



TOWN COUNCIL
Public Hearing & Special Meeting
Cape Charles Civic Center
via Electronic Communications
May 21, 2020
6:00 PM

This Public Hearing and Special Meeting of the Cape Charles Town Council was held by video conference in accordance with Code of Virginia § 2.2-3708.2, subsection A.3, resulting from Governor Northam's March 12, 2020 declaration of a state of emergency for the Commonwealth of Virginia arising from the Novel Coronavirus (COVID-19) pandemic. It was deemed impractical and unsafe to assemble physically due to the highly contagious nature of COVID-19.

The purpose of this meeting was to hear public comment regarding i) the proposed Fiscal Year 2021 budget, and ii) a conditional use permit (CUP) application for residential over commercial use in the C-1 district at 325 Mason Avenue; and for Council to discuss and vote on the CUP application. The meeting was live-streamed on Facebook, as well as video-taped for viewing from the Town's website after processing. Public comments were accepted in writing prior to the meeting. Viewers could also submit their comments via Facebook Live and emails to the clerk.

At approximately 6:00 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing and Special Meeting of the Town Council. Physically present at the Civic Center were Town Clerk Libby Hume and Community Relations Manager Jennifer Lewis. In attendance via Zoom were Mayor Dize, Vice Mayor Bennett, Councilmen Bannon, Buchholz and Grossman, Councilwoman Holloway, and Town Manager John Hozey. There was one vacancy on Council. There were no members of the public physically in attendance, but there were 60 viewers on Facebook Live.

PUBLIC HEARING COMMENTS:

- A. *Conditional Use Permit Application – 325 Mason Avenue*
There were no comments received regarding this item.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to close the public hearing regarding the conditional use permit application for 325 Mason Avenue. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Grossman, yes; Holloway.

- B. *Proposed FY 2020-2021 Budget*
Town Clerk Libby Hume read three comments submitted in writing prior to the meeting. (Please see attached.)

SPECIAL MEETING ORDER OF BUSINESS:

Councilwoman Holloway asked that discussion regarding re-opening of the beach be added to the agenda as item #4B. Mayor Dize requested that discussion regarding future Council meetings be included as part of this new agenda item.

Motion made by Councilwoman Holloway, seconded by Councilman Bannon, to add agenda item #4B for discussion of re-opening the Cape Charles beach and future Council meetings. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Grossman, yes; Holloway, yes.

- A. *Conditional Use Permit Application – 325 Mason Avenue:*
Town Manager John Hozey stated that a conditional use permit application was received for residential dwelling unit above a commercial use at 325 Mason Avenue. The Planning

Commission held their public hearing and recommended approval of the conditional use permit as submitted. The Town Council public hearing was held earlier this evening with no comments received.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve a conditional use permit to allow a residential dwelling unit above commercial use in the C-1 district at 325 Mason Avenue as recommended by the Planning Commission. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett; yes, Buchholz, yes; Grossman, yes; Holloway, yes.

B. Beach Re-opening and Future Council Meetings:

Councilwoman Holloway stated that she thought it would be good to talk about the recent opening of Virginia Beach to clarify some confusion regarding the process that the City of Virginia Beach went through in order to reopen their beaches. This would be a good forum for the residents and community to hear this information.

John Hozey stated the following: i) Governor Northam approved opening Virginia Beach on Monday as a result of an extensive effort from the city. The City of Virginia Beach put together a complex plan to enforce protocols including the hiring of ambassadors to walk around the beaches, additional law enforcement officers to enforce the protocols, aerial drones, etc. Their first plan was rejected but their second plan received approval. When asked about other beaches in the state, the Governor pointed to the Virginia Beach plan as a template for communities to bring forward for consideration. Virginia Beach spent a lot of time and effort putting this plan together and was spending a lot of money to implement the plan; ii) There were a lot of questions regarding the Cape Charles beach which was still open only for exercising and fishing. There was a lot of abuse last weekend. Council discussed the enforcement issues during last week's meeting and staffing was increased. Over 50 individuals were asked to leave the beach. When they saw an officer approaching, they got up and claimed they were exercising or picked up a fishing pole; iii) New signs were developed with very explicit language prohibiting coolers, chairs, umbrellas, etc. which were inconsistent with exercising. If people were fishing, they needed to have a fishing license. A sign was also ordered for Route 13 stating that the beach was closed in preparation for the holiday weekend; iv) He and Mayor Dize had a conference call this afternoon with the Governor's office. He thought there would be a phased approach to reopening. The indication from the conference call was that phase 2 would allow for recreational uses of the beach with some restrictions limiting the size of groups and spacing. There was no timeframe given but it could possibly be sometime in June. The Governor was waiting on trends regarding new cases and availability of personal protective equipment; and v) At the last meeting, he specifically asked Council about the other Town facilities. The guidance received at that time was to keep them closed as long as the Governor kept the beach closed. Based on the discussion with the Governor's office, he would put together a plan for a phased opening of the facilities with some restrictions.

Mayor Dize noted that if we developed a plan and submitted it to the Governor's office, there was a review process that would take some time since the plan needed to be reviewed by the Virginia Department of Health (VDH) first. His opinion was that the process would take at least two weeks.

John Hozey continued as follows: i) It would take him about a week to develop the plan in order to submit it to the VDH, then to the Governor's office. He didn't think the town could get approval by June 10; ii) A lot of input had been received regarding the economic need to open soon. The input was absolutely valid, but there was also a public health concern. The Town didn't have access to the public health data that the Governor had so we had to follow the state's lead.

Councilman Buchholz added that being a Dillon-Rule state, the Town didn't have a choice but to follow the state's lead. The Governor opened up a Pandora's box by allowing one locality to open up beaches. Cape Charles didn't have any drones, parking garages and as many police officers as

Virginia Beach. We can't be compared to Virginia Beach. The Governor's decisions weren't good for the overall State of Virginia and basically tied our hands regarding what we could do.

Councilwoman Holloway commented that she didn't want to be compared to Virginia Beach. She believed that the Governor had the public health safety in mind. We needed to look at each piece of Virginia Beach's plan to see what we could implement. Her biggest concern was that if we didn't start the process, we would really be behind in the game. Cape Charles was different and could control the beach differently. We needed to look at the economic perspective to determine what it would take to open Cape Charles safely. Conversations with the state were a good start.

Vice Mayor Bennett's stance was unchanged from last week. The primary complaints were regarding short-term rentals that wanted to rent their properties. They could do so now. Now they wanted something for the visitors to do. He felt that the Town was doing that was best for the majority of the full-time residents. He appreciated the call with the Governor's office but government moved very slowly. Even if we launched a campaign to re-open, he didn't think it was worth the time and money. Cape Charles couldn't hire 100 ambassadors to tell people they were too close to each other. He was content with his decisions made and things could be reconsidered after a phase 2 announcement was made.

Councilman Bannon stated that he received a number of emails after last week's vote saying that he and Vice Mayor Bennett did a good job in keeping the town closed. Since some things were reopened, we needed to open things up completely. On the other hand, the virus was still here and the numbers on the Shore were really high per capita.

Mayor Dize agreed that the numbers of the Shore were high, but the cases in zip code 23310 were low with 18 cases.

Councilwoman Holloway clarified that she wasn't suggesting that the Town move forward to open the beach but she thought that the community needed to know the options. Cape Charles wouldn't need 100 ambassadors and could possibly have a volunteer ambassador program. She expressed her concern with waiting until June 10 to begin the process. She wasn't trying to rush things but felt that the Town should be prepared to reopen.

Councilman Grossman agreed with Councilwoman Holloway adding that we needed to have a plan and start working on a phased approach to reopening. He appreciated John Hozey and the enforcement efforts. People were still coming here whether the beach was open or not.

Much discussion regarding this issue continued.

John Hozey stated his appreciation of clarification of Council's discussion and continued as follows: i) He would develop a plan; ii) The Town would prepare for phase 2 opening of the beach with certain limitations and recreational activity with spacing requirements. He expressed his concern of having adequate space to accommodate the beachgoers during high tide. Would the Town have to control entry points to only allow a certain number of people onto the beach?

Mayor Dize asked for a consensus on whether staff should develop a plan for Council review. Councilmen Grossman and Buchholz, and Councilwoman Holloway were in favor and Vice Mayor Bennett was opposed. Councilman Bannon had technical difficulty and his Zoom connection was temporarily lost.

Mayor Dize wanted to discuss the possibility of having regular meetings again. The current ordinance only allowed for an individual to participate by electronic means for two meetings per year. He asked John Hozey to draft another ordinance changing that requirement to allow for as many electronic meetings as needed.

There was discussion regarding this issue as follows: i) Libby Hume explained that the language in the Town's ordinance was verbatim from the Code of Virginia and could not be changed without the State changing the Code. Only meetings under the emergency declaration could be

held with electronic participation; ii) John Hozey stated that as long as we were operating under the emergency declaration, we could work around the limitation; iii) Councilman Grossman stated that only essential business could be done in this manner and added his concern regarding attendance by members of the public and social distancing requirements; iv) Councilwoman Holloway asked that streaming on Facebook be continued; and v) The quality of the Wi Fi at the Civic Center was also noted.

Mayor Dize asked for thoughts from Council.

Councilman Buchholz agreed that essential business for Town operations needed to be conducted. He added that he was okay with attending meetings in person and opening them up for the public, but there were members of Council with underlying conditions who would have to participate electronically.

Vice Mayor Bennett felt that meetings should continue as they were currently held under the emergency ordinance. He agreed that we needed to abide by the Code of Virginia under normal conditions, but these were not normal conditions. He added that Councilman Grossman brought up a good issue of essential business to be conducted.

Mayor Dize asked John Hozey or Libby Hume to check to see if we could change the ordinance to get back to doing regular business. Mayor Dize proceeded to ask each member of Council regarding their opinion regarding going back to meeting in person. It was unanimous that we move toward meeting in person. John Hozey stated that staff would move forward to schedule next week's meeting for in-person attendance.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Public Hearing & Special Meeting. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Grossman, yes; Holloway, yes.

The meeting adjourned at 6:57 p.m.

Mayor Dize

Town Clerk

Comments Provided in Writing
May 21, 2020 Town Council Public Hearing & Special Meeting

Bob Panek, Tazewell Avenue

Subject: FY 2021 Budget

The Mayor, Council and staff have done a commendable job in developing the budget for next fiscal year in light of the depressed revenue projections caused by the COVID 19 pandemic. I ask that the Council make one adjustment to the budgeted capital projects. Please replace the \$15,000 project to restripe the parking spaces on Mason Avenue, with the \$14,000 project to replace the zip line in the children's playground. Council adopted a Capital Improvement Program policy document in January of this year. The need for proper maintenance of existing Town assets is stressed on page 7: "Ultimately, deferring essential maintenance or asset replacement could reduce the organizations ability to provide services and could threaten public health, safety and overall quality of life. In addition, as the physical condition of the asset declines, deferring maintenance and /or replacement could increase long-term costs and liabilities." The zip line had reached the end of its service life and was removed about a year ago because of high maintenance costs and safety concerns. It is time to replace this asset and restore the playground to its former functionality. While some people dislike backing in to the parking spaces on Mason Avenue, they are perfectly functional in their current state. New paint can wait until revenue improves. Take this opportunity to do something positive for the children of our Town and those of our guests.

Bob Panek

Sue Panek, Tazewell Avenue

Subject: Budget

My concern relates to SAFETY.

I would like council members, the mayor and the town manager to please discuss and reconsider spending money to change the current back-in parking lines on Mason Ave. I know a few people find back-in parking uncomfortable and inconvenient, but there are alternatives.

I walk or ride my bike on Mason Ave almost daily.

For the past year I have been doing an informal survey of the number of people ignoring the parking regulation. At the height of summer, with almost all back-in spaces full, there have never been more than 7 cars illegally parked. At other times I have observed no more than 2-4 illegally parked vehicles. The majority of drivers do not seem to have a problem backing in.

I believe you are all familiar with VDOT reasons as to why this parking method is safer, but here are two examples for you to consider. Last Sunday, I observed a family of four who illegally parked face-in. When I saw them they were loading their bicycles back onto the car. Two adults, two children, and 4 bikes, were behind the car and almost to the middle of the street. Very dangerous. It would have been much safer for them to load their bikes from the sidewalk. A second example represents the safety aspect of back-in parking. My wheelchair bound friend was with me. I backed into a spot, went to the sidewalk, got her chair from the trunk. She hobbled out without having to go around the open car door, unavoidable if you park face-in, and her chair was ready on the sidewalk.

As we have been safer because we are using an abundance of caution during this pandemic, I would urge you to do the same with our parking situation on Mason Ave.

Thank you.

Sue Panek,

Full time resident, Tazewell Ave

Hank Mayer, Citizens for Central Park

Subject: Proposed Cape Charles FY 2021 Budget

I would like to submit two comments with regard to the current draft FY 2021 Budget.

1. The FY 2021 Budget was developed during a period when the Town Council had shutdown all seasonal rentals, which are a HUGE tax revenue source to the Town. That was lifted 2 weeks ago, along with a

loosening of other COVID 19 related VA State limits on what had been referred to as non-essential businesses. Additional business and individual loosening measures are expected to be issued by the Governor next Thursday, May 28th and another set 2 weeks after that. It is entirely possible that the Cape Charles Park and beaches will be open, maybe with some conditions, but still open, before the July 4th weekend that begins the new FY on July 1st.

2. I ask that the Town replace the \$15,000 capital project to re-stripe the parking spaces on Mason Avenue, with the \$14,000 project to replace the zip line in the children's playground. Mayor Dize made an important point in his response to my earlier Budget comment - the Town does owe a responsibility to the public, and especially the children who live and visit Cape Charles. The Playground Zip Line that was removed by Public Works in the Spring of 2019 should be replaced this summer as the town begins to open up from the COVID 19 impacts and constraints. We need to begin feeling normal again.

Hank Mayer



TOWN COUNCIL
Executive Session
Cape Charles Civic Center
Via Electronic Communication
May 21, 2020

Immediately Following Public Hearing & Special Meeting

This Executive Session of the Cape Charles Town Council was held by video conference in accordance with Code of Virginia § 2.2-3708.2, subsection A.3, resulting from Governor Northam's March 12, 2020 declaration of a state of emergency for the Commonwealth of Virginia arising from the Novel Coronavirus (COVID-19) pandemic. It was deemed impractical and unsafe to assemble physically due to the highly contagious nature of COVID-19.

The purpose of this meeting was to appoint an individual to complete Councilwoman Burge's unexpired term on the Town Council. An audio recording was made of the open portion of this meeting.

At approximately 7:00 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Executive Session of the Town Council. In addition to Mayor Dize, present were Vice Mayor Bennett, Councilmen Bannon, Buchholz and Grossman, Councilwoman Holloway, Town Manager John Hozey and Town Clerk Libby Hume.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:

Paragraph 1: Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body.

Specifically: Appointment to Fill Town Council Vacancy

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to return to Open Session. The motion was unanimously approved.

Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Grossman, yes; Holloway, yes.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to appoint Councilman-Elect Andrew Follmer to fulfill the unexpired term of former Councilwoman Burge, which would expire on June 30, 2020. The motion was approved by majority vote. Roll call vote: Bannon, no; Bennett, yes; Buchholz, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The meeting adjourned at 7:13 p.m.

Mayor Dize

Town Clerk