

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

Date: Thursday, October 2, 2014 – Town Center, 22 Washington Avenue

Time: 5:30 p.m.

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Present: Robin Schick, Chairwoman  
Robert Busick  
Maureen McCabe, Vice Chairwoman  
Ed Grant  
Kent Rodenheaver

Absent: None

Staff: Acting Zoning Administrator, Brendan McHugh  
Town Attorney, Andrea Erard

### **Item 1: Call to Order**

Chairwoman Schick called the meeting to order at 5:30 p.m.

### **Item 2: Approval of minutes from August 2014 meeting**

Chairwoman Schick asked for a motion to approve the minutes from the August 7, 2014 regular meeting. Vice Chairwoman McCabe made the motion to approve the minutes.

Chairwoman Schick called for a voice vote; it was unanimously resolved:

That the minutes of the August 7, 2014 regular meeting be approved.

### **Item 3: Public Comment on Planning Commission matters (not on the agenda)**

Chairwoman Schick then asked if anyone had any public comment on Planning Commission matters not on the agenda. Mr. Jarvis of 225 Boundary approached the podium. He explained to the Planning Commission members that the Capital Improvement Plan needed to be updated. He explained that there was lack of visibility concerning capital improvements in the town. Member Rodenheaver explained that without the Capital Improvement Program, the town cannot get proffers. Member Grant explained that the Capital Improvement Plan requires capital. He believed that if the budgets are modified across the board, then the town will lose the capital and the plan is not able to be completed. Member Rodenheaver explained that it was not the Planning Commissions responsibility, but the Capital Improvement Plan is the Planning Commissions responsibility. Ms. Erard then explained that she would have a presentation on the Capital Improvement Plan ready for the next Planning Commission meeting.

### **Item 4: Planning Commission Recommendation of New Members**

Chairwoman Schick then asked for Public Comment on the recommendation of potential new members of the Planning Commission, Mr. John Reinhart and Mr. Stephen Cirbee. Mr. Peter Fahrney of 3419 Riverview Drive approached the podium. He explained that he was concerned about a conflict of interest of a builder/developer being a Planning Commission member. He felt that it was an undue advantage to swing the Planning Commission to a way that is not best for the long term interest of Colonial Beach. Member

Grant then explained that ultimately it would be Town Council's decision to vote the new members in and that the Planning Commission only makes recommendations. Mr. Mike Linney of 3 Marshall Avenue believed that because Mr. Reinhart and Mr. Cirbee were both in the construction industry, they should not be appointed voting members of the Planning Commission. He felt that there was a clear conflict of interest in voting on issues that would affect their businesses. However, he also explained that they would have valuable input and experience and could serve as consultants similar to an advisory committee. Ms. Erard then explained that the state and local conflict of interest act would apply to both Mr. Reinhart and Mr. Cirbee. She explained that they would have the responsibility to identify any conflicts and seeking the advice of the Commonwealth's attorney as to whether they can participate in a particular matter. Ms. Erard also confirmed that they can recuse themselves from voting. She explained that the responsibility lies with the public official and that violations are considered a criminal act. She explained that it is their burden concerning the conflict of interest and wanting to serve. Chairwoman Schick then asked Mr. McHugh if he knew whether other Planning Commissions have builders or contractors serving in other localities. Mr. McHugh explained that he did not look into the topic. Ms. Erard explained that she has never seen contractors, developers or builders on other Planning Commissions. Member Busick said that he knew of a builder on the Planning Commission in Fredericksburg but that he resigned for a potential conflict of interest. Chairwoman Schick explained that the question of conflict of interest was asked of both candidates and that they said they would refrain from voting if there was an issue. Chairwoman Schick asked if there was any more public comment on the matter. Reporter Linda Farneth asked Ms. Erard what procedure would take place if there was a potential conflict of interest. Ms. Erard explained that there was an enforcement statute that addresses the issue and that she would email Ms. Farneth. She explained that the member would have to consult with the Commonwealth's attorney. Chairwoman Schick then closed public comment. Chairwoman Schick then explained that even a business person on Town Council could have conflicts of interest. Vice Chairwoman McCabe then asked how the Planning Commission would recognize conflict of interest. Ms. Erard explained that the chapter is 2.2-3100 of the code of Virginia and that there were twenty five or thirty sections. Member Grant explained that the Planning Commission training should cover the issues concerning conflict of interest. Chairwoman Schick reminded the Commission that both candidates confirmed that they would attend the training. Member Rodenheaver then expressed his concerns with having two contractors on the Planning Commission. The question was raised of whether a real estate agent would have a conflict of interest as well. Ms. Erard believed that they would be more removed because they are not submitting applications for building within the Town. Member Busick explained that Mr. Reinhart has a smaller business in town whereas Mr. Cirbee has more work with the Town, but they are both contractors. He asked if that meant that an electrician that might benefit from more building would have a conflict as well. He felt that they both have valuable experience and explained that they both said they would recuse themselves if necessary. He felt that if they refuse to hire contractors, then they are missing out on an opportunity. Member Rodenheaver believed that they should not vote to recommend both contractors. Vice Chairwoman McCabe asked which candidate applies for the most building and zoning permits. Mr. McHugh explained that Mr. Cirbee applied for more permits. Vice Chairwoman McCabe explained that she was concerned with contractors that are deeply involved with multiple projects throughout the town. Ms. Erard explained that it would be more of a concern of permits in the future. Chairwoman Schick then voiced that a Planning Commission member both as an administrator and a client of the Planning Department could be a problem. Member Grant then voiced that everyone has personal interests. He explained that you don't have to a builder to have personal interest. He spoke about how business owners have personal interest as well, so he believed that needed to be taken into consideration. Chairwoman Schick then called for a voice vote to recommend Mr. Cirbee as a Planning Commission member to the Town Council;

	Aye	Nay	Abstain
Kent Rodeheaver		x	
Maureen McCabe		x	
Ed Grant	x		
Robert Busick	x		
Robin Schick		x	

Chairwoman Schick then called for a voice vote to recommend Mr. Reinhart as a Planning Commission member to the Town Council;

	Aye	Nay	Abstain
Kent Rodeheaver		x	
Maureen McCabe			x
Ed Grant	x		
Robert Busick	x		
Robin Schick	x		

Chairwoman Schick then clarified that the Planning Commission would recommend Mr. Reinhart to the Planning Commission but not Mr. Cirbee. Mr. Fahrney then suggested that it might help the situation if the Town Council was notified that the Planning Commission carefully considered the possible conflict of interest. Chairwoman Schick then further explained that conflict of interest was significantly analyzed specifically because of some of the public concern with the issue. She then voiced that the Planning Commission encourages everyone in town to come to the Planning Commission meetings and to participate especially those who are as knowledgeable and experienced as the applicants. Chairwoman Schick then voiced that she would like Mr. Cirbee at the Planning Commission meetings to assist in the matters discussed at future meetings.

**Item 5: Other Topics**

Chairwoman Schick then asked Mr. McHugh if there were any other topics that needed to be discussed. Mr. McHugh did not have any further topics. Chairwoman Schick then reminded Mr. McHugh that the Official Map needed to be reapproved. Mr. McHugh confirmed. Chairwoman Schick then voiced to some of the council members sitting in the audience that there were a few ordinances that have been passed through Planning Commission and are waiting Town Council approval. Vice Chairwoman McCabe then asked when the work session will be scheduled. Mr. McHugh confirmed that he would work on scheduling a date. Chairwoman Schick also asked Mr. McHugh to look into the Planning Commission classes for any future and current members to attend. Member Grant then reminded everyone that the vote is still with Town Council to approve. Member McCabe then asked if the Capital Improvement Plan was going to be in next month's agenda. Mr. McHugh and Ms. Erard confirmed.

**Item 6: Adjournment**

There was no further business. The meeting was adjourned at 6:03 p.m.