



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
September 8, 2011
6:00 PM

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Sullivan and Veber and Councilwoman Natali. Councilman Evans was not in attendance. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Planner Tom Bonadeo, Public Works/Public Utilities Director Dave Fauber and Town Clerk Libby Hume. The majority of the Department Heads were also in attendance along with 4 members of the public.

A moment of silence was observed followed by the Pledge of Allegiance.

PUBLIC COMMENTS:

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

CONSENT AGENDA:

Mayor Sullivan stated that a new item of business was being added as New Business Item #7F – Public Works Maintenance Building Slab Contract Award.

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to approve the agenda as amended. The motion was approved by unanimous consent.

The Town Council reviewed the minutes of the August 11, 2011 Regular Meeting.

Councilwoman Natali noted the following: i) under Public Comments, the correct spelling of “Ker” Place in Onancock; and ii) under the Town Manager’s Report, item v should state that the \$500 donation for the installation of the flag poles in Central Park was from the Friends of the Cape Charles High School.

Motion made by Councilman Bennett, seconded by Councilman Veber, to approve the minutes for the August 11, 2011 Regular Meeting as amended. The motion was approved by unanimous consent.

REPORT PRESENTATIONS:

A. Town Manager’s Report:

Town Manager Heather Arcos reported the following: i) The Town sustained minimal damage from Hurricane Irene and the Public Works crew, Police Department and the Cape Charles Volunteer Fire Company did an outstanding job during the storm; ii) The IT contract with Bay Creek Communications had been signed; iii) The waterworks engineering project committee reviewed the proposals and narrowed down the list to two contractors to interview; iv) The Cape Charles Business Association held their board elections last night; v) Interviews had been completed for the part-time director of the Eastern Shore of

Virginia Festivals (ESVF) organization. The interview committee would be forwarding their recommendations to the ESVF Board and the selection would be made.

Councilwoman Natali stated that she wanted to publicly thank all the employees of Town and volunteers who helped make the 125th Anniversary such a success.

B. *Treasurer's Report:*

The Treasurer's report dated August 31, 2011 showed \$831,515 in the Bank of America checking account and \$1,144,928 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$1,976,443. Treasurer Jo Anna Leatherwood went on to report the following: i) She was reviewing information from the Commissioner of Revenue regarding rehab structures; and ii) As requested at the last meeting, she contacted the County and found that the Town could file warrants in debt without having to go through an attorney and added that she would like to process several cases to see what the outcome may be.

Mayor Sullivan asked whether the County and/or Town were planning to advertise the new tax exemption policy for disabled veterans. Jo Anna Leatherwood stated that the Town was not involved in the process. If a person qualified for this exemption, they would have to apply to the County. The records we receive from the County reflect the adjusted amount. If a person is 100% exempt, the information would not be included in the records we receive from the County.

Motion made by Councilman Bennett, seconded by Councilman Sullivan, to approve the Treasurer's Report as presented. The motion was approved by unanimous consent.

C. *Recreation Report:*

Community Events/Recreational Coordinator Jen Lewis stated that she did not have any additional information to add to her written report.

Mayor Sullivan stated that Jen Lewis was doing a great job.

Councilman Veber asked about the number of people who attended the Picnic in the Park Sunday evening. Mayor Sullivan replied that approximately 400 people were at the Park on Sunday and 515 people paid to attend the Chamber of Commerce Harbor Party on Saturday evening. Vice Mayor Bannon added that 121 people came to the Sears Homes Tour.

D. *Library Report:*

Librarian Ann Rutledge thanked the Friends of the Library, the Library Board, Jen Lewis and everyone else for all their help throughout the summer and added the following: i) September is Library Card Month. If you don't have a library card, please stop by the Library to sign up; ii) The Library would be celebrating Banned Book Week later this month; and iii) The Library was working with the Cape Charles Christian School again this year.

E. *Harbor Report:*

Harbor Master Smitty Dize distributed information comparing the number of transient boaters and fuel sales between Memorial Day and Labor Day from 2008 through 2011 and added the following: i) It was a busy summer and the Harbor received lots of good feedback; and ii) The summer staff worked out well.

Councilman Bennett asked about the status of the bath house project. Smitty Dize stated that staff was finalizing the Request for Proposal (RFP) documentation and it would be sent

to the five qualified contractors soon. Heather Arcos stated that the RFP would probably be sent out to the contractors tomorrow.

F. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber stated that he did not have any additional information to add to his written report.

Councilwoman Natali asked about the anticipated completion date for the installation of the flag poles at Central Park. Dave Fauber stated that the installation should be completed sometime next week.

G. *Code Enforcement:*

Code Enforcement Officer Jeb Brady stated that he did not have any additional information to add to his written report. Jeb Brady added that the Council Work Session to review the nuisance ordinance was scheduled for next Tuesday. If any of the Council had any questions or wanted additional information regarding this issue, please email him and he would gather the requested information for review at the meeting.

H. *Planning Report:*

Town Planner Tom Bonadeo reported that the following: i) The finalized draft of the Harbor Bath House RFP was sent to Tom Langley of Langley & McDonald for his review and upon completion of his review, the RFP would be provided to members of the Harbor Area Review Board and Historic District Review Board for informational purposes; and ii) He met with representatives from FEMA today regarding the beach. The damage to the Town property was minor but there was some strong erosion to the Sea Breeze and Aqua properties.

OLD BUSINESS:

A. *Wastewater Treatment Plant Status:*

Bob Panek stated that the wastewater treatment plant construction was moving along and was approximately 90% completed. A construction progress meeting was scheduled for next Tuesday. The contractor was approximately 110 days behind schedule but the clean water test appears to be on schedule. An additional change order of about \$14K for miscellaneous items was in progress and Bob Panek reviewed a summary of change orders explaining that there were sufficient funds in the budget to cover the anticipated change orders.

Councilman Bennett asked for an explanation regarding a statement in the Staff Report which stated that the contractor had agreed to defer discussions concerning a schedule adjustment. Bob Panek stated that the Town denied the contractor's request for an extension and the contractor wanted to go to mediation. After discussion with the contractor, they agreed that there was no basis for the mediation at this time and agreed to defer their claim.

B. *Public Service Authority (PSA) & Regional Wastewater System:*

Bob Panek stated that there was slow progress on the Southern Node. Approximately 300 surveys were sent to property owners in the Cheriton area with a 15% response rate. The PSA would be making a recommendation to the County Board of Supervisors regarding inclusion of this area in the service area. The Executive Director was preparing a grant application to the USDA-RD for the Northern Node. A meeting was planned with Riverside Shore Memorial Hospital next week regarding a possible capital contribution. The PSA Board was still three members short.

Councilman Bennett asked why the Board was still short the three members and whether it was a lack of interest in the people to serve on the Board or a lack of interest in the Board of Supervisors in appointing replacements. Bob Panek stated that he knew of at least two individuals who had applied but the Board of Supervisors have not acted as yet. The PSA Board sent a letter to the Board of Supervisors requesting the three vacancies be filled because of the difficulty in making a quorum with the vacancies. Councilman Bennett suggested that the PSA Board consider submitting a proposal to reduce the number of members on the Board as an alternative.

Heather Arcos asked Bob Panek to update the Council on the status of the Mason Avenue project. Bob Panek informed Council that the milling and paving of Mason Avenue was scheduled the week of September 19th. Unfortunately, there was only one place on the Eastern Shore to get asphalt and the contractor had to submit their order and wait until Branscome would be working on the correct grade of asphalt for this job. Once the asphalt was obtained, it should be a one-day project. Mayor Sullivan asked that the business owners along Mason Avenue be notified of the paving schedule to which Bob Panek agreed.

Mayor Sullivan introduced Chuck Graham and welcomed him as a new police officer for the Town adding that he had already visited all the businesses to introduce himself.

NEW BUSINESS:

A. *Northampton County Water Supply Plan – Schedule Public Hearing:*

Bob Panek explained that Council had previously adopted a resolution approving participating with the County and its towns regarding a regional water supply plan which was required to be adopted by November 2, 2011 by the Code of Virginia. The resolution authorized the Accomack-Northampton Planning District Commission (ANPDC) to lead the planning effort under a state grant. Town staff had previously provided the ANPDC data concerning water demand projections and sources of supply. Staff recently reviewed the draft plan and noted some inconsistencies with demand projections contained in our revised Ground Water Withdrawal Permit application and recently adopted Water Shortage Emergency ordinance. The ANPDC revised the draft plan to correct these items and staff was now satisfied with the content. A public hearing needed to be held before Council considered a resolution to adopt the plan. Bob Panek introduced Mr. Jim McGowan from the ANPDC who was in attendance to brief Council on the contents of the plan.

Mr. McGowan informed Council that the water supply plan was required by Regulation: 9 VAC 25-780 for the purpose of ensuring that adequate and safe drinking water was available to all citizens of the Commonwealth and went on to give a chronological history of the plan development and cited various sections of the Code of Virginia regarding water supply as well as outlining a contingency plan in case of drought.

Councilwoman Natali pointed out that the map of the Town of Cape Charles did not show the marina portion of the Bay Creek Resort as part of the Town.

Councilman Bennett asked how the public would be able to view the plan. Mr. McGowan stated that the plan, as approved by the DEQ in June 2011, would be available online and at the County offices. Heather Arcos asked that a copy be made available for the Town Clerk's office. Mr. McGowan stated that the plan was available on the ANPDC website under Groundwater.

Mr. McGowan provided a draft resolution to be adopted by Council at the October 13th meeting after hearing any public comments regarding the proposed water supply plan and asked that one copy be returned to the ANPDC.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to schedule a public hearing for October 13, 2011 to hear public comments regarding the proposal Regional Water Supply Plan. The motion was approved by unanimous consent.

B. Ordinance to Grant a Lease of Public Property – Schedule Public Hearing:

Bob Panek stated that a Work Session had been held and Council directed the Town Manager to proceed with research regarding leasing public property at the Harbor for construction and operation of a casual seafood-themed restaurant. The Code of Virginia was rather complex and required a public hearing be held prior to disposal of real property and such lease had to be advertised for competitive bid and then be made pursuant to an ordinance adopted by Council. Advertisements were published in the September 4th edition of the Virginian Pilot and the September 7th edition of the Eastern Shore News as well as on the Town's website. The advertisement was scheduled to appear again in the September 14th edition of the Eastern Shore News. Bids, including an operational concept, were due on September 29th and must be opened in public session. A Special Meeting of Council had been scheduled for September 29th to accomplish this. Staff would evaluate the bids, make inquiries if necessary and a recommendation would be made to Council at the October 13th Regular Meeting. After the Public Hearing, Council could adopt the ordinance awarding the lease to the highest bidder or to a lower bidder if it was considered in the best interest of the Town by a recorded majority vote of Council.

Councilwoman Natali pointed out that the draft ordinance did not include language that the Town could award the contract to a lower bidder. Bob Panek stated that the ordinance would be modified if Council opted to award the contract to a bidder other than the highest bidder including the reasons why this decision was made.

Councilwoman Natali expressed her concern that there wasn't a clause in the Terms and Conditions regarding termination of the lease for non-payment of rent after a certain number of consecutive months. Bob Panek stated that this would be covered under #13 – Other which covered default. An attorney would draft a standard lease which would be provided to Council for review prior to execution.

Councilman Bennett asked whether it was clear to the bidder that they would be responsible for the cost to construct the restaurant as well as making monthly lease payments to the Town. Bob Panek stated that this information was included in the advertisement and added that a copy of the advertisement would be emailed to Council.

Heather Arcos asked about the removal of the concrete ramp at the Harbor. Bob Panek stated that the ramp and platform was in the process of being removed to clear the area for the restaurant.

Councilwoman Natali asked about the Town's walkway around the Harbor and whether the Town would build a walkway in this area. Heather Arcos stated that the Town had budgeted for a 12' boardwalk around the Harbor. Smitty Dize added that the work on the boardwalk would begin next month. Bob Panek stated that there was a 30' setback requirement and the Town was building a 12' walkway around the Harbor which would leave 18' if the bidder wanted to build a deck for outdoor seating. There was much discussion regarding the 30' setback and whether chairs should be permitted. Tom Bonadeo stated that the 30' setback was for a permanent structure and did not prohibit a deck or walkway.

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to schedule a public hearing for October 13, 2011 to hear public comment regarding leasing public

property for a restaurant at the Harbor. The motion was approved by unanimous consent.

C. Re-appointment of Building Code Board of Appeals Member:

Heather Arcos stated that the Building Code Board of Appeals heard appeals concerning the Uniform Statewide Building Code and was comprised of five members serving five-year terms. There was one member, Matthew Brown, whose term would expire on September 10, 2011 and he had expressed an interest in continuing his service on this Board.

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to reappoint Mr. Matthew Brown to the Building Code Board of Appeals for another term. The motion was approved by unanimous consent.

Vice Mayor Bannon asked how many vacancies were on the Town's Boards and Commission. Libby Hume replied that currently there was one vacancy on the Planning Commission and one vacancy on the Historic District Review Board. Tom Bonadeo added that two applications had been received for the Planning Commission and interviews would be scheduled for Council to review the applications.

D. Accomack-Northampton Regional Long Range Transportation Plan 2035:

Tom Bonadeo informed Council that VDOT commissioned a contractor to develop a long range transportation plan for all regions of the state and the ANPDC had been working with the contractor with input from the localities. Tom Bonadeo stated that the ANPDC Regional Long Range Transportation Plan had been included in the Council packet for review by Council for informational purposes only. The At-Grade crossing at Fig Street, roundabout, cloverleaf at Route 13 and Old Cape Charles Road upgrade were included in this plan but were not included in the six-year plan.

E. Federal Highway Safety Grant 2011/2012:

Heather Arcos stated that in March 2011, the Town submitted an application requesting \$8,570 for FY 2011/2012 for various items for the police department. On August 25th, Chief Brown attended a meeting and received notification of a grant award in the amount of \$6,073 for an in-car video camera system, 150 selective enforcement hours and two officers to attend the Mid-Atlantic DUI Conference.

Councilman Bennett noted that the Town requested about \$5K for an in-car camera and received about \$2500 and asked whether a camera could be purchased for that amount. Chief Brown stated that he had asked for the cost of the top-of-the-line camera which was more secure with more available features. There were several lesser quality cameras available in the \$2,500 – 2,600 range.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to authorize the Town Manager to execute the Highway Safety Grant Agreement and any other necessary documents relating to the administration of this grant. The motion was approved by unanimous consent.

F. Public Works Maintenance Building Slab:

Dave Fauber stated that an Invitation for Bids for the installation of a concrete slab for the new Public Works Maintenance Building was published in the Eastern Shore News with a bid submission deadline of August 3, 2011. No bids were received. Dave Fauber added that since no bids were received, he called three contractors known to do concrete work in the area. One bid was received from Micor Enterprises for \$9,600 for labor only. The Town

would supply the materials. Micor Enterprises had done some work for the Town previously and they were a reputable company.

Mayor Sullivan asked whether the building would include a lunch room for the Public Works crew. Dave Fauber stated that this building would be used primarily for equipment storage and a lunch area may be set up in the Quonset hut.

Councilman Bennett asked whether a design was drafted and survey performed for the site. Dave Fauber stated that Shore Engineering surveyed the site and drew the slab for the building. Councilman Bennett expressed concern that the design was drawn without soil borings being done. Dave Fauber stated that Shore Engineering did not anticipate any problems with the site.

Motion made by Councilwoman Natali, seconded by Councilman Veber, to award the Public Works Maintenance Building Slab contract to Micor Enterprises in the amount of \$9,600. The motion was unanimously approved.

ANNOUNCEMENTS:

- September 13, 2011 – Town Council Work Session @ 6PM
- September 14, 2011 – Eastern Shore Broadband Authority Public Meeting, 2PM @ Accomack Airport
- September 22, 2011 – Joint Public Hearing with Planning Commission @ 6PM
- September 22, 2011 – Town Council Work Session, Immediately following Joint Public Hearing
- September 24, 2011 – Annual Fall Festival
- September 29, 2011 – Town Council Special Meeting @ 6PM
- October 7-9, 2011 – Annual Birding Festival
- October 13, 2011 – Town Council Regular Meeting @ 6PM
- October 22, 2011 – Annual CBES Between the Water Bike Tour
- October 27, 2011 – Town Council Work Session @ 6PM

Motion made by Councilwoman Natali, seconded by Councilman Bennett, to adjourn the Town Council Regular Meeting. The motion was approved by unanimous consent.

Mayor Sullivan

Town Clerk