



TOWN COUNCIL

Special Meeting

Town Hall

August 1, 2013

6:00 p.m.

At 6:07 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Special Meeting of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Godwin and Councilwoman Natali. Councilmen Sullivan and Wendell were not in attendance. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Harbor Master Smitty Dize, Public Utilities/Public Works Director Dave Fauber and Town Clerk Libby Hume. There were 15 members of the public in attendance.

Mayor Sullivan stated that the order of business for this evening was i) Harbor Development Master Plan; ii) Review of Town Code Section 72-9 – Minimum Utility Fees; iii) Eastern Shore Communications Wireless; and iv) Virginia Department of Health Planning/Design Grants for a) Public Water Supply Chlorination and b) Keck Well Pipeline Engineering. Mayor Sullivan stated that the Harbor Development Master Plan would be moved to the first item on the agenda.

PUBLIC COMMENTS

Ron van Geijn, 16 Kings Bay Drive, Eastern Shore Communications

Mr. van Geijn thanked Council for the opportunity regarding the Town's wireless program and added that Eastern Shore Communications (ESC) were dependent on the water tower which was important to them and the people of Cape Charles in regards to their communications service. ESC valued the Town's feedback and looked forward to continuing to work with the Town and the Town's businesses.

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

C. Harbor Development Master Plan:

Assistant Town Manager Bob Panek asked Harbor Master Smitty Dize to point out the various areas on the current Master Plan map and reported the following: i) Phase 1 included floating docks, a bath house, restaurant and seafood market. The bath house and restaurant were completed but it was decided not to move forward with the seafood market and retail area. The Town was now planning to enhance the wave attenuator for improved harbor protection and add additional docking space; ii) Phase 2 included a new Harbor Master office and at this time, only some of the engineering had been done; iii) Phase 3 consisted of the reconfiguration of the inner harbor from fixed piers to floating slips; iv) Phase 4 included plans for a special event pavilion and support facilities on parcels 19, 20 and 12 which were currently leased to South Port Investors for development of a yacht/vessel maintenance and repair center; v) Off shore breakwaters were shown as options. The Town built two breakwaters at a cost of approximately \$1M and three more were planned; vi) The Town continued to apply for grants through the Virginia Port Authority (VPA) and had a current grant of \$500K which was carried over from last year and a new grant for \$75K. The Town was evaluating its options for breakwaters, wave attenuators, etc. Heather Arcos added that the \$500K carryover had been approved but the Town was awaiting the executed resolution from the VPA; and viii) Bayshore Concrete Products was planning to build a travel lift on the south side of the Harbor including a fixed wave break which would

extend approximately 250'. This would be an important component for improved harbor protection. All of these items should be incorporated into an updated Harbor Master Plan. Langley & McDonald, Inc., the engineering firm who prepared the existing Master Plan, provided a proposal to amend the existing engineering services contract for the study, design and permitting effort associated with improved harbor protection. The proposal included \$7,500 for updating the Master Plan. \$5,625 (75%) would be funded from the VPA grant funds and the remaining \$1,875 (25%) would be paid out of the Harbor Fund.

There was some discussion regarding the Harbor area which included everything on the eastern side of the jetty. It was noted that the true Harbor Master Plan should include the entire area. Bob Panek stated that Tom Langley was also the engineer for the Bayshore Concrete project so could include their plans without too much of an issue. The Town had the plans for the South Port Investors project to provide to Mr. Langley for inclusion as well. Bob Panek would contact Mr. Langley for a revised cost estimate to update the Harbor Master Plan as discussed.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to approve execution of a contract change order up to \$7,500 to update the Harbor Master Plan including the entire Harbor area. Council would revisit this issue if the cost estimate was increased from \$7,500. The motion was approved by unanimous vote.

Vice Mayor Bannon asked Smitty Dize to provide information regarding the proposed water taxi service for this weekend. Smitty Dize stated that he had developed a water taxi schedule to run throughout the Clam Slam weekend between Cherrystone, Kings Creek Marina and the Harbor. There would be two boats provided by Sail Cape Charles and LT Charters.

A. Review of Town Code § 72-9 – Minimum Utility Fees

Heather Arcos stated that on January 24, 2013, Town Council met to discuss a request from South Port Investors, who were lessees to the Town, for a waiver of accumulated minimum usage charges for parcel 83A3-A-12. In November 2007, a building located on the parcel was demolished and the utilities were inactivated by South Port. Council was concerned regarding setting a precedent in waiving outstanding charges on inactive accounts and tasked staff to research ordinances from other localities to possibly update the Town's current ordinance. Ordinances from several localities had been provided to Council for their review along with the current Town Code Section 72-9. Heather Arcos went on to state that most localities tied the payment of minimum fees to the water meter. If a meter was installed, minimum fees were assessed. A property owner could request a meter to be removed, which would stop the assessment of the minimum fees, but a connection fee would be charged when a meter was reinstalled on the property.

There was much discussion regarding Section 72-9.c. which stated that if a connection existed prior to June 30, 2007 and the building was demolished, the property owner would still be liable for the minimum charges, but connection charges would not apply when the vacant lot was rebuilt. Councilman Bennett asked how many properties in the Town fell under this category. Dave Fauber responded that there weren't many and estimated about six. Heather Arcos added that there were a number of other homes in Town where the water had been turned off for non-payment. No one lived in the house and the owners had opted not to have the water turned back on. The minimum charges continued to accrue on these properties. Councilman Bennett stated that if a house was demolished and the lot would be vacant for some time, he did not feel that the full amount should be charged each month. Vice Mayor Bannon felt that the meter should

be removed and the owner would pay a new connection fee when and if they were to rebuild on the property.

Councilman Godwin asked about the rationale of charging a sewer fee on vacant properties where a building was demolished. Bob Panek responded that 70% of the cost was fixed to cover the debt service, personnel, etc.

Councilman Godwin asked about charging sewer fees on water used to water lawns, etc. Bob Panek explained that the water went through the meter and there was no way to determine the amount of water going through the sewer system or used for watering grass, etc.

There was also much discussion regarding planning for growth in capacity and expansion of the water plant.

Vice Mayor Bannon asked how many properties were in Town with deep wells and were grandfathered, therefore excluded from the requirement to connect to the Town's water system. Dave Fauber stated that there were two properties – the Fig Street Inn and the laundromat. There were also five other properties, on the outskirts of the Town, not on the Town's water and sewer systems because the properties were located more than 100' from the pipelines for water and sewer.

Councilwoman Natali stated that the trash collection was part of the Town's utility bill and asked whether trash collection should be included as part of this discussion. Bob Panek stated that trash collection/sanitation was covered in another section of the Town Code.

Councilman Bennett asked about the numbers of properties where the water was turned off and fees were accruing monthly and whether the owners were paying on a regular basis. Heather Arcos stated that staff would research the numbers. In most cases, if the owner was not paying, a lien was placed on the property and the outstanding balance was collected when the property was sold.

Councilwoman Natali suggested adding another option where the owner could opt to have the water meter removed from a property if it was going to be vacant for any length of time. A new connection fee would be assessed when the water meter was reinstalled. Depending on the length of time, it could be more beneficial for the owner to go this route vs. paying the monthly charges. Bob Panek stated that this option would defer revenue. Councilman Bennett countered that the revenue was already deferred if the owners weren't paying the monthly charges.

Heather Arcos stated that Treasurer Kim Coates would do an analysis and the information would be brought back to Council for further review.

B. *Eastern Shore Communications Wireless:*

Heather Arcos stated that in December 2011, Council approved allowing Eastern Shore Communications, LLC (ESC) to install an antenna on the Cape Charles Water Tower to conduct a test of wireless service using the broadband network. An agreement was signed on January 4, 2012 and permitted the installation of up to four antennae, associated wiring and test equipment for an eight week period. In July 2012, ESC submitted their Pilot Report to the Town Planner. All the towns in Accomack and Northampton Counties participating in the Eastern Shore of Virginia Broadband Authority (ESVBA) broadband loop were to advertise a request for proposals (RFP) for wireless service providers. The Town of Cape Charles issued the RFP in April 2013 and two proposals were received. The contract was awarded to Bay Creek Communications,

LLC (BCC) and a two-year contract was signed. As part of the contract, BCC was getting discounted service through the ESVBA and would be providing the Town offices, other Town-owned locations and the Cape Charles Volunteer Fire Company (CCVFC) with free internet service for the duration of the contract. At the end of the two-year contract, the Town would negotiate appropriate lease rates for the use of the water tower for antennae with BCC.

It was recently discovered that ESC had been selling services to the residents and businesses in and around Cape Charles utilizing the antennae located on the water tower. A proposal was received from ESC on July 18, 2013 for consideration by the Town Council to leave the existing equipment, two antennae on the water tower, and to compensate the Town \$200/month for use of the tower. In addition, ESC offered to provide the CCVFC with free internet service for the term on the lease. If Council agreed to a lease agreement with ESC, the same terms and conditions afforded to BCC would apply, except for the discounted ESVBA service and free use of the water tower. BCC would have priority placement of their antennae as result of their existing contract.

Heather Arcos stated that all equipment would be on the exterior of the water plant. ESC currently had equipment located inside the plant but everything would be removed and equipment huts would be built outside by the water tower.

Ron van Geijn from ESC and Brian Manley from BCC were in attendance to answer any questions from Council. Mr. Manley brought in their largest antenna to show the Council but stated that the majority of antennae would be about half the size at approximately 2' in height. This was also the size of the antennae currently used by ESC. BCC would have a minimum of four antennae on the water tower with a maximum of eight. Councilwoman Natali asked what the maximum number of antennae was that the water tower could accommodate. Mr. van Geijn stated that approximately 32 antennae could be placed around the tower, depending on their size.

There was some discussion regarding other localities on the Eastern Shore and the number of providers for internet and cell service. Bob Panek noted that the contract awarded by the Town was non-exclusive. Only one provider could get the discounted rate for service through the ESVBA, but there was no limit to the number of total providers that Council could have agreements with.

Councilman Bennett asked about the possibility of interference between the antennae between BCC and ESC. Mr. van Geijn stated that the smaller antennae had multiple channels and shields in place to help alleviate interference, but there was a slight possibility.

Councilwoman Natali asked whether there was any issue with the high winds. Mr. van Geijn stated that the antennae were rated for 160 MPH winds.

Heather Arcos asked Dave Fauber if he had any concerns regarding the antennae and equipment. Dave Fauber responded that all his concerns had been answered during this evening's discussion.

Mayor Sullivan stated that she currently had service through BCC but had no problem with additional providers in Town.

Councilwoman Natali asked Mr. van Geijn whether he would be willing to provide free service to the Cape Charles Historical Society instead of the CCVFC since service to the CCVFC was included in the BCC contract. Mr. van Geijn stated that he had no problem with that change.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to allow both Bay Creek Communications, LLC and Eastern Shore Communications, LLC to utilize the Cape Charles Water Tower with the details to be worked out later. The motion was unanimously approved.

Mayor Sullivan left the meeting at 7:00 p.m. passing the gavel to Vice Mayor Bannon.

D. *Virginia Department of Health Planning/Design Grants:*

Heather Arcos stated that the Town received notification of grant opportunities from the Virginia Department of Health Office of Drinking Water (VDH-ODW) which administered grant funds from the Virginia Drinking Water State Revolving Fund Program. The Planning & Design Grant assistance was for up to \$50K per project. There were no matching funds required.

i. *Public Water Supply Chlorination*

Heather Arcos stated that the grant could be available to the Town for developing a preliminary engineering report (PER) for the substitution for chlorine in the drinking water.

Since August 2009, the Town had been sampling and testing quarterly at three sites to compile data for a running annual average of Trihalomethanes (THMs) and Haloacetic Acids (HAA5s) which were byproducts resulting from the addition of chlorine to the water supply. Due to THM levels that exceeded the allowable limits, the Town was required to submit a PER to the VDH discussing actions/efforts that might be taken to reduce the byproducts in the drinking water. As a result of the PER, the recommended option was for substitution of chloramine for chlorine during the warm weather months. The next engineering phase was to develop a PER specifically for the installation of the chloramine process and a final engineering of the chloramine pumps, piping and dosage. Dave Fauber stated that with chloramine, ammonia also had to be added to the water but there would be lesser amount of byproducts. The Town would also increase the water flushing and the addition of the two new wells would help as well.

There was some discussion regarding the regular water flushing, the installation of the automatic flush valves in certain areas in the Town, including Bay Creek. Dave Fauber added that the Town had pulled water samples prior to a flush to see the impact of the water flushes. Unfortunately, the THM levels came back higher requiring the Town to send out the most recent notice of violation from the VDH-ODW which was the first one since 2011. Bob Panek noted that even with the connection of the new wells, it would be necessary to add chlorine or chloramine to the water supply to prevent bacteria growth.

This grant request would be submitted for \$14,800. The breakdown was \$9,800 to create the PER and \$5,000 to cover final engineering. Staff requested Council's approval to apply for this grant and for the Town Manager to be granted the authority to execute the necessary documents associated with the grant. Councilman Bennett noted a conflict in Section A of the application. Dave Fauber stated that he would make the correction.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to authorize the Town Manager, by resolution, to submit a Planning/Design Grant application for funding to the Virginia Department of Health Office of Drinking Water for Public Water Supply Chlorination. Vice Mayor Bannon moved for adoption of Resolution 20130801 – To Submit a Virginia Department of Health Drinking Water Financial and

Construction Assistance Program Planning/Design Grant Application for Public Water Supply Chlorination as noticed and forewent reading of the resolution. The motion was approved by unanimous roll call vote. Roll call vote: Bannon, yes; Bennett, yes; Godwin, yes; Natali, yes.

ii. *Keck Well Pipeline Engineering*

Heather Arcos stated that the grant could also be available to the Town for developing construction documents for the Keck Well pipeline. The grant request for this project would be for \$50K to cover the cost associated with GHD's amendment to Task Order No. 2, specifically to "Design approximately 3,700' of Raw Water Transmission Pipeline from Keck Wells 1 & 2 to existing 8" pipeline located along Route 184 based on the results of the May 2012 PER." The grant funds would offset funding for this project which had been allocated in the FY2013-2014.

Councilman Bennett noted the same conflict in Section A of the application. Dave Fauber would make the necessary corrections and review both applications again for accuracy.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to authorize the Town Manager, by resolution, to submit a Planning/Design Grant application for funding to the Virginia Department of Health Office of Drinking Water for the Keck Well Pipeline Engineering. Vice Mayor Bannon moved for adoption of Resolution 20130801A - To Submit a Virginia Department of Health Drinking Water Financial and Construction Assistance Program Planning/Design Grant Application for Keck Well Pipeline Construction Documents as noticed and forewent reading of the resolution. The motion was approved by unanimous roll call vote. Roll call vote: Bannon, yes; Bennett, yes; Godwin, yes; Natali, yes.

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon to adjourn the Town Council Special Meeting. The motion was approved by unanimous consent.

Mayor Sullivan

Vice Mayor Bannon

Town Clerk