Town of Cape Charles is designated a tourism zone pursuant to Code of Virginia § 58.1-3851, as amended.

- **Sec. XX-4. - Definitions.**

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Economic stimulus grants means the incentive grants payable to a qualified seasonal tourism business or a qualified full time tourism business as provided in [section XX-6](#) of this chapter.

Existing business means a corporation, partnership, limited liability company or sole proprietorship authorized to conduct business in the Commonwealth of Virginia, located in and actively engaged in the conduct of trade or business in the town prior to the adoption of this chapter.

Full time job means a job that is to be performed by a worker for an average of at least 35 hours per week for a minimum of one year, with reasonable allowances for holidays and vacations.

New business means a corporation, partnership, limited liability company or sole proprietorship authorized to conduct business in the Commonwealth of Virginia not previously located in the town that begins actively conducting business after the adoption of this chapter.

Qualified business means either a qualified seasonal tourism business or a qualified full time tourism business.

Qualified full time tourism business means a new or existing business that has met the applicable qualifications set forth in [section XX-5](#) of this chapter and that is engaged in provisioning services, concierge and accommodation services, conference center/services, galleries, recreational facilities/services, entertainment, food services, day spas, specialty food stores, food services, gift

stores, special events/services, or any other similar activity deemed appropriate for a tourism zone as defined in another jurisdiction of the commonwealth, and found as such by the administrator, twelve months per year.

Qualified seasonal tourism business means a new or existing business that has met the applicable qualifications set forth in [section XX-5](#) of this chapter and that is engaged in provisioning services, concierge and accommodation services, conference center/services, galleries, recreational facilities/services, entertainment, food services, day spas, specialty food stores, food services, gift stores, special events/services, or any other similar activity deemed appropriate for a tourism zone as defined in another jurisdiction of the commonwealth, and found as such by the administrator, for less than twelve months per year.

- **Sec. XX-5. - Qualifications.**

- (a) Existing Qualified Tourism Businesses

- (1) Seasonal. To be eligible for economic stimulus grants, a qualified seasonal tourism business must:

- (i) Create and maintain a minimum of XX new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

- (ii) Make a new verified capital investment of no less than \$XXX,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

- (2) Full time. To be eligible for economic stimulus grants, a qualified full time tourism business must:

- (i) Create and maintain a minimum of XX new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

- (ii) Make a new verified capital investment of no less than \$XXX,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

- (b) New Qualified Tourism Businesses

- (1) Seasonal. To be eligible for economic stimulus grants, a qualified seasonal tourism business must:

- (i) Create and maintain a minimum of XX new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

- (ii) Make a new verified capital investment of no less than \$XXX,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

(2) Full time. To be eligible for economic stimulus grants, a qualified full time tourism business must:

(i) Create and maintain a minimum of XX new full time jobs which are each compensated at 1½ times the wage rate of the currently-defined federal minimum wage.

(ii) Make a new verified capital investment of no less than \$XXX,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.

- **Sec. XX-6. - Economic stimulus grants and enforcement.**

(a) A qualified seasonal tourism business shall be eligible to receive the following economic stimulus grants:

(1) A grant equal to 25 percent of the new or increased machinery and tools tax paid to the town with a verified capital investment of \$250,000.00 that shall increase proportionately up to 100 percent with a capital investment of \$1,000,000.00 or more.

(2) A grant of up to 100 percent of the amount of the net increase in real estate tax paid to the town.

(3) A grant of up to 100 percent of the amount of BPOL tax paid to the town.

(4) For a qualified seasonal tourism business that maintains at least 25 full time jobs, a grant of up to 50 percent of the facility and connection fees paid to the town.

(5) A grant of up to 100 percent of the building permit fee paid to the town.

(b) A qualified full time tourism business shall be eligible to receive the following economic stimulus grants:

(1) A grant equal to 25 percent of the new or increased machinery and tools tax paid to the town with a verified capital investment of \$100,000.00 that shall increase proportionately up to 100 percent with a capital investment of \$1,000,000.00 or more.

(2) A grant of up to 100 percent of the amount of the net increase in real estate tax paid to the town.

(3) A grant of up to 100 percent of the amount of BPOL tax paid to the town.

(4) For a qualified full time tourism business that maintains at least 15 full time jobs, a grant of up to 50 percent of the facility and connection fees paid to the town.

(5) A grant of up to 100 percent of the building permit fee paid to the town.

(c) The types and amounts of the economic stimulus grants shall be based on the factors that the town deems relevant, including without limitation the type of business conducted by the qualified

business and amount of verified capital investment and the number of full time jobs created by the qualified business. The types and amounts of economic stimulus grants awarded to a qualified business shall be initially determined by the administrator, subject to approval by the town council.

(d) No taxes, fees, or other charges shall be deemed waived by this chapter. All such taxes, fees, and charges shall be paid by the qualified business in full as and when due. economic stimulus grants described in subparts (1), (2), and (3) of subsections (a) and (b) above that are awarded to a qualified business shall be paid annually, in arrears, for each year that the qualified business meets all eligibility criteria up to a maximum of five years. If a qualified business fails to meet all eligibility criteria in any given year, the economic stimulus grants for that year and all future years shall be forfeited. Economic stimulus grants described in subparts (4) and (5) of subsections (a) and (b) above that are awarded to a qualified business shall be paid upon verification by the administrator of the completion of construction of the improvements to which the applicable facility and connection fees and/or building permit fees relate.

(e) As a condition to receiving an economic stimulus grant, a qualified business agrees to provide such information and allow such inspections as the town deems reasonably necessary to verify the eligibility criteria and to ensure the qualified business's ongoing compliance therewith.

(f) Notwithstanding anything to the contrary in this chapter:

(1) An otherwise qualified business shall lose its eligibility for economic stimulus grants, and shall repay any previously awarded economic stimulus grants, upon any of the following:

a. A violation by such business or, to the extent related to the operation of the business, by any of its principals or officers, of any statute, regulation, or order of the United States or the Commonwealth of Virginia or any department or agency thereof; or

b. A violation of any town ordinance that continues beyond the applicable cure period or, if none, a period of ten days.

(2) All economic stimulus grants are subject to the appropriation requirements of the Commonwealth of Virginia and the town.

(g) The town will issue a qualified approval letter which will specify the amount of the verified capital investment, the number of full time jobs created, the amount of the economic stimulus grant(s), the eligibility criteria for receiving the economic stimulus grant(s), the procedures for verifying compliance therewith, and such other terms as may be appropriate.

(h) If a Qualified Tourism Business leaves the Town to conduct business in another location within three (3) years of completing any incentive period, it will be required to repay the Town the total amount of Tourism Zone incentives received.

- **Sec. XX-7. - Non-waiver.**

Unless expressly stated herein, this chapter shall not be construed to waive the requirement of any ordinances, regulations, and policies that require permits and approvals for land use, construction,

and business operation. Additionally, unless stated otherwise herein, nothing in this chapter shall be construed as waiving the right of the town to enforce its ordinances, regulations, or policies or to collect taxes, fees, fines, penalties, or interest imposed by law or by ordinance.