



**TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
January 13, 2011
6:00 p.m.**

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 Sullivan and Veber and Councilwoman Natali. Councilmen Bennett and Evans 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 Department Heads were also in attendance along with 10 members of the public.

Mayor Sullivan offered the invocation and led the Pledge of Allegiance.

PUBLIC COMMENTS:

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

CONSENT AGENDA:

Mayor Sullivan stated that she would like to add under New Business, Item #7H – Appointment of Code, Fire and Maintenance Official and added that she would like to move Item #7A – Community Rating System Presentation by the Department of Conservation and Recreation prior to the Report Presentations since the DCR representative was from out of Town. Moving this item up in the agenda would enable him to leave the meeting earlier.

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

The Town Council reviewed the minutes of the December 9, 2010 Public Hearing, the December 9, 2010 Regular Meeting, and the January 6, 2011 Work Session.

Councilwoman Natali noted that in the December 9, 2010 Regular Meeting minutes, the motion regarding the Proration of Personal Property Tax (Old Business Item A), there was a typographical error regarding the Ordinance number which should show 20101209.

Councilman Bennett emailed Heather Arcos with two changes to the December 9, 2010 Regular Meeting minutes. i) Under New Business Item C – Cape Charles Trail Project Agreement Amendment, Councilman Bennett asked that Heather Arcos' statement regarding revisiting the priorities for future phases be added to the minutes. ii) Under New Business Item D – Rental of Billboard, Councilman Bennett asked that language in the second paragraph be revised to reflect that not one sale had been made in the Bay Creek Resort Community because of a billboard.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to approve the minutes for the December 9, 2010 Public Hearing, the December 9, 2010 Regular Meeting, and the January 6, 2011 Work Session as amended. The motion was approved by unanimous consent.

NEW BUSINESS:

A. Community Rating System Presentation by the Department of Conservation and Recreation:

Mr. Richard Sobota from the Department of Homeland Security and the Federal Emergency Management Agency (FEMA) congratulated the Town of Cape Charles for its leadership, hard work and accomplishments on behalf of its citizens in achieving the distinction of a Class 9 rating on FEMA's Community Rating System effective May 1, 2010. There were 285 communities in the Commonwealth of Virginia participating in FEMA's National Flood Insurance Program (NFIP) but only 19 of those communities have achieved this rating. Cape Charles residents would now receive a premium discount on their NFIP flood insurance policies which amounts to approximately \$53 annually per policy.

REPORT PRESENTATIONS:

A. Town Manager's Report:

Town Manager Heather Arcos reported the following: i) Councilman Bruce Evans was appointed by Circuit Court Judge Tyler to fill the vacancy on the Town Council. We are currently awaiting notification regarding the date of the special election; ii) The work on the fishing pier repairs have been completed by J. A. Habel Corporation; and iii) Jeb Brady recently celebrated 5 years as an employee of the Town.

Mayor Sullivan added that she had been in contact with a veterinarian from Virginia Beach who was interested in coming to Cape Charles once each month to provide services for pet owners in Cape Charles and Northampton County. The veterinarian would set up in the Cape Charles Fire Hall and a portion of her fee would be donated to the fire company.

B. Treasurer's Report:

The Treasurer's report dated December 31, 2010 showed \$2,719,954 in the Bank of America checking account and \$910,096 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$3,630,051. Treasurer JoAnna Leatherwood stated that she had no additions to her written report and the Council did not have any questions for her.

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

C. Recreation Report:

Community Events/Recreational Coordinator Jen Lewis reported that the Recreation Department had received a popcorn machine from an anonymous donor, in honor of Mayor Sullivan and Vice Mayor Bannon. The popcorn machine would be used at various events.

D. Library Report:

Librarian Ann Rutledge reported that the Cape Charles Memorial Library Board, the Cape Charles Historical Society and Arts Enter were sponsoring a showing of the *Clam Digger's Daughter (aka The Story of Mr. Hobbs)* this Sunday, January 16th, beginning at 3:00 PM at the Palace Theater. Admission is free but donations would be accepted. This movie was filmed in Cape Charles in the 1940s. The Women's Club would be sponsoring a contest for Northampton High School seniors to write an ending to this movie since the original ending could not be located.

E. Harbor Report:

Harbor Master Smitty Dize stated he and Heather Arcos met with the Virginia Port Authority (VPA) earlier in the day to update them on the projects at the Cape Charles Harbor. The VPA was impressed with the breakwaters and stated that they would do what they could to help the Town on future Harbor projects. Overall, it was a very informative meeting.

Mayor Sullivan stated that Cape Charles had a track record with the VPA and they realize that the Town used the grant money wisely to improve the Harbor and the VPA could see the results.

Heather Arcos added that the VPA representatives would be attending this year's Blessing of the Fleet in April and spending the weekend in Cape Charles.

F. *Public Works / Public Utilities Report:*

Public Works / Public Utilities Director Dave Fauber stated that he was still collecting data on the water table regarding the wells and hopefully within the next couple of months, a plan could be submitted to the Department of Environmental Quality.

G. *Code Enforcement / Central Park Trail Update:*

Combination Inspector Jeb Brady stated that he had no additions to his written report and the Council did not have any questions for him.

H. *Planning Report:*

Town Planner Tom Bonadeo reported the following: i) The broadband fiber optic had been installed from Cheriton to Cape Charles along the railroad tracks to Fig Street. There were three to four more areas left to be installed; and ii) The computers and tables purchased through the broadband grant have been set up in the Cape Charles Christian School and a plan would be developed regarding usage by the public.

OLD BUSINESS:

A. *Personnel Policy Manual Update:*

Heather Arcos stated that in an ongoing effort to update the current Personnel Policy Manual, four sections were reviewed by the Council at the December 9th meeting. The changes to two of the sections were approved by Council and two sections had additional changes. The recommended changes to Sections 1 and 2 were incorporated and were being presented for final review.

Heather Arcos presented the revisions to Section 1.5 removing "part-time" from Item A since part-time employees were not designated as Exempt Employees. Since "Exempt Employees" was already defined in Item A as a salaried employee, references to salaried employees were deleted from Items B and C. No additional changes were made.

Heather Arcos continued to present the revisions to Sections 2.9 and 2.13. Section 2.9 corrected the amount of annual and sick leave credited to a part-time employee after three months of employment to 12 hours. Language was added to Section 2.13 to clarify that internal promotions could be made by the Town Manager to fill vacant positions other than appointed officer positions, bypassing the advertisement and interview process if a qualified individual worked for the Town. Language was also added regarding the Town's objective to promote or hire the best-qualified candidate for the position.

Councilman Veber stated that he would like language emphasizing employment-at-will to be added in Section 2.9 and Section 2.13 should state that the Town Manager and Department Head would make the decision regarding the best-qualified candidate for a position.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adopt the proposed revisions to Sections 1 and 2 of the Cape Charles Personnel Policies, Rules and Regulations as amended, contingent on legal review. The motion was approved by unanimous consent.

B. *Wastewater Treatment Plant Status:*

Consultant Bob Panek informed Council that the construction on the wastewater plant was over 50% completed. An invoice in the amount of \$1.3M was just received which brought the billed amount to approximately 40% of contract value. Three requisitions have been submitted to the

DEQ for reimbursement through the Nutrient Removal Grant, ARRA Stimulus Fund and the 0% interest loan.

NEW BUSINESS:

B. *Town Code Updates – Water and Sewer Ordinances:*

Bob Panek stated that three Town Council work sessions had been held on October 28, 2010, November 18, 2010 and January 6, 2011 to discuss the proposed revisions, many of which were incorporating the required standards of the DEQ and Environmental Protection Agency (EPA). The final changes have been incorporated and a public hearing must be held before the revisions could be adopted by Council.

Motion made by Councilwoman Natali, seconded by Councilman Sullivan, to schedule a Public Hearing on February 10, 2011, immediately preceding the Town Council Regular Meeting, to hear public comment regarding the proposed modifications to the Water and Sewer Ordinances. The motion was approved by unanimous consent.

C. *Zoning Ordinance Modification – Wind Energy Ordinance:*

Tom Bonadeo stated that in 2001, the Town Council approved a permit to build six wind turbines but nothing came to fruition. Tom Bonadeo went on to inform Council that the Planning Commission had worked on the new Wind Energy Ordinance for some time and the final draft of the ordinance incorporated some comments from outside sources of expertise including representatives from James Madison University. Tom Bonadeo stated that the DEQ had developed a new "Permit by Rule" which would simplify the permit process for operators of wind projects up to 5 megawatts. These operators would only need approval from the locality housing the wind project. The Commonwealth of Virginia and the Port of Hampton Roads were well set to be the center of the development process and Cape Charles was also set to be a potential part of the supply chain since we have a deep water port. Before the ordinance could be adopted, a public hearing must be held. The Planning Commission recommended scheduling a Joint Public Hearing with the Commission on February 1, 2011.

Motion made by Councilwoman Natali, seconded by Councilman Veber, to schedule a Joint Public Hearing with the Planning Commission on February 1, 2011 to hear public comment regarding the proposed Wind Energy Ordinance. The motion was approved by unanimous consent.

D. *Conditional Rezoning Request – Portion of the Mack Building – Strawberry Street & Randolph Avenue:*

Tom Bonadeo explained that a conditional rezoning request had been reviewed by the Planning Commission for a portion of the Mack Building located at the corner of Strawberry Street and Randolph Avenue from C-1 Commercial to CR Commercial Residential. The building had been sold and the new owner had requested a rezoning of the property. This portion of the building contains four small, one-floor office/apartments. There were three areas on Randolph Avenue zoned C-1 and this parcel was the only one with a building on it.

The Commission discussed the application, held a public hearing and recommended approval of the application with the express intent to use this zone as a bridge between commercial and residential areas. This application for rezoning included the following proffers: i) creation of four parking spaces in the rear of the building for the potential tenants to keep cars from being parked on the street; ii) removal of the utility poles which currently block the alley access and installation of a 12' wide easement across the property connecting to the alley easement entering from Mason Avenue to restore the alley for emergency vehicle access at the least. The easement would encumber portions of two lots owned by the Mack building; iii) planting of a 12' evergreen landscape easement on 609 Randolph Avenue which was the vacant lot to the east of this property to block the view of the alley from Randolph Avenue; and iv) creation of a 12' rear yard area for the Randolph Avenue spaces to provide tenants space in the rear of the building to be used as a yard. The building front was on the sidewalk property lines and

previous renters used the sidewalk as their front yard. The Planning Commission and the applicant agreed that all leases for the units in the building should, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering was permitted on the public right of way. The Commission received two letters of support and one personal public comment which was answered during the Commissions' review. The following benefits would be gained by rezoning this parcel to CR: i) The building could be used for business or residential; ii) The proffers would keep the look of the building while providing for the juxtaposition between the residential and commercial neighbors; iii) The proffers would reconnect the alleyway for the buildings along Mason Avenue, Strawberry Street and Randolph Avenue; and iv) Removal of the utility poles would allow emergency access to the rear of the commercial building along the above listed streets. The Planning Commission recommended approval of the Conditional Rezoning application with proffers after holding a public hearing.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to schedule a Public Hearing on February 10, 2011 to hear public comment regarding the conditional rezoning application for a portion of the Mack Building. The motion was approved by unanimous consent.

E. Historic District Review Board Member Reappointment:

Tom Bonadeo stated that the Historic District Review Board oversees the Town's Historic District and was comprised of five members each serving five-year terms. Mr. Jan Neville has been a member of the Historic District Review Board for a number of years and his current term expired January 8, 2011. Mr. Neville has expressed his interest in continuing his service on this board.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to reappoint Mr. Jan Neville to the Historic District Review Board for another term. The motion was approved by unanimous consent.

Tom Bonadeo added that Mr. Melvin Dudley had recently submitted his resignation from the Historic District Review Board so there was a vacancy on this Board.

F. 2012 Virginia Port Authority Grant Request:

Heather Arcos stated that each year during the General Assembly, staff went before the Virginia Port Authority (VPA) to officially ask for grant funds to be appropriated to continue improvements to the Harbor as part of the Harbor Redevelopment Plan. The VPA required a letter signed by the Mayor in order to officially accept the Town's request. By signing the letter, we are stating that if the VPA approved the Town's request, the Town would have money budgeted for FY 2011/2012. The funds for the Town match were included in the \$1.2M long-term loan for Capital Improvement Projects. This year, the Town would like to request another \$500K towards completion of the bath house. The estimated project cost was \$900K and the remaining balance would be financed through the long-term loan for Capital Improvement Projects. The VPA funds would be awarded in May 2011. Last year, the Town received \$447K and \$500K was received the previous year.

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to authorize Mayor Sullivan to sign the letter requesting grant funding from the Virginia Port Authority. The motion was approved by unanimous consent.

G. Northampton County Funding Request:

Heather Arcos stated that the Town submitted a letter to Northampton County each year requesting funding assistance for the Cape Charles Memorial Library, the 4th of July celebration and any other projects deemed eligible by the Town Council. Over the last several years, the Town has received \$15,500 from the County for the Cape Charles Memorial Library. This year, the Town would like to request \$20K for the Library and \$5K for the 4th of July celebration.

Heather Arcos asked the Council to let her know of any additional projects to include in the letter. Heather Arcos added that she had spoken to Ms. Glenda Miller who informed her that, similar to last year, the Town would be fortunate to receive funding assistance for the Library.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to authorize Mayor Sullivan to sign the letter requesting funding assistance from Northampton County. The motion was approved by unanimous consent.

H. *Appointment of Code, Fire and Maintenance Official:*

Heather Arcos stated that in January 2009, the former Building Code Official, Doug Smith, left his employment with the Town. Since that time, Jeb Brady has worked hard to complete his training to obtain his certification as Building Code Official. On January 6, 2011, Jeb Brady passed the final portion of the examination to obtain his certification. Section 18-2 of the Cape Charles Town Code outlined that the code official should be appointed by the Town Council.

Mayor Sullivan added that Jeb Brady was a small-town success story by going away to school and coming home to become part of the community. Mayor Sullivan concluded by stating that she and the Town were very proud of Jeb.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to appoint Jeb Brady as the Building Code, Fire and Maintenance Official for the Town of Cape Charles effective immediately. The motion was approved by unanimous consent.

ANNOUNCEMENTS:

- January 14, 2011 – Town Offices Closed for Lee-Jackson Day
- January 15, 2011 – 20th Annual Epiphany Party at the Cape Charles Fire Company. Proceeds from the party would go to Russell Moore, Manager of Sting Rays who was battling leukemia.
- January 16, 2011 – Clamdigger’s Daughter being shown at the Palace Theater
- January 17, 2011 – Town Offices Closed for Martin Luther King, Jr. Day
- January 27, 2011 – Town Council Executive Session, 6PM at the Town Hall
- January 28, 2011 – Town Council Retreat all day at the Town Hall
- February 3, 2011 – Legislative Day in Richmond. Council needs to inform the Town Clerk if able to attend.
- February 9, 2011 – Trip to Harrington Casino sponsored by the Friends of the Cape Charles Memorial Library. \$50 per person.
- February 10, 2011 – Town Council Regular Meeting, 6PM at St. Charles Parish Hall
- February 24, 2011 – Town Council Work Session, 6PM at the Town Hall

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to adjourn the Town Council Regular Meeting. The motion was approved by unanimous consent.

Mayor Sullivan

Town Clerk