



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
May 12, 2011
Immediately Following the Public Hearing

At 6:05 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 Evans and Sullivan and Councilwoman Natali. Councilmen Bennett and Veber were not in attendance. Also in attendance were Town Manager Heather Arcos, Consultant Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume. The majority of the Department Heads were also in attendance along with 9 members of the public.

Vice Mayor Bannon asked for a moment of silence and led the Pledge of Allegiance.

PUBLIC COMMENTS:

Stefani Hadden, 109 Monroe Avenue:

Ms. Stefanie Hadden addressed the Council regarding the leveling of sand dunes to install a volleyball court at the beach stating that she and the other residents to whom she had spoken were unaware of these plans to create a permanent volleyball court on the beach. Ms. Hadden stated that she thought it was a bad thing to destroy an existing dune, which was performing as it should, to put in a volleyball court. She added that she thought beach volleyball was a great activity but she had a problem with the destruction of our fragile, skinny beach to put in a permanent volleyball court and asked what permanent meant. She continued to state that she was especially disturbed to hear that bleachers were also being installed. Cape Charles beach did not have room for a volleyball program and she did not understand where it was coming from. This is not Virginia Beach and we did not have a thousand feet of beach to work with and she was concerned about the Town so easily mowing down a sand dune to create this volleyball court. She had heard that it was a man-made dune so it was okay to disturb it, but she did not understand where that was coming from either. She was told that the Wetlands Board approved it but she still did not think this was a good idea. We just had to accept the fact that we had a very tiny, fragile beach here in Town. It was a public beach but it was not big enough for a volleyball program. What would be next? Horseshoe courts and corn hole games on the beach? We should not disturb the beach. It should be left for swimming and water activities and picnicking. Ms. Hadden added that she thought it was unfortunate that this project had already begun without everybody knowing about it. There should have been a sign posted on the beach to notify everyone of what was happening, especially for the homeowners who just bought the house across the street. She did not think the new homeowners were aware of what had happened and if she were those people, she would be upset because a lot of people parked there for beach volleyball in the evenings and they brought lots of friends. This was a big event and she did not think we have room to encourage a bigger volleyball program. This was not a broad beach where we had plenty of room. Plus, the public was not given an opportunity to suggest other alternatives, like Butler's Bluff beach or the Bay Creek beach. It set a bad precedent when the Town destroyed our dunes without public comment, which was why she was here tonight. Ms. Hadden stated that she was not in favor of this and she was also not in favor of moving the beach access through the volleyball court. It would cause all kinds of problems because it was a very congested area when they were playing volleyball. People brought big cars full of stuff and kids. She did go down to look at the spot and it did appear to be big enough for a volleyball court but it certainly was not. She did not think the Town should be encouraging a beach volleyball program. We could not do it all and we should not be trying to do it all to entertain every single soul who lived here and came here. We could not provide an activity for everybody. This was a beach. It was a beautiful, skinny beach.

Mayor Sullivan stated that she learned that the Town's Recreation Program would also use the court for summer programs for the Town and the children. Heather Arcos added that the Town had a volleyball program last summer and the attempt this year was to relocate the volleyball court to a location that would not take up so much of the beach. This area was a flat area and there were still dunes there to protect the beach.

Ms. Hadden asked whether the other dune would be torn down. Heather Arcos responded that no other dunes would be disturbed. The Town was utilizing a dune that had built out and a space that would not take away from the beach.

Ms. Hadden continued to state that she was worried about the other existing dunes and did not want to see a Cape Charles Volleyball Tournament where hundreds of people would be competing. It was just a bad idea. She went on to ask about the bleachers and what they would be constructed of and where they would be located and whether people would be all over the dune. Heather Arcos stated that the bleachers were used last year at the south end of the beach and that staff was discussing the possibility of putting them in this area or maybe leaving the area as it was so people could bring chairs, etc. Tom Bonadeo added that the bleachers had already been put in place and would remain for the summer. In the winter, they would be removed and new snow fence would be installed to gather more sand. Each spring and fall, snow fence would come and go as the seasons and the winds require so the dunes would not be diminished.

Ms. Hadden asked about the relocation of the beach access adding that she was informed that the Town would eventually close off this access. Tom Bonadeo stated that the beach access would not be closed off and nothing else would change.

Mayor Sullivan thanked Ms. Hadden for her comments and apologized that she did not have enough time to get back to her before she spoke this evening.

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

CONSENT AGENDA:

Mayor Sullivan announced several changes to the agenda as follows: i) New Business was moved prior to Old Business; ii) New Business item 7D was added – Building Safety Month Proclamation; and iii) Old Business item 6E would not be an action item.

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

The Town Council reviewed the minutes of the April 12, 2011 Work Session, the April 14, 2011 Public Hearing, the April 14, 2011 Regular Meeting, the April 20, 2011 Work Session, the April 27, 2011 Work Session, the May 4, 2011 Executive Session, the May 4, 2011 Work Session and the May 5, 2011 Work Session.

Councilwoman Natali stated that on page 5 of the April 14, 2011 Regular Meeting minutes, the second paragraph from the bottom, she had asked Ms. Bozza how many other towns contributed funding to support the Eastern Shore of Virginia Tourism Commission and she thought Ms. Bozza responded that the Town of Onancock had given additional money the first year but only the Town of Cape Charles had continued to donate additional money to the Commission on a yearly basis and asked Libby Hume to listen to the recording and make the appropriate corrections to the minutes to reflect this discussion.

Motion made by Councilwoman Natali, seconded by Councilman Evans, to approve the minutes for the April 12, 2011 Work Session, the April 14, 2011 Public Hearing, the April 20, 2011 Work Session, the April 27, 2011 Work Session, the May 4, 2011 Executive Session, the

May 4, 2011 Work Session and the May 5, 2011 Work Session as presented and the April 14, 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) She commended the Mayor and Council for all their hard work on the budget for FY 2011/2012. The budget was balanced without a tax increase. The minimum usage for water and wastewater was increased \$6. A Public Hearing would be held at 6:00 PM on June 2nd at the Town Hall and the advertisement would be in next Wednesday's newspaper; ii) Regarding the volleyball court, the Town Manager report stated that there would be two volleyball courts installed, but this was changed and there would only be one court; and iii) Copies of the Press Release for the Tall Ship visit on June 2 through June 7 were on the table if anyone wanted a copy. Everyone involved was working hard to pull everything together. On Friday, June 3rd, from 1:00 p.m. to 4:30 p.m., there would be free public tours of the ship. There would also be sailing opportunities for adults and children.

B. *Treasurer's Report:*

The Treasurer's report dated April 30, 2011 showed \$2,121,405 in the Bank of America checking account and \$994,668 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$3,116,072. Treasurer Jo Anna Leatherwood stated that there was nothing exceptional to explain regarding this month's report.

Motion made by Vice Mayor Bannon, seconded by Councilman Evans, to accept the Treasurer's Report as presented. The motion was approved by unanimous consent.

C. *Recreation Report:*

Mayor Sullivan stated that Community Events/Recreational Coordinator Jen Lewis was not in attendance this evening and asked if Council had any questions regarding her report. Heather Arcos added the following: i) Teen Night was scheduled for tomorrow evening beginning at 7:00PM at Central Park for a game of glow stick tag; ii) Jen was working on a cheerleading camp, adult and youth tennis lessons and other fund camps for the summer; and iii) The Garden Committee was focusing on raising funds to begin their project. Vice Mayor Bannon commented on the amount of money needed, which was estimated between \$12K-\$15K. Mayor Sullivan added that the Town had donated the land for the garden project and the Cape Charles Rotary Club had donated \$2K. The remainder of the funds would be raised from donations from other groups and individuals. The garden would be located by Rayfield's Pharmacy.

D. *Library Report:*

Librarian Ann Rutledge informed Council that some great summer activities had been planned such as magicians, storytellers, movies, etc. The current book display was pirate-themed to coincide with this weekend's events. The Friends of the Library were holding a book sale on June 11th. A professional face painter had been hired and the kids would be making ice cream art.

E. *Harbor Report:*

Harbor Master Smitty Dize reported the following: i) The new slips would be open and available for rental tomorrow, May 13th. The electric should be connected tomorrow and the water line should be connected within the next couple of weeks. An inspection was conducted this morning and a couple of minor issues were discussed; ii) The Black Drum tournament was scheduled for next weekend at the Town Harbor; iii) The Kalmar Nyckel was scheduled to arrive on June 2nd; and iv) Advertisements have been purchased in *Prop Talk* and *Spin Sheet* magazines which reach approximate 200K boaters on a monthly basis. Heather Arcos added that the Town received a \$10K grant for this advertising.

F. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber reported the following: i) A notification regarding the level of Trihalomethanes (THMs) in our drinking water was mailed to all residents. The last results for THMs were 2 parts per million over the acceptable limits. The water was safe for drinking. The Town would begin conducting quarterly flushes of the water system vs. semi-annually to help reduce these numbers; ii) The maintenance of the water tank had been completed and the tank was refilled and would be reconnected on May 13th. The Public Utilities staff worked hard to get the work completed by the end of May; and iii) The Mason Avenue Force Main project was moving along on target.

G. *Code Enforcement:*

Code Enforcement Officer Jeb Brady reported the following: i) Many residents may have seen the increased number of dumpsters on the street in Town. This was a good thing because construction was getting busy with renovations of older homes, retrofits and additions. People were taking a greater interest in fixing up older homes in Town. Some of the properties were foreclosures and people were taking advantage of the historical tax credits to fix them up. There were five applications to be reviewed by the Historic District Review Board this month. Also, a large commercial project renovating the former Cape Charles Hotel on Mason Avenue has begun and the project cost was estimated at approximately \$1.5M; and ii) The final walk-through was performed for the work at Central Park. There were still several issues to be resolved. A new company had been working for the past three weeks on the fountain to repair the leak in the pool. The final touches should be done on May 13th and the fountain should have water in it within the next week.

H. *Planning Report:*

Town Planner Tom Bonadeo reported the following: i) The Cape Charles Hotel had a new name and would be called Hotel Cape Charles. The company doing the renovations did a lot of work in the Richmond area; and ii) Five items would be reviewed by the Historic District Review Board. Most of the applications were for retrofits of existing homes in the Town.

Vice Mayor Bannon stated that 16 homes had been sold around his property over the past one and a half years. Councilman Evans added that the Fig Street Inn opened on May 6th with two available rooms for now.

NEW BUSINESS:

A. *National Safe Boating Week Proclamation:*

U. S. Coast Guard Auxiliary Flotilla Commander John Carey informed the Council that nationwide there were over 736 fatalities with 543 drownings. Approximately 84% of those who drowned were not wearing life jackets. Virginia ranked 6th in the nation for the total number of boating deaths and 10th in the nation for boating accidents. In 2009, there was over \$35M in property damage caused by recreational boating accidents. The week of May 21 – 27, 2011 had been named National Safe Boating Week.

Mayor Sullivan read Proclamation 20110512 Proclaiming May 21 – 27, 2011 as National Safe Boating Week.

Motion made by Councilman Evans, seconded by Councilman Sullivan, and unanimously approved to adopt Proclamation #20110512 Naming the Week of May 21 – 27, 2011 as National Safe Boating Week. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes.

B. *National Police Week Proclamation:*

Mayor Sullivan stated that in 1962, President John F. Kennedy signed Public Law 87-726 designating May 15th as Peace Officers' Memorial Day and the week in which May 15th fell as National Police Week. In honor of all law enforcement officers, the Town would adopt a proclamation for Peace Officers' Memorial Day and National Police Week.

Mayor Sullivan read Proclamation 20110512A Proclaiming May 15, 2011 as Peace Officers' Memorial Day and the week of May 15 – 21, 2011 as National Police Week.

Police Chief Charles Brown added that the Town had a fallen officer killed in the line of duty in the late 1800s who would be honored later this month.

Motion made by Councilman Sullivan, seconded by Vice Mayor Bannon, and unanimously approved to adopt Proclamation #20110512A In Honor of National Police Week. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes.

C. *Northampton County Tourism Infrastructure Grant:*

Heather Arcos stated that on November 9, 2010, the Town Council approved submission of a grant proposal to the Eastern Shore of Virginia Tourism Commission requesting \$7,500 for a Golf Cart and Bike Trail to provide safe access for golf carts and bicyclists to travel between the Bay Creek Golf Community and the Historic District. The grant application was submitted on November 19, 2010. On May 2, 2011, a letter was received from the Tourism Commission notifying us that the Town was awarded \$7,500 for the Golf Cart and Bike Trail project. There was no match for this grant and the Town would be performing the work in-house and had until the end of June to complete the project.

Councilwoman Natali asked what would happen if the Town was not completed with the project by the deadline. Heather Arcos responded that the Town could ask for a time extension in order to complete the project.

Motion made by Councilman Evans, seconded by Vice Mayor Bannon, to authorize the Town Manager to sign the contract accepting the grant funds as detailed in the contract. The motion was approved by unanimous consent.

D. *Building Safety Month:*

Mayor Sullivan stated that in a nationwide effort through the International Code Council, May 2011 had been named "Building Safety Month: An International Celebration of Safe and Sensible Structures." Mayor Sullivan asked for examples of safety issues. Jeb Brady stated that life and property loss, electrical and structural issues, structural collapse of decks, etc. The State of Virginia was being proactive and several localities have increased their inspections of existing decks to ensure structural safety. Mayor Sullivan added that she felt that the Town's enforcement efforts were much better than they used to be.

Councilwoman Natali asked if there was a need for the Town to inspect the existing decks. Jeb Brady responded that any upper level decks were newly constructed and he felt confident that they had been constructed to Code.

Mayor Sullivan read Proclamation 20110512B Proclaiming the Month of May 2011 as Building Safety Month.

Motion made by Vice Mayor Bannon, seconded by Councilman Evans, to adopt Proclamation #20110512B Proclaiming the Month of May 2011 as Building Safety Month. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes.

OLD BUSINESS:

A. *Wastewater Treatment Plant Construction Update:*

Consultant Bob Panek stated that a detailed review of the construction was outlined in the Public Utilities Report and that he had brought two books of pictures if Council wanted to view them. If the Council wanted a tour of the construction site, please let him know. Bob Panek went on to state that the May construction progress meeting was held this Tuesday and the contractor was approximately 75 days behind schedule vs. 54 days as stated in the Staff Report.

\$9.1M had been billed to date and he was expecting another bill for \$1M to be received soon. One requirement for the zero interest loan from the Virginia Clean Water Revolving Loan Fund was for Council to adopt a new sewer ordinance, which was done in February 2011. The new ordinance was forwarded to the Department of Environmental Quality (DEQ) and it had been approved.

Councilwoman Natali asked whether the proposed Golf Cart and Bike Trail along Old Cape Charles Road would affect the construction entrance for the wastewater treatment plant. Bob Panek responded that there should be no issues with the construction of the golf cart trail and a sign would be posted that trail users would have to stop at the intersection.

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

Bob Panek informed Council of the following: i) The Preliminary Engineering Report (PER) for the first phase of the Northern Node was completed and under review by the PSA. The financial applications had not yet been submitted but would be discussed at the next PSA meeting; ii) The PER for the Southern Node had been completed and the State Water Control Board had approved a DEQ zero interest loan for the \$11M project. Because of community opposition, the PER was being revised to reduce the service area, and project cost, to remain within the boundaries of Cheriton; iii) The Regional Wastewater System Project was moving along slowly, but was moving; and iv) The PSA had three vacancies. Two committees were established to assume responsibility and move forward with the projects. The PSA had a positive meeting in April with the County Board of Supervisors and a summary of the meeting was included in the agenda packet.

Vice Mayor Bannon congratulated Bob Panek on being elected president of the PSA.

C. *Town Code Modification – Golf Cart Ordinance:*

Tom Bonadeo stated that at last month's Council meeting, staff was directed to review the seat belt requirement for the equipment list and he had found the following after a review of ordinances of other golf cart communities: i) Gated golf communities that allowed cart use on their private roads did not always require seatbelts; and ii) Communities where carts were allowed on public streets required seat belts leaving their use up to the operator. He did not find any localities that did not require seat belts. The current ordinance included seat belts in the required equipment list. There was also discussion at last month's meeting regarding the inspection stations and their availability along with the Town's ability to issue a sticker on the weekend. The ordinance stated that inspection could be performed by an inspection station approved by the Town and the police department could be approved to inspect if the other sources were not available and also issue the sticker is so designated. Tom Bonadeo stated that only one small change was made to the proposed ordinance removing the cost of the decal from Section 42-31. Everything else remained the same from what was reviewed last month.

Motion made by Councilman Evans, seconded by Councilwoman Natali, to schedule a Public Hearing for the earliest possible to hear comments regarding the proposed modifications to the Golf Cart Ordinance. The motion was approved by unanimous consent.

D. *Conditional Use Permit for Home Occupation at 548 Madison Avenue:*

Tom Bonadeo stated that the Planning Commission received a Conditional Use Permit (CUP) application from Ms. Miriam Elton to operate a home business bakery from her property on 548 Madison Avenue. A public hearing was held earlier this evening and no comments were heard.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to approve the Conditional Use Permit for 548 Madison Avenue to operate a home business. The motion was approved by unanimous consent.

E. *Technology Zone:*

Tom Bonadeo explained that he had noted Tourism Zone in parentheses since the two zones were very similar and due to the cost of conducting a public hearing, etc., suggested that these two proposed zones be worked together. A first draft of a possible ordinance was included in the agenda packet for Council review and was based on the Planning Commission studies which were presented to Council at an earlier meeting. Tom Bonadeo recommended that Council review the draft ordinance and schedule a work session to discuss the Tourism Zone. Tom Bonadeo added that this information could potentially be shared with the County and it would be great if the County would also supported these zones since residents of Cape Charles paid about 2/3 tax to the County and 1/3 tax to the Town.

Heather Arcos asked Council if they had any questions regarding the proposed Technology Zone. There were none.

OTHER BUSINESS:

Mayor Sullivan introduced Mr. Doug Walker as the new President of the Cape Charles Volunteer Fire Company and Mr. Grover Sowers as Vice President and welcomed them to the meeting adding that this was a good, fresh start and that they needed to get together to discuss some ideas.

Chief Brown stated that between now and June 30th, the Cape Charles Police Department would be conducting checks for seatbelt and child safety seat violations as part of the State Buckle-Up Campaign. The police department would be setting up safety check points coming into Town for two days per week for the next five weeks. The police department conducted a pre-survey seatbelt check on May 3rd. The State of Virginia averages 87% seatbelt usage but Cape Charles averaged 69% usage. Please buckle-up and have children in safety seats and pass the word.

Vice Mayor Bannon asked what percentage of the fine the Town received from speeding tickets. Chief Brown stated that the Town received 80% of the fine, not including court costs. The Town did not receive anything from seat belt violations but the Town did get 80% of the fine for child safety seat violations. Chief Brown added that Cape Charles did have one corporal that was nationally certified on child safety seats.

Councilwoman Natali asked whether golf carts were included in the seat belt campaign. Chief Brown stated that there was a predicament regarding golf carts in that some cases, there may be six people riding in a golf cart with four seat belts. This was difficult to address but if the police officer felt that it was a safety issue, he would be able to stop the golf cart and issue a summons.

Chief Brown commented that some golf cart owners were modifying their golf carts making them less stable. Mayor Sullivan asked how many golf cart accidents have occurred in Town and cited two crashes that she was aware of. Chief Brown responded that he was not sure if these accidents cited by Mayor Sullivan occurred in the past year. Chief Brown added that if a resident witnessed unsafe golf cart usage, to please notify the police department by contacting the dispatcher at 678-0458.

Vice Mayor Bannon asked whether the police department patrolled Bay Creek and whether they could issue tickets in the development. Chief Brown stated that the officers could not issue tickets unless they were enforcing a criminal ordinance, not traffic. An individual could be charged with reckless driving or a DUI since they were covered in the criminal code.

Mr. Ron West stated that another safety issue was the use of personal water craft by children under the age of 14 which was illegal.

Vice Mayor Bannon asked whether the Town needed to budget for the purchase of a boat for the police department to patrol the Harbor. Chief Brown responded that he had had this discussion

with the Harbor Master and this could be coming in the future with the increased boat traffic and the proposed watercraft rentals at the Harbor.

ANNOUNCEMENTS:

- May 14, 2011 – Pirates Carnival at Central Park, 10AM – 2PM
- May 14, 2011 – Presentation re: Pirates at the Cape Charles Museum, 2PM
- May 14, 2011 – Citizens for Central Park Pirates & Wenches Ball, 7PM at the Fire Hall
- May 15-16, 2011 – Boating Safety Class at Town Hall
- May 20-22, 2011 – Lower Chesapeake Bay Black Drum Classic @ Cape Charles Harbor
- May 26, 2011 – Town Council Work Session @ 6PM
- May 30, 2011 – Town Offices Closed for Memorial Day
- June 2-7, 2011 – Tall Ship of Delaware Kalmar Nyckel coming to Cape Charles. There would be lots of events including a possible Elizabethan Festival.
- June 4-5, 2011 – Bike MS – Virginia’s Ocean to Bay Ride
- June 9, 2011 – Town Council Regular Meeting @ 6PM
- June 23, 2011 – Town Council Work Session @ 6PM

Motion made by Councilman Evans, seconded by Vice Mayor Bannon, and unanimously approved to adjourn the Town Council Regular Meeting.

Mayor Sullivan

Town Clerk