



**TOWN COUNCIL**  
**Public Hearing, Special Meeting,**  
**Work Session & Executive Session**  
**Cape Charles Civic Center**  
**September 3, 2020**  
**6:30 PM**

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Public Hearing, Special Meeting, Work Session and Executive Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were seven members of the public physically in attendance, and six viewers on Facebook Live.

**PUBLIC HEARING COMMENTS:**

- A. Amendment to Ordinance Creating the Joint Industrial Development Authority of Northampton County and Towns – Name change to Joint Economic Development Authority and adding the towns of Eastville and Nassawadox as participants in the authority

There were no comments to be heard nor any written comments received prior to or during the public hearing.

**Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to close the public hearing. The motion was approved by unanimous vote.**

**PRESENTATIONS:**

- A. *Northampton County Supervisor John Coker – November Tax Referendum*

Supervisor Coker addressed the Council regarding the renovation and construction of the Northampton County schools which were currently estimated at a cost of \$35M. The Board of Supervisors (BOS) approved moving forward with construction due to the unprecedented low interest rates. Studies showed that quality schools were a good economic driver that helped improve skills to increase the work force in the county. The county had already borrowed \$25M and would obtain another loan for \$10M in the fall. The plans were to reopen the middle school after renovation. The BOS saw two options to raise revenue to help with the debt service 1) raise property taxes; and 2) raise the sales tax by one cent for non-essential items. The Virginia General Assembly approved the added sales tax for the county during their session earlier this year, but the tax could only be implemented by referendum with approval from a majority of voters. The tax would expire in 20 years and require another referendum to be reimplemented. The proceeds of this tax would only be used for school construction and renovation. The BOS estimated collection of \$1.4M per year with this tax. It was also estimated that about 45% of sales tax collected in the county were paid by visitors and the BOS wanted to take advantage of the tourism economy to bring the school complex up to date. Mr. Coker asked for Council’s support and for everyone to vote “yes” on November 3<sup>rd</sup>.

**PUBLIC COMMENTS (REGARDING AGENDA ITEMS ONLY):**

*Tiffany Mohr, 215 Madison Avenue*

Ms. Mohr addressed Council regarding the Oyster Farm’s directional sign at Fig Street and Randolph Avenue. (Please see attached.)

There were no other comments to be heard nor any written comments received prior to or during the public comments period.

**SPECIAL MEETING ORDER OF BUSINESS:**

**A. *Amendment to Ordinance Creating the Joint Industrial Development Authority of Northampton County and Towns:***

Town Manager John Hozey stated that representatives from the Joint Industrial Development Authority (JIDA) gave a presentation to Council at the August 20, 2020 meeting providing an update of proposed changes to the JIDA. The name was being changed to the Joint Economic Development Authority and the towns of Eastville and Nassawadox had petitioned to participate in the Authority. Each of the participating towns needed to adopt the ordinance in order for the amendments to become effective. The ordinance to be adopted this evening was the same ordinance provided by the county, verbatim with the addition of our ordinance number for tracking purposes.

**Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Ordinance 20200903 An Ordinance to Amend an Ordinance Entitled, "An Ordinance Creating the Joint Industrial Development Authority of Northampton County and Towns". Mayor Dize moved for adoption of Ordinance 20200903 as noticed and forewent reading of the Ordinance. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.**

**B. *Atlantic Union Bank Line of Credit Renewal:***

John Hozey stated that since 2011, the Town of Cape Charles had maintained a \$500K line of credit for working capital. The Town had never had to use the credit line, but it would be prudent to extend the account for another year. All disbursements must be approved by the Town Council.

**Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to adopt Resolution 20200903 Authorizing the Renewal of the Line of Credit with Atlantic Union Bank in the amount of \$500K. Mayor Dize moved for adoption of Resolution 20200903 as noticed and forewent reading of the Resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.**

**C. *Approval of Public-Private Education Facilities and Infrastructure Act Guidelines:***

John Hozey stated that an unsolicited proposal was received from AQUA in May. For most transactions, the Town followed the Virginia Public Procurement Act regarding the process for the expenditure of public funds. For certain projects, the attorney recommended alternate procurement processes using the Public-Private Education Facilities and Infrastructure Act (PPEA) and the Public-Private Transportation Act (PPTA). These Acts could provide more process flexibility for some transactions. The Acts required the formal adoption of local guidelines before the Town could be authorized to access the provisions of these laws. The guidelines were very detailed, and a set of abbreviated guidelines were also included for Council review.

Councilman Grossman commented on several aspects of the guidelines that he liked such as the ability for the Town to charge a fee to cover costs of processing, reviewing and evaluating any unsolicited proposal and the clear and detailed process regarding posting requirements, etc.

Vice Mayor Bennett agreed with Councilman Grossman adding that even though the guidelines were extremely detailed, they were also very straightforward. He expressed his appreciation for the work done to develop the guidelines.

John Hozey stated his intent to contact AQUA tomorrow morning to see if they were interested in revising their initial proposal for a conceptual proposal for possible acceptance.

**Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to approve the Public-Private Education Facilities and Infrastructure Act and the Public-Private Transportation Act guidelines as presented. The motion was approved by unanimous vote.**

**C. *Oyster Farm Direction Sign at Fig Street and Randolph Avenue:***

John Hozey stated that his research showed that the Town Council approved the placement of the Oyster Farm's direction sign for a very temporary period until the wayfinding signs could be developed. VDOT guidelines no longer permitted what the Town envisioned so there was no end to the situation. The new wayfinding signs could not contain as much information and could not list individual businesses. The existing wayfinding signs would be removed within the next couple of weeks and replaced with the new ones that conformed to VDOT's guidelines.

Councilman Grossman noted that the basis for the original approval did not fit this particular application since it referred to temporary signage placed on Mason Avenue for the businesses on the side streets. This was a different scope and he was unsure how it was extended to include Fig Street.

Mayor Dize stated his agreement but added that this was not the time to order removal of the signage since many businesses were hurting due to effects of the pandemic. The Town should do whatever possible to help direct people to the businesses. He understood the concerns but the timing wasn't good.

Councilman Buchholz stated that he was the president of the Cape Charles Business Association when the original ordinance was passed, and he received numerous complaints about the sign being allowed. Everyone was told that it would be temporary until wayfinding signs could be installed. Now we know that the original wayfinding signs would not be coming. He was unsure how removal of the sign would affect the Oyster Farm but continuing to allow the sign was giving preferential treatment for one business over others.

Councilwoman Holloway commented that the Oyster Farm did a great job with their marketing and most people coming into the Town knew where to find them and there was always GPS for those who weren't familiar with the Town. Her guests typically were already aware of the Oyster Farm from seeing their signs along the highway. The Oyster Farm also had the ability to get a sign from VDOT that would list their business.

Councilman Buchholz agreed, noting that the Cape Charles House Bed and Breakfast paid for a sign from VDOT for a number of years. He went on to suggest allowing the sign to remain until December 31, 2020 to give them adequate time to contact VDOT.

John Hozey stated that after hearing Council comments at the last meeting regarding this sign, he directed staff to contact the Oyster Farm asking them to remove the sign. He then received the attached email from the Oyster Farm and permitted the sign to remain until the issue could be brought to Council for a decision.

**Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to allow the Oyster Farm's directional sign to remain at the current location until December 31, 2020. The motion was approved by majority vote with Vice Mayor Bennett opposed.**

**TOWN MANAGER COMMENTS:**

Town Manager John Hozey commented as follows: i) COVID Update: The numbers had been on an upward trend for the past week with about 1K new cases per day. He had targeted the week after Labor Day to begin opening up the offices, but with the fact that the numbers were not improving, with the majority of cases in the Hampton Roads area, and that he would be out town, he was uncomfortable with opening the offices up. He preferred to wait until his return. Staff was performing their jobs and no complaints had been received; ii) Community Development Block Grant (CDBG) award: He was contacted today about the necessary follow-up to get the contract awarded. He tried to get something done before he left for vacation, but the individual handling the contract

for the CDBG just came back from vacation and was unable to get things done this week. He got a date of September 30<sup>th</sup> but felt that was too late. He would work on the criteria while he was on vacation in order to get things drafted for Council's review. He would contact the representative to get an earlier date for their review; iii) Harbor stakeholder meeting: He was working with the Cape Charles Yacht Center (CCYC) to finalize the agreement. It was proving to be challenging in many ways. Everyone was comfortable conceptually but when working on the details, the CCYC was getting nervous doing the math. He was working with them to make adjustments and pushing to have the agreement in time for the September 17 meeting; and iv) He reviewed the meeting schedule over the next couple of months. The next meeting was scheduled for September 17 and he hoped the harbor agreement would be addressed. In October, the first week was typically a special meeting or work session. He requested scheduling the first meeting for October 8 to review the capital improvement plan (CIP). October 15 would be the regular meeting when he would like to have Council approval of the CIP. October had five Thursdays, so he would like to schedule the budget review for October 29 so the September numbers would be available for inclusion in the review. The other fiscal policies would be reviewed at the November 5 work session. If the budget required an amendment, there was a notice requirement, so the amended budget and fiscal policies could be presented for Council approval at the November 19 regular meeting. All the necessary business would be completed before Thanksgiving. The only other thing requiring Council approval would be the CDBG criteria which would be worked in as soon as possible.

#### **MAYOR & COUNCIL COMMENTS:**

Councilman Grossman stated that at the last Planning Commission meeting, it was discovered that first floor residences in the Commercial-1 district were being approved incorrectly. A conditional use permit was not the proper tool for this purpose. The Commission would be working on their recommendation to bring to Council at a future meeting.

Councilwoman Holloway commented as follows: i) She, along with Mayor Dize, John Hozey and Karen Zamorski, met regarding the train car. The project was put on hold due to the COVID pandemic. There was a volunteer, with project management experience, willing to restart the project. Cape Charles Main Street (CCMS) had a \$15K grant from Northampton County for the project. CCMS would like to attend a future Council meeting to present a clearer idea of the project; ii) She was the Eastern Shore of Virginia Tourism Commission (ESVTC) representative and gave her apologies for not providing regular updates about the ESVTC. She suggested inviting ESVTC Executive Director Robie Marsh to a future meeting to speak; and iii) Lovefest was this weekend and CCMS was partnering with the Citizens for Central Park for a celebration in conjunction with their 10<sup>th</sup> anniversary dedication of Central Park. Volunteers were needed for tomorrow at 4:00 p.m. to help decorate the park.

Vice Mayor Bennett, and Councilmen Bannon, Buchholz, and Follmer did not have any additional comments.

Mayor Dize commented as follows: i) He asked John Hozey to provide an update on the LOVE sign. John Hozey state that he received a report that one of the kayaks had broken off. Vandalism was not suspected. The kayak was secured until a plan was in place for repair. CCMS was contacting the individual who repaired it the last time. Councilwoman Holloway interjected that the sign needed to be repaired soon as it was planned for the backdrop of their marketing campaign. CCMS had fundraising events for maintenance of the LOVE sign; and ii) He thanked Supervisor Coker for his update earlier this evening.

#### **WORK SESSION ORDER OF BUSINESS/DISCUSSION:**

##### **A. *Capital Improvement Plan:***

John Hozey began by stating that he had intended to have more information for Council's review, but his efforts were preempted by other issues. The document drafted by Councilman Grossman and approved by Council in January was a good foundation. He would be offering suggestions to tweak the process. Since CIP could refer to several things, he recommended changing the name to Capital Asset Management Program (CAMP). In preparation for meeting next month, he

wanted to gather the needs from staff and departments. He also needed Council's priorities and asked them to email him with their input within the next couple of weeks.

**Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, calling for a short recess before going into executive session. The motion was approved by unanimous vote.**

The meeting recessed at 7:20 p.m. Staff, with the exception of John Hozey, and the members of the public left the meeting.

At 7:30 p.m. Mayor Dize called the meeting back to order.

**Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, 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 7:** Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

**Specifically:** Update on Legal Matter – Fauber v. Town of Cape Charles

**Paragraph 7, Specifically:** Update on Legal Matter – Kevcor Contracting Corporation v. Town of Cape Charles

**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; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals.

**Specifically:** Six-Month Evaluation of Town Manager

**Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to return to open session. The motion was approved by unanimous vote.**

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; Follmer, yes; Grossman, yes; Holloway, yes.

**Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Public Hearing, Special Meeting, Work Session and Executive Session. The motion was approved by unanimous vote.**

The meeting was adjourned at 8:07 p.m.

---

Mayor Dize

---

Town Clerk

**Comments & Information Provided in Writing**  
**September 3, 2020 Town Council Public Hearing, Special Meeting & Work Session**

*Tiffany Mohr, 215 Madison Avenue*

On behalf of the management team at The Oyster Farm at Kings Creek I am speaking tonight in support of having our directional sign remain on the town property until a time when updated wayfinding signs are completed.

This request was granted in 2016 and I see no reason why this should change, as the signs have not changed since that time either. While I understand that it has been expressed that it sets a precedent for allowing businesses to place signs on town property, we are in a unique situation in where we are not part of the "historical commercial district" or the town harbor area and are essentially on our own isolated on the north end of town.

The Oyster Farm is not just one business, but a collection of businesses over 30 acres: two restaurants, a marina, vacation rentals as well as a catering operation and events facility. Much like Bay Creek, we are not just a business, but a place, so directional signage, like Bay Creek Golf currently having a place on the main wayfinding sign coming into town, is important for visitors and guests to be able to find us. It is more important now than ever, given the times that we are in.

Historically the Oyster Farm has not only been amongst the largest employers and commercial tax payers in town, but it has always been a huge supporter of the town and brought many people to Cape Charles through various events, most notably our weddings and large events like Shuck N Suck and Bash by the Bay. Every visitor that we have is a visitor we share with the town. On a personal note, I have always sold out wedding business as a destination, encouraging clients to make a weekend of their event by having guests stay in hotels, bed and breakfasts and rental houses; eat in town restaurants, shop with local businesses, rent golf carts, etc.

The sign has been in place for 4 years without issue, so what exactly has changed to make it an issue now. I would ask that the council grant permission for the directional sign to remain until such time when new wayfinding signage is put in place or new politics are developed as it relates to town property. A long term agreement with the town by way of a lease and improved permanent signage is something that we are open to if indeed that is a possibility.

Thank you for your time.