

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

Date: August 04, 2011 – Town Center, 22 Washington Avenue

Time: 4:30 P.M.

**Present:** Cynthia Misicka, Chairman  
Maureen Holt  
Ed Grant  
Margaret McMullen  
Kent Rodeheaver  
David H. Coombes

**Absent:** Desiree Urquhart

**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**

Ms. Misicka called the meeting to order at 4:30 P.M.

### **APPROVAL OF MINUTES FROM THE JULY 07, 2011 MEETING**

Ms. Misicka asked if there were any objections to the minutes of July 07, 2011. Hearing none Ms. Misicka declared the minutes approved.

### **PRESENTATION ON HISTORY OF COLONIAL BEACH BY COLONEL JOHN BIEMECK**

Ms. McMullen gave an introduction of Colonel John Biemeck.

Colonel John Biemeck presented the Planning Commission with a slide show on the history of Colonial Beach.

### **CONTINUATION OF THE PUBLIC HEARING FOR MR. CORNEILUS LITTLE, 1329 MONROE BAY AVENUE – RIGHT OF WAY VACATION.**

Mr. Mitchell stated that the Staff report was basically the same as he presented at the last meeting.

Ms. Misicka opened the public hearing portion of the meeting.

Mr. Cornelius Little of 145 11<sup>th</sup> Street (the applicant) stated that he was sorry he could not make the last meeting however he was not in town. He said that he was requesting the right of way because

everybody else had requested their piece down there. He stated he just wanted to speak up for his portion.

Ms. Misicka asked for any public testimony.

Mr. Wayne Rose of 340 4<sup>th</sup> Street spoke in opposition to the abandonment of this right of way. He stated that he has made these comments before. He stated that it concerns him that precedence is being set for the potential sale of recreational, public space and waterfront property. He said there is very limited open space in the Town as it is. He stated that the side of Town he lives on there is no open space. He stated they do have the Euclid Avenue corridor which is undeveloped at this time except for an informal path way for golf carts. He stated that the precedence he is concerned with is that people along this corridor could possibly want to vacate access to this property and park land could be blocked off. He stated he realizes that this property is probably not best suited for access and public recreation, the precedence is being set though. He stated it really does concern him and he would like to see this property remain as a conservation easement owned by the Town and held forever.

Mr. Cornelius Little asked where would the people come in at and where would they go out at. He stated he was speaking about the one end of the road where the Milleson's are down to the Reeds it is nothing but a marsh where the road is supposed to go. He asked how would you come down there.

#### *PLANNING COMMISSION DISCUSSION*

Mr. Coombes stated his concerns is the practicality on this matter. He stated this is marsh land at high tide and a lot of these people have piers that were approved by the pier commission that they personally own. He stated they should not make a sweeping statement that no waterfront property should be abandoned because not all is equal when it comes to waterfront property. He stated there is no place for the public to utilize. He stated it would be doing a disservice to the applicants if they do not give this some serious consideration to approving this application.

Mr. McMullen had no comments.

Ms. Holt stated there is a small amount of marsh land and the rest of the property is pristine. She stated there is no reason they could not have a bike path down there and a bridge could have been built over the marsh land. She stated the reason they are in this situation is that Council did not take their recommendations. She said she will not be part of setting a precedence.

Mr. Grant stated his only concern was that people would have to cross through their properties to get to the street.

Mr. Rodeheaver asked Mr. Little if he was concerned about access to his property.

Mr. Little stated no he was not concerned with access.

Mr. Rodeheaver stated he feels like Ms. Holt.

Ms. Misicka stated they precedent set all the time and they just have to draw lines. She stated just because they say yes here does not mean they have to always say yes. She stated every application should be considered on its own merit. She stated that the day they have money to build a bridge is a long way off. She said that the benefit to the homeowners out ways the benefit to the Town in this case. She said it is a matter of reality and practicality.

Ms. Holt stated it would just be a footbridge. She stated she feels they are in a bad spot.

Mr. Coombes reads the following motion.

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-07-2011 (Cornelius Little) and, Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a **favorable** recommendation (including the conditions as outlined in the staff report) in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

*Mr. Coombes: So moved*

*Ms. Holt: Second*

*Mr. Coombes: Aye*

*Ms. McMullen: Nay*

*Ms. Holt: Nay*

*Ms. Misicka: Aye*

*Mr. Grant: Aye*

*Mr. Rodeheaver: Nay*

Tie vote.

Ms. Erard stated that with the results of a tie vote the Town Council will have to wait a period of 100 days to act on this. She stated they could recommend a vote of "No-Recommendation" to the Town Council.

The Commission agreed on this.

Whereas, the Colonial Beach Planning Commission finds that public necessity, convenience, general welfare and good zoning practice would be served by the No-Recommendation of ROWV-07-2011 (Cornelius Little) and, Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a No-Recommendation (including the conditions as outlined in the staff report) in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

Mr. Coombes moved to send to Council a "No-Recommendation" on this matter

Ms. Holt seconded it.

There was general agreement to send this to Council with No Recommendation.

**CONTINUATION OF THE PUBLIC HEARING FOR 9<sup>TH</sup>/10 STREET RIGHT OF WAY.**

Mr. Mitchell stated that he had contacted Mr. Dessimoz who was in opposition of this application and as per the Commission's request and that he was in the attendance tonight.

*Applicant Comments*

Betty Tiches of 1808 Beach Avenue stated her property adjoins this right of way and if this is granted it would enhance her property. She stated she has lived there five years and the alley has never been used. She said she stated she sees no reason for this not to be approved. She said there are three houses abutting this property and all three people on the right side want this vacation it is the property owner on the left that is against this.

Dimetrios Tiches of #2 10<sup>th</sup> Street stated his mother pretty much explained the situation and he agrees with her.

Dorothy Almassy of 13 9<sup>th</sup> street stated the alley is just that an alleyway. She stated it would improve her yard and she would like to join in with the others and maintain it.

Ms. Misicka asked if there was any public testimony.

Mr. Robert Dessimoz of #10 10<sup>th</sup> Street and the vacant lot that abuts up to the alley stated that he removed his name from the application because he was told by Mr. Tiches a fabrication about things that transpired with his family. So that was why I objected to the application. He said he originally wanted to buy it. He stated he wanted to buy it but was told some things that were not true and were a lie. He said this was why he took his name off the application.

Ms. Misicka asked if he could be more specific without getting too much into the lie issue. But could he tell them more about the facts about why he was objecting to this now.

Mr. Dessimoz stated that he would buy the whole thing but was told a lie about remodeling this house to move his father in to it and then he has another house on the beach. He stated he did not know this otherwise he would have put in to buy the property. He said that when he found out he had another house on the beach he came up to the zoning office and took his name off the application.

Mr. Dimetrios Tiches responded that he had originally talked to Mr. Dessimoz and his wife about this and told them that his Dad and he had bought a house on the alleyway and the plan is to fix the house up and move into it. That is still the plan. Mr. Dessimoz thinks because we own another house here at the Beach that I am lying to him. He stated why he wants to take that step is up to him and he does not care. He stated that they still have the same plan though. He stated this is why he went down and took his name off the application. He said his dad and himself own the house together and are going to remodel it because it is an old house and then move into it. He stated his Dad spends the winter in the Florida and spends summer up here.

Mr. James Tiches of #10 10<sup>th</sup> Street. He stated that in 1986 he and his daughter bought a beach house at 1712 Beach Avenue. (Inaudible comment). He said that he comes up from Florida every summer to get

away from the heat but this year it has been hotter here than down there. He stated that he doesn't know why Mr. Dessimoz feels that they lied to them. He stated he just does not understand this.

**QUESTIONS OF THE STAFF FROM THE PLANNING COMMISSION**

Mr. Coombes stated he did not have any questions.

Ms. McMullen asked for clarification on the map of which property belongs to who.

Ms. Holt asked if it is possible to divide the alley way down the center.

Mr. Mitchell responded yes.

Mr. Grant asked if an applicant is not interested in buying his half can another applicant buy the whole way across the alleyway.

Mr. Mitchell responded yes.

Mr. Rodeheaver asked Mr. Dessimoz that if they approve this does it injure him in some way legally.

Mr. Dessimoz said no. He expressed he would like to buy half the alleyway.

Ms. Misicka asked Mr. Dessimoz if he objects to the Town vacating the alleyway. She stated this is actually what they are considering tonight, not who buys which portion.

Mr. Dessimoz responded "no" he does not have a problem with it and he would like to buy half of it.

Ms. Misicka closed the public hearing.

Ms. Holt reads the following motions.

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-05-2011(Dorothy Almassy) and,

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a **(favorable)**

recommendation (including the conditions as outlined in the staff report) in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

**Motion made by Ms. Holt**

**Seconded by Ms. McMullen**

**There was general agreement to send this to Council with a favorable recommendation.**

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-03-2011 (Betty Tiches) and,

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a **(favorable)**

recommendation (including the conditions as outlined in the staff report) in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

**Motion made by Ms. Holt  
Seconded by Mr. Grant**

**There was general agreement to send this to Council with a favorable recommendation.**

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-04-2011 (James Tiches) and,

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a **(favorable)**

recommendation (including the conditions as outlined in the staff report) in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

**Motion made by Ms. Holt  
Seconded by Mr. Coombes**

**There was general agreement to send this to Council with a favorable recommendation**

**PUBLIC HEARING FOR MR. ADAM LEEMAN OF 1321 MONROE BAY AVENUE.**

Mr. Mitchell reads the staff report to the Commission.

Applicant's Comments

Mr. Adam Leeman of 1321 Monroe Bay Avenue stated he would really love to have the property vacated behind him to protect the integrity of his existing property. He stated that the properties to the right and to the left as he understands it have been approved. He said it only makes sense to

approve his vacation because of this. He stated he would like to echo Mr. Little's comment that the property is really nothing but wetlands and marsh and cannot be used in any way. He stated if Council see's it appropriate to vacate then he would appreciate it.

Ms. Misicka asked for any public testimony.

There was no public testimony.

There were no questions to Staff from the Planning Commission.

Ms. Misicka closed the public hearing portion of the meeting.

### **Planning Commission Discussion**

Ms. Misicka asked for any new comments or discussion from the Planning Commission.

Mr. Coombes reiterated what Mr. Leeman had said and that is this is the worst case scenario for him because both properties beside him have been vacated and he is locked in totally.

Ms. McMullen stated she had no comment.

Ms. Holt stated no comment.

Mr. Grant stated no comment.

Mr. Rodeheaver suggested voting as they had done before with "no" recommendation.

**Mr. Rodeheaver made a motion to send this forward with "no" recommendation.**

**Ms. Holt seconded the motion.**

Whereas, the Colonial Beach Planning Commission finds that public necessity, convenience, general welfare and good zoning practice would be served by the No-Recommendation of ROWV-08-2011 (Adam Leeman) and, Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a No-Recommendation (including the conditions as outlined in the staff report) in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

**There was general agreement from the Planning Commission to send this to the Town Council with "no" recommendation.**

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

Mr. Mitchell requested that they change the meeting date in September from the 8<sup>th</sup> to September 7<sup>th</sup>.

Mr. Mitchell stated the reason for the date change was because of a prior engagement he has.

He stated he would respond and confirm with the Commission regarding this change via email.

Mr. Mitchell reminded the Commission of the workshop scheduled for August 9<sup>th</sup> in the Town Center .

**ADJOURNMENT**

Ms. Misicka adjourned the meeting at approximately 6PM.

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Ms. Cynthia Misicka, Chairperson