



**TOWN COUNCIL**  
**Special Meeting**  
Town Hall  
March 27, 2014  
6:00 PM

At 6:00 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, Sullivan and Wendell, and Councilwoman Natali. Mayor Sullivan and Councilman Godwin were not in attendance. Also present were Town Manager Heather Arcos, Public Works/Public Utilities Director Dave Fauber, and Town Clerk Libby Hume. There were four members of the public in attendance.

Vice Mayor Bannon announced the business for the evening would be to discuss i) Fishing Pier Repairs Contract Award; ii) Connection Charge Payment Program Authorization Request; and iii) Changing Day of April Public Hearing & Regular Meeting.

**PUBLIC COMMENTS**

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

**A. *Fishing Pier Repairs Contract Award:***

Heather Arcos stated that the old section of the pier was damaged during Hurricane Sandy. Under the Public Assistance Grant, FEMA would pay 75% of the cost for repairs, the Commonwealth of Virginia would pay 17% and the Town would be responsible for 8% of the cost. FEMA awarded the Town up to \$285,365 to repair the fishing pier with a total estimated project cost of \$380,496. \$310K was included in the FY 2013/2014 Budget. The Town advertised for bids with a submission deadline of March 21, 2014. The bidding was separated into four categories: demolition, concrete, construction and electrical. Five companies submitted proposals with two submitting proposals on all four categories. The lowest bidder was BIC, Inc. with a total project bid of \$231,500. The Town's portion of the cost would be \$18,520. FEMA had reviewed the bids and recommended BIC, Inc.

**Motion made by Councilman Bennett, seconded by Councilman Wendell, to authorize the Town Manager to execute the contract with BIC, Inc. for the fishing pier repairs in the amount of \$231,500. The motion was approved by unanimous consent.**

**B. *Connection Charge Payment Program Authorization Request:***

Heather Arcos stated that the former Be-Lo building had been vacant for a number of years, since the opening of the Food Lion grocery store on Route 13. The property recently went on the market and Mr. Patrick Hand was looking at purchasing the property for commercial and residential mixed use. Mr. Hand submitted a request for Town Council approval for a connection fee payment program for the property for payment of the connection charges at the time certificates of occupancy (CO) were issued. Mr. Hand would be redeveloping the property to create new residences and new storefronts. The project would be built in phases with groups of 6 to 12 units needing COs at various times within the next 18 months. Cape Charles Town Code Sections 70-35 and 71-42 permitted payment programs for water and sewer connection charges with Council authorization.

There was much discussion regarding the proposed project and Mr. Hand went over the details on the submitted plans. Mr. Hand stated that he was trying to leave green space and was proposing a pedestrian mall to enhance the Art Walk proposed for Strawberry Street. Mr. Hand went on to state that he had submitted an application to the Board of Zoning Appeals (BZA) for a zoning variance to allow a 4' setback due to the depth of the property and 1 parking space for each 400 square feet of commercial space vs. the current requirement for 1 parking space for each 200 square foot of retail space. Mr. Hand added that he was not sure of the type(s) of businesses for the building so was asking for this variance.

Councilman Wendell stated that the proposed project was very impressive but expressed his concern that there would be no public parking off street along Mason Avenue and added that this issue needed to be addressed. Councilman Wendell went on to state that Council tried to negotiate with Mr. Hand to obtain parking but had not been able to agree on pricing. It was important to accommodate developers but Council needed to accommodate ongoing commerce in the business district for which parking was important.

Mr. Hand stated that he was offering the property for the parking lots to the Town for less than he was paying for it. There were at least two people also interested in the property who would pay much more than the offer to the Town. The development would put money back into the Town in the form of utility fees, taxes, etc. Mr. Hand conceded that he would reduce the price by \$20K for the pedestrian mall but could not lower the price for the parking areas. Mr. Hand added that he had spoken to Mr. Larry Lemond and the railroad would possibly be agreeable to a long-term lease to the Town for property.

There was much discussion regarding the Town's ability to commit to specific terms as requested without Mr. Hand owning the property. Mr. Hand explained that he was the contract owner – he had a contract to purchase the property which had been accepted by the owner. If the payment program could not be worked out, Mr. Hand could not move forward with the purchase of the property because he would not have the cash to start the redevelopment project. By agreeing to the payment of the connection charges at the time of CO issuance, the Town retained its control in the process and would be collecting the full amount of the connection charges for approximately 34 units. Councilwoman Natali suggested making the approval of the payment program contingent on Mr. Hand's purchase of the property.

After further discussion regarding parking, Councilwoman Natali requested that the discussion be brought back to the agenda item which was the request for the connection charge payment program. Councilman Bennett agreed that this issue was separate from the parking issue which would continue to be discussed at a later time. Councilman Wendell stated his opinion that there was no risk in continuing to negotiate the parking issue. Councilman Sullivan reiterated that the agenda item was for the review of the request for a connection charge payment program, not parking negotiations.

**Motion made by Councilman Bennett, seconded by Councilwoman Natali, contingent upon successful closing of Parcel #083A3-0A-00-07 to Mr. Patrick Hand and legal review by the Town of Cape Charles, for the approval of a plan to allow payment of the connection charges at the time of issuance of the certificate of occupancy by phase with a maximum of three phases, not to exceed a duration of 18 months effective upon closing. The motion was approved by majority vote. Roll call vote: Bannon, yes; Bennett, yes; Sullivan, yes; Wendell, abstention.**

Vice Mayor Bannon suggested that a legal opinion be requested tomorrow.

C. *Changing Day of April Public Hearing & Regular Meeting:*

Heather Arcos stated that due to the Easter holiday week, several of the Council members had informed her of personal conflicts for April 17<sup>th</sup>. In order to ensure a quorum for the April meeting, a date change was necessary. Heather Arcos read Resolution 20140327 – Changing the Day of the April 2014 Cape Charles Town Council Public Hearing and Regular Meeting.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adopt Resolution 20140327 to change the day of the April 2014 Cape Charles Town Council Public Hearing and Regular Meeting to April 24, 2014. The motion was approved by majority vote. Roll call vote: Bannon, yes; Bennett, no; Natali, yes; Sullivan, yes; Wendell, yes.**

**Motion made by Councilman Sullivan, seconded by Councilman Bennett, to adjourn the Town Council Special Meeting. The motion was approved by unanimous consent.**

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Vice Mayor Bannon

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Town Clerk