



TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
June 11, 2009
7:00 PM

At approximately 7:00 p.m. Mayor Dora Sullivan called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Councilmen Bannon, Burdiss, Elliott, and Evans. Councilman Bennett arrived at approximately 7:05 p.m. Also in attendance were Interim Town Manager Heather Arcos, Town Consultant Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume, several additional members of staff and 22 members of the public.

PUBLIC COMMENTS:

Mr. Don Clarke, 304 Fig Street, opened by stating that he was a former town manager, served two (2) terms on the Town Council and has lived on Fig Street for sixteen (16) years. Mr. Clarke went on to state that he was here tonight to protest the "No Parking" signs that were recently placed on Fig Street and asked why there was no longer any parking permitted along Fig Street. If it was for safety reasons, Mr. Clarke stated that it has backfired since the street is now clear for all the speeders that do not adhere to the 25 MPH speed zones. Mr. Clarke asked that the Council discuss this issue and reconsider their decision to ban parking along all of Fig Street. Mr. Clarke suggested the placing of speed bumps instead or the possibility of permitting parking only on one (1) side of the street and stated that there are no sidewalks on the side of the street by his house but he is being penalized by not being able to park in front of his house. Mr. Clarke stated that he pays taxes to the Town of Cape Charles, is a good citizen and upholds the law, but he feels that he is being penalized regarding this issue.

Ms. Mary Ann Clarke, 304 Fig Street, addressed the Council in protest of the "No Parking" signs placed along Fig Street. (See attached)

Mr. Melvin Dudley, 303 Madison Avenue, addressed the Council regarding tonight's agenda and asked the Council to approved the Comprehensive Plan Update, approve the acceptance of the Tourism Infrastructure Grant for the installation of a webcam, approve the remaining conditions for the Cape Harbor Project, approve the resolution for the wastewater treatment plant financing, approve the awarding of the sanitation bid to Davis Disposal and approve the budget for fiscal year 2009/2010 as presented. Mr. Dudley added that by not having an invocation at the beginning of the meetings, God has been taken out of the equation. Mr. Dudley concluded by stating that the Town's staff was doing an admirable job.

Mr. Bill Stramm, 302 Arnie's Loop, addressed the Council regarding the proposed budget for fiscal year 2009/2010. (See attached)

Dr. Mark Clarke, 118 Fig Street, stated that normally he refrains from speaking in public on political matters because he does not want to offend anyone. When the unpleasantness regarding the former town manager was going on, he stayed at home and kept his mouth shut. When the water bill went up and he started getting ground water out of his tap on a regular basis, he did not complain because it would not do any good. When the powers that be felt

that it would be a good idea to have all the traffic enter the Town through the 600 block of Randolph Avenue, which is a residential street with cars parked on either side of the street and little children frequently playing in the front yards, Dr. Clarke stated that he felt it was a tragedy waiting to happen for a child to run into the street and get hit by a car, but since he did not live on Randolph and he did not have any children, he kept quiet. When his Cape Charles business license almost doubled this year, he complained a little but not as much as he should have. Now, he has found something that he would like to complain about. When he arrived home a week ago to his house on Fig Street, where he has lived for the past 22 years, he discovered that it was no longer permissible for him to park in front of his house. Dr. Clarke stated that he looked up and down the street and discovered the “No Parking” signs posted along both sides of the street from Randolph Avenue to Marina Village. None of the residents have ever been notified that this change was being considered. Dr. Clarke went on to state that he would like to speak for his next door neighbor, Ms. Virginia Ferguson, who is 89 years old and cannot come to speak for herself. Ms. Ferguson has lived in her house at 116 Fig Street for over 40 years and she may want to have a few of her friends over on occasion but now she would have to tell them to park around the corner from his house and walk through his yard to get to her house. Dr. Clarke stated that he did some research regarding this issue and found out that the Town Council voted unanimously to ban parking on Fig Street a year ago, almost to the day, because Fig Street was so narrow and there was so much traffic on the street. Since all the residents on Fig Street had driveways, it was felt that they would not be inconvenienced by this decision, but from the comments this evening, the Council has heard that the residents have been inconvenienced. Dr. Clarke continued stating that since the speed limit in the Town is 25 MPH, how could causing a car to slow down for the occasional parked vehicle on Fig Street be a bad thing? Dr. Clarke stated that he is upset about this situation and met earlier in the week with Councilman Bannon who asked him what he would like to see done. Dr. Clarke asked the Council to start working as soon as possible to rescind this ban and if there was still some concern regarding the traffic situation on Fig Street, the citizens and residents on Fig Street would be happy to meet with Council to discuss the situation to see if an alternative solution could be found. This parking ban is completely unacceptable and if this matter is not resolved by the next meeting, he will be back. Mayor Sullivan informed Dr. Clarke that this issue will be on the agenda for the July meeting.

Ms. Debbie Kozak, 622 Randolph Avenue, forfeited her minutes to Dr. Clarke.

Ms. Sarah Kozak, 622 Randolph Avenue, forfeited her minutes.

Ms. Marie Taylor, 329 Mason Avenue, forfeited her minutes.

Mr. Erin Harvey, 123 Peach Street, addressed the Council regarding the Cape Harbor Project stating that the Council has been reviewing this issue for a year and have voted on specific aspects of the project but he hopes that the Council will have one final vote reviewing all the decisions made. Mr. Harvey encouraged the Council to recognize that the project, as currently proposed, is still too big and does not fit in with the Town. Mr. Harvey concluded by stating that there have been many different issues brought before the Council over the last several months, but this project is the only one that will still be here 50, 75 and 100 years from now.

Mr. Donnie Brady, Bailey’s Bait & Tackle Shop, addressed the Council regarding what he called “John’s propaganda” stating that he understands that Councilman Burdiss specifies that the contents of the newsletter are his opinions regarding the issues brought to the Town

Council. In reference to voting as a Councilman, Mr. Brady feels that Councilman Elliott does not have a right to vote in many instances and that in the last issue, Councilman Burdiss wrote that the majority of the Council would override the “other two” since Councilman Elliott is not eligible to vote. Mr. Brady stated that he did not know if this was fair or unfair, since he did not know the proper procedures. In his newsletter, Councilman Burdiss wrote about raising taxes and cutting salaries but also wrote about needing money for a rainy day fund. A lot of rainy day money previously has been thrown away by past town managers. One previous town manager was let go with a large severance package. A lot of money has been spent on legal fees for conflicts of interest and other issues which could have been set aside for a rainy day fund. There is a lot that could be done that is not being done. This Council needs to get themselves together to make the decisions based on what the people of the Town want.

CONSENT AGENDA:

Hearing no objections, Mayor Sullivan stated that the agenda was approved by unanimous consent.

The Town Council reviewed the minutes of the following meetings: the May 14, 2009 Executive Session, May 14, 2009 Regular Meeting, June 2, 2009 Work Session and the June 4, 2009 Public Hearing.

Councilman Evans stated that he would abstain from the vote for the June 2nd minutes since he was not in attendance. Councilman Bannon added that in the minutes for the June 2nd Work Session, he had stated that representatives from Northampton County were in attendance at a previous Executive Session meeting but did not have a quorum so could not participate in the discussion, but at a later meeting the County representatives voted against moving forward with the Webtide proposal.

Motion made by Councilman Bennett, seconded by Councilman Bannon and unanimously approved to accept the minutes for the May 14, 2009 Executive Session, May 14, 2009 Regular Meeting, June 2, 2009 Work Session and the June 4, 2009 Public Hearing as amended.

REPORT PRESENTATIONS:

A. Treasurer’s Report:

Treasurer JoAnna Leatherwood reported that the Treasurer’s Report dated May 31, 2009 showed \$117,453 in the Bank of America checking account and \$1,974,081 in the Local Government Investment Pool (“LGIP”) with a Total Cash on Hand of \$2,091,534.

Hearing no objections, Mayor Sullivan stated that the Treasurer’s Report was approved by unanimous consent.

B. Library Report:

Librarian Ann Rutledge stated that the summer programs will begin on July 1st and run through August 28th. The Friends of the Library will be sponsoring several fund raising trips to the Williamsburg Outlets and the Harrington Slots. More information will be forthcoming on these trips.

C. *Recreation Report:*

Interim Town Manager Heather Arcos stated that the Skateboard Park opening went well and thanked the Council, townspeople and the youth for their support and participation. The inaugural Cape Charles Basketball Academy is slated for June 13 – 17th at the former Northampton Middle School gymnasium and sign-ups will be held on June 20th at the Cape Charles Fire Hall and the Food Lion on Route 13. Heather Arcos concluded by stating that Tad Taborn, Recreation Coordinator, had tendered his resignation and his last day was June 8th.

D. *Public Works Report:*

Public Works Director Dave Fauber informed the Council that he did not have anything in addition to report from the information on his written report which was included in the Council agenda packet.

E. *Harbor Report:*

Harbormaster Smitty Dize informed the Council that an issue arose with the VA Department of Game & Inland Fisheries regarding the “No Wake Zone” signage that was recently installed, but the situation has since been resolved.

NEW BUSINESS – PART I

A. *Resolution for the Comprehensive Plan*

Town Planner Tom Bonadeo stated that at the May meeting, the Council approved the update to the Comprehensive Plan and a resolution is required for adoption. Tom Bonadeo read Resolution #20090611A – Adoption of the Comprehensive Plan Update.

Motion made by Councilman Evans, seconded by Councilman Bannon and unanimously approved to approve the adoption of Resolution #20090611A. Roll call vote: Bannon, yes; Bennett, yes; Burdiss, yes; Elliott, yes; Evans, yes.

B. *Tourism Infrastructure Grant*

Tom Bonadeo informed the Council that the Town was awarded a \$2000 grant for the installation of a webcam from the Eastern Shore Tourism Commission. The Town must complete the installation of the webcam by the end of 2009 and will be reimbursed by the Tourism Commission upon completion. Tom Bonadeo went on to state that a provision in the franchise agreement for Bay Creek Communications included language stating that Bay Creek Communications would provide a webcam for the Town and that he met with Mr. Oral Lambert and they have agreed to assist in the installation of the webcam and provide a feeds to the Town’s website as well as Bay Creek’s website. Tom Bonadeo recommended authorization for the Interim Town Manager to sign the contract for acceptance of the grant funding.

Hearing no objections, Mayor Sullivan stated that the authorization of the Interim Town Manager to execute the grant contract was approved by unanimous consent.

OLD BUSINESS:

A. *Cape Harbor Project*

Tom Bonadeo summarized the action taken by Council at previous meetings stating that one (1) general condition remained regarding the bonding issue. The Town’s legal counsel has worked with the applicant’s legal counsel to develop language regarding this bonding issue.

Councilman Burdiss stated that once all the conditions had been reviewed, he felt that the application needed to be approved as a whole. There was much discussion regarding this issue and Tom Bonadeo will check with legal counsel to see if this step is necessary. Councilman Burdiss stated that he would like to add a condition maintaining the view shed from Pine Street to Harbor Avenue prompting further discussion.

Motion made by Councilman Burdiss, seconded by Councilman Bannon, to add a condition requiring that the view shed from Pine Street to Harbor Avenue be maintained. The motion was voted down with Councilmen Burdiss and Bannon voting for the motion and Councilmen Bennett, Elliott and Evans voting against.

The Council reviewed the proposed language for items #6 and #7 regarding the bonding issue and the issuance of building permits. There was much debate regarding the bonding issue and Councilman Burdiss' request that a separate bond be required to give the Town more protection in the event that the construction is not completed. Councilman Burdiss went on to give several scenarios of cases on which he has worked regarding bond issues. Mayor Sullivan stated that with a project of this magnitude, it would be wise to listen to Councilman Burdiss' concerns and contact legal counsel with these additional questions. Upon receipt of the additional information from legal counsel, a special meeting could be called to continue deliberation on this issue.

Motion made by Councilman Burdiss, seconded by Councilman Evans, to table further discussion on this issue until after further consultation with legal counsel. Upon receipt of additional information, a special meeting will be called as soon as possible. The motion was approved by a majority vote with Councilmen Bannon and Bennett opposed.

B. *WWTP Financing*

Town Consultant Bob Panek stated that since the Federal stimulus grant of \$4.5M from the Virginia Clean Water Revolving Loan Fund (CWRLF) was in the form of a principal forgiveness loan, the Town would need to execute a loan agreement. Bob Panek read Resolution #20090611 Authorizing a Principal Forgiveness Loan and Compliance with Federal Grant Requirements.

Motion made by Councilman Burdiss, seconded by Councilman Elliott and unanimously approved to approve Resolution #20090611. Roll call vote: Bannon, yes; Bennett, yes; Burdiss, yes; Elliott, yes; Evans, yes.

NEW BUSINESS – PART II:

A. *Award the Waste Collection Bid:*

Mayor Sullivan stated that the Request for Proposal for Waste Collection and Disposal Services closed on May 26, 2009 and one bid was received from Davis Disposal Co., Inc. who is currently providing this service for the Town. The bid reflects an 8% increase from the last contract, but this increase will not affect the current charge to the citizens of Cape Charles.

Motion made by Councilman Bennett, seconded by Councilman Bannon and unanimously approved to authorize Interim Town Manager Heather Arcos to award the contract to Davis Disposal.

B. Adoption of the 2009/2010 Budget:

Town Clerk Libby Hume read a statement submitted by Councilman Veber, who was not able to attend the meeting, explaining his opinions in regards to the proposed budget.

Heather Arcos reviewed the budget assumptions and capital projects regarding the General Fund, Water / Wastewater Fund and the Harbor Fund. There was much discussion regarding the 2¢ tax rate increase for a “rainy day” fund, the hiring of a new town manager and whether the recreation coordinator position should become a full-time position or remain as a part-time position.

Motion made by Councilman Burdiss, seconded by Councilman Bennett, to approve the Fiscal Year 2009/2010 Budget as presented. The motion was approved by a majority vote, with Councilman Bannon opposed.

ANNOUNCEMENTS:

- June 20, 2009 – Chamber of Commerce Harbor Party, 6:00-10:00 PM
- June 25, 2009 – Environmental Review / Public Hearing (Stearns & Wheler), 6:00 PM
- July 3, 2009 – Town Hall Closed for Independence Day
- July 3, 2009 – AYCE Seafood Festival by Cape Charles Fire Company
- July 4, 2009 – Cape Charles July 4th Parade & Fireworks
- June 4, 2009 – Public Hearing re: Budget
- July 9, 2009 – Town Council Regular Meeting

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

Mayor Sullivan

Town Clerk