



TOWN COUNCIL Special Meeting

Town Hall
June 23, 2011
6:00 PM

At 6:03 p.m., Vice Mayor Chris Bannon, having established a quorum, called to order the Special Meeting of Town Council. In addition Vice Mayor Bannon, present were Councilmen Evans and Sullivan and Councilwoman Natali. Mayor Sullivan and Councilmen Bennett and Veber were not in attendance. Also present were Town Manager Heather Arcos, Director of Public Works / Utilities Dave Fauber, Town Planner Tom Bonadeo, Town Treasurer Jo Anna Leatherwood and Town Clerk Libby Hume. There were no members of the public in attendance.

Heather informed Council that Councilman Bennett emailed her this morning to explain that he had been called out of town on unexpected business. Councilman Veber had a death in the family and was on his way to Chicago.

A. *Contract Award for Public Works Maintenance Building*

Heather Arcos stated that on May 17th the Historic District Review Board (HDRB) reviewed the proposed materials and design of the steel building for the Public Works Maintenance Building. The HDRB approved the building with the addition of 2' overhangs on all sides, a painted metal roof with a 4/12 pitch and colors compatible with the surrounding landscape. Heather Arcos reviewed the color selections and showed samples on the color chart. The roof color would be burnished slate, the wall and corner trim would be light stone and the frame opening trim would be white. Heather Arcos added that the Town would look at adding landscaping, etc. in the future. Councilwoman Natali stated that she was surprised that such a dark color was chosen for the roof adding that it would be hot in the summer. Tom Bonadeo explained that the roof would have 4" insulation which would help with the temperature.

Councilman Evans asked if the building would be used strictly for equipment storage to which Dave Fauber replied that initially it would be used for storage but there were plans to create an office in the building for the foreman as well as a lunch room for the crew. The Town would continue using the Quonset hut as the shop.

Heather Arcos explained that there would be two separate bids because the funding was coming from two different budget years. The cost of purchasing the building would be funded from the FY 2010/2011 budget and the cost of installation would be funded from the FY 2011/2012 budget. Arco Building Systems, Inc. was the lowest bidder for both the building and installation. Their bid for the building was \$28,293 and installation was \$9,282. Dave Fauber added that the contract for the installation would be with Jacob Brothers Contracting, Inc. who was affiliated with Arco Building Systems, Inc. The Town would either contract with a local company to install the slab or do it in-house.

Motion made by Councilman Sullivan seconded by Councilwoman Natali to award the contract to purchase the steel building to Arco Building Systems, Inc. at a cost of \$28,293 and the contract to erect the building to Jacob Brothers Contracting, Inc. at a cost of \$9,282. The motion was approved by unanimous vote.

B. *Adopt Ordinance for Town Code Modifications to Golf Cart Ordinance*

Tom Bonadeo stated that Council approved the proposed modifications to Town Code Sections 42-31 and 42-49 through 42-56 at the June 9th Regular Meeting. In order to officially adopt any changes to the Town Code, an Ordinance must also be adopted. This process was inadvertently omitted at the June 9th meeting. Staff requested Council adopt Ordinance 20110623 To Modify Cape Charles Town Code Sections 42-31 and 42-49 through 42-56 – Golf Cart Ordinance.

Councilman Evans expressed his concern regarding Section 42-51 (1) requiring lights only if the golf cart would be driven between sunset and sunrise adding that he felt it was a safety issue and lights should be required in all cases. Tom Bonadeo explained that typically, golf carts did not have brake lights since they were used on golf courses and the Town had never mandated lights but added that very few golf carts in Town did not have lights installed. Vice Mayor Bannon added the he had not seen or heard many golf carts out at night.

Councilman Evans went on to express his concern regarding Section 42-51 (5) which required a speed governor if gasoline powered and asked why the Town did not state the maximum speed allowed for a golf cart in the ordinance and why it was required only for gasoline powered carts. Councilwoman Joan Natali pointed out that Section 42-52 (1) stated that the golf carts could only travel on streets with speed limits up to 25 MPH so the maximum allowable speed would be 25 MPH. Tom Bonadeo explained that the Town did not dictate the speed for the governor since there was no way to confirm it. If a golf cart is caught going over 25 MPH, the police officers could issue a speeding ticket. Tom Bonadeo added that if a gas powered golf cart was going downhill, as on the hump, it would pick up speed unless there was a governor to control the speed.

There was much discussion regarding both issues and Councilman Evans stated that he felt they were safety issues and that the ordinance was too vague. Heather Arcos stated that Police Chief Charles Brown had reviewed the modifications and did not express any concern regarding these issues and explained that these sections of the Town Code were already approved at the June 9th meeting and if additional changes were made, the Town would have to hold another public hearing before these additional changes could be approved. Councilman Evans stated that he would vote to approve the current ordinance but felt that the Town should begin work to make these additional changes.

Vice Mayor Bannon moved for adoption of Ordinance # 20110623 To Modify Cape Charles Town Code Sections 42-31 and 42-49 through 42-56 – Golf Cart Ordinance. Ordinance #20110623 was adopted by unanimous vote. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes.

C. *Line of Duty Act Resolution*

Heather Arcos informed Council that the Virginia State General Assembly mandated that effective July 1, 2011 all localities would be responsible for paying the Line of Duty Act (LODA) obligations for paid and volunteer emergency services personnel to include law

enforcement, fire and rescue, etc. In the FY 2011/2012 Budget, Council included funding for the five police officers and the active volunteers in the Cape Charles Volunteer Fire Company (CCVFC). Recently, County Administrator Katie Nunez notified the Town that the County would pay the cost for all volunteer fire fighters in Northampton County. The County would probably request a contribution from the Town towards payment for the CCVFC for FY 2012/2013 but County had funded this item for the upcoming year.

Heather Arcos asked Council whether they had a chance to review the letter from County Administration Katie Nunez regarding the County's decision on this matter and went on to state that staff researched the option of staying with the current LODA Fund which was administered by the Virginia Retirement System for the State of Virginia and explained that many localities were opting to participate in an alternate program through the Virginia Municipal League (VML). In order to participate in the alternate program, the municipality cannot have any outstanding unresolved claims. Since there were no unresolved claims, the premium costs were less than the premiums for the LODA Fund. At this time, staff felt that the VML program was the best option for the Town and recommended adoption of a Resolution to opt out of the LODA Fund.

There was some discussion regarding the vagueness of the VML FAQ sheet which was included in the agenda packet. Councilman Sullivan expressed his concern that for many questions the answer was "LODA provides no statutory guidance."

After further discussion, Vice Mayor Bannon asked the Council their consensus with the VML program.

Hearing no objections, Vice Mayor Bannon moved for adoption of Resolution #20110623 Irrevocable Election Not to Participate in Line of Duty Act Fund. Resolution #20110623 was adopted by unanimous vote. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes.

D. *Technology Zone*

Heather Arcos stated that the Technology Zone and Tourism Zone items were included as action items on the agenda in case Council felt ready to set a public hearing, but since several members were absent and in light of the letter from South Port, she was recommending that these topics be for discussion only at this meeting. Tom Bonadeo agreed that he did not think these ordinances were ready for public hearing and that more input was needed and that he would prefer to forward the completed ordinances to Vandeventer Black for their review before moving forward with a public hearing.

Tom Bonadeo stated that the Planning Commission had reviewed Technology Zone language from 21 localities in order to develop this draft. Tom Bonadeo reviewed the proposed ordinance by section explaining the reasoning behind each item. Tom Bonadeo added that once the Town's ordinance was finalized, he would like to lobby Northampton County to adopt a similar ordinance since the Town's taxes amounted only to approximately one-third of the total taxes. Heather Arcos stated that she had talked to County Administrator Katie Nunez who informed her that the County did not have anything in place but would review the ordinance once it was finalized.

The Council reviewed the letter from South Port Investors. Concern was expressed whether boat building and marine equipment production could be defined as technology businesses. These terms were vague and could include the manufacture of ropes or anchors which would not be considered as technology businesses. There was some discussion regarding permitting a boat building operation in Town and Councilwoman Natali stated that several years ago, she thought the Town denied permission for a boat building operation but at the time had agreed to allow the individual to bring in pre-made boat hulls for completion and outfitting. There was some discussion regarding what constituted technology and why call the zone a technology zone if boat building, etc. was included. It would be more appropriately called a manufacturing zone. Tom Bonadeo stated that Technology Zone was not defined in the Code of Virginia and added that, as an administrator, it could be difficult to justify the inclusion of a boat building business in the technology zone.

There was also much discussion regarding the request to reduce the threshold for a non-manufacturing business from 25 new full-time employees with a \$1M capital investment to three or five full-time employees with a capital investment of \$25K or \$50K. The consensus was that the investment of \$50K and three to five employees was not considered a significant investment to qualify for possible incentives.

E. *Tourism Zone*

Tom Bonadeo reviewed several Tourism Zone scenarios explaining that the investment amounts were less due to the types of businesses being more retail or service related.

Councilman Sullivan asked what would happen if a business qualifying for either the Technology or Tourism Zone incentives opened in Cape Charles and met the criteria for the first year but failed to meet the criteria for following years. Tom Bonadeo stated a procedural manual would be developed vs. putting all the details in the Code. Tom Bonadeo went on to explain that an annual review would be completed by the administrator to ensure that all criteria had been met. Councilwoman Natali suggested a different percentage for incentives each year. Tom Bonadeo stated that some localities added incentives if a business added employees. If the business went below the minimum number of employees, it would lose the grant. Tom Bonadeo recommended starting at 50% incentives for the minimum number of employees increasing the percentage as the number of employees increased. The City of Winchester gave 100% the first year, 80% the second year, 60% the third year, etc. The Planning Commission had reviewed ordinances from a number of localities and most seem to decrease the percentage each year. Heather Arcos stated that these ordinances should not be finalized and sent to public hearing until the procedures had been written and put in place.

Vice Mayor Bannon stated that the contract would have to be specific in detailing the number of employees, the investment, etc. Councilman Sullivan agreed.

There was some discussion regarding the concession to Bayshore Concrete under the Annexation Agreement in the form of a reduced tax rate. Tom Bonadeo explained that the reduction was for a period of 10 years which had expired. Councilman Evans stated that after the expiration of the 10 year-period he believed Council had voted to reduce the rate for the machinery and tool tax. Jo Anna Leatherwood stated that manufacturing businesses had reduced rates which were stated in the Town Code. Heather Arcos added that staff could review the old Town Council minutes from that period but it would be beneficial to have a timeframe since the old minutes were not available in electronic form and not easy to search.

There was some discussion to determine the timeframe for this rate reduction. Libby Hume would check the minutes from 2001 and 2002.

Tom Bonadeo summarized the evening's discussions as follows: i) \$25K - \$50K too small of an investment to qualify for incentives; ii) declining scale of incentives; iii) annual review of the business under this grant program; iv) look at increasing grants to stimulate business; v) look at operations manual and contract requirements prior to scheduling a public hearing; vi) legal review of the ordinance, operations manual and contract requirements; and vii) obtain input from Councilmen Bennett and Veber who were unable to attend this evening's meeting.

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

Vice Mayor Bannon

Town Clerk