



# PLANNING COMMISSION

## Regular Meeting

### Town Hall

### January 4, 2011

At 6:09 p.m. in the Town Hall, Vice Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Roger Munz, Joan Natali and Mike Strub. Chairman Bruce Brinkley and Commissioner Ben Lewis were not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume as well as three (3) members of the public.

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**

Tom Bonadeo suggested that Items 8a – Wind Energy Ordinance and 8b – Rezoning Request-Randolph and Strawberry be switched since there were citizens in attendance interested in the outcome of the rezoning request.

**Motion made by Joan Natali, seconded by Mike Strub and unanimously approved to amend the agenda as proposed by Tom Bonadeo.**

The Commissioners reviewed the minutes for the December 7, 2010 Regular Meeting.

Joan Natali noted two typographical errors on pages 3 and 5.

**Motion made by Joan Natali, seconded by Mike Strub, to approve the minutes from the December 7, 2010 Regular Meeting as amended. The motion was approved by majority vote with Roger Munz abstaining since he was not in attendance at the December 7<sup>th</sup> meeting.**

#### **REPORTS**

Tom Bonadeo reported the following: i) The Virginia Municipal League's Town & Country magazine contains several nice articles and good information. One article was written by our PC Chairman Bruce Brinkley about a process implemented by the City of Portsmouth regarding blighted buildings. The Town has several copies available if anyone was interested in reading any of the articles; ii) Senator Ralph Northam and Delegate Lynwood Lewis will be presenting their Town Hall meeting tomorrow evening beginning at 5:30 at St. Charles Parish Hall; iii) The contract for the new docks and marina work at the Cape Charles Harbor has been awarded to Somerset Marine and the work was expected to start later this month. The IFB for the bath house would be put out for bids after the plans have been reviewed by the Harbor Area Review Board; iv) The Trail Project has reached substantial completion. The contractor has nearly finished with the punch list and several items, the fountain and sod, would be left until spring for completion since they were weather sensitive. The last few trees were scheduled to be planted later this week; v) The Wastewater Treatment Plant (WWTP) construction was on schedule and the roof was being constructed. The connection from the new plant to the Harbor outfall had

been delayed due to problems with the pipes not being where they were expected to be. The digging along the road should start when weather permits; vi) The IFB was re-advertised for the pump station upgrades. The pre-bid conference was scheduled for January 6<sup>th</sup>; vii) The Boundary Adjustment Committee has made a reassessment of the boundary adjustment process in light of the Eastville application denial. Work with the County continues on the Overlay for Routes 184 and 642 and on the missing items from the Annexation Agreement. We should have direction from the Town Council for the next meeting so we should be able to move forward with the Overlay; viii) The repairs to the Fun Pier have been completed. The second contractor should start the repair of the north boardwalk and mitigation work for both the pier and boardwalk soon; and ix) Kids from Northampton High School planted beach grass as a class project. The beach sand was holding its own.

Dennis McCoy asked if there was anything that Cape Charles could learn from Eastville's boundary adjustment application denial. Tom Bonadeo explained that several years ago, the County developed a document and procedures to follow regarding boundary adjustment requests. The process was very difficult and much of the language was taken from the State. The main thing was that a reason needed to be given to take in additional land. Eastville's application was missing some required elements. Tom Bonadeo stated that he would not be able to justify why Cape Charles needed additional land when there are 3K+ lots still to be developed in Bay Creek, but added that he felt the Town and County were moving in the right direction in working together regarding the Overlay and Town Edge. Tom Bonadeo informed the Commissioners that he recently found out that the moratorium on annexations pertained to cities, not towns. Tom Bonadeo added that he had spoken to an attorney who worked on the previous annexation and found out that the Town was expected to annex all the land to Route 13, but the Council did not do that at the time. This would have provided the Town with the ability to have input regarding the development that has occurred on Route 13.

Roger Munz asked about the scope of the repairs to the boardwalk. Tom Bonadeo stated that the work was to repair the hollow space beneath the boardwalk caused by the November 2009 nor'easter storms. All repairs were being funded by FEMA and were estimated at approximately \$60K.

Roger Munz asked whether the Town would be eligible for any additional funding for the WWTP. Tom Bonadeo explained that the Town did receive additional funding in the second round of stimulus money which was being used for effluent reuse in the Bay Creek ponds vs. discharge into the Chesapeake Bay.

Mike Strub asked whether there were any provisions to replant any of the beach grass that may not survive the winter. Tom Bonadeo stated that there were plans for early spring to transplant grass from areas around Monroe Avenue so the volleyball nets could be placed there.

#### **OLD BUSINESS**

##### *Rezoning Request – Randolph and Strawberry – a portion of the Mack Building*

Tom Bonadeo explained that over the past 10 years, these spaces have been used as offices and apartments and most recently, the apartment use came to the attention of the zoning administrator and the residents were removed. The owner at that time requested a zoning variance to allow residential use on the first floor of a commercial building. This request was reviewed by the Board of Zoning Appeals and after hearing public comment, the request was denied. Since then, the Mack building has been purchased and the new owner has requested a rezoning of the property to Commercial Residential (CR) and made several proffers that make good sense for the property and the Town.

There was much discussion regarding this application and Mr. Loomis' concern regarding setting a precedent for other commercial property owners in Town. Tom Bonadeo explained that the CR designation would not be approved for businesses along Mason Avenue with the exception of the area on the western portion of Mason Avenue towards the beach which could possibly be rezoned as CR to accommodate since the eastern portion of Mason Avenue was already zoned as CR.

Roger Munz asked whether language could be included stating that the Planning Commission recommended approval with the expressed intent to use this as a bridge between commercial and residential areas as deemed appropriate by the Planning Commission. Tom Bonadeo added that this was the intent of the CR District.

Joan Natali stated that she would like to add a condition for approval stating that all leases for units in the building shall, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering is permitted on Town property. Joan Natali added that at the December meeting, the applicant expressed his willingness to do this but there was nothing in writing to verify this. The Commissioners agreed with the addition of this condition.

**Motion made by Joan Natali, seconded by Mike Strub and unanimously approved to forward this request for a conditional rezoning to Town Council with the recommendation to approve the request with the four documented proffers and an additional condition stating that all leases for units in this building shall, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering is permitted on Town property.**

#### *Wind Energy Ordinance*

Tom Bonadeo distributed the Department of Environmental Quality (DEQ) Small Renewable Energy Projects Permit By Rule which is a new rule from the DEQ regarding wind energy and added that he had marked several areas which could be pertinent to Cape Charles. This new rule stated that the owner or operator of a small wind energy project with a rated capacity equal to or less than 500 kilowatts was not required to submit any notification or certification to the DEQ. The owner or operator of a small wind energy project with a rated capacity greater than 500 kilowatts and equal to or less than 5 megawatts needed to notify the department by submitting a certification by the governing body of the locality wherein the project is located that the project complies with all applicable land use ordinances and applicable local government requirements and in certain zones the owner or operator must contribute \$1K per megawatt of rated capacity to a fund designated by the DEQ in support of scientific research investigating the impacts of projects in the Coastal Avian Protection Zone (CAPZ) on avian resources. Cape Charles was in Zone 4 which was one of the zones requiring this contribution.

Tom Bonadeo explained that the Town's proposed Wind Energy Ordinance was reviewed by Dr. Miles of James Madison University and his recommendations have been incorporated into the draft document. Even though the State of Virginia may not be able to utilize wind energy, due to the policy where energy providers must obtain their energy power from the least expensive source, the State was in a position to benefit as part of the supply chain. Tom Bonadeo added that he recently attended the Virginia Economic Development Partnership's meeting on Offshore Wind Development and the Commonwealth and the Port of Hampton Roads was well set to be the center of the development process. Cape Charles is also set to be a potential part of the supply chain as we have a deep water port nearby.

The Commissioners reviewed the proposed ordinance and additional changes were made as follows:

Page 2:

Footnote 4: Joan Natali suggested that “dwelling unit” be changed to “lot” since the Commissioners previously agreed that wind turbines would be limited to one per lot so as not to have multiple units on the roofs of condominiums or apartment buildings.

1a: The strikeouts would be deleted.

C - Definitions: The definition for “Nacelle” was added as requested at the December meeting.

Page 5, #D.4.: Joan Natali suggested that “and” should be changed to “or” since the Historic District Review Board would approve a wind turbine in the Historic District Overlay District and the Harbor Area Review Board would approve a wind turbine in the Harbor District.

Tom Bonadeo stated that the Town was looking into the possibility of constructing a wind turbine on the property by the Wastewater Treatment Plant to help power the plant and Bay Shore Concrete was also considering a wind turbine for their property. There was some discussion regarding the possibility of constructing wind turbines offshore in the Bay and what governmental entity would have jurisdiction to approve the project.

**Motion made by Joan Natali, seconded by Roger Munz and unanimously approved to recommend to the Town Council the scheduling of a Joint Public Hearing with the Planning Commission on February 1, 2011 to hear public comments regarding the proposed wind energy ordinance.**

**NEW BUSINESS**

There was no new business to review.

**ANNOUNCEMENTS**

There were no announcements.

Malcolm Hayward informed the Commissioners that he would be out of town and unable to attend the next two Planning Commission meetings.

**Motion made by Joan Natali, seconded by Roger Munz and unanimously approved to adjourn the Regular Meeting of the Planning Commission.**

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Vice Chairman Dennis McCoy

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Town Clerk