



## TOWN COUNCIL

### Special Meeting

Town Hall

January 22, 2014

4:30 PM

At 4:30 p.m., Vice Mayor Chris Bannon, having established a quorum, called to order the Special Meeting of Town Council. In addition to Vice Mayor Bannon, present were Councilmen Bennett and Wendell, and Councilwoman Natali. Councilman Godwin arrived at 4:32 p.m. Mayor Sullivan and Councilman Sullivan were not in attendance. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, and Cela Burge and Dan Brown representing South Port Investors, LLC. There were three members of the public in attendance.

Vice Mayor Sullivan announced the business for the evening would be to continue discussions regarding the request for waiver from South Port Investors, LLC (SPI).

#### **PUBLIC COMMENTS**

There were no public comments heard or any comments submitted in writing prior to the meeting.

#### **A. *Request from South Port Investors, LLC***

Town Manager Heather Arcos began with a recap of the January 9, 2014 Town Council Work Session where SPI's request for waivers of one connection charge per parcel for Town-owned parcels 12, 14, 17, 19 and 20 which were leased by SPI. Parcels 12 and 17 had existing connections. There was lengthy discussion regarding the two existing tenants on Town-owned properties, the difference between the types of business, terms of the leases, and Town incentives currently in place. This special meeting was being held to continue discussions regarding SPI's request and possibly making a decision so a response could be provided to SPI.

There was much discussion regarding the following: i) SPI should be required to pay the outstanding charges for the minimum usage on parcel 12; ii) Deferral of the connection charges on parcels 14, 19 and 20 until such time that SPI exercised their right to purchase the properties; iii) Consistency with the concessions made for The Shanty until such time that the property was no longer owned by the Town; iii) The Shanty did not have an option to purchase, however, if they made an offer to the Town to purchase the property, they would be required to pay a portion, if not all, of the connection charges; iv) It was in the best interest of the Town to move forward with deferring the payment of connection charges until SPI exercised their right to purchase the property; v) At the time when SPI exercised their right to purchase the property, the deferred connection charges should be discussed and a reasonable charge be agreed upon at that time; vi) At the last meeting, Councilman Sullivan had some concerns regarding the future plans for the project being unknown and it was suggested that the deferred connection charges be limited to a certain amount comparable to the amount for The Shanty. Heather Arcos stated that she thought the connection charge for The Shanty was approximately \$60K; vii) The expiration of SPI's purchase option was February 27, 2018 and was specified in the lease. If the right to purchase was not exercised by written notice to the Town prior to February 27, 2018, the right to purchase would be forfeited; viii) The fact that connection charges were supposed to be set aside for future expansion; ix) Once operations began, SPI would be using water and would be paying for the usage; x) SPI would be responsible to pay the full costs for any additional connections on those parcels; and xi) If the connection fees were limited to \$60K, it would be equivalent to four residential connections or twelve connections for the three parcels, which was not a significant impact to the plant capacity.

Bob Panek summarized this evening's discussion as follows: i) One building connection would be deferred for parcels 14, 19 and 20 while the parcels were under lease to SPI; ii) The connection charges to be deferred would be calculated when specific building plans were approved by the Town, up to a maximum of \$60K to be deferred; iii) The deferred connection charge would be considered payable upon purchase of the property; iv) As a precondition, all delinquent water and wastewater minimum usage charges must be paid; and v) Normal connection charges would apply for additional buildings on all parcels.

There was more discussion regarding the consideration for payment vs. requiring the connection charges to be payable upon purchase of the property. Councilman Wendell expressed his concern that a precedent would be set for any future entities doing business with the Town which could be detrimental. The Town negotiated the leases and amendments in good faith with SPI, the last lease amendments were executed in 2013, and now aspects of the lease were being reconsidered. There would be nothing to stop The Shanty from asking for a renegotiation of aspects of their lease. Councilman Wendell added that he wanted to see the businesses succeed but did not want to set any additional precedents that could negatively affect the Town's utility bills.

There was also some discussion regarding business entities coming into Town asking for discounts, etc. from the Town when citizens could not get these concessions.

Heather Arcos stated that SPI was asking Council to consider a waiver of the charges. An option was to administratively defer the charges to allow SPI to continue to move forward with negotiations with businesses which would also be paying the monthly user rates. Every account added would impact the minimum rates for everyone and pay for the operations of the plants.

Councilman Wendell asked why a waiver was needed. Councilman Bennett stated that the waiver request was to open up additional opportunities for SPI to lure businesses, who might come if the fees were reduced. It was difficult to attract businesses to Cape Charles because it was expensive. Councilman Godwin stated that good businessmen knew of the costs to start a business. Councilman Bennett commented that people used to say that if people had the money to buy in Bay Creek, they had the money to pay the connection charges, etc., but all the various fees and charges added up. The deferral of the connection charges could bring a business to the Town that otherwise would not come if they had to pay the full connection fee. Councilman Bennett went on to state that he would be willing to consider incentives for any business that was willing to come to Town and invest in the Town and create jobs and create income for the Town. There were other incentives in place as well that SPI could take advantage of when the time came. Councilman Bennett added that the entire Council had agreed to these incentives to attract businesses to Town.

Councilman Wendell stated that a uniform incentive package was needed for all businesses.

Vice Mayor Bannon stated that one connection per parcel was acceptable and the Town would get paid when the property was sold. If SPI did not take the option to buy, it remained the Town's property with the associated connections. SPI would probably get two or three additional connections which would be paid for. Bob Panek stated that there was a possibility for multiple buildings on parcels 14 and 17. Unless SPI's conceptual plan was changed, he did not see any possibility of additional buildings on parcels 19 and 20.

Councilman Wendell expressed his concern regarding setting a precedent. Councilwoman Natali stated that the precedent was limited to leased Town property.

Heather Arcos noted that deferring payment of connection charges would allow the businesses to get off the ground. This could also be done for other businesses coming into Town.

Bob Panek summarized that three of the four Council members in attendance were in favor of the deferral; three of four were okay with “consider to be payable upon purchase” and one wanted “payable upon purchase.”

**Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, that i) one building connection charge, not to exceed \$60K, would be deferred for parcels 14, 19 and 20 while the parcels were leased to South Port Investors, LLC; ii) the connection charge to be deferred would be calculated when specific building plans were approved by the Town; iii) a portion of the deferred connection charge would become payable upon purchase of the property, the amount of which would be negotiated at the time of purchase; iv) as a precondition, all the delinquent water and wastewater minimum usage charges must be paid; and v) normal connection charges would be applied for additional buildings on all parcels.**

There was further discussion regarding the following: i) The Technology Zone incentives which could refund up to 50% of the connection charges if the investment qualified under the Technology Zone criteria; ii) Whether SPI or their tenants would be eligible to apply for the Technology Zone incentives; iii) The proposed Bistro could fall under the Tourism Zone once the details of the incentives were finalized and approved.

Vice Mayor Bannon called for a vote.

**The motion was approved by majority vote of the Council members in attendance with Councilman Wendell opposed.**

Heather Arcos stated that she would draft a response to SPI for Council review.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adjourn the Town Council Public Hearing & Special Meeting. The motion was approved by unanimous consent.**

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Vice Mayor Bannon

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Town Clerk