

## **Town of Colonial Beach Planning Commission Minutes**

Date: June 03, 2011 – Town Center, 22 Washington Avenue

Time: 4:30 P.M.

**Present:** Cynthia Misicka, Chairman  
Ed Grant  
Margaret McMullen  
Maureen Holt  
Kent Rodeheaver  
Desiree Urquhart

**Absent:** David H. Coombes

**Also Present:** Val Foulds, Town Manager  
Gary Mitchell, Director of Planning and Community Development  
Andrea Erard, Town Attorney

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### **CALL THE MEETING TO ORDER**

Chairperson Misicka called the meeting to order at 4:30 P.M. Mr. Coombes was absent from the meeting.

### **APPROVAL OF MINUTES FROM THE MAY 05, 2011 MEETING**

Ms. Misicka asked if there were any corrections to the minutes from the May 05, 2011 meeting. Hearing none Ms. Misicka declared the minutes approved.

### **PUBLIC HEARING FOR A REQUEST BY MS. FRANCES TATE TO VACATE A RIGHT OF WAY RUNNING PARALLEL TO MONROE BAY AVENUE**

Ms. Misicka opened up the public hearing for the request to vacate the right of way running parallel with Monroe Bay Avenue.

Ms. Misicka asked Mr. Mitchell to present his Staff report.

Mr. Mitchell presented his Staff report to the Commission. Stating that they had already heard from other property owners that have applied to have a portion of this right of way vacated. Mr. Mitchell explained that this piece of the right of way is about 2,600 square feet in area and is located in the 100 foot Chesapeake Bay buffer area. Mr. Mitchell recommended sending this proposal to the Town Council with a favorable recommendation with the following conditions.

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 asked for any public comment. She asked for the applicant to speak.

Ms. Jo Townsend of 1300 Esmond Lane stated that she was there on behalf of the applicant who is unable to make the meeting because of advanced age and illness. Ms. Townsend stated that Ms. Tate's first statement is that she would like to see this right of way stay the way it currently is. She said that this whole thing is very disruptive to her at her age to understand what is going on. Ms. Townsend expressed that after consulting with her son who is a real-estate attorney and reviewing the deeds they really do not understand what is going to be sold and will Ms. Tate still be able to have waterfront property. Ms. Townsend explained that Ms. Tate put her application in because she felt she may need to buy this property to protect her waterfront but would prefer that it just remain a right of way. Ms. Townsend stated that Ms. Tate really does not understand what all is being sold. She said that if it has to be sold then Ms. Tate will be forced to buy her piece of the right of way.

Mr. Mitchell explained that Milleson right of way has been approved for sale by the Town Council and this will cut off any access to the right of way.

Ms. Misicka asked Ms. Townsend if Ms. Tate wants the Planning Commission to make a recommendation on this right of way vacation or not.

Ms. Townsend stated that she does because she needs to protect herself if this land goes up for sale.

Ms. Misicka asked if there was any public comment in favor of this right of way vacation.

Hearing none

***Ms. Misicka asked if there was anybody opposed to this right of way vacation.***

Mr. Wayne Rose of 340 4<sup>th</sup> Street expressed that he was opposed to the selling off of any waterfront property. He said he is concerned that a precedent is occurring regarding this. He stated that he has lived in several waterfront communities across the east coast and part of Florida. He said that these properties are valuable to the community in that they can put small parks, public access ways, trails and boardwalks on these properties. He stated that he is familiar with this property and it may not be the best place for public access but he would like to see this property remain as part of the Town and become a conservation easement.

Ms. Jo Townsend of 1300 Esmond Lane stated she is speaking for herself and would too like to see this remain a Town property. She stated that once when she was young on her honeymoon and went to Miami she was overjoyed at the idea of seeing the ocean. She said that she was disappointed because she could not see it because of all the privately owned large buildings on the waterfront. Ms. Townsend stated that the person who created Colonial Beach did so with the intent for everybody to enjoy the

water. Ms. Townsend stated that Ms. Tate is being forced into this because Mr. Milleson could potentially buy her portion of the waterfront if she does not. Ms. Townsend stated that being a person like Ms. Tate who was on the rescue squad for 75 years and to have somebody come in and uproot you is totally inconsiderate. She stated that is what is in mind when she applied for this. She does not want it but she wants to do what is best. She would prefer to keep it owned by the Town.

Ms. Jeanette Rose of 340 4<sup>th</sup> Street expressed what bothers her the most is that there is no process involved with the Planning Commission or the Town Council. She stated that she read in the paper that after the approval of the sale of one of these right of ways they decided to develop a formula for how these are done. She stated that she does not understand how a Town Council member or Planning Commission member can make a decision without a process being involved. She said it bothers her that somebody like Ms. Tate who is elderly or even if she was a twenty something year old has to be forced into protecting her property. She said the Town is not protecting these people and there is no process that you can find out about when you call the Town Hall. She reiterated that the Town has no process for this type of thing and they are now setting a precedent as her husband stated. She stated that they should not move forward on any of these until a formula is in place. She explained that this Town does not have its act together when it comes to any issues. She stated all Towns have a process and that this is a backward Town and it is not fair to the citizens or the Planning Commission members who put their time in.

Ms. Misicka asked Mr. Mitchell to respond to what the process is for one of these right of way vacations.

Mr. Mitchell explained step by step the actions and process that is taken from beginning to end on what happens with a right of way vacation. Mr. Mitchell stated that there is a process in writing that he and Ms. Foulds have developed.

***Discussion took place among the Planning Commission Members.***

Ms. McMullen stated that she finds some of the information in this application unnecessary. In example the crime prevention language as well as saving money on potential maintenance costs. She expressed that she did not agree with the statement regarding that this should be adopted because of a public necessity and convenience, general welfare and good zoning practice. Ms. McMullen asked for better rationale from staff.

Ms. Holt expressed to the audience that the Planning Commission is trying to do what they can to protect the waterfront and that the Commission is just a recommending body who has recommended against these waterfront vacations in the past. Ms. Holt stated Town Council needs to hear these comments.

Mr. Grant asked if anybody in the public can request abandonment of property even though they are not the adjoining property owner. Staff responded constitutionally they can but what would be the purpose of owning land that you have no access to.

Mr. Rodeheaver asked if Ms. Tate does not buy this property can anybody buy it. Mr. Mitchell responded that constitutionally anybody can but realistically it would only benefit the two people who are on either side of Ms. Tate.

Mr. Rodeheaver stated that there should be a procedure that says this type of situation should not be allowed.

Ms. Urquhart stated that she has empathy towards Ms. Tate about being forced to do this. She stated that she is feeling frustrated that they do not have the power to protect someone like Ms. Tate in case someone comes through and asks for the vacation of this property. Ms. Urquhart stated that she would encourage the public to go to the Council and express to them their concerns because they are the governing body.

Ms. Misicka stated that she is in a quandary about how to vote here because Ms. Tate has applied for this vacation but she doesn't want the vacation.

Ms. Misicka stated that she may be the outcast here. She said as she stated at the last meeting, they have almost five miles of waterfront walking, bicycling and so forth. She said this is a short spur of turn around that on the left is swamp land. She said if Ms. Tate really wanted this property her reaction would be yes to vote for it but she is in quandary over this because Ms. Tate really does not want to go through this.

Mr. Mitchell stated that protecting Ms. Tate may be voting for this rather than against it because of the fact that the Town Council has already agreed to sell Mr. Milleson his part of the right of way.

Ms. Holt stated that their hands are tied on this because of the Town Council agreeing to sell off a piece of this right of way. She stated they have to protect Ms. Tate by allowing her to buy her piece of the right of way.

Ms. Misicka asked Mr. Mitchell if he has reason to believe if they do not recommend to vacate Ms. Tate's piece of this right of way that there is another person who may want to buy this if Ms. Tate does not.

Mr. Mitchell stated it is highly probable.

Mr. Rodeheaver stated that something needed to be done by the Town Council regarding selling these properties off piece meal. He expressed that they need to consider protecting adjacent property owner's rights.

Ms. Misicka stated she would close the public hearing and request a motion.

Ms. Holt stated that she would like to make a motion as it is written for ROW-02-2011.

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 ROWV-02-2011 and,

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Colonial Beach Town Council with a favorable recommendation (including any conditions as outlined in the staff report or added by the Planning Commission) in accordance with §15.2-2200 of the *Code of Virginia, 1950* as amended.

Ms. Urquhart seconded the motion.

Mr. Rodeheaver stated that maybe in this motion or another motion tonight he would like to suggest that the Town think about some other ways of making money then selling this property and also that the proceeds of this sale go towards funding capital improvements.

Ms. Foulds stated that she had been already tasked to draw up a resolution on this very subject for the Town Council. She stated it would state that the money from the sale of these properties goes towards Capital Improvements funding.

*The amendment by Mr. Rodeheaver was withdrawn based on this information from Ms. Foulds.*

Ms. Misicka asked for the vote.

Ms. McMullen voted Nay  
Ms. Holt voted Aye  
Mr. Grant voted Aye  
Mr. Rodeheaver voted Aye  
Ms. Urquhart voted Nay  
Ms. Misicka voted Aye

**The motion will be sent to Town Council with a favorable recommendation**

**PUBLIC COMMENT ON PLANNING COMMISSION MATTERS.**

There was no comment from the Public on Planning Commission matters.

**OLD BUSINESS.**

There was no old business.

**NEW BUSINESS.**

***- Discussion on the R-1 and R-2 revisions***

Mr. Mitchell stated that a couple of months ago the Planning Commission authorized him to begin revising the Zoning Ordinance based on the Comprehensive plan.

Mr. Mitchell stated that he was presenting the proposed changes to the R-1 and R-2 districts this evening. Mr. Mitchell stated that a lot of these changes were mandated by state law and some of the other changes were simply to make the Ordinance easier to review by both Staff and the public.

Mr. Mitchell goes over the changes with the R-1.

Ms. Misicka asked the Commission if they have any questions for Staff.

Ms. Holt responded no questions.

Mr. Grant responded no questions.

Mr. Rodeheaver responded no questions.

Ms. Urquhart asked if there was a feet per story height restriction.

Mr. Mitchell responded that there is only a maximum height restriction.

Ms. Urquhart inquired about under the definition of family there being just one person mentioned and does it have to be an adult person or can it be a 14 year old.

Ms. Erard stated that generally speaking when you talk about persons in the zoning context it means adult persons.

Ms. Urquhart stated that she has several pages of typos and grammatical corrections to be made.

Ms. McMullen expressed her concerns with allowing Major Home Occupations in this district.

Ms. McMullen expressed her concerns with allowing signage for a minor home occupation.

Ms. McMullen expressed her concerns with allowing fences going higher than six feet and how that affects the neighborhood.

Ms. Misicka reads from the Comprehensive Plan that one of the action items is updating the Zoning Ordinance.

Ms. Misicka recaps what the Comprehensive Plan states about the residential areas of the Town.

Ms. Misicka stated that she loves the unique architecture of Colonial Beach and she states how it talks in the Comprehensive Plan about preserving this.

Ms. Misicka stated she would like to beef up the design guidelines in the zoning ordinance to preserve the character of Colonial Beach.

Ms. Misicka stated that she feels 35 feet height limitation on residential buildings is way too high.

Ms. Misicka stated she agreed with Margaret on the signage issue.

Ms. Misicka also expressed that she would like to possibly see in the ordinance that you cannot put the unfinished side of your fence towards your neighbor's house.

Ms. McMullen reiterated that just before Mr. Mitchell began working here they thoroughly reviewed the sign ordinance and also fencing. She expressed how there was a lot of thought put into it.

Mr. Mitchell agreed to update the R-1 and R-2 with the Commission's suggestion for the next meeting to review.

***-Discussion on the review of the Planning Commission minutes***

Ms. Misicka expressed that she added this item her work session topics because she felt that it is simply unnecessary to have verbatim minutes.

Ms. Misicka stated that she would like to ask Mr. Mitchell how the current minutes are done and then she would like to ask Ms. Erard what the legal requirements are.

Mr. Mitchell stated that when you say planning staff that consists of himself and Ms. Mills. He expressed that this past set of minutes took almost 3 and ½ days to complete. Mr. Mitchell expressed that they could type up public hearings by the citizens verbatim and also the motions verbatim. Mr. Mitchell said that discussion by the Commission could be summarized. He said a lot of things are said seven times and then have to be typed seven times and this is unnecessary. This would make it more manageable because of the limited staff.

Ms. Erard stated that legally the only requirements are that minutes are taken and that discussion and actions are typed up. She said there is flexibility to make the minutes as specific as they would like or as general as they like. Ms. Erard stated her recommendation is to just do summaries of what occurred. Ms. Erard stated that they make digital recorder that can be downloaded onto a computer and then CD's could be made rather than all the tapes that we are currently using.

Ms. Misicka stated that she would like to make motion that minutes be revised to only take verbatim minutes for motions made and actions taken. Then simply summarize discussion. Ms. Misicka asked Ms. Erard if public hearing comments needed to be verbatim.

Ms. Erard stated no.

Ms. Misicka stated that she would then like to make a motion that Planning Commission minutes have only verbatim motions and amendments and that all other discussion at the meeting be summarized.

Ms. Holt seconded it.

Mr. Grant said it is a good idea.

Mr. Rodeheaver expressed the fact that Council may need some more information from the Planning Commission to make their decision.

Ms. Urquhart said she agrees with summarize discussion but understands Mr. Rodeheaver's concern.

Ms. Erard again stated that this would be why the digital recorder information would be helpful.

Ms. McMullen reminded the Commission of the recording that was already taking place for the internet by the Journal.

Ms. McMullen stated that she agrees that the Council does need some information to go by. She also stated that she would hope that the Council would check out the audio to review exactly what happened at the meeting.

Ms. Holt stated it is ridiculous to have 26 pages of minutes that she knows personally they are not going to sit down and read. She stated they will get a summary from one of them or someone else.

Ms. Misicka stated that there is verbatim minutes and then there is summary minutes. She said there may not be an in between. She said that this will be a work in progress.

The vote on the summary minute format went as follows.

Ms. McMullen voted Aye  
Ms. Holt voted Aye  
Mr. Grant voted Aye  
Mr. Rodeheaver voted Aye  
Ms. Urquhart voted Aye  
Ms. Misicka voted Aye  
Mr. Coombes was absent for the vote

***Motion carries***

- ***July meeting date discussion***

Ms. Misicka and Ms. Urquhart stated they would not be available for the July meeting. Ms. Holt stated she would be available to cover as the Chairperson.

The other members of the Commission said they would be available for the meeting.

**OTHER MATTERS**

Ms. McMullen reminded the Commission to visit the Mural on the boardwalk. She said that a lot people are enjoying it.

**ADJOURNMENT**

Ms. Misicka adjourned the meeting at 6:15 P.M.

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Ms. Cynthia Misicka, Chairperson

