



PLANNING COMMISSION

Regular Meeting

Town Hall
July 6, 2010

At 6:00 p.m. in the Town Hall, Chairwoman Joan Natali, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairwoman Natali, present were Commissioners Dennis McCoy, Roger Munz and Michael Strub as well as Town Planner Tom Bonadeo and Town Clerk Libby Hume. Commissioner Bruce Evans arrived at 6:03 p.m. Commissioners Malcolm Hayward and Ben Lewis were not in attendance. Also in attendance were guests Eyre Baldwin, Rosemary Bosworth and Hugh Patterson representing Southport Investors and Michael Sterling, legal counsel for the Town from Vandeventer Black, LLP. There were also two members of the public in attendance.

A moment of silence was observed followed by the Pledge of Allegiance.

PUBLIC COMMENTS

Mr. Scott Walker, 528A Washington Avenue, addressed the Commissioners regarding the potential connector road and presented several alternates to the proposed route which were distributed to the attendees. Mr. Walker stated that the preferred route should be "C-D" which proposed an at-grade connector road across the railroad tracks to Fig Street adding that no road-front residences would be passed by the industrial traffic and the corner of Fig Street and Route 184 was a town-owned corner lot and could accommodate a wider turn lane.

There were no further comments from the public in attendance nor any written comments submitted prior to the meeting.

Tom Bonadeo introduced Michael Strub as a new Commissioner.

CONSENT AGENDA

Tom Bonadeo suggested that Item 4c – Reports be moved to the end of the meeting to accommodate the evening's guests and the discussion of the agenda items of interest to the guests.

Hearing no objections, Joan Natali stated that the agenda was approved as modified by unanimous consent.

The Commissioners reviewed the minutes for the June 1, 2010 Regular Meeting.

Motion made by Dennis McCoy, seconded by Bruce Evans and approved by a majority vote to approve the minutes for the June 1, 2010 Regular Meeting as presented. Joan Natali abstained from the vote as she was not able to attend the June 1, 2010 meeting.

OLD BUSINESS

Connector Road

Tom Bonadeo stated that the Planning Commission reviewed the road requirements surrounding the area for the potential connector road between westbound Old Cape Charles Road and the entrance to Bayshore Concrete. Tom Bonadeo stated that this input session was to allow the

stakeholders an opportunity to present reasons for building the road, value, cost, funding, etc. and then turned the meeting over to Mr. Eyre Baldwin who showed the proposed road on the map stating that Southport would provide the land for the road and probably much of the money. Mr. Baldwin stated that he had previously talked to John Dobbs, former manager of Bayshore Concrete, who agreed that this road would be beneficial, but had not spoken with the current manager. Mr. Baldwin went on to state that Messrs. Oral Lambert and Dick Foster were also in agreement that it was better to straighten this road. It was Southport's intent to bring tourists to the Harbor which needs to be pedestrian-friendly and industrial trucks would be inhibitive.

Ms. Rosemary Bosworth added that a distribution warehouse may also be interested in relocating to Cape Charles, but their traffic also needed to be kept separate from the café and tourist areas which are planned for lot 12.

There was some discussion regarding the existing walkway in the conservation area and Tom Bonadeo stated that the Town was planning to connect this walkway to the Cape Charles Community Trail.

Mr. Baldwin agreed that it was a win/win if the Town and Harbor area could be connected.

Ms. Bosworth explained that the Virginia Department of Transportation's (VDOT) program allots a maximum of \$800K for a road of this type with \$500K coming from VDOT and \$300K in matching funds. Southport was willing to put up some money but was waiting to hear whether the value of the existing land, which would be provided for the road, could be included as part of the match vs. \$300K in cash since VDOT would not have to buy the land. Ms. Bosworth went on to state that Southport hoped that Bayshore Concrete would also be willing to share some of the cost.

Tom Bonadeo added that the VDOT regulations state that the roads must be built on public land, not privately-owned land and that Southport may need to transfer the land to the Town in order to move forward with this project. Mr. Baldwin stated that this would be a team effort and they would be willing to do so.

Tom Bonadeo referred to the *Economic Development Access Program Guide* from VDOT and stated that the Planning Commission would be reviewing the manual over the next several meetings. Tom Bonadeo also stated that he would be communicating with Bay Creek and Harbor Master Smitty Dize since the Town Harbor was also affected by the industrial traffic.

Ms. Bosworth stated that at a previous meeting with Town Council, one of the councilmen expressed some concern regarding funding for the 2020 road projects if the Town supported this connector road. Tom Bonadeo explained that he thought the concern was if the Town took out a bond for this project and had to pay the \$300K match and if the businesses did not come to Cape Charles within five years, the Town would have to pay back the \$500K from VDOT. Both Mr. Baldwin and Ms. Bosworth stated that Southport was not asking the Town to put up any money for the bond.

Tom Bonadeo stated that he had talked to Mr. Oral Lambert and was informed that Bay Creek was in support of building this road. Tom Bonadeo added that he discussed the previous plans to close Route 642 (Old Cape Charles Road) as detailed in the Annexation Agreement and Mr. Lambert was in agreement that Route 642 would be kept open and would try to locate documentation regarding this issue. Bruce Evans agreed that the original decision to close Route 642 had been rescinded around the time the Cape Charles-Northampton County IDA was established.

At this time, Joan Natali opened the floor for questions or comments from the Commissioners.

Roger Munz began by stating that he felt that Mr. Berkley Rayfield might have a problem with the alternate route of the connector proposed by Mr. Scott Walker and added it was borderline unsafe travelling on Route 642, especially with the industrial trucks travelling the road. Mr. Bonadeo clarified that the proposed road would only connect Route 642 to the industrial park and did not include plans to redo the existing road because the pool of money was earmarked for new roads only.

Michael Strub asked if the recent accident with a truck hauling a concrete form was typical. Tom Bonadeo stated that it was not typical and explained the accident as having been caused by human error.

Joan Natali asked what types of businesses Southport was expecting to attract if this road were built. Mr. Baldwin and Ms. Bosworth stated that the primary focus was on business in the boating industry but there were 80 acres available on the property and a portion of the property could be used for other businesses and added that a distribution warehouse had expressed an interest.

Boundary Adjustment Discussion

Tom Bonadeo stated that the Boundary Adjustment Committee did not meet in June and that a joint meeting of the Cheriton and Cape Charles Planning Commissions had not been successfully arranged.

Tom Bonadeo went on stating that a letter was received from the Northampton County Planning Commission requesting a joint meeting to discuss and develop a process regarding a Town Edge Plan. Tom Bonadeo recommended scheduling the joint meeting on either July 19th, which was the Planning Commission's alternate meeting date, or July 21st, which was the County Planning Commission's alternate meeting date.

Joan Natali and Roger Munz stated that they were available for both dates. Joan Natali asked that Bruce Evans, Dennis McCoy and Michael Strub check their calendars and let Libby Hume know their availability tomorrow. Joan Natali also asked Libby Hume to contact the Commissioners who were not in attendance to get their availability.

Technology Zone & Tourism Zone

Tom Bonadeo explained that the discussion regarding the Technology Zone and Tourism Zone would be combined since the requirements were basically the same. The Planning Commission discussed the possibility of creating Technology and Tourism Zones in Cape Charles to attract certain types of businesses to the Town. Tom Bonadeo stated that the concept of Technology and Tourism Zones with incentives sounded good and referred to information from other municipalities that were included in the Technology Zone Workbook provided to the Commissioners at a previous meeting. Tom Bonadeo explained that the majority of the Technology Zones were owned by localities and many of the zones were targeted at one specific business. These zones could be either a specific area within the Town or encompass the entire Town. Tom Bonadeo stated that he was building a spreadsheet with various business types and asked the Commissioners to email, by the end of this week, a list of possible technology and tourism businesses to include in the spreadsheet. Tom Bonadeo added that he would also include some possible cost incentives, such as tax relief, discounts, etc. for review by the Commissioners at the next meeting.

Ms. Bosworth stated that previously, Southport had asked about a discount in the hook-up fees for new businesses and were told that the Town could not make any exceptions. With the creation of a Technology Zone, the hook-up fees could be negotiated. Tom Bonadeo responded that the Town could put something in place with items that could be negotiated.

Joan Natali suggested that once the Commissioners compiled the list and were comfortable with a plan, maybe the County could be contacted to see if they may be interested in joining Cape Charles on these zones which could offer new businesses a larger incentive. Tom Bonadeo agreed and added that in Cape Charles, the businesses pay 2/3 in County taxes, and 1/3 in Cape Charles taxes.

Joan Natali stated that one locality referred to “non-carbon energy” and felt that this should be included in the Cape Charles ordinance. Tom Bonadeo stated that Caroline County’s ordinance was one page and may be too simple. Dennis McCoy added that Front Royal’s ordinance was also one page, but contained more information which could be helpful.

Tom Bonadeo stated that the technology/tourism zone matrix would be reviewed at the next meeting and that more input would be requested from the other businesses in the area. Mr. Baldwin stated that businesses in the insurance industry were needed. Bruce Evans added that businesses dealing with interiors and repairs of boats need to be included.

Mr. Baldwin asked the Commissioners to look at www.newportshipyard.com to see a template of what Southport was trying to do.

Mr. Baldwin stated that his sister had been meeting regularly with the Federal Economic Development Authority (EDA) and that he would have her attend a future meeting to discuss what she has learned and that the Federal EDA could possibly assist the Town in the process.

Mr. Patterson stated that some factors were the number of new employees which would be hired, the amount the employees would be paid and the capital investment. Mr. Baldwin and Ms. Bosworth added that in this area, the minimum pay was \$10 per hour and 10-12 employees to be eligible for funding.

Tom Bonadeo stated that the Planning Commission was still trying to do their homework with several new members. As soon as the matrix is compiled, it would be distributed to the Commissioners and stakeholders for their review. Joan Natali stated that this should include Southport, Bay Creek, Bayshore Concrete, Harbor Development and others.

The representatives from Southport Investors left the meeting at 7:05 p.m.

Tom Bonadeo stated that several incentives needed to be looked at closely. Reduction in tap fees would be a direct cost to the Town. A reduction in business licenses may be beneficial to some businesses.

NEW BUSINESS

HB 1308 – Temporary Family Health Care Structures

Tom Bonadeo explained that the next two items were new sections of the Code of Virginia and added that he was glad that Mr. Sterling was in attendance to help with the interpretation.

House Bill 1307 requires all zoning ordinances to make allowances for temporary family health care structures and a locality cannot require a special use permit or subject these structures to any other local requirements beyond those imposed upon other authorized accessory structures.

These structures are for use by a caregiver in providing care for a mentally or physically impaired person and only one family health care structure can be on a lot or parcel of land. The Commissioners reviewed the bill and discussed the definitions of a caregiver, a mentally or physically impaired person and temporary family health care structure.

Joan Natali expressed some concern regarding § 15.2-2291.1.D. which stated that the temporary family health care structure may be required to connect to any water, sewer and electric utilities that are serving the primary residence. Tom Bonadeo responded that it would be a temporary structure and could be pumped-out similar to campers or port-a-potties.

Dennis McCoy asked how this would affect the PUD and Tom Bonadeo stated that he had been talking to Mr. Lambert who has contacted several people in Virginia Beach to see how they are handling this issue.

Mr. Sterling stated that in several weeks he would have more information regarding this issue. A presentation was being prepared for the BAR Association. This issue has received a lot of attention and it would be a challenge to meet the requirements of the Code of Virginia and still meet the guidelines in the Town Code and Historical Guidelines. Mr. Sterling continued by stating that it would be better to have guidelines in place before any requests come in. Mr. Sterling also added that there were businesses, which could be found on the Internet, that build these types of structures. Tom Bonadeo stated that he would research this information and suggested the Commissioners wait until the next meeting after getting additional information from Mr. Sterling.

Joan Natali stated that this ordinance was similar to the ordinance regarding accessory buildings that was developed by the Commission several years ago. Tom Bonadeo stated that these structures would be temporary and added that he would prefer to let the building department work out the details.

Code of Virginia Section 15.2-2291 – Group Home / Single Family Home

Tom Bonadeo explained that the General Assembly adopted a modification to Section 15.2 of the Code of Virginia adding Paragraph A stating that a group home of eight or less with one or more resident advisors is equal to residency by a single family. No conditions more restrictive can be placed on the home than is placed on the single family. The Cape Charles Zoning Ordinance considers the Group Home as a Home Occupation. Section 4.0.C of the Town's Zoning Ordinance includes a list of uses specifically excluded from the Home Occupation and "Group Home" is on this list the result of which is that the Town's Zoning Ordinance currently does not allow group homes in any residential district.

Joan Natali asked whether Cape Charles had any limitations on the number of people that could occupy a single family home. Tom Bonadeo stated that the Town did not place any limitations on the number of inhabitants of a home. Mr. Sterling stated that many localities did have limitations regarding the number of people in a residence.

Joan Natali asked the Commissioners to think about the possibility of placing a limit to the number of residents in a single family home based on the number of bedrooms. Mr. Sterling recommended checking with the Cities of Virginia Beach and Norfolk which have limitations in place for the number or residents in a home.

Michael Strub stated that this issue was possibly caused since individuals recovering from certain illnesses cannot be released unless they have a caregiver available. Rehabilitation centers could

be cost prohibitive and some insurance companies may not cover these costs. A group home could be a lesser expensive alternative.

There was some discussion regarding identification of a group home. Tom Bonadeo referred to §15.2-2291.A, which states that “no conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility.” Since the Town does not required permits or applications, etc. for single family residences, what can be done to identify these group homes?

Mr. Sterling added that there may be HEPA issues if dealing with health issues.

Tom Bonadeo stated that he would do more research and check the ordinances from Arlington and York Counties and the Cities of Lynchburg and Suffolk who have previously had this requirement.

Mr. Sterling left the meeting at 7:44 p.m.

REPORTS

Tom Bonadeo reported the following: i) The Northampton County Planning Commission has asked for a joint meeting. This was discussed earlier this evening and will be scheduled once availability of the Commissioners has been determined; ii) The Breakwater Project is nearly finished. The contractor is awaiting delivery of additional armor stone to complete the project. Dennis McCoy stated that he recently saw a vessel very close to the rocks and asked whether any regulations were in place. Tom Bonadeo stated that day markers and lights would be installed; iii) The Beach Repair Project has been completed. The fence has been installed and 360 loads of sand were added to the northern end of the beach. The large dune that had built up due to the storms last winter has been spread between Monroe and Madison Avenues. The Public Works crew is still working on wooden accesses to the beach and the ramp at the south end of the boardwalk; iv) The Trail Project is moving along and the shallow wells were drilled today and the irrigation system will be connected soon. The sod should be installed within the next few weeks and final plants and bushes will be installed along with the fence. The 67 new trees will not be planted until the fall. Two large trees that had Dutch elm disease and were over 40% hollow were removed along Plum Street to make way for the new trees and safer sidewalks on the east side of the park. The Town has received several complaints and several “Thank you’s;” v) The Cape Charles-Cheriton Boundary Adjustment Subcommittee did not meet in June. The Council will appoint a new representative to replace outgoing Councilman Burdiss on the Committee; vi) The Wastewater Treatment Plant is moving along well and the new tanks can be seen from the road. These will be screened by vegetation prior to completion. New scientific developments will allow the Town to increase capacity of the plant prior to it opening. An announcement will be provided at the July 8th Council meeting; vii) The Town Council held a work session to meet with representative of the Governors Opportunity Fund to discuss their role in bringing new business to Virginia and their role in Cape Charles. This Information regarding connector roads was discussed earlier this evening; and viii) Will be meeting with Senator Mark Warner tomorrow regarding projects earmarked for funding on the State’s list. Bayshore Concrete is requesting assistance in dredging the channel to 35’ to allow them to bid on upcoming projects across the bay. The shallow channel hinders their ability to bid on these projects.

Joan Natali asked if Tom Bonadeo had heard back from Dr. Papadopoulos of James Madison University (JMU) regarding wind turbines. Tom Bonadeo stated that JMU received a \$800K Federal grant for research on wind turbines and added that he had not talked to Dr. Papadopoulos in several months and would contact her.

Dennis McCoy asked whether Joan Natali's role on the Planning Commission would change since her election to the Town Council. Tom Bonadeo stated that Bruce Evans who was appointed as the Town Council representative on the Commission has tendered his resignation from the Commission but agreed to remain until a replacement could be named. This issue is on the Council agenda for Thursday's meeting and staff has recommended that the Council appoint Joan Natali to be the Council representative. There is nothing in the By-Laws prohibiting the Council representative from being the chairperson of the Commission. Since the Commission holds their elections in November, staff is recommending that Joan Natali remain as chairperson until that time.

Michael Strub stated that the June meeting minutes showed that a co-chairperson would be elected at the July meeting. The Commissioners agreed to wait until November to elect the co-chairperson as well since not all the Commissioners were in attendance at this meeting and only three meetings remained until elections were scheduled.

Tom Bonadeo stated that with Bruce Evans' resignation, another vacancy needed to be filled. If any of the Commissioners know anyone who may be interested, please have them contact Libby Hume. Libby Hume added that an application had been developed for Boards and the Planning Commission which was on the Town's website and runs regularly in the Gazette.

ANNOUNCEMENTS

There were no announcements.

Hearing no objections, Joan Natali adjourned the Regular Meeting of the Planning Commission by unanimous consent.

Chairwoman Joan Natali

Town Clerk