

**Town of Colonial Beach Planning Commission Minutes**

Date: December 04, 2008, Time: 5:30 P.M.

Town Center, 22 Washington Avenue

Present: David H. Coombes, Chairman  
Ed Grant  
Margaret McMullen  
Maureen Holt  
Desiree Urquhart  
Kent Rodeheaver

Also Present: Chuck Bird, Director of Building and Zoning  
Andrea Erard, Town Attorney

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**CALL TO ORDER**

Mr. Coombes called the meeting to order at 5:30 P.M. All members were present with one vacancy.

**APPROVAL OF MINUTES FOR THE NOVEMBER 06, 2008 MEETING**

Mr. Coombes asked for approval of the minutes from the November 06, 2008 meeting. **Ms. Holt moved to approve the minutes and Mr. Grant seconded the motion.** Ms. McMullen had a comment she asked about the written statements that were to be attached to the minutes. Staff responded that the written statements are attached to the master set of minutes and available in the Zoning Office. Ms. Urquhart stated that she had a question on page 9 where we recommended that Chuck bring us back recommendations on the tree replanting. Mr. Coombes asked Ms. Urquhart to bring this matter up under old business.

There was general agreement to approve the minutes.

**DISCUSSION ON CONFLICT OF INTEREST ACT (COIA)**

Mr. Coombes stated that several months ago Legal Counsel had presented to the new Council a dissertation on State and Local government Conflict of Interest Act.

Mr. Coombes asked Ms. McMullen what it was that she had brought up last month on this matter.

Ms. McMullen stated that when she had read this last month it sounded like it applied only to elected officials and employees. Ms. McMullen asked if it applied to them.

Ms. Erard stated yes. She stated it applied to officers which is defined as any person who is appointed or elected to any governmental or advisory agency.

Mr. Coombes stated that due to his own personal involvement in this a few months ago, he has asked Andrea to spend fifteen minutes with the Commission on the COIA.

Ms. Erard stated the conflict of interest act is a law that the general assembly has passed basically to try and insure to the citizens that the actions of people in public office will be taken with integrity.

***Ms. Erard spends about fifteen minutes going over the Conflict of Interest Act handout with the Planning Commission.***

Ms. Erard stressed that the idea was to insure to the citizens that public officials were not being bribed or given money under the table to vote for specific things.

Ms. Erard stated that the rule of thumb that she uses is that if it is fifty (\$50) or less it is probably okay. She stated that if it is fifty (\$50) or more depending what is going on and who is donating it. Ms. Erard stated that in Hanover County, Kings Dominion had given the employees some great chocolate chip cookies and she stated that she felt this was okay. She said however that they had tried to give the Board of Supervisors hams for Christmas one year and they politely returned them. She stated this may be too much.

Ms. Erard stated the act prohibits officers of local government from having personal interests in a Town business transaction and then participating in the transaction. Ms. Erard stated that if something comes up and it involves where you earn your living or where your spouse earns their living and you know the issue is coming before the Planning Commission then we should sit down and talk about it in specific detail.

Ms. Erard stated that the act is riddled with exceptions and it is kind of like a piece of swiss cheese. She stated that she has to go through and diagram it the whole way through to determine whether or not it is permitted under the act.

Ms. Erard stated that the person responsible for interpreting the act is the Commonwealth's Attorney.

Ms. Erard stated that the best thing to do if concerned about a conflict is get it in writing from the Commonwealth's Attorney that it isn't a conflict. She stated that this would insulate them from prosecution at a later date.

Ms. Erard stated that it is a misdemeanor to violate the conflict of interest act.

Mr. Rodeheaver stated that an easy resolution would be just to not do it.

Ms. Erard talked about just using "common sense".

Mr. Grant asked if there would be an example of a conflict with his wife and himself in their positions.

Ms. Erard stated that she could not really see any issues there. She asked if his wife had any property that needed rezoning. Mr. Grant replied no.

Mr. Coombes thanked Ms. Erard for the discussion and encouraged all members to read the synopsis that was given to them. Mr. Coombes stated that if the Commission Members have questions then they should come back and they would discuss them.

Mr. Rodeheaver asked about the language on the first page talking about requiring disclosure of economic interests.

Mr. Coombes asked if the local government could go beyond this.

Ms. Erard stated that in some respects yes there are some areas where the local government can request disclosure of economic interest forms from pertinent officials. She stated they could adopt a policy that says no gifts, including the cookies at Christmas. She stated that there is the ability to exceed it in that regards.

Mr. Coombes stated that most of the time, please just exercise common sense.

### **PRIORITY FOR THE CONTINUATION OF THE UPDATING OF THE ZONING ORDINANCE**

Mr. Coombes stated that Mr. Bird had put a priority list in their packets.

Mr. Bird stated that they had done some work on Article 20, Definitions but it still needs a lot of work. He stated that all the other articles listed have not been reviewed.

Mr. Bird stated that the list could get shuffled around a bit. He stated for instance the last one, number 13 the Flood Plain Ordinance may need to be looked at sooner because the new flood plain maps are in the process of being reviewed and are in the public hearing phase right now with the state and federal government. He stated the Town will have to update and adopt a new ordinance prior to next October.

Mr. Coombes asked about Article 18 being the first to be reviewed.

Mr. Bird explained that there is a lot of odds and ends in this article that need to be reviewed. He stated that one was adding portable temporary storage units.

He stated that they had sent forward to Council the recommended change to recreational vehicle parking which is part of this article, he stated that Council had never did anything with this. He stated this is something they may want to consider readdressing.

Ms. Urquhart asked about a time line.

Mr. Bird stated that they should try and get through them in a timely manner but there is going to be interruptions. He stated that things like rezoning applications and conditional use applications are going to take priority. He stated it is time permitting.

Ms. Urquhart stated it seemed like they could be ongoing. She asked at what point should they complete them.

Mr. Bird stated it will be difficult to determine because of all the interruptions.

Ms. Urquhart asked the Chairman if it is possible to do some of these reviews in sub-committees?

Mr. Coombes stated that anything is possible and they could go to two meetings a month if necessary.

Mr. Coombes stated that everybody needs to understand that it could be 6 to 12 months to get through this unless they go to more than one meeting.

Ms. McMullen asked that Mr. Bird present a draft version to the Commission with his recommended changes to help things along.

Mr. Coombes agreed.

Mr. Coombes stated that from this point on the Commission would like to have Staff's draft version prior to the meeting so the Commission can review it. Mr. Coombes stated this would be the policy now for updating these ordinances.

Staff agreed.

Mr. Rodeheaver stated that he felt that they should try and get through these quickly. He stated that we have been doing this for at least a year.

He stated that they agreed to do a total review of the zoning ordinance when he was Chairman and that was over two years ago.

Ms. McMullen stated with Mr. Bird drafting these ahead of time will save months.

Mr. Bird stated there would be a lot of issues next year that is going to interrupt their work.

Ms. Urquhart stated they would have to accept the fact that they may need to call several working sessions.

Mr. Coombes agreed.

Ms. McMullen made a motion that the Chairman when the agendas are being done try to fit these ordinances in whenever we can.

Mr. Bird stated that Mr. Coombes communicates with the office regularly and he sees what goes onto the agenda in advance.

Mr. Rodeheaver stated that maybe they need to prioritize the top five things that need done.

Mr. Rodeheaver stated at least top three.

Mr. Coombes asked what those are.

Mr. Bird stated things like Conditional Use permits and rezoning s must be heard in a prescribed time.

Mr. Bird stated there is the zoning ordinance and then staff is going to bring a recommendation to the Commission to ask the Council to refer the subdivision ordinance to the Planning Commission for an update.

Mr. Bird stated that they are still in the middle updating the Comprehensive Plan.

Mr. Grant stated that the Maritime Commercial maybe returning soon.

Mr. Coombes stated that yes he had reminded Council at the last meeting that the Maritime Commercial ordinance that had been sent them 18 months ago has set dormant.

Ms. McMullen asked if we knew what the hold- up was on that.

Mr. Coombes responded no and it was a prior administration.

Mr. Coombes reiterated that there is a lot on the table.

Ms. Urquhart stated that she saw 5 major priorities at least. She asked where do we prioritize these.

Mr. Coombes stated it will be done when they come to us.

#### **UPDATE ON THE COMPREHENSIVE PLAN**

Mr. Bird stated that a community meeting was scheduled for Tuesday, December 09<sup>th</sup> at 5:30 P.M. He stated this was to focus on the goals and objectives relating to community character, economic development, land use, housing, transportation and others.

He stated they will also present several options relating to the future land use map.

He stated the third workshop which will be a public forum is anticipated in late January or early February.

He stated that he supplied them with a time line from Land Studio.

He stated Land Studio is anticipating a public hearing in April/May for the Planning Commission.

He stated they may want to consider having a joint Planning Commission/Town Council public hearing.

Mr. Rodeheaver asked who the single point of contact was since Mr. Krawczel was gone.

Mr. Bird stated he was.

Mr. Coombes inquired about the advertising for the special meeting on the 9<sup>th</sup>.

Staff responded advertising had been done and flyers were sent everywhere.

Ms. McMullen and Ms. Urquhart stated that they could not attend the meeting.

Ms. McMullen asked if they were going to have the same format as before?

Mr. Bird stated yes but they were going to come in with some ideas from the input from the last meeting and apply the questionnaires.

Ms. McMullen stated that it seemed to her that if they had a public workshop it should not be a meeting.

Mr. Coombes said he asked that last time and was told it had to be a meeting.

Ms. McMullen stated that she would like us to move through this as fast as they can but not so fast that they did not take on the responsibility they should.

Ms. McMullen expressed her concerns with not seeing the drafts prior to the public workshop. She said it might be to their advantage to have things presented to them before they are a final draft so they can discuss it.

Ms. McMullen stated that they are moving forward by getting more of the public involved and she said this is commendable.

Mr. Coombes stated they are responsible for this document and they can ask for Land Studio to present it to them whenever they want.

Ms. McMullen stated she would like a meeting to discuss it.

Mr. Bird stated that this document was a time line for Land Studio and not the Planning Commission.  
Mr. Bird stated they would get to review it and tweak it before it is set in stone.

Ms. Urquhart stated that what Ms. McMullen is saying is that they should be able to look at each draft before it is presented in a public workshop.

Mr. Coombes asked that anytime Land Studio presents a draft they should get a copy and have a meeting on it and discuss it before they move on to the next public forum.

Mr. Coombes stated that is what they are saying and he agrees with it.

Mr. Coombes said this needs to be an operating procedure for the Comprehensive Plan review.

Mr. Bird stated he would get with Carol and let her know that is what the Commission wants.

Mr. Coombes stated they don't want any surprises and they want input.

Mr. Coombes stated that if the time line slips a couple of months because they need to sit down with Land Studio then it will slip because it is important for the Planning Commission to review this.

Mr. Bird stated that the schedule is very flexible and Land Studio will work with them.

Mr. Rodeheaver expressed his concerns with Land Studio working with two separate contracts the other being with Council. He stated there is the possibility that Land Studio will get confused. He stated that we need to make sure that our contract is our contract. He stated that anything to do with their contract should be okayed by them and not Council.

Mr. Bird stated that they are very clear about that.

Mr. Rodeheaver expressed his concerns with the last public workshop having a lot of input from both the Town Council members and the Planning Commission. He stated that he thought the purpose of the meeting was for the public to express their views.

Mr. Rodeheaver stated that he thought they should do more listening than talking.

Mr. Rodeheaver stated that they should not be pushing their ideas on the public.

Mr. Coombes stated that he did not want to preclude anybody from participating.

The Commission agreed that community input is essential and important.

### **MEETING DATE IN JANUARY 2009**

Mr. Coombes announced that the meeting date in January was New Year's day and needed to be changed.

The Commission agreed to change the meeting date to January 08, 2009 at 5:00 P.M. and would adjourn before the Council meeting at 7:00 P.M.

Motion made by Ms. McMullen and seconded by Mr. Grant.

General agreement to move the meeting date to January 08, 2009 at 5:00 P.M.

### **ELECTIONS FOR THE NEXT MEETING**

Mr. Bird stated there would be elections at the next meeting for Chairman and Vice-Chairman.

### **OLD BUSINESS/NEW BUSINESS**

Planning Commission By-Law error.

Ms. McMullen explained to the Commission that there was an error on the Planning Commission By-Laws from the last meeting. She stated that some language had been added to page 1, **III Members**,

**Terms** that the Commission had not all agreed to. Staff had accidentally put the language that Ms. McMullen had suggested into the by-laws. This section was to remain unchanged.

**INCORRECT LANGUAGE**

**II. Members, Terms**

**1. Members**

In accordance with Virginia Code § 15.2-2212 the Colonial Beach Planning Commission shall consist of seven (7) voting members, all of whom shall be appointed by the Colonial Beach Town Council. All Planning Commission members shall be residents of registered to vote locally in the Town of Colonial Beach, qualified by knowledge and experience to make decisions on questions of community growth and development and at least one-half of the members of the Planning Commission shall be owners of real property.

**CORRECT LANGUAGE**

**III. Members, Terms**

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Ms. McMullen moved to amend the By-Laws to be in consort with the minutes of the meeting, the membership of the Planning Commission will remain the same as it has been. Ms. Urquhart seconded the motion

Mr. Coombes stated what they were basically saying it should stay the same as it always was.

Mr. Rodeheaver asked if it needed to be clarified where it says “owners of real property” he asked if it should say “in the Town of Colonial Beach”. The Commission agreed to leave it as is

**There was general agreement to correct the error in the By-Laws.**

Staff stated that they would print a corrected copy and distribute to the members.

## **PLANNING COMMISSION MEMBER APPLICANTS**

Mr. Coombes stated that the Town Council had appointed a committee to interview potential Planning Commissioners to fill the current vacant seat left by Ms. Palmer.

He stated that the committee will be voted on next Thursday at the Town Council meeting. He stated this has to take place before they can begin interviewing for the position.

Mr. Coombes stated that we have two applicants so far.

Mr. Bird stated that we still have an active add running.

## **CONTINUATION ON THE TREE REPLANTING DISCUSSION.**

Ms. Urquhart asked if Mr. Bird was going to recommend anything to resolve the issue with the trees.

Mr. Bird stated that basically they may recall Ms. Erard addressing that at the last meeting. He stated that they could really only make somebody replant at the time of a proffer or with a proposed landscaping plan.

Mr. Bird stated that they are bound to the Chesapeake Bay regulations which are pretty clear for the overlay district. It reads that if a tree is dead, diseased or dying and greater than 6 inches in diameter at breast height it can come down.

Mr. Bird also stated that trees within the construction footprint and in the area of a reasonable yard are also permitted to come down.

Mr. Bird stated there is a certain amount of discretionary authority when it comes to this part. If you have a rather large oak tree with a large canopy and the root system sticks out as far as the canopy. When you dig the footing you damage a significant portion of those roots, even though the tree is fifteen feet away from the footprint, you will still kill the tree.

### ***Mr. Bird goes over different scenarios of when a tree is allowed to come down.***

Mr. Bird stated that these are the guidelines he must follow and they are state law.

Mr. Bird stated that a lot of the lots that are being developed are not very big and a lot of the trees being removed are not very big. He stated that it can be deceiving. He stated there was a situation recently where there was a lot that was going to be built on that had 4 big canopy trees and three of them were in the foot print of the house. We have to allow these trees to come down.

Mr. Bird stated that a lot of the time builders and homeowners will replant trees back and the zoning office encourages this.

Ms. Urquhart asked if we could require that.

Mr. Bird stated that it is all regulated under the Chesapeake Bay Act as to what we can do.

**MS. PALMER'S RECOGNIZATION FROM COUNCIL**

Mr. Coombes stated that Barbara Palmer will receive an award from the Town Council on December 11, 2008, if anybody would like to attend.

**ADJOURNMENT**

Mr. Coombes asked for a motion to adjourn the meeting at 6:45PM. Mr. Rodeheaver moved to adjourn and Mr. Grant seconded the motion.

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David H. Coombes, Chairman

