



**PLANNING COMMISSION**  
**Regular Meeting**  
**Cape Charles Civic Center**  
**July 7, 2015**  
**6:00 p.m.**

At 6:00 p.m. Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Andy Buchholz, Joan Natali, Sandra Salopek, Bill Stramm and Michael Strub. Commissioner Dan Burke was not in attendance. Also in attendance were Town Planner Larry DiRe, Town Manager Brent Manuel and Town Clerk Libby Hume. There was one member of the public in attendance.

**PUBLIC COMMENTS:**

*Andrew Follmer, 9 Kings Bay Drive, President of Cape Charles Business Association*

Mr. Follmer addressed the Commission regarding the Tourism Zone stating that he felt it was a great initiative but cautioned the Commissioners regarding making the requirements so restrictive that businesses could not qualify. He also suggested the following: i) The Commission should think through the process to determine what would qualify as a success in 2-3 years and revisit the criteria for the program at that time if needed; ii) Look at existing businesses, such as brown dog ice cream, to see if they would have qualified and to get an idea of performance indicators; iii) A capital investment of \$2K - \$10K would be preferable for smaller operations; iv) Very few businesses would be able to sustain 2 full-time employees at 1.5 times the minimum wage. An alternative could be to use a minimum number of paid staff hours vs. the number of full time employees; and v) The difference between a year-round business vs. a seasonal business also needed to be discussed. The draft language showed that a seasonal business was one that was open for less than 12 months per year. Some businesses were open for 3-4 months whereas others were open for 10-11 months and all would qualify as a seasonal business. Perhaps a sliding scale could be used to determine the amount of incentive. Also, some year-round businesses were only open for 2-3 days during the off season and this should also be discussed.

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

**CONSENT AGENDA**

**Motion made by Michael Strub, seconded by Joan Natali, to accept the agenda format as presented. The motion was unanimously approved.**

The Commissioners reviewed the minutes for the June 2, 2015 Regular Meeting.

Michael Strub noted a punctuation correction on page 2 under New Business Item A – Accessory Dwelling Units in Residential District.

**Motion made by Sandra Salopek, seconded by Andy Buchholz, to approve the minutes from the June 2, 2015 Regular Meeting as amended. The motion was unanimously approved.**

## **REPORTS**

Larry DiRe reported the following: i) On June 18, 2015 the Supreme Court issued a ruling on the Reed vs. Town of Gilbert case regarding the town's sign ordinance. It was a 9-0 ruling against the town citing violation of the First Amendment. The Supreme Court issued a checklist of 9 appropriate measures for compliance. Larry DiRe was currently reviewing the town's sign ordinance regarding the 9 items and the town's ordinance was in compliance with the majority of the items; ii) The police chief raised several issues regarding the helicopter lift-offs and landings in town. According to Article 3.11.C (page 33) of the Zoning Ordinance, heliports were only allowed as a conditional use in the M-1 Industrial District; and iii) Larry DiRe noted a typographical error in item 2 of his report regarding the area along Mason Avenue with reverse-angle parking. The correct area was between Peach Street and Harbor Avenue.

## **OLD BUSINESS**

### **A. *Draft Tourism Zone Ordinance Review***

The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance and there was much discussion regarding the following: i) The requirements in Section XX-5 for seasonal and full-time businesses were the same and needed review. After a number of alternatives were discussed, the Commissioners agreed that it did not matter whether a business was seasonal or year-round. The focus should be on economic growth – the growing of existing businesses and having new businesses come to town; ii) There was a huge difference between the numbers in Section XX-5 and XX-6. The numbers in XX-6 needed to be revised based on the numbers in XX-5. The Commissioners felt that a minimum of \$2K in capital investment was a fair number and would give small businesses an opportunity to participate in the program. Dennis McCoy added that the Commission needed to consider a sliding scale as suggested by Mr. Follmer; iii) Andy Buchholz suggested that the draft ordinance be reviewed by the treasurer and also that the criteria be compared with the numbers reported by the businesses. We needed realistic numbers based on what we had now; iv) A cap needed to be placed on the amount of the rebate; v) The required wage of 1.5 times the minimum wage would be very difficult for tourism-related businesses. The wait staff in a restaurant typically earned about \$2-\$3 per hour plus tips and most others paid close to minimum wage. It was agreed to delete this requirement; vi) In regards to the number of employees, possible criteria could be to use staff hours for businesses with less than 10 employees. For businesses with 10 or more employees, criteria could be 1 full-time and 2 part-time employees. Most employees were part-time with the exception of the owners, especially for seasonal businesses. The Commissioners agreed that the criteria would be changed to require 1 full-time or 2 part-time employees; vii) The definition of part-time was also discussed and it was agreed that for qualification under this program, a part-time employee needed to work a minimum of 14 hours per week; viii) The criteria would be revisited in about 3 years and modified if necessary; ix) The references to “machinery and tools” in sections XX-5 (a)(1)(ii), (a)(2)(ii), (b)(1)(ii) and (b)(2)(ii) were changed to “depreciable assets.” This type of equipment was shown on the businesses’ tax returns and would take the burden off the administrator in determining whether the equipment would qualify or not. A requirement would be to have the business owner provide a copy of the appropriate tax schedule; x) A table could be added showing the incentives for each category with a sliding scale based on revenue. Andy Buchholz stated that some seasonal businesses took in more revenue in 6 months than other full-time businesses did in a year. Dennis McCoy added that the important information was the total sales/revenue, the number of employees (full-time and part-time) and the increase/decrease in revenue from year to year.

Dennis McCoy asked Larry DiRe to make the changes as discussed. Feedback needed to be obtained from the business owners and the treasurer.

### **B. *Accessory Dwelling Units in Residential District***

Larry DiRe stated that he was able to gather information from other localities on the Eastern Shore and reported the following:

- Permitted: Town of Cheriton by conditional use, and Northampton County.
- Prohibited: Towns of Exmore, Wachapreague, Parksley and Onancock.
- The Town of Onley had definitions of both “Accessory Living Unit” and “Dwelling Unit” but did not clearly state that they were permitted or prohibited in the residential district. “Accessory structure” was a by-right permitted use in the residential district.

There was much discussion regarding the following: i) The lack of affordable housing in the county. Many of the school teachers could not afford to live in the county unless several of them shared a house. An accessory unit over a garage with its own water and septic would be ideal especially since the connection fees for dwelling units with less than 2 bedrooms were reduced to 50% of the regular fees; ii) It had been rumored that there were a number of properties in town renting out accessory units illegally. In these cases, the town did not know whether the units were safe or had running water, etc.; iii) A minimum size needed to be determined. The minimum size for a single family dwelling was currently 960 square feet. Larry DiRe read from the draft language from 2008 which required 250 sq ft for 1 occupant, 500 sq ft for 2 occupants and 650 sq ft for 3 occupants; iv) The draft language required the occupants of an accessory dwelling be a family member of the property owners living in the main dwelling. The Commissioners agreed to delete this requirement; v) The parking standards in the draft text required 1 space per accessory dwelling unit bedroom. Larry DiRe added that accessory dwelling units would require a conditional use permit so the specific parking requirements could be addressed at that time; vi) The draft language permitted an accessory dwelling unit within the main house, but the Commissioners agreed to strike that language.

Larry DiRe would provide an updated draft ordinance for review during the August meeting.

C. *Satellite Dish Ordinance Review*

Dennis McCoy read Dan Burke’s email in which he stated that he had seen about 5 dishes installed on the fronts of houses over the past 2 weeks and expressed his concern regarding jeopardizing the town’s historical status if it was decided to grandfather existing dishes which were placed on the front of properties.

Larry DiRe informed the Commission that the Historic District Review Board had a Skype call with the Governmental Association Liaison for Dish Network, David Lettkeman, who gave a brief overview of Over-the-Air Reception Devices rule of the Federal Communications Commission (FCC)

There was much discussion regarding the following: i) There were a number of properties with non-functioning dishes. The satellite dishes became the property owner’s responsibility once installed and the dish companies would not remove old units. Language needed to be included requiring the removal of non-functioning dishes; ii) The current ordinance could not be enforced. Per the FCC, the town could not require permits nor deny a person access to satellite service, but it was the Board’s right to restrict placement provided a line of sight could be obtained. The town could also require a resident to notify the town of their intent to install a dish; and iii) Whether the town could require a property owner to paint the satellite dish the same color as the house if it was installed on the front of the property.

Larry DiRe would provide an updated draft for review at the August meeting.

**NEW BUSINESS**

A. *Draft Text Amendment for "Bedroom" Definition*

Due to the time, this item was deferred to the August meeting.

B. *Proposed Bay Avenue Reverse-Angle Parking Drawings Review*

Due to the time, this item was deferred and since it was a recommendation in the Comprehensive Plan, would be reviewed on Monday, July 13<sup>th</sup>, at the Comprehensive Plan Meeting.

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Bill Stramm, seconded by Joan Natali, to adjourn the Planning Commission meeting. The motion was unanimously approved.**

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Chairman Dennis McCoy

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Town Clerk