



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
August 11, 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, Evans and Veber and Councilwoman Natali. Councilman Sullivan was not in attendance. Also in attendance were Town Manager Heather Arcos, Consultant Bob Panek, Town Planner Tom Bonadeo, Town Treasurer Jo Anna Leatherwood and Town Clerk Libby Hume. The majority of the Department Heads were also in attendance along with 4 members of the public.

A Councilwoman Natali gave the invocation followed by the Pledge of Allegiance.

PUBLIC COMMENTS:

Ms. Carol Evans, 645 Tazewell Avenue

Ms. Evans stated that she was in attendance representing the Eastern Shore of Virginia Tourism Commission (ESVTC) and gave her monthly report as follows: i) The Eastern Shore Tourism Commission had several placements in various media outlets such as About.com; Peter Greenway Worldwide, which was a travel television show; Magazine for Women; and the Washington Post which did several articles on space tourism; ii) A photographer for the National Culinary Magazine was scheduled to be in Cape Charles and Onancock on August 17th; iii) Photographers would also be on the shore taking photos of historic sites such as Eyre Hall, Bay Creek, Ker Place, Mallard's and other locations for the Virginia Tourism Corporation (VTC) Travel Guide; iv) Business owners needed to send several pictures for the kiosk at the Chesapeake Bay Bridge Tunnel. The first year was free and all business owners were invited to participate; v) 2011 Travel Guides were still available. The ESVTC was currently working on the 2012 Travel Guide; and vi) Applications were now available for the VTC Marketing Leverage Program. Ms. Evans thanked the Council for the opportunity to provide them this update and asked whether there were any questions. There were none.

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

CONSENT AGENDA:

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

The Town Council reviewed the minutes of the July 14, 2011 Regular Meeting, the July 21, 2011 Work Session, the July 21, 2011 Executive Session and the July 28, 2011 Work Session.

Vice Mayor Bannon stated that he had notified the Town Clerk of two name corrections for members of the Library Board and Friends of the Library for the July 21, 2011 Work Session.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to approve the minutes for the July 14, 2011 Regular Meeting, the July 21, 2011 Work Session, the July 21, 2011 Executive Session and the July 28, 2011 Work Session as amended. The motion was approved by unanimous consent.

REPORT PRESENTATIONS:

C. Recreation Report:

Community Events/Recreational Coordinator Jen Lewis apologized for not getting her monthly report in the Council packet explaining that she had been very busy with the various activities regarding the Town's 125th Anniversary Celebration. Jen Lewis distributed copies of the 125th Anniversary Celebration Event Guide to the Council members and went on to report the following: i) She visited all the businesses in Town after the Kick-off weekend and the majority of businesses reported a good weekend business. Veneto's Pizza had a one hour wait for pizzas; and ii) The New Roots Garden Party went well and the kids had a great time. Two beds have been constructed and the shed was done with the exception of the roof. The garden organizers had decided to wait until the spring to plant.

Heather Arcos thanked Jen Lewis and Smitty Dize for all their hard work in making the 125th Anniversary Kick-off weekend and Buy Boat Reunion such a success.

Jen Lewis informed Council that Librarian Ann Rutledge was not able to attend this evening and reported the following regarding the Library: i) The magician was hilarious and the 43 kids in attendance had a great time; ii) There were only 11 kids in attendance at last night's Movie Night, which was the lowest attendance for any of the movies; and iii) The Library had been checking out books and movies to visitors on an honor system which had been working out nicely. The visitors were all very appreciative in their ability to check out books in this manner.

Vice Mayor Bannon asked about the status regarding the ability for the Town to show outdoor movies. Jen Lewis stated that she would begin working on this activity adding that the fall would be a great time to show outdoor movies. Jen Lewis stated that she believed that the Citizens for Central Park would help the Town with the expense of purchasing a screen.

A. Town Manager's Report:

Town Manager Heather Arcos thanked all staff for all their hard work in making the past weekend such a success and went on to report the following: i) A letter from the Mayor was sent to the Eastern Shore News thanking all the sponsors and volunteers of the Buy Boat Reunion and 125th Anniversary Kick-off weekend. A Special Edition Gazette was also sent out; ii) There was a correction to an item in the Town Manager Report which was included in the Council packet regarding a meeting in August for the members of the homeowners' association (HOA) to vote on the golf cart issue. There was no planned meeting for the members to vote, but voting members of the HOA had been provided basic information on the Golf Cart Path and would gather opinions from their respective community members and convey those opinions to the HOA Board of Directors which were scheduled to meet in September; iii) Don Slater, from WAVY TV-10, was the special speaker at this afternoon's Cape Charles Rotary Club meeting. Mr. Slater informed the attendees that he had not been in Cape Charles in 15 years and was amazed at the changes; iv) Staff was working with Northampton County to update the County's Emergency Plan which had not been updated since 2005; v) The three flag poles donated by Bayshore Concrete were being installed at Central Park. The Citizens for Central Park donated \$1K and the Friends of the Cape Charles High School donated \$500 toward the project; vi) Governor McDonnell issued a Press Release announcing that we received \$37K from the VTC Marketing Leverage Grant for our marketing effort targeting the Hampton Roads Region; vii) Senator Mark Warner would be at the Cape Charles Coffee House on August 16th beginning at 5PM to hold a round-table meeting. An email was sent to all Council members and please RSVP to Libby Hume so she can notify Senator Warner's staff of the number planning to attend; and viii) the Eastern Shore of Virginia Festivals Organization have agreed to work with the County regarding OpSail 2012 and the Tall Ships Initiative and would be hiring an executive director to work on this project.

Councilman Veber stated that he had talked to several of the Shriners that came to Cape Charles for the 125th Anniversary Celebration Parade and they were all very excited with the reaction they received from the public. They said there was a great enthusiasm in the crowd and they wanted to come back again.

Tom Bonadeo stated that he helped Ms. Marie Brady with the parade on Saturday morning and when the first vehicles were finished with the parade, the last vehicles were still not past the starting line. It was a huge effort and he commended Ms. Brady for all her hard work in organizing the parade and getting the numerous participants.

B. *Treasurer's Report:*

Treasurer Jo Anna Leatherwood report dated June 30, 2011 showed \$505,795 in the Bank of America checking account and \$1,994,776 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$2,500,571. Treasurer Jo Anna Leatherwood went on to report the following: i) Notification was received from the Commissioner of Revenue that Northampton County had finished their land book and that the County would try to pull the information together and forward it to the Town prior to their scheduled move back to Eastville. Jo Anna Leatherwood went on to state that she would like the Town to be able to mail the tax bills to the residents early to allow them more time to pay prior to the December 5th deadline; ii) The Northampton County had forwarded their delinquent tax list to their attorney for collections and Landmark Holdings was first on the list. Landmark currently owes the Town \$26K in back taxes, but the delinquency did not date back three years. Taxes must be delinquent for at least three years before the Town could pursue legal action to collect.

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

D. *Library Report:*

Librarian Ann Rutledge was not in attendance.

E. *Harbor Report:*

Heather Arcos stated that Harbor Master Smitty Dize was off today and wanted to thank everyone for all their help on the Buy Boat Reunion and activities. There are still some t-shirts available for sale at the Harbor.

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 which was included in the Council packet and asked whether there were any questions regarding his report. Councilman Bennett stated that the report showed that the ground water withdrawal permit would be issued by the DEQ upon adoption of the new water and wastewater codes which was done several months ago and asked what was causing the delay. Dave Fauber apologized that the report had not been updated and explained that testing was being performed on the ground water and results were being submitted to the EPA.

Mayor Sullivan stated that a property owner and part-time resident in Town, who is a professor from Pennsylvania, had requested a tour of the new wastewater treatment plant and asked Bob Panek the outcome of their tour. Bob Panek stated that he had taken the gentleman, who was a nationally known architectural historian, on a tour of the plant and he loved what was being done.

G. *Code Enforcement:*

Code Enforcement Officer Jeb Brady stated that he did not have any additional information to add to his written report and there were no questions from Council.

H. *Planning Report:*

Town Planner Tom Bonadeo reported that the conduit for the broadband project was laid along Mason Avenue and to the Harbor. The Broadband Management Team was scheduled to meet next Tuesday and he would find out when the pulling and splicing of the fiber would begin.

Vice Mayor Bannon asked when the Mason Avenue work would be completed. Bob Panek stated that the contractor should be finished by the end of August. Everything was in the ground and the contractor was working on the fence line.

OLD BUSINESS:

A. *Technology Zone:*

Tom Bonadeo stated that Council had discussed the Technology Zone Ordinance at previous meetings and that the proposed language for the Technology Zone Ordinance, and an administrative flowchart and another "procedure document" from the Town of Kilmarnock was included in the Council packet for review by Council to aid in answering any questions about the Technology Zone in preparation for a final work session. Tom Bonadeo stated that discussion was needed regarding the size of business that the Town would like to attract and added that the Town of Kilmarnock gave a business up to 12 months after opening to apply for the Technology Zone incentives.

Councilman Bennett stated that he did not want to spend a lot of time on this topic since a work session would be scheduled but referred to Kilmarnock's procedure which stated that a business that was delinquent in taxes would forfeit any rebate or exemption for that tax year if the administrator determined that the delinquency was "significant." Councilman Bennett went on to express his concern about the term "significant" and added that he did not want this included in our ordinance. Tom Bonadeo stated that he liked the provision regarding the delinquent taxes, but agreed with the use of the word "significant."

Councilman Bennett also expressed his concern with the inclusion of "marine products" in the definition of a "Qualified Technology Manufacturing Business" in Section 3, stating that "marine products" was so vague that it could include anything. Tom Bonadeo stated that this was added as suggested at the last work session and was intended for marine technology. There was some discussion regarding this issue and Councilwoman Natali suggested this be changed to show "marine-based technology."

There was also much discussion regarding the "Qualified Business" sub-section under Section 3-Definitions.

Tom Bonadeo asked Council to send him emails regarding any concerns they may have so he could compile all the issues to be discussed at the work session.

Mayor Sullivan stated that she would like to take a moment to present a recognition award to Police Chief Sambo Brown for 10 years of service to the Town.

NEW BUSINESS:

A. *Proclamation for Melvin Dudley:*

Mayor Sullivan welcomed Mrs. Janet Dudley and informed the attendees that she, the Town Council, the Town Manager and Town staff were here this evening to honor Mr. Melvin Dudley and read the Proclamation in Memoriam Remembering the Late Melvin Reeder Dudley, Jr.

Mayor Sullivan moved for adoption of the Proclamation in Memoriam Remembering the Late Melvin Reeder Dudley, Jr. The Proclamation was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Veber, yes.

B. *IT Support Services Contract:*

Heather Arcos stated that a request for proposals was advertised in the Eastern Shore News on July 2, 2011 as well as on the Town's website with a proposal submission deadline of July 18th. Two proposals were received from Bay Creek Communications and the Betis Group. The IT Services Committee, comprised of herself, Councilman Sullivan, Town Planner Tom Bonadeo and Town Clerk Libby Hume, reviewed and evaluated the proposals using a weighted scoring system and both contractors were interviewed. Heather Arcos stated that both companies were very good and qualified, but after finalization of the scoring process, it was determined that the best qualified contractor to provide IT Services to the Town was Bay Creek Communications. A confidentiality agreement would be prepared and be included as part of the IT Services contract.

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to authorize the Town Manager to execute a two-year IT Services contract with Bay Creek Communications. The motion was approved by unanimous consent.

Mayor Sullivan introduced Mr. Mike Aquino and thanked him for his interest in working with the Town to provide this service.

C. *Request for Proposals – Local Town Attorney:*

Heather Arcos stated that, in 2009, Paul G. Watson IV was appointed as the local Town Attorney for a two-year contract which will expire on September 1, 2011. Per the Town's procurement policies and procedures, another Request for Proposals (RFP) must be advertised.

Motion made by Councilman Evans, seconded by Councilman Bennett, and unanimously approved to authorize the Town Manager to advertise a Request for Proposals for a Local Town Attorney.

D. *Virginia Department of Health Planning and Design Grant:*

Bob Panek informed Council that the Town applied for and was awarded a Virginia Department of Health (VDH) Planning and Design Grant last year but were unable to use the funds since the procurement process for our current engineering consulting firm did not specifically solicit Disadvantaged Business Enterprises (DBE), which was a requirement of VDH. The Town was now in the process of re-competing the waterworks engineering contract through competitive negotiation procedures and the Request for Proposals has been advertised in DBE-focused media and proposals were due on August 22nd. The VDH recently announced the opportunity to apply for the next round of competitive Planning and Design Grants of up to \$30K with an application deadline of August 26th. Council's approval was needed to apply for this grant and authorize the Town Manager to sign the documents required for said grant.

Mayor Sullivan moved for adoption of Resolution #20110811 – Authorizing the Application for a Grant from the Virginia Department of Health. Resolution #20110811 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Veber, yes.

E. *Delinquent Tax Collections:*

Jo Anna Leatherwood stated that James W. Elliott had been handling the collection of delinquent real estate taxes for Northampton and Accomack Counties as well as some of their towns. Mr. Elliott's fees were a portion of the amount of taxes owed and were deducted from the proceeds of the tax sale. If the proceeds were insufficient to pay his fees, the Town would be responsible to pay the difference.

A list of properties that qualify for tax collection was prepared and there were 30 properties with assessed values over \$100K, with the total amount due, including penalty and interest, of \$50K. Properties valued at under \$100K could be sold after two years and there were six properties fitting this category with a total amount due of \$2,859.

Per Council's request, Jo Anna Leatherwood asked Mr. Elliott whether there was anything in the Code of Virginia to prevent the Town from acquiring a tax delinquent property vs. forcing a tax sale. Mr. Elliott stated that there was nothing in the Code of Virginia but such an action would have the appearance of being an underhanded deal since the property would probably bring more money through a tax sale.

Jo Anna Leatherwood continued by stating that she had asked whether a property could be sold for unpaid utilities vs. taxes. Mr. Elliott informed her that if a property owed delinquent utilities in addition to taxes, the amount owed could be included as part of the tax sale but the Town could not force a sale if no taxes were owed.

Jo Anna Leatherwood continued by reviewing the process and the contract which could be terminated with 30 days' written notice from either party. Jo Anna Leatherwood stated that she had spoken to one of Mr. Elliott's law clerks who recommended a clause be added to the contract, since Mr. Elliott also represents Northampton County, that if both the Town and County submit a property for tax collection, Mr. Elliott could represent both parties simultaneously and both parties could get paid.

Councilman Bennett asked several questions as to why the Town would choose Mr. Elliott, why the Town did not have to go through the RFP process to hire an attorney to represent us in tax collection since we have to go through the process to hire a local attorney, and expressed his concern with Mr. Elliott's fees being a portion of the amount of taxes owed and the fact that the Town would be responsible for paying the difference if the sale proceeds were insufficient. Councilman Veber agreed. There was much further discussion regarding this issue and the properties qualifying for tax collection and whether the Town's attorney could handle the tax sales and/or place liens on the properties so the taxes could be collected at time of property transfer.

Motion made by Councilman Evans, seconded by Councilman Veber, and unanimously approved to table this issue until more information has been gathered to answer the numerous questions and concerns of Council.

F. *PNC Bank Tax Anticipation Loan:*

Jo Anna Leatherwood stated that, at the suggestion of former Councilman John Burdiss, the Town had obtained a PNC Bank Tax Anticipation Loan in the amount of \$500K since lending institutions were no longer offering lines of credit. Any monies borrowed against this loan would have to be paid back in June of each fiscal year. Last year, the Town paid \$5K in legal fees for this process. Fortunately, the Town did not draw funds from this note so no repayment was needed. The loan must be renewed annually with the cost of legal fees being the responsibility of the Town. Proceeds from this loan have not been included in the FY 2011/2012 budget and staff believed that this contingency loan was no longer necessary and the Town had an ample credit rating to obtain a loan at a later date if needed. Council could assess this issue during the annual budget preparation meetings and take action at that time if necessary.

Motion made by Councilwoman Natali, seconded by Councilman Bennett, and unanimously approved to not renew the PNC Bank Tax Anticipation Loan and to include in future budget meetings discussion on whether or not the Town would need additional funds during the particular budget cycle and take action at that time if necessary.

G. *Zoning Ordinance Modifications:*

Tom Bonadeo stated that the Planning Commission had been working on modifications to several sections of the Zoning Ordinance and proceeded to review the modifications to Sections 3.2 and 4.0 regarding "Home Occupations" and Section 2.9 regarding the definition of "Agriculture." A public hearing must be held prior to the adoption of any changes to the Zoning

Ordinance and Tom Bonadeo stated that the Commissioners requested a joint public hearing be held to hear comments regarding the discussed modifications.

Motion made by Councilwoman Natali, seconded by Councilman Bennett, to schedule a joint public hearing with the Planning Commission to hear comments regarding the proposed modifications regarding "Home Occupations" and the definition of "Agriculture" for September 22, 2011. The motion was approved by unanimous consent.

ANNOUNCEMENTS:

- August 25, 2011 – Town Council Work Session @ 6PM
- September 3, 2011 – Chamber of Commerce Harbor Party
- September 4, 2011 – Unveiling of the Historical Marker at the Cape Charles Museum @ 4:30 PM
- September 4, 2011 – Birthday Party at the Park @ 5PM
- September 5, 2011 – Town Offices Closed in Observance of Labor Day
- September 8, 2011 – Town Council Regular Meeting @ 6PM
- September 22, 2011 – Town Council Work Session @ 6PM
- September 24, 2011 – Annual Fall Festival

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