



## TOWN COUNCIL

### Work Session

Town Hall

September 13, 2011

6:00 PM

At 6:00 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Work Session of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Sullivan and Veber and Councilwoman Natali. Councilmen Bennett and Evans were not in attendance. Also present were Town Manager Heather Arcos, Building Official Jeb Brady and Town Clerk Libby Hume. There were no members of the public in attendance.

Mayor Sullivan announced the business for the evening would be to review the proposed modifications to the Nuisance Ordinance and a Code Enforcement update.

Town Manager Heather Arcos stated that several modifications have been proposed for the existing Nuisance Ordinance which Council needed to review. Heather Arcos continued to state that, at the October Regular Meeting, she would like Council to approve the scheduling of a public hearing.

Jeb Brady stated that a "Definition" section was added to help individuals understand the ordinance and terminology. Council proceeded to review the entire ordinance and additional recommendations were made as follows: i) Under the definition for "Debris" in Sections 46-16 and 58-1, the term "fire menace" was changed to "fire hazard." There was some discussion as to whether "explosive" should be added; ii) In Section 46-17(a), Councilwoman Natali asked whether gaseous or liquid propane should be included. Jeb Brady stated that these would be covered by the State Fire Code or Maintenance Code; iii) In Section 46-18(a), the reference to "town council" was changed to "town manager;" iv) It was noted that the term "debris" which was used throughout the ordinance, should be lower case when used within a paragraph; v) In Section 46-20(a), there was some discussion regarding the first offense fine of \$50.00 being too low. Jeb Brady stated that he thought this was governed by the State Code and could not be increased; vi) In Section 46-20(b), in the first line, "with" should be "which;" vii) In Section 58-1, in the definition of "Business trash," Councilwoman Natali suggested that "household trash" be changed to "household refuse" because it was unusual to use the word being defined within the definition; viii) In Section 58-1, in the definition of "Commercial refuse," it was suggested that "commercial premises" be changed to "commercial establishments" since this term was defined in the ordinance; ix) In Section 58-1, in the definition for "Commercial establishment," it was agreed that the last sentence be deleted; x) In Section 58-2(b), Councilwoman Natali noted that Sections 58-7, 58-8, 58-10 and 58-11 were listed in this section stating that police officers and building code enforcement officials could enforce the ordinance, but Section 58-9 was omitted. Jeb Brady would research this to see if he could determine whether this section was intentionally omitted; and xi) In Section 58-6, the first sentence was corrected to read "Hazardous waste *shall* not be placed ..."

Council discussed several properties in Town where the residents were storing excessive items such as numerous old bicycles, old lawn mowers, etc. The subject of hoarding was also discussed. Numerous complaints were received regularly on several properties, and Jeb Brady explained that he could not enter a property to inspect or force a resident to "clean up" their property unless it was a safety or health hazard. The Town attorney recommended pursuing enforcement under the State Fire Code. Under the State Fire Code, the Police Chief could get a warrant through the Commonwealth's Attorney at no cost to pursue a legal route for enforcement.

Jeb Brady informed Council that he routinely sends letters to property owners regarding code enforcement which were basically ignored by the recipients. In the past, the Town had the attorney

send letters which caught the recipients' attention but it was an added cost to the Town. Council agreed that the Town should enforce the State Code and proceed through the Commonwealth Attorney's office.

There was also some discussion regarding several commercial and residential buildings with broken windows and whether there was anything the Town could do if the property owners were non-responsive. Councilman Sullivan stated that if the issue was curb appeal, the Town could not do anything, but if a safety issue, the Town could possibly board up the windows. The Town could not do repairs on private property.

Council went on to discuss several properties in Town under code enforcement and how to proceed with the cases. There was much debate regarding demolition vs. renovation and the fact that the Town was designated as a Historic District and whether continued demolition of contributing structures would endanger the Town's designation. The debate continued regarding the legal process and demolition by neglect. Jeb Brady stated that he would use demolition as a last resort and added that the Town had spent approximately \$18K in legal fees relating to code enforcement over the past three years.

Council agreed to concentrate on two properties in Town. Letters would be sent to the property owners giving them 30 days to respond and another 90 days to begin work to repair their properties. If no response was received, the Town would pursue legal action through the Commonwealth Attorney's office.

On another note, Jeb Brady pointed out that Section 8.22 of the Zoning Ordinance outlined a procedure where a property owner could submit an engineering report deeming a structure as unsafe and with the Town Manager's approval demolish the building. A structure was previously demolished using this process. Another engineer report had been submitted by a new property owner requesting permission to demolish the building on the property. Jeb Brady explained that these properties were contributing structures that were not considered unsafe and under code enforcement. There was some discussion regarding tasking the Planning Commission to review this section and modify the language to limit the potential for abuse.

Discussion continued regarding other structures in Town that used to be in disrepair and structurally unsound but have since been purchased and renovated (Wilson Building, Blue, etc.).

Councilwoman Natali stated that Cape Charles was designated as a National Historic District in the late 1980s and a number of houses were included in the historic registry. It was now 20+ years later, could other houses in Town be added to the registry. If so, this could help the Town retain the number of contributing structures so as not to endanger our historic designation.

Heather Arcos summarized that the Nuisance Ordinance, as revised this evening, would be added to the October Regular Meeting agenda in order to schedule a public hearing. Jeb Brady added that he would send letters on the two houses previously discussed to begin the legal process of code enforcement.

**Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to adjourn the Town Council Work Session. The motion was approved by unanimous consent.**

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Mayor Sullivan

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Town Clerk