



TOWN COUNCIL
Public Hearing, Regular Meeting & Executive Session
Cape Charles Civic Center
January 16, 2020
6:30 PM

At approximately 6:30 p.m. Vice Mayor Steve Bennett, having established a quorum, called to order the Public Hearing, Regular Meeting & Executive Session of the Town Council. In addition to Vice Mayor Bennett, present were Councilmen Bannon, Buchholz and Grossman, and Councilwomen Burge and Holloway. Mayor Dize was not in attendance. Also, in attendance were Treasurer Deborah Pocock, Capital Projects Manager Bob Panek and Town Clerk Libby Hume. There were eight members of the public in attendance.

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

PUBLIC HEARING COMMENTS:

There were no comments to be heard nor any comments submitted in writing prior to the meeting.

Motion made by Councilman Grossman, seconded by Councilman Bannon, to close the Town Council Public Hearing. The motion was approved by unanimous vote.

RECOGNITION OF VISITORS / PRESENTATIONS / RECOGNITIONS:

A. Recognition of Town Employee Celebrating Significant Anniversary

Vice Mayor Bennett recognized Police Chief Jim Pruitt for ten years of service to the town effective January 4, 2020 and presented Chief Pruitt with a certificate of appreciation.

PUBLIC COMMENTS:

Town Clerk Libby Hume read a letter submitted by Mark Usry of 117 Strawberry Street into the record. (Please see attached.)

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

APPEAL OF HISTORIC DISTRICT REVIEW BOARD DECISION – 102 MADISON AVENUE:

Since Town Planner Zach Ponds was not in attendance, Vice Mayor Bennett opened the floor to Council for any questions or comments. Councilman Grossman stated that the conditions in the initial staff report to the HDRB were different than the conditions on the current staff report to Council. The current conditions were the ones detailed in the current staff report: i) the deck to be replaced with painted tongue and groove wood; ii) the existing guardrails, spindles and columns be maintained; iii) the masonry block be maintained; and iv) the handrail be on the inside of the masonry.

The appellants were not in attendance.

Chairman Kerry Shackelford represented the HDRB in the proceedings and read the HDRB's justifications for their decisions. (Please see attached.)

Motion made by Councilman Grossman, seconded by Councilman Bannon, to uphold the Historic District Review Board's decision. The motion was approved by unanimous vote.

CONSENT AGENDA:

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. December 19, 2019 Public Hearing, Regular Meeting & Executive Session
 - ii. January 2, 2020 Strategic Planning Session

- C. Approval of November 30, 2019 Financial Report
- D. Monthly Department Reports
- E. Set Public Hearing for Conditional Use Permit for 333 Madison Avenue
- F. Set Public Hearing for Conditional Use Permit for 636 Carousel Place

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the Consent Agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

A. Conditional Use Permit Application – 501 Tazewell Avenue:

Vice Mayor Bennett stated that the subject property had an existing single-family detached home with an accessory structure that was currently used for storage. There were two parking spaces which were accessed from the rear of the property by an alley. The application wanted to convert the first story of the accessory structure into an accessory dwelling unit, with storage located on the second half-floor. The applicant proposed to build a bedroom, bathroom and kitchenette and had stated that they would possibly rent out the main house or use the accessory dwelling as a guest house. No changes were proposed to the exterior of the accessory structure. The Planning Commission recommended Council approval of the conditional use permit as submitted.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve a Conditional Use Permit for 501 Tazewell Avenue for an accessory dwelling unit as presented. The motion was approved by unanimous vote.

B. Conditional Use Permit Application – 316B Mason Avenue:

Vice Mayor Bennett stated the following: i) The subject property was an existing commercial building on Mason Avenue with a commercial space on the first floor (suite A) and an office/studio on the second floor (suite B). Suite A had an entrance located on Mason Avenue and another door exiting from the rear of the property which could be accessed from a gravel driveway off Randolph Avenue and a gravel driveway off Mason Avenue. Suite B's entrance was from the rear of the property only; ii) The applicant wished to convert the second-floor office/studio into an apartment. The current tenant would continue to rent the space for use as an art studio but also wanted to live in the space; iii) The applicant would add a kitchen and a shower to the existing bathroom; iv) There was one parking space provided in the rear of the property; and v) The Planning Commission recommended Council approval of the conditional use permit as submitted.

Councilwoman Burge noted a contradiction in the staff report which stated that there was not a right-of-way allowing access to the rear of the property, but that there was an ingress-egress easement.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve a Conditional Use Permit for 316B Mason Avenue to allow a residential dwelling unit above commercial use as presented. The motion was approved by unanimous vote.

C. Proposed Zoning Ordinance Text Amendments – Article II, Section 2.9:

Vice Mayor Bennett stated two new definitions were proposed for Zoning Ordinance Article II, Section 2.9 regarding "Hardship" and "Variance." These definitions were discussed by Council at a previous meeting. A public hearing was held on December 19, 2019 as required.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the proposed text amendments to Zoning Ordinance Article II, Section 2.9 as presented. The motion was approved by unanimous vote.

D. Cape Charles Community Trail, Phase 3:

Capital Projects Manager Bob Panek stated the following: i) Two bids were received and opened on November 26, 2019; ii) Excel Paving was the low bidder at \$722,226, but was disqualified by VDOT due to failing to submit all the required documents; iii) Conrad Brothers was the second

bidder at \$1,041,851, which was \$120,343 higher than the bid from Excel; and iv) With the current numbers, the budget shortfall was \$162,497.

There was much discussion regarding the budget amount and funding the shortfall. Bob Panek stated that the scope of work could be reduced with the elimination of some of the light posts and increasing the lumens on others. Some of the funding budgeted for the payout of phase 2 of the project could be used for this phase since it was unlikely that phase 2 would be finalized in this fiscal year. It was agreed that more information and discussion was necessary prior to awarding the contract. Bob Panek would contact Conrad Brothers to determine whether they would be willing to extend the bid deadline. Delay in the contract award would hinder the ability to complete the project prior to the start of the busy season.

Council agreed to defer this decision until after the mid-year budget review scheduled for February 6.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to revisit this issue looking at the scope of work, pricing, budget transfers, etc. after the mid-year budget review. The motion was approved by unanimous vote.

E. Inner Harbor Rehabilitation & Improvements:

Bob Panek stated the following: i) This project was to install a concrete sidewalk at the harbor and was a relatively simple job. The sidewalk would be adapted to VDOT specifications; ii) The electrical pedestals would not be reinstalled. They would be replaced with two simple 30W and 50W receptacle boxes on poles which would be plumbed underneath the sidewalk. The harbor crew would lay out the PVC conduit and the Town would contract with local electricians and plumbers to complete the job; iii) The light poles will be the same as those used on the trail project, along Mason Avenue and at the Strawberry Street Plaza; iv) A separate invitation for bids would be advertised; v) The benches would be the same as those Cape Charles Main Street purchased for the Strawberry Street Plaza; and vi) If there were funding issues, the lights and benches could be deferred to save almost \$40K.

Motion made by Councilman Grossman, seconded by Councilwoman Burge, to approve the funding for Phases 1 to 3 contingent on the budget transfer. The motion was approved by unanimous vote.

F. FY 2020 Capital Project Budget Transfer Request:

Treasurer Deborah Pocock stated that although the town manager was authorized by the budget resolution to transfer funding between accounts, the Town's procurement policy required Town Council approval for capital expenditures with a cost greater than \$50K. This project included paving the parking lot turnaround at the Harbor, replacement of the inner harbor walkway, replacement of broken electric and water pedestals, new area lighting and benches.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve a budget transfer of \$128K from the FY 2020 capital budget set aside for work on the second and third floors of the library to the Inner Harbor Rehabilitation Project. The motion was approved by unanimous vote.

NEW BUSINESS:

A. 2020 Elderly & Handicapped Tax Relief Code Update:

Deborah Pocock stated that the Town provided assistance in the form of real property tax credits to qualified persons who were elderly or physically disabled. Applicants must meet certain income and health status substantiations. In 2019, Northampton County increased the maximum combined income for married applicants from \$22K to \$25K. The Town generally followed suit with such tax matters. If Council was agreeable to updating the Town's requirements, an ordinance would need to be adopted to update Town Code section 66-118. In addition to this change, there were a number of typographical errors in the language that needed to be corrected.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Ordinance 20200116 Updating the Elderly & Handicapped Individual Tax Relief Code. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Burge, yes; Grossman, yes; Holloway, yes.

B. *Proposed Lease of Space on Water Tower:*

Vice Mayor Bennett stated that Neubeam purchased Eastern Shore Communications (ESC) in 2019 and would be taking over the wireless internet services of Chesapeake Bay Communications (CBC) in January 2020. On January 9, 2020, Mayor Dize signed a letter of intent with Neubeam to continue service without interruption until a new lease agreement could be approved by Council. The new lease would combine the leases with ESC and CBC. Neubeam would be paying an annual fee to place their antennae on the water tower and provide wireless internet services to all town-owned facilities with the exception of the Town Hall which would be serviced by Charter Communications. A public hearing was held earlier this evening and no comments were heard.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve execution of the lease agreement with Neubeam as presented.

Councilwoman Burge noted the terms of the lease agreement as five years, with quarterly payments totaling \$2,400 per year, provision of internet services to the town's facilities. The town's facilities would not be without internet service.

The motion was approved by unanimous vote.

MAYOR AND COUNCIL COMMENTS

Councilman Bannon stated that the 28th Annual Epiphany Party would be held tomorrow evening at the Cape Charles Volunteer Fire Company. He invited all to bring their least favorite Christmas present to be auctioned. Proceeds of the auction would go to the Rosenwald School Initiative and the Cape Charles Museum. Chili, wine and beer would be provided. Guests were asked to bring a dish to share and money to spend on the auction. In past years, \$5K to \$8K was raised for local non-profits.

Councilman Grossman noted that the Planner's Staff Report stated that Zach Ponds had completed the University of Miami School of Architecture course and passed the Congress of New Urbanism Accreditation exam to become a CNU-A.

Councilwoman Burge commented as follows: i) She acknowledged Mark Usry's letter and asked for Council support to replace the willow tree and bench, and finding the story boards. She was sure they were around somewhere. She verified that there were two each of the watermen and meteor crater; and ii) Council needed to sharpen their pencils and be serious about the budget meeting. Council was seeing nearly every bid come in well over the estimates. The Town didn't have an unlimited amount of money to keep juggling. It made the setting and evaluation of priorities that much more important. Whatever Council chose to do, it needed to be completed to 100%. There were some tough decisions to be made regarding the Town Hall and library. As she remembered the walk-through wasn't particularly positive. The Town needed to come up with other facilities. Council couldn't keep pushing off the decision.

Councilwoman Holloway commented as follows: i) She also wanted to know how to address Mark Usry's requests to replant the tree and replace the bench. She asked about the story boards. Libby Hume mentioned that the meteor sign was removed due to its deteriorated condition. Jen Lewis was trying to locate information to have it recreated. Councilman Buchholz agreed that he had been trying to assist with the recreation of the story board. Councilwoman Burge asked that Jen Lewis contact her as she may be able to assist in some way; ii) She was glad to see that the strategic session date was finalized and asked that the information regarding the priorities set last year be included in the agenda packet for Council review to see what had been accomplished and determine whether any of the uncompleted items were still priorities; and iii) She wanted to go on record regarding VDOT's request for engineering plans for the reverse angle parking. It was an embarrassment in how long it had taken from the time of Council approval to move forward and application submittal to VDOT.

About four months were lost. What was the current timeline? Bob Panek stated that he had contacted Land Studio to provide a change order to make the changes proposed by VDOT and to comply with VDOT's requirement of having an engineer's seal on the plans.

Councilman Buchholz did not have any additional comments.

Vice Mayor Bennett did not have any additional comments.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, calling for a short recess before going into executive session. The motion was approved by unanimous vote.

The meeting recessed at 7:46 p.m. The members of the public and staff left the meeting.

At 7:54p.m. Vice Mayor Bennett called the meeting back to order.

Motion made by Councilman Grossman, 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: Town Manager

Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Potential Lease of Real Property

Motion made by Councilman Grossman, 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; Burge, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Grossman, seconded by Councilwoman Burge, to adjourn the Town Council Public Hearing, Regular Meeting and Executive Session. The motion was approved by unanimous vote.

The meeting adjourned at 7:55 p.m.

Vice Mayor Bennett

Town Clerk

Comments and Information Provided in Writing January 16, 2020 Town Council Public Hearing & Regular Meeting

Mark Usry, 117 Strawberry Street

Dear Members of the Cape Charles Town Council:

In writing this letter to you, I want to first thank you for the generous gift of your time in serving our community. I am also appreciative of the commitment and work of our town employees.

When I first came to Cape Charles in 1995, I was struck by several things: The idea that a potluck of 35-40 people could go from concept to reality in a matter of hours--that folks from here and who chose to come here would gather in the spirit of volunteerism and the desire to make a difference. At that time I also noticed the number of homes that had been 'casually maintained' for a number of years, the number of empty store fronts on Mason Avenue, and the space in the middle of town surrounded by a 6' high chain-link fence with 2 gates, both locked except when the space had to be mowed. Such a surprise to learn that space in the middle of town was labeled 'Central Park' on the original town plat. So much has changed.....

A group of wonderful folks worked tirelessly for the 10 years during the time I served as President of Citizens for Central Park from 2000-2010 to help the park become a reality and I commend those who still serve on that board.

A 50th Surprise Birthday, a Tree and a Bench

The initial money that allowed us to open the Citizens for Central Park checking account was raised in true Cape Charles fashion at a potluck/silent auction 50th birthday party for Ken A. Kuttler in 2000. At the birthday party we raised approximately \$1,000 as friends from many parts of Virginia and DC joined us at the St. Charles Parish Hall for the surprise event. The request that Ken had was for a weeping willow tree (his favorite tree) and a bench to be placed under it in Central Park.

When the park went 'under construction' after the Town received the 3rd alternative transportation grant through the federal government (with some matching money by the Town and Citizens for Central Park), Ken's tree was cut down and never replaced. I am not sure what happened to the bench.

Request Number 1: I would like to ask the Town of Cape Charles to pay for the cost of replacing the weeping willow tree and a bench. I ask the Citizens for Central Park Board to determine where the tree and bench will go. I ask to have sufficient notice to invite Ken to come for the planting and rededication of his tree. He does not know I am writing this letter.

The First of a Series of Grants

The alternative transportation grants were preceded by an initial grant that the Town of Cape Charles received through the Chesapeake Gateways Program to connect points of interest around the bay to one another and to stimulate tourism. The grant was to prepare several story boards to be placed around town. The writing of the text and placement of the signs was coordinated by Citizens for Central Park with the blessings of the Town Council.

The themes of the storyboards included: watermen, architecture, meteor crater, the Sustainable Technologies Park (now gone), passenger ferries and railroad. There were discussions about additional story boards that as far as I know were not ordered including: watermen and the fishing industry, The Rosenwald School, and agriculture.

We had enough money to buy two of each story board, the information was printed on a fiberglass board that slid into a metal frame (2 of them are still by the war memorial and one is on the east end of Central Park). The Sustainable Technologies storyboard was removed when the property was sold. The meteor storyboard was located near where the 'LOVE' sign is at the beach, it seems to have disappeared.

For years the second copy of each one was stored behind the cabinet that held maps, large photos, and floor plans for several things (including the gazebo in the park, and Leon Parham's initial design that he drew for the park). This cabinet was in the southwest corner of what used to be the old town council chambers on the second floor of Town Hall. In meetings with folks at Town Hall this past August no one seems to know what happened to the second copy of each storyboard.

The total grant was for \$15,000 and as I recall each storyboard cost about \$1,000. The metal frames were installed by Ken Kuttler and Steve Hairfield.

Request Number 2: I would like to ask Town Council ask Town employees to find the missing to metal frames. I ask that the second copies of each of the storyboards be located or remade. I ask that the meteor crater storyboard be re-installed at the beach near the 'LOVE' sign.

I continue to be impressed by the continued growth, progress and development of Cape Charles. The number of visitors, the growth of businesses and the increasing interest of developers and individuals from so many locations who have decided to make this beautiful little village their home are a testament to our success. As these wonderful changes occur, it can be easy to lose the trail of our past and the commitment of many who invested and committed themselves to build and take a chance on a place that had experienced many challenges and difficulties. Our community has succeeded in significant part because of these early investments. Acknowledging and stewarding this past is important in linking our progress to the future, and in continuing to demonstrate our appreciation to those individuals, groups and agencies who invested to establish the foundation on which the current successes of Cape Charles are built.

Thank you for your time, consideration and action to grant these two requests. I want to say thank Chris Bannon, who was one of the first Citizens for Central Park board members and Cela for her support in the initial and subsequent grant writing and all aspects of the Citizens for Central Park Board's work.

Sincerely,

Mark L. Usry
117 Strawberry Street
Usryml@gmail.com and 757-331-0798

Kerry Shackelford, Chairman of the Historic District Review Board

Zach Ponds

Town of Cape Charles

102 Madison Renovations

1/16/20

The application for the porch renovations at 102 Madison was denied as presented based on the following sections in the guidelines.

1. Pg. 19, #2 "The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided"
2. Pg. 19, #5 "Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved".
3. Pg. 19, #6 "Deteriorated Historic features shall be repaired rather than be replaced. Where the severity of the deterioration requires replacement of a distinctive feature, the new shall match the old in design, color, texture and other visual qualities and where possible materials".
4. Pg. 44, #1 "Retain porches that are critical to defining a specific building design and the integrity of the overall Cape Charles district".
5. Pg. 44, #3 "Repair damaged elements of porches by matching the materials, methods of construction and details of the existing original fabric".

The Rusticated Stone buttresses on the steps are a defining feature to this home and define a specific building design found in the town. The stone can be repaired and does not appear to have a structural issue. The removal of wood columns, flooring, and railings are also defining features and important to the overall design and appearance of the porch. A redesign of the porch steps and handrails would alter these defining features. The preservation of this historic material is important to maintaining the overall historic nature of the structure.

Kerry Shackelford

HDRB