

Town of Colonial Beach Planning Commission Minutes

Date: May 05, 2011 – Town Center, 22 Washington Avenue

Time: 4:30 P.M.

Present: Cynthia Misicka - Chairperson
Ed Grant
Margaret McMullen
Maureen Holt
David H. Coombes
Kent Rodeheaver

Absent: Desiree Urquhart

Also Present: Val Foulds, Town Manager
Gary Mitchell, Director of Building and Zoning
Andrea Erard, Town Attorney

CALL THE MEETING TO ORDER

Ms. Misicka called the meeting to order at 4:30P.M. Ms. Urquhart was absent from the meeting with all other members present.

APPROVAL OF THE MINUTES

Ms. Misicka asked for approval of the minutes from the April 07, 2011 meeting. Ms. Misicka asked if there were any corrections to the minutes. Hearing none Ms. Misicka declared the minutes approved as written.

PUBLIC HEARING REGARDING A TEXT AMENDMENT TO THE ZONING ORDINANCE – PUBLIC FACILITIES

Ms. Misicka stated that she would now open the public hearing regarding this matter. Ms. Misicka stated that the Planning Commission is interested in hearing citizens views and that those who are interested in sharing their views will be invited to come to the podium. Ms. Misicka stated that she would ask that they give their name and address and then they would encourage their input and ideas. She stated that questions and debates with the Planning Commission or Staff should be reserved for a time outside this meeting.

Ms. Misicka asked for the Staff report. Mr. Mitchell reads the following Staff report.

PLANNING & COMMUNITY DEVELOPMENT STAFF REPORT	
PROJECT NAME: Ordinance Amendment	Planning Commission Meeting Date: May 5, 2011
Case Number: ZOA-02-2011	Applicant: Public Works

Project Status: <input type="checkbox"/> Preliminary Sketch Application <input type="checkbox"/> Rezoning <input type="checkbox"/> Preliminary Plat Use <input type="checkbox"/> Conditional <input type="checkbox"/> Preliminary Final Plat Plans <input type="checkbox"/> Concept <input type="checkbox"/> Final Plat <input checked="" type="checkbox"/> Text Amendment <input type="checkbox"/> Vacation	Owner: NA	
	Location: NA	
	Voting District: NA	
	Parcel Number: NA	
	Total Site Area: NA	
	Site Area Developed: NA	
Existing Structures: None	CBPA: NA	
Flood Hazard: NA	Additional Site Data: NA	
Current Zoning: NA		
Action Request: Approval as presented		
	Staff: G. Mitchell	Date: 4-12-2011

Prior Actions / Case History

Rezoning: NA

Conditional Use Permit: NA
Variances: NA
Subdivisions: NA
Other Data: NA

DISCUSSION:

Attached is the proposed text amendment that staff presented the concept to the Planning Commission at its last meeting. This text amendment was generated by a discussion with the Director of Public Works. The proposed amendment exempts public facilities from the setback and road frontage requirements of the ordinance.

Currently there are several public facilities associated with our utility system which do not conform to these provisions of the ordinance. So in order to address this situation a text amendment is proposed. In preparing the text amendment, staff discovered that the term public facility also is not currently defined in the ordinance. Staff looked at various ordinances of other localities as well as some reference books and developed the definition as shown in the attachments.

COMPREHENSIVE PLAN:

The 2009-2029 Colonial Beach Comprehensive Plan, *Chapter 5 Implementation* recommends revisions to the zoning ordinance as part of the methods to implement the Plan. This text amendment, as the Commission is aware, is one of those technical “fixes” that are needed to improve and update our ordinance. As we discussed last month other sections will be brought to the Commission beginning in June.

STAFF RECOMMENDATION:

Staff recommends sending this proposal to the Council Economic Development Committee with a recommendation of approval.

TEXT AMENDMENTS:

ARTICLE 20

DEFINITIONS

Public Facility - Any improvement and the associated land area which is owned and/or controlled by the Town of Colonial Beach. Use of the facility is provided for under the direct authority of the Town of Colonial Beach. The facility is used exclusively for public use and benefit. Examples of such facilities may include but are not limited to the following: water/sewer pumps, lines, meters, and similar equipment, streets, sidewalks, drainage structures, administrative offices, police station, meeting rooms and similar facilities.

ARTICLE 18

MISCELLANEOUS

18-6 – Public Facility Exemptions

Any public facility constructed within the Town of Colonial Beach shall be exempt from the setback, minimum lot area and street frontage requirements as provided for in this ordinance, and provided that such a facility is no closer than three (3) feet from a public right-of-way (ROW).

Ms. Misicka asked for any public comment on this matter.

Mr. Jerry Jarvis, 225 Boundary Street stated that his only comment was that the three feet is awfully close to the roadways and he thinks it should be extended to five feet. He said that that normal side walk is two – three feet and it should be moved to the five feet. He stated they could then have an exception for the facilities that already exist within that five foot level. He said then it would not be just an open blanket for town property to be within three feet. He said that when you are that close to a roadway it could be hazardous and it should be on an exception basis.

Ms. Misicka asked if anybody else would like to comment. Hearing no more comments from the public, Ms. Misicka asked if anybody from the Planning Commission wished to speak.

Ms. McMullen stated that the gentleman that just spoke made some good points and she asked Staff if that would work.

Mr. Mitchell stated that would be harder to do then it seems. He stated that if they wanted to make the distance five feet and then consider the other existing facilities preexisting nonconforming uses that would work.

Mr. Grant asked who makes the determination for the distance.

Mr. Mitchell stated that is that is a design characteristic of the utility system and the Director of Public works.

Mr. Grant asked if the Public Works department has the authority to make the decision.

Mr. Mitchell said they would have the authority based upon the determination of the designs given to them by the Town Engineer.

Mr. Coombes said that at the last meeting he had asked Mr. Mitchell where the three foot comes from.

Mr. Mitchell stated that it is based upon the things that they have already on the ground and his discussions with Mr. Murphy.

Mr. Coombes asked if the three feet would bring into compliance all the existing structures on the ground now.

Mr. Mitchell said yes.

Mr. Coombes asked about the definition which states;

Public Facility - Any improvement and the associated land area

Mr. Coombes asked any improvement of what?

Mr. Mitchell said of a public facility.

Mr. Coombes said that should be in there.

Ms. McMullen (inaudible comment)

Ms. Misicka reminded the Commission to speak into their microphones.

Ms. Misicka stated that the things that she sees would encroach into a five foot setback would be things like water lines and water meters.

Mr. Mitchell stated that there may be something out there that he has not thought of that may be closer than that.

Ms. Misicka asked if it was possible that there may be a public facility building that is in the three foot setback.

Mr. Mitchell stated that if they were starting from scratch then all new buildings would need to meet the setback regulation.

Ms. Misicka asked if this entire amendment is for new structures then.

Mr. Mitchell stated that it is existing, as well as the future. He said it is designed to give the Town the most flexibility because they are a small town and have small lots. He stated that there may be future ADA requirements that may have things pushed up against other things.

Mr. Coombes asked what the minimum setback is in the current zoning districts.

Mr. Mitchell explained that in the Commercial districts they actually have some zero setback regulations.

Mr. Grant stated this was why he questioned if public works had the final say in where these facilities could sit.

Mr. Mitchell stated that the Town's engineer would decide the design and as far as the setbacks go that is why you have this ordinance.

Mr. Grant asked if Public Works would need an expert to look at things like water lines and meters.

Mr. Mitchell explained this is why they will use the Town's engineer.

Mr. Grant asked who the Town's engineer is.

Ms. Foulds stated Dewberry and Davis.

Ms. Misicka asked if there were any more questions from Planning Commission members. Hearing none she stated the public hearing portion of this matter is closed.

Ms. Misicka asked if somebody would like to make a motion.

Mr. Coombes suggested using the motion attached and modifying it.

Mr. Coombes stated that he would amend this motion to include the revision of the definition of public facilities.

Mr. Coombes stated that he felt that the motion that was included in the packets is a little too broad and after input from the public and Mr. Jarvis's suggestion to move it from three feet to five feet. He stated that after listening to Mr. Mitchell what they are trying to do is fix the existing entities in which they have a problem with in terms of setbacks.

Mr. Coombes asked Mr. Mitchell if a lot of these are pump stations.

Mr. Mitchell replied yes.

Mr. Coombes stated that he likes the business of moving it to five feet and then having a statement about preexisting entities would be grandfathered. He stated that all new construction should be at the five feet.

Ms. Misicka asked if what she was hearing was that they were going to revise the text under 18-6.

Mr. Coombes stated to revise the definition

Mr. Coombes stated that he liked moving it to five feet with a statement about preexisting entities that are grandfathered in. He stated new construction needs to apply to the new regulations. He stated they just can't move pump stations.

Ms. Misicka asked if Mr. Coombes was making a motion to revise the text for 18-6.

Mr. Coombes stated that his motion was to revise the definition to include public facilities and then to change the 3 feet to 5 feet and include the language that preexisting entities are grandfathered in.

Ms. Misicka stated that she had a comment she stated that the intent of the definition was to define a public facility.

Ms. Erard suggested it say "any improvement that is owned or controlled by the Town".

Ms. Misicka said it would be more accurate to not include "public facility" in the definition than as Mr. Coombes had requested.

Ms. Erard said they could say that however they just need to include improvement that is owned or controlled by the Town.

Ms. Misicka stated that her text suggestion was as follows: "Any improvement in an associated land area that is owned or controlled by the Town of Colonial Beach where use is provided for under direct authority of the Town of Colonial Beach and the facility is specifically used for public use and benefit".

Ms. McMullen asked if she was then leaving off the examples.

Ms. Misicka stated "no" that the examples would follow.

Mr. Rodeheaver stated his question was that it states no closer than five feet to a public right of way. He asked if alleys were a public right of way.

Staff responded yes.

Mr. Rodeheaver said that a lot of alleys run piping and may be a good location for a new pump station. He stated with this language they could not do this.

Mr. Rodeheaver stated they may be shooting themselves in the foot by saying this.

Mr. Rodeheaver stated that his problem with this was the language reads from a public right of way and there may things that they actually need to do in the right of way.

Mr. Rodeheaver stated that he just does not want to prohibit them from doing something that they may need to do. He suggested maybe talking to the Director of Public Works.

Ms. Erard stated that this language would not govern underground facilities.

Mr. Rodeheaver expressed that this may someday prohibit the Town from putting any facilities in the right of ways and that is the purpose of right of ways.

Mr. Mitchell stated that the purpose of right of way when he and Mr. Murphy were discussing this was that they were really thinking about the streets.

Mr. Rodeheaver suggested maybe using another word other than public right of ways.

Mr. Mitchell said he would look into this.

Ms. Holt stated that it really does not affect what Mr. Rodeheaver is talking about because it does not include water lines and if they have to put up a new facility they just need to keep it five feet away.

Mr. Rodeheaver expressed his concerns with not allowing themselves the ability to locate a pump station into any of these right of ways if needed.

Ms. Erard stated they cannot put a pump station in a right of way and if they wanted to they would need to do a vacation of that right of way.

Ms. Erard said that the right of way is for public thoro-fare. They cannot build on a right of way unless they vacate it.

Mr. Rodeheaver asked what it would take to vacate a right of way.

Ms. Erard stated a public hearing and action by the Town Council.

Mr. Rodeheaver said that if they cannot build anything on a right of way then he has no objection.

Ms. Misicka asked for a motion.

Ms. Holt stated that she would like to make a motion. “Any improvement in an associated land area that is owned or controlled by the Town of Colonial Beach where use is provided for under direct authority of the Town of Colonial Beach and the facility is specifically used for public use and benefit”.

Whereas, the Colonial Beach Planning Commission finds that public necessity, convenience, general welfare and good zoning practice would be served by the recommending approval of the text amendment ZOA-02-2011, and,

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach Economic Development Committee with a favorable recommendation in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

Ms. McMullen seconds the motion.

Ms. Misicka stated that the motion is to amend the Zoning Ordinance to include a definition for public facility and include an exemption for existing public facilities.

Ms. Misicka asked for all those in favor of this motion.

There was general agreement by all Commissioners to recommend this motion with no objections.

Ms. McMullen stated that she would like to amend the motion to have the recommendation be forwarded to the Town Council and not the Economic Development Committee.

Mr. Rodeheaver stated he would second it.

Mr. Coombes stated that he would like to hear from the Town Manager or the Attorney on whether procedure had changed with this.

Ms. Foulds stated that the Council had not specifically instructed her to send this specific item to Committee but her marching orders was to send items to Committee. She said that if the Commission wants to recommend this to the Council then that is okay.

Ms. Misicka stated that they are recommending this to the entire Council body and they can sub it out to whoever they wish.

Ms. Misicka stated that the motion was to refer this to the Town Council. She asked for all those in favor.

There was general agreement to send this to the Town Council with no objections.

PUBLIC HEARING FOR THE REQUEST FOR A RIGHT OF WAY ABANDONMENT ALONG MONROE BAY AVENUE BY MR. WILLIAM SPEIGHT.

Ms. Misicka asks Mr. Mitchell to go over his Staff report.

Mr. Mitchell reads the following staff report.

PLANNING & COMMUNITY DEVELOPMENT STAFF REPORT	
PROJECT NAME: Right of Way Vacation	Planning Commission Meeting Date: May 5, 2011
Case Number: ROWV-01-2011	Applicant: William & Lynn Speight

Project Status: <input type="checkbox"/> Preliminary Sketch Application <input type="checkbox"/> Rezoning <input type="checkbox"/> Preliminary Plat <input type="checkbox"/> Conditional Use <input type="checkbox"/> Preliminary Final Plat <input type="checkbox"/> Concept Plans <input type="checkbox"/> Final Plat <input checked="" type="checkbox"/> Vacation	Owner: Town of Colonial Beach	
	Location: Portion of unnamed road to rear of applicant's property	
	Voting District: NA	
	Parcel Number: Applicant's # 3A1-2-5-5 4	
	Total Site Area: 1998 sq. ft.	
	Site Area Developed: NA	
Existing Structures: None	CBPA: Yes 100 foot buffer zone	
Flood Hazard: NA	Additional Site Data:	
Current Zoning: R-2		
Action Request: Approval with conditions		
	Staff: G. Mitchell	Date: 4-12-11

Prior Actions / Case History

Rezoning: NA
Special Exceptions: NA
Variances: NA

Subdivisions: NA
Other Data: NA

DISCUSSION:

Mr. Bill Speight requested the Town to abandon a portion of the undeveloped, unnamed road located to the rear of their property so that they may purchase the property from the Town. This right-of-way follows along the shoreline along Monroe Bay and connects to Monroe Bay Avenue to the south of the applicant's property. The connection point however crosses a swamp/wetland area. There are no plans on the part of the Town or the Virginia Department of Transportation (VDOT) to construct any type of road in this area.

Police Department supports the vacation of the right of way due to crime prevention. Based upon estimates from Public Works, if the Town were to maintain this site, it would cost the Town approximately \$300 per 100 square feet or approximately \$5,994 per year. There are no drainage easements or other Town owned facilities within this alley or planned to be located within this alley.

COMPREHENSIVE PLAN:

Throughout the Plan it is recognized that the Town's tax base needs to be expanded. By approving this abandonment the Town could save the approximate \$5,994/year in potential maintenance costs as well as putting this land back on the tax rolls. Although the land if sold to the applicant will be incorporated into an existing lot, this will most certainly raise the assessment of the lot and therefore increase the tax base of the Town. Typically, a lot that is in this area of Town is assessed at \$30,000, based on Westmoreland County Commissioner's Office. While this parcel of land is not suitable to build a home due to its location with no access to a public road it does offer a significant addition to the yard of the applicant. When added to the existing properties the new assessments for the properties should increase by approximately +/-10% based upon an estimate from an appraiser.

PROCESS:

Approving this vacation would result in the Town selling the rights to the right-of-way. The Town will have a survey and an appraisal of the property performed. The applicant(s) will then

purchase the property from the Town based upon this appraisal and be responsible for the survey, recordation and other closing costs.

STAFF RECOMMENDATION:

Staff recommends sending this proposal to the Town Council Economic Development Committee with a favorable recommendation with the conditions as outlined below.

RECOMMENDED CONDITIONS OF SALE:

1. The applicant(s) shall pay for a survey of the property, recordation costs and for all other closing costs.
2. The applicant(s) shall purchase the property from the Town Council within 45-days of approval.
3. The applicant(s) shall have a lot consolidation survey prepared to show how the right-of-way will be consolidated into his existing property. Upon approval the lot consolidation, the applicant(s) shall record the plat in the Circuit Court Clerk's Office of Westmoreland County.

Ms. Misicka asks for the applicant to come to the podium and express his views.

Mr. William Speight 1323 Monroe Bay Avenue stated that the Town had advertised that they would like to sell these right of ways. Mr. Speight stated that he is very interested in buying it because it is a piece of his back yard. It would enable him to own his dock which he currently leases from Town right now at a forty year lease. He stated that these right of ways were established back in the late 1800's for a fire lane for a horse and buggy to brought up there and get water out of the river. He stated that there has been a lot of erosion along there and he has a huge oak tree located right in the middle of that right of way. He stated that with the existing right of way you cannot move any equipment up there. He stated that he would like to give the Town of Colonial Beach some money to buy the property and increase his tax base for the year. He said it is a win win situation for the Town. He said he does not care to have a right of way located there were somebody could come and camp in his back yard.

Ms. Misicka asked if there was anybody in attendance from the public who would like to express their views in favor of this.

There was no public comment in favor.

Ms. Misicka asked if there was anybody who would like to express their views to oppose this.

There was no public comment to oppose this.

Mr. Speight asked if he could make one more comment. He stated that both of his neighbors on either side signed the application stating that they did not have a problem with this.

Ms. Misicka opened it up for Planning Commission questions.

Ms. Holt asked if this area has access to the water.

Mr. Mitchell said it is Town owned property so you could actually walk back there.

Ms. Holt asked if it is in the 100 foot buffer zone.

Mr. Mitchell said yes.

Ms. Holt asked if any of the other property has been sold off along this right of way.

Mr. Mitchell said not yet but he received another application today.

The Commission asked that Mr. Mitchell show everybody the location of who had requested to buy which portion and the location of the entire right of way.

Mr. Mitchell shows the commission the locations.

Mr. Grant asks if there is any extension of Dandridge Lane unto this property.

Mr. Mitchell stated no it is just a swamp.

Mr. Coombes stated that just for everybody's clarification this is the area that they addressed months ago along Lawrence Lane. (He indicates on the map where this is). He stated that they voted 7-0 to not approve the Lawrence Lane vacation.

Ms. Coombes asked the Town manager if this was still unresolved by the Town Council at 6 months later.

Ms. Foulds replied yes.

Ms. Foulds stated the reason for it not be resolved is that there were several issues regarding whether staff should instruct them to get a survey or not.

Mr. Coombes stated so it was a process problem. He asked if any of this would be unhelpful negatively on this application.

Ms. Erard said no.

Mr. Rodeheaver asked why he said this was advertised that this land was for sale. Did the Town advertise it?

Mr. Speight said that this particular right of way was not advertised but when the Town had advertised that they were selling other right of ways then he took it that they were interested in selling these right of ways. He stated that if they are interested in selling these right of ways then he is interested in buying.

Mr. Rodeheaver stated that if this Town Council is thinking about selling these right of ways then it needs to be run through the Planning Commission and looked at Town wide to choose the properties to sell. He said that maybe this is one of those cases where it makes sense to sell this property. He said he does not want to see this type of thing where there is hearsay that goes around town. He said that Mr. Speight made him believe that this was advertised in the paper and it was not and should not be until they all know something about it.

Ms. Misicka stated that their job is to make recommendations to Town Council. She said that she personally does not object at all to how a matter may come to them. She said it is within Town Council's purview to initiate it formally and then they may make recommendation to the Town Council. But in any event that is not what happened here the applicant came to them on his own and that is what they are considering before them.

Mr. Rodeheaver stated that planning is years in advance and Town Council is not thinking years in advance.

Mr. Grant stated the pictures are excellent. Mr. Grant stated he has a question. He said that the public works has determined that it would be \$5,994.00 to maintain the property. He said what are they going to do cut the grass.

Mr. Mitchell stated this was the figure given to him from public works is if they did maintain this area.

Ms. Misicka stated if there were no more questions then she would close the public hearing.

Mr. Coombes stated he has a couple questions. He stated that he expressed his frustration the last time they had one of these occasions where they have very large figures coming out of public works. He asked Mr. Speight the square footage of the area for the vacation.

Mr. Speight responded 1,500 sq feet.

Mr. Coombes stated that they were being told that it would take \$6,000 to keep weeds out of 1,500 square feet. He said he objects to these figures and it is the responsibility of Staff to get correct figures.

Mr. Mitchell stated that these were the number provided to him by Public Works.

Mr. Coombes said he thinks that Mr. Mitchell should object to these figures.

Mr. Coombes stated that he does not believe cutting that grass once a week would cost \$6,000 from anybody.

Mr. Coombes stated he is very frustrated and they need more accurate information and somebody should questions this before it gets to them as a board. He stated they should not have to question it in public.

Mr. Rodeheaver stated Staff should put together factual documents for them to look at.

Mr. Grant said they have to have the facts.

Ms. Misicka asked if Mr. Mitchell knows how they come up with these figures.

Mr. Mitchell stated it was roughly \$300.00 per hundred square foot and it is not just based on grass. It is based cleaning the property, taking out trash, snow removal and whatever gets factored into his budget.

Ms. Misicka asked if this number is out of the ball park.

Mr. Mitchell stated it is not in his experience to say.

Ms. McMullen stated that the statement where it says the Police department supports the vacation for crime prevention. She asked if they were having a crime problem down there.

Mr. Mitchell stated it is part of their crime prevention tactics. He stated if somebody decides to camp down there then Mr. Speight would have to call the police to come and deal with it because it is publicly owned property. If it is privately owned then there is no issues.

Mr. Rodeheaver questioned the value of the property only being assessed at \$30,000. He said this is not accurate for a lot on the water.

Mr. Mitchell stated that he is not an assessor and this was given to him by the Commissioner of Revenue.

Mr. Rodeheaver stated he does not believe it. He said it he has water front property and this figure did not make sense. He said that \$30,000 is not correct and he would like the correct value.

Staff responded that this was an unbuildable, land locked property that is 1,500 square feet. Not the entire lot.

Mr. Coombes expressed his frustration that the Staff report indicates an entire lot. He stated this generalization does not sit right with him.

Mr. Coombes said he agrees that what a lot is worth is not the Planning Commission's business it is the Town Council's business. He said it is just the notion. He said that it drives them crazy with how this is said. He said these figures are not accurate.

Ms. McMullen said just to make sure they all agree. Could the Town Manager respond if this property or its adjoining land was ever advertised for sale?

Ms. Foulds said no.

Ms. Misicka closed the public hearing.

Ms. Misicka stated that she would open this for Discussion amongst the Planning Commissioners.

Ms. McMullen stated that this was just a small section of a town road. She said if it is used at some point in time the Town could use this as a public boat launch, piers, jet skis, kayaks. She stated that if this is sold then the road would no longer be a public access. She said that she has a problem selling this. She said the gentleman does have a lot of pride in his property.

Mr. Coombes said that if he was Mr. Speight and somebody bought that land behind him whenever he has a forty year lease for pier then they have all kinds of legal problems. He said that the advertising is necessary for a public hearing. He asked if this was right.

Ms. Erard stated that they did advertise for the public hearing but not the sale of the land.

Ms. McMullen expressed that she was trying to earlier clear up the fact that the Town was not advertising cart blanch land for sale.

Ms. Foulds said that is correct.

Ms. Misicka stated that there is a section in the Comprehensive plan that encourages the town to sell land that is unusable. She said they are struggling to make use of our beach and boardwalk. She said they should make use of Castlewood Park and their beaches and boardwalk. She said she personally does not see in the far future the Town being able to make use of this land for public benefit. She said there is no access on Dandridge road and it is marsh. She said that with Lawrence Lane the issue was that one of those houses would be land locked. She said that is a very good reason to deny it. She stated that Mr. Speight has a pier with a forty year lease, so there is no other use here. She said the Town is in dire need of money and this would be a win win situation for all as Mr. Speight stated. She said she hears everybody else's comments on this matter and she is very grateful for Mr. Mitchell's work on this. She said she does not care if the Town could only save a dollar in maintenance for this land, we will get money from the sale of this land. She stated that she does not have the knowledge to know if the assessments or public works figures are wrong. She said that if it is assessed at \$30,000 or a \$100,000 it does not change her views on what they should do.

Ms. Holt stated that there was supposed to be a bike path coming from the Town to Monroe's Birthplace so that people would come into Town and hopefully spend some money and the go back out to the Birthplace. She said this would be a perfect place for a bike path to go. She said that the marshy area can be dealt with a small wooden deck type bridge. She said it looks to her like it is a beautiful piece of property for people to tour. She said that she knows they have a dock and maybe someone else has a dock but they only own it right up to the end of the dock. She stated this would be a wonderful route to make a bike path. She says she knows it has not been built in six years but Monroe's birthplace is still undergoing a lot of changes. She says she hopes that bike path will come

into Town because that is something she worked on six years ago. She stated if it wasn't such a large section and if his property did not cut it off from both ends then maybe she would not have such an issue with it.

Mr. Grant said that to him it is an economic decision and that there are a lot of economics missing. He asked if the property is reassessed would it include just this piece or the entire property. He said secondly he wondered how much if it is reassessed what would they get in taxes.

Mr. Coombes said that in all due respect to Mr. Grant he does not think this Commission should be sitting here considering assessments and values of land. He said it is either right or wrong for them to vacate this property irrespective of what the property values are. He said they get caught up with things and take them too far. He said he agrees this may be an economic thing for the Town but that is for the Town Council to consider. He stated that they need to consider if it is right or wrong to take this street and begin to vacate pieces of it. He stated that the James Monroe Birthplace does not have any money and the bike path is a wishful kind of thing. They wanted them to put it in the Comprehensive Plan and that is fine. Whether it goes here or there they will probably not see it anytime soon. He said the Town Manager can correct him if he is wrong but he does not believe the Town has any money in its budget to put the bike path in.

Ms. Foulds said she agrees.

Mr. Coombes said that more applications are going to come in and what are they going to do with those. He stated that in Mr. Speight's case and the other guy with major piers they have put thousands of dollars into those and I would certainly not want a pier and then have a tent thrown up by out of towners in my back yard trying to get to my boat. He said they have had instances by out of towners where they have climbed up into people's houses and had to be removed by the police. He said they need to look at the real issues is it correct to do this or not.

Ms. Misicka said that tourism is so important to this town and one of the things she likes is she can walk virtually five miles waterfront or bike five miles waterfront. She said it is very important when they consider the best use of Town land that they also consider the vested rights of the homeowners who bought that land. She said that they have about six home owners who have a big chunk of their back yards that is a right of way. She stated that she would not appreciate having people, dogs or bikers looking into my back window. She said that there is plenty of open waterfront.

Mr. Grant stated the reason he brought up the economics is that eventually somebody has to use that information to make a decision. He stated if they are going to recommend it then that assumes that we know more than what is presented. He said he feels they are lacking information.

Mr. Rodeheaver expressed that he did not remember since he has been here that they have not ever sold town property.

Ms. Holt stated yes they have. They have sold several right of ways recently.

Ms. Misicka reiterated that the Comprehensive Plan talks about selling right of ways.

Mr. Rodeheaver stated that he would like to see a plan coming from Mr. Mitchell and public works on what property do they recommend should be sold or can be sold without any harm to the town.

Mr. Rodeheaver stated that it should be laid out that certain properties can be sold.

Ms. Holt stated that if you buy property and you do not own the section between your property and the water and you build a pier then it is the same thing as saying I bought this house next to the airport and planes are flying over. She said you can't expect for us to just sell it to you because you want it, there must be a more compelling reason for me to agree with it than that.

Ms. McMullen stated this is an interesting debate. She said that if you read the motion on the last page which states whereas the Planning Commission finds that public safety, convenience, general welfare and good zoning practices would be served. She said none of that is true. She said that the rationale that they are given needs some attention.

Mr. Mitchell stated that these words whether you approve or deny are the magic words you need in case you get sued. He said it comes from the state code.

Ms. McMullen stated it was inaccurate.

Mr. Coombes stated that he would like the Commission to know that the Council did what Mr. Rodeheaver was suggesting in terms of putting a list together of the parcels of land that are available for possible sale. He said that is where these rumors got started although Mr. Milleson did indicate that there is more to his situation than just this document.

Mr. Coombes stated that there is a communication problem between this Commission and the Council. He stated that the communication seemed to never be what it should be in his judgment. He said this is a classic example.

Mr. Rodeheaver asked if that was just for buildable property.

Mr. Coombes said it was for more than that it was for right of ways and other things as well as buildable property. He stated it is a comprehensive document.

Mr. Rodeheaver said he feels they should all have this. He said that the history of this town and the gentleman who donated all the land to this town did so with the provision that the waterfront property remain public.

Ms. McMullen called for the motion. She stated that she would like that they have this discussion concluded and that they do not recommend the passage of this request to refer to the Town Council.

Ms. Holt seconded the motion.

Ms. Misicka stated that the motion was to not recommend approval of Mr. Speight's right of way to the Town Council.

Mr. Coombes asked Ms. McMullen to give some of her rationale if it hasn't already been presented as to why she opposes this aside from Ms. Holt's issue with the bike path.

Ms. McMullen stated she felt the question should be why should she not oppose this. She said she has notes that she took and after reading this initially and she feels she has had the opportunity to express all of them.

Mr. Grant stated that if this is a favorable or unfavorable recommendation it will still go forward to the Town Council.

Ms. Erard stated that is correct it will still go forward.

Ms. Holt stated that one thing that is turning over in her mind is that she has never had problem vacating property that has helped a business or that is somewhere that was not public waterfront access. She said she voted yes on all of those that went between people's property but when it comes to a large waterfront section that is why I would not want to vote for this.

Ms. Misicka stated that the motion for the vote is to reject Mr. Speight's application for a vacation of the right of way to the rear of his property.

Mr. Coombes: Nay

Mr. Grant: Aye

Ms. McMullen: Aye

Ms. Holt: Aye

Mr. Rodeheaver: Aye

Ms. Urquhart: Absent

Ms. Misicka: Nay

Ms. Misicka stated that the application will go forward to the Town Council with a recommendation of denial.

MS. MISICKA DECLARED A FIVE MINUTE RECESS.

PUBLIC COMMENT ON PLANNING COMMISSION MATTERS

Ms. Linda Farneth, 121 5th Street stated that she normally does not speak regarding Planning Commission matters because she is a reporter. She stated that she would like to make a recommendation and they could take it or leave it. The property that was discussed today along the unnamed road involves nine property owners and the Commission has already had two come forward. It would really do everybody a great service if the Commissioners went down to the site and walked it. It would help if somebody who knows where the property lines could show you where they are and

where the water begins. She said that what she could see and she is not a professional, the majority of this area that is a right of way or road is almost always under water. She said this may help them make their decision.

Mr. Jerry Jarvis, 225 Boundary Street. He stated that this is a follow up on last month's meeting regarding the CIP. He stated that he has had this conversation with Ms. Foulds, the Mayor and some keep people on the economic development committee. He stated that he had business with some staffers with the house congressional staff of the economic committee not on town business but other business. He stated at the conclusion of the business they had some time and asked them if they could help him on some other business. He stated that he told them that the town does not have much of a tax basis and the town is working on some grants and some beautification. He said that they really need some infusion of money, what can they get from congress as far as money. He stated that they do now have a republican appropriations committee. He said that he heard about all the cuts that they are doing right now in the federal government. He said that rural towns do not have the tax base to fall back on and is there a way to work and get money into the town. He said what kind of shape is your Comprehensive Plan? I said we just approved a brand new Comprehensive Plan and the next thing he said is that your Capital Improvements Plan needs to be presented to your local congressman by your mayor. He said if we can show through the Comprehensive Plan that we are going to bring new life to his district there is ways to receive grants for specific projects with our comprehensive plan. He said to have it all prioritized and that they are going to try and cut down on congressional ads this time. He said there is money in grants through the Capital improvements Plan if we can show that we are going to improve this district. (Inaudible statement) Thank you.

Ms. Misicka closed the public comment period.

OLD BUSINESS – FINAL DISCUSSION AND DECISION ON CAPITAL IMPROVEMENTS PLAN (CIP)

Ms. Misicka said this would be their final discussion on the Capital Improvements Plan.

Ms. Misicka thanked Ms. McMullen for all her hard work in gathering the CIP information from other small localities. She stated it was very helpful.

Ms. Misicka asked if Staff has a report.

Mr. Mitchell stated that basically what they have before them is a revised CIP based on the comments from the last meeting.

(Mr. Mitchell goes over the updates to the Capital Improvements Plan).

Ms. Misicka asked that Mr. Mitchell go over their conversation that they had about the examples that Ms. McMullen had provided them. She stated that it seemed like everybody was on the same page with that.

Ms. Misicka asked Mr. Mitchell to explain what his reasoning was to not go whole hog to adopt something like Ms. McMullen has provided.

Mr. Mitchell stated that the hurdles to jump in order to do those updates is a great deal on Staff.

Mr. Mitchell stated that they would be glad to take on this project for next year's CIP update. However the Town Manager needs this year's CIP to do the budget which she needs by next month. So, they would like to go ahead and adopt this for this year and then the Commission can review the formats Ms. McMullen had provided and decide which they would like to do next year.

Mr. Mitchell stated that the specifics would need to come from each department and that would take a substantial amount of time.

Ms. Misicka stated that what Mr. Mitchell is saying is that this is the 2011 CIP and they are five months into the year and they should do what they can now.

Ms. McMullen said they mentioned the budget and isn't that the budget for 2012.

Ms. Foulds stated yes.

Ms. McMullen asked when the fiscal year starts.

Ms. Foulds said July 1st.

Ms. McMullen stated that the first column on the CIP should really be 2012 then.

Ms. Holt stated that in regards to what Mr. Jarvis said about revitalizing the community. She has circle three things that they need money for. She stated the bike path, new public boat ramp and a community center. She said she thought it added up to \$300,000.00.

Mr. Rodeheaver suggested a spray park or swimming pool.

Ms. Misicka stated that she thought the spray park would be a great idea for this town. She stated that it creates a skating rink in the winter and it is fun. She said a water feature had been mentioned many times on the community survey and it is mentioned in the Comprehensive Plan. She would like it to be included in a subcategory.

Ms. Misicka thanked Mr. Mitchell on his work on this.

Ms. Misicka stated that she would love for them to do something like some of the other Towns that Ms. McMullen had provided and they should work to do that next year. But for now there is a time issue.

Ms. McMullen stated that in chapter 5 of the Comprehensive Plan there are so many tidbits of helpful information that can help them accomplish their mission. She said this information will really help them in the future. Ms. McMullen stated that there are a few things still of concern. Town Government Buildings needs to be moved from 2012 to 2013 and everything should shift. She asked what the GIS is.

Mr. Mitchell said Geographic Information System in example the aerials they receive.

Ms. McMullen asked if they could just get that information on line.

Mr. Mitchell stated that there are new aerials we need to have updated. The Town needs to hire a consultant to help in updating this system and have new tax map layers added.

Ms. McMullen questioned the \$175,000 to do this.

Ms. Foulds explained that other departments including public works and the police department can use this system.

Ms. McMullen questioned the two vehicles Mr. Mitchell had under Community Development. She stated that she cannot support this. She said she could support reimbursing somebody for mileage.

Ms. McMullen asked if the Colonial Avenue plan was the grant they were working on.

Mr. Mitchell replied that grant was for downtown.

Ms. Misicka stated that this topic was pulled word for word from the Comprehensive Plan.

Ms. McMullen stated that they need to have more specificity with parks and playgrounds.

Ms. McMullen asked where the removal of old pilings are.

Ms. Holt responded all over.

Mr. Mitchell said all up and down the shore line.

Ms. McMullen questioned the police department getting a new car every year. She said without some assessment of this she cannot agree to it.

Ms. Misicka asked for a motion.

Mr. Rodeheaver stated that he would like to make a motion to approve the CIP as presented.

Mr. Coombes seconded the motion.

Ms. Misicka asked if there was any discussion.

Ms. Misicka suggested that they make an amendment that includes under parks and playgrounds a splash ground or splash park.

Mr. Rodeheaver seconded the motion for the amendment.

Ms. Misicka asked if there was any discussion on this amendment.

Hearing none. Ms. Misicka asked for a vote on the amendment to the Capital Improvements Plan to specifically break out a splash park.

Ms. Misicka asked all those in favor of this amendment to vote Aye.

There was general agreement with no objection.

Ms. Misicka asked for a vote on the approval of the Capital Improvements Plan as amended.

Mr. Coombes: Aye
Ms. McMullen: Nay
Ms. Holt: Aye
Mr. Rodeheaver: Aye
Mr. Grant: Aye
Ms. Misicka: Aye
Ms. Urquhart: Absent

Ms. Misicka stated that the motion carries and will be forwarded to the Town Council.

Mr. Mitchell made a request that the Commission Members take a look at the different CIP's that they have received and make a decision on which format they like.

Ms. Misicka stated that the Commission Members should get with Mr. Mitchell on which format they prefer.

DISCUSSION ON THE 2011 WORK PLAN

Mr. Mitchell stated that they have a 2011 work plan in front of them.

Mr. Mitchell said the first item on this plan was what they talked about a month ago and that was to do the Zoning Ordinance first to bring it up to the state code. He stated that they had already done the subdivision ordinance.

Mr. Mitchell said the second item was working on a major highway corridor overlay district.

Mr. Mitchell stated that they will continue to operate on the downtown revitalization project.

Mr. Mitchell stated they will continue to work on their GIS system where they can.

Mr. Mitchell stated that one of the things required by the state of Virginia is that the Town by December has to determine where their urban development area is. He said he will be giving them more information on that in the coming months. He stated his preference was to declare the entire Town an urban development area.

Mr. Mitchell stated that number six on this list would be a CIP which they have done.

Mr. Mitchell asked if there are other things that the Commission would like to see on this list.

Ms. Misicka opened this topic up for discussion.

Mr. Rodeheaver asked if these were in a priority type order.

Mr. Mitchell stated they were not in any order.

Ms. Misicka stated that she would just like to make a suggestion and that was something she had learned at the last community block grant meeting. She suggested that they work on a TIF overlay district and a Historical overlay district.

Mr. Mitchell suggested that they get into the grant process a little bit more because he would like to get through those processes before starting on the Historical district.

Mr. Mitchell stated that he would look into the TIF (Tax Increment Financing) district but he said he does not have a lot of experience on this and Ms. Foulds may be more knowledgeable than he.

Ms. Misicka stated that the only thing she saw from last year that they did not accomplish is a unified development ordinance. She stated that this was an ordinance that combines all the zoning, development and subdivision ordinances into one document.

Mr. Mitchell suggested they go through the zoning ordinance first and then look at merging these documents together.

Ms. Misicka stated that the only other thing she would like to see on the list is that they possibly chip away at some of the Planning Commission work session topics.

DISCUSSION ON THE AGENDA MAKING PROCESS

Ms. Misicka stated this topic was on the list of proposed 2011 work session topics.

Ms. Misicka stated that she basically wanted to make everybody aware that the agenda that they receive is a tentative agenda for the meeting and that each one of them has the ability to place things on agenda.

Ms. Misicka stated that Staff has done a wonderful job doing the agenda. She said that if a Commissioner would like to add a topic to the agenda they just need to get with Mr. Mitchell and if he feels there is too much to cover on the agenda then he will contact herself. She will then get into touch with that Commissioner to try and work out when they can discuss the topic.

Ms. Misicka stated that she would encourage the Commission to add topics that they would like to discuss to the agenda.

Ms. Misicka stated she would like to make a motion that the first order of business at each Planning Commission meeting would be to adopt the tentative agenda.

Ms. Misicka asked that they not place items on the agenda that people have not had a chance to prepare for.

Ms. Misicka asked if there is a second to this motion.

Ms. Holt seconded this motion.

Ms. Misicka asked for discussion on this matter.

Mr. Coombes stated that the Council does this and it is a good thing. He stated the agenda is not Mr. Mitchells or Ms. Foulds or the Chairpersons it is the entire Commission's agenda.

Mr. Coombes stated that he feels there should be an item on the agenda that is "additions to the agenda" and that would be voted on by the Commission. He stated that this would precede the approval to the agenda and the Commission can decide if this is an appropriate item.

Ms. Misicka asked if it is not the same thing if she just asks for the vote to approve the agenda and then if somebody has an amendment they could just amend the motion to add the item to the agenda.

Mr. Coombes stated then you would need two votes. He said one for the amendment and then one for the agenda and if you voted to disapprove the amendment then you vote down the whole thing.

Ms. Misicka stated no you would just be voting on the amendment.

Mr. Coombes expressed he does not care how it is done.

Ms. Erard explained that the position she thinks Ms. Misicka is taking is that she would like the Commission to approve the agenda as a whole and not just a piece of it.

Mr. Mitchell stated that additions to the agenda will require a By-Law change.

Mr. Rodeheaver inquired what the improvement is to the process.

Ms. Misicka stated it allows the Commission members to participate in what they are working on. Also, by voting on the additions to the agenda they have the ability to remove items that a majority of Commission Members do not feel prepared enough to discuss.

Mr. Rodeheaver stated that you can bring up whatever you want to under "New Business".

Mr. Rodeheaver stated he believes in keeping things as simple as possible. He said this is just more red tape.

Ms. Holt and Ms. McMullen agreed that they should just keep this simple.

Ms. Misicka stated that if they do not adopt the agenda they still may have the power to table an item or postpone it indefinitely.

Mr. Mitchell stated this is not exactly accurate because if you have a rezoning or a conditional use permit and postpone it indefinitely then after 90 days it goes to the Town Council with a recommendation of approval.

Ms. Misicka question how that could be if it was never part of the agenda.

Mr. Mitchell stated because somebody has made application to local government and we have 90 days to act on it.

Staff reminded the Commission that advertising and notices have already been sent out.

Mr. Coombes stated that they are bogged down on process and he would recommend that they discuss anything they would like to add with Mr. Mitchell and then Ms. Misicka and Mr. Mitchell can come to consensus on the agenda.

Staff would like any additions to the agenda to be submitted at least two weeks prior to the meeting.

Mr. Rodeheaver expressed that one thing he hates about this government is that Staff is working for seven people.

Ms. Misicka stated that she does not expect to have a run of agenda items and she withdraws her motion to approve the agenda. Ms. Holt seconded the withdrawal.

ADJOURNMENT

Ms. Misicka adjourned the meeting at 6:45 P.M.

Ms. Misicka, Chairperson

