

## **The Mayor and Commissioners of the Town of Elkton**

### **MINUTES**

October 2, 2013

The Mayor and Commissioners of the Town of Elkton (the "Board") held their first regularly scheduled meeting in October on this date at 7:00 p.m. The following persons were present: Mayor Joseph L. Fisona; Commissioners Charles E. Hicks, V; Charles H. Givens, Sr.; Mary Jo Jablonski; and Earl M. Piner, Sr.; Town Administrator Lewis H. George, Jr.; Finance Director Steven H. Repole; Elkton Police Department Acting Chief Captain Matthew Donnelly; Administration Office Secretary L. Michelle Henson and Town Attorney H. Norman Wilson, Jr.

Mayor Fisona called the meeting to order and led the Pledge of Allegiance.

**ACTION:** The minutes of the September 18, 2013 meeting were approved on a motion made by Commissioner Givens. The motion was seconded by Commissioner Hicks and approved by all present with no corrections or amendments.

**ACTION:** The financial report and the bills submitted for payment were approved on a motion made by Commissioner Jablonski. The motion was seconded by Commissioner Piner and approved by all present.

#### **Budget Amendment 2014-003**

Mr. Repole presented Budget Amendment 2014-003 to recognize the forfeiture of \$3,997 in seized funds and their funding of the design, development, support and hosting of the Town's Website.

**ACTION:** Budget Amendment 2014-003 was approved on a motion made by Commissioner Givens. The motion was by Commissioner Jablonski and approved by all present.

#### **Proclamation P15-2013 – Breast Cancer Awareness Month**

Mayor Fisona presented Proclamation P15-2013, designating October 2013 as Breast Cancer Awareness Month. Mr. George read Proclamation P15-2013, a copy of which was placed in the record of the minutes.

**ACTION:** Proclamation P15-2013 – Breast Cancer Awareness Month, was approved on a motion made by Commissioner Piner. The motion was seconded by Commissioner Hicks and approved by all present.

**Discussion – Zoning Classification – Tax Map 304, Parcels 892, 1126, 879, 881, and 69 – Mr. Mike Davitt**

Mr. James Dellmyer, Esquire, introduced himself to the Board. He introduced Messrs. Mike Davitt, Ken Simmons and Elmer Justice, owners of property identified as Tax Map 304, Parcels 892, 1126, 879, 881 and 69, also identified as Tenby Ridge.

Mr. Dellmyer stated the purpose of their appearance was to discuss the Planning Commission's recommendation to amend the property's current zoning classification from R-3 Urban Residential / RO Residential Office to R-2 Suburban Residential.

He stated the property was annexed into Town limits at the current zoning classification, and stated the property owners opposed changing the status, adding the current higher density zoning classification was appropriate for the area and consistent with the Town's 2010 Comprehensive Plan.

Mayor Fisona stated the property was annexed into Town limits at a higher density to accommodate a planned age-restricted community, adding the property was now for sale, adding the higher density provided the opportunity for development of a townhouse community. Mr. Justice stated current market demands called for small lots and large amounts of open space.

**ACTION:** The request to retain the current zoning designation of R-3 Urban Residential /RO Residential Office of the property identified as Tax Map 304 Parcels 892, 1126, 879, 881 and 69 was approved on a motion made by Commissioner Piner. The motion was seconded by Commissioner Givens and approved by all present.

**Discussion – Zoning Classification – Tax Map 311, Parcel 1243  
Mr. Gene Herman**

Mr. Gene Herman introduced himself to the Board. He stated he was the owner of property located adjacent to 153 and 155 High Street, and stated the purpose of his appearance was to request that the property be rezoned from its current classification of R-3 Urban Residential to Town Center to be consistent with adjacent properties.

**ACTION:** The request to rezone the property identified as Tax Map 311 Parcel 1243 from its current classification of R-3 Urban Residential to Town Center was approved on a motion made by Commissioner Givens. The motion was seconded by Commissioner Jablonski and approved by all present.

Mayor Fisona stated the Board received late information regarding the requested rezoning of parcels located at 305, 307 and 309 Landing Lane. He stated the contract purchaser amended the plan by moving a proposed access driveway further south, away from the privately owned home at 305 Landing Lane.

Mr. David Schlachman introduced himself to the Board. He stated he was a private developer, currently involved in the development of a proposed Wawa gas station/convenience store at 302 West Pulaski Highway and the proposed access driveway from Landing Lane.

Mr. Schlachman stated he understood concerns expressed by the owners of 305 Landing Lane regarding impacts from the location of the proposed driveway, which was originally planned to be located at 307 Landing Lane. He stated the owners of 309 Landing Lane agreed to a contract purchase of their property, which would result in the proposed driveway being located further south on Landing Lane. He advised the Board the site plan had just been amended and was being presented as an alternative.

Commissioner Piner, referring to the amended site plan, noted the planned driveway included a left turn lane onto northbound Landing Lane. He stated he visited the area earlier in the day and watched traffic flow for about 30 minutes, and expressed concerns that the traffic volume on Landing Lane would make it difficult to turn left from the proposed driveway.

Mr. Schlachman stated he appreciated Commissioner Piner's concerns, adding that convenience stores generally did not create traffic, but pulled customers from existing traffic. He added that traffic studies had been performed prior to the decision to develop the Wawa. Mr. Schlachman stated he understood the process to bring any project of this type to fruition, noting that he developed the Walgreens at Route 40 and Whitehall Road.

Commissioner Jablonski, reiterating Mr. Schlachman's statement regarding the approval process, stated the issue before the Board was to consider the Planning Commission's recommendations to rezone the properties on Landing Lane.

### **State Highway Administration Discussion – Delaware Avenue Bridge**

Messrs. Greg Holsey, District 2 Engineer, State Highway Administration (SHA), Glenn Vaughan, Deputy Director, Office of Structures, SHA, and David Preisch, Vice President, Westen Consulting, introduced themselves to the Board. Mr. Holsey stated the purpose of their appearance was to discuss the Delaware Avenue (MD Route 7D) Bridge.

Mayor Fisona stated rain events continually impacted Delaware Avenue in the area of Meadow Park. He stated a previous project to raise the road surface helped somewhat, but flooding continued on the road and in the park. He stated he felt the bridge's design contributed to debris dams in the creek, exacerbating the flooding events.

Mr. Vaughan stated his department rated the state's 2,500 bridges based on their structure and function. He stated the Delaware Avenue Bridge's structure was sound, based upon its yearly inspections. He noted the bridge was also functionally sound for one lane of traffic in each direction, but not functional for pedestrian/bicyclist use. He

added that SHA planned the installation of a pedestrian bridge on the east side of the bridge.

Mr. Vaughan stated SHA dredged the material from below the bridge within the last 10 years, at a cost of about \$100,000. He said within 2 months a storm event re-deposited silt and other material.

Mr. Vaughan advised the Board the root of the issue was the steep slope that the Big Elk Creek traveled from Pennsylvania to Elkton, where the stream bed flattened abruptly. He likened the action of the water to the action of a child on a sliding board; gaining speed down the slide and coming to an abrupt stop at the bottom. He further stated the creek was met by incoming tides at the place of flattening, adding to the volume of water collecting at that point, compounded by the fact that Delaware Avenue and the surrounding parkland was located in the natural flood plain.

Mr. Vaughan stated SHA studied a model of the creek without the bridge in place, which resulted in a 1-inch reduction of floodwaters. He said an additional model indicated that replacement of the bridge with a structure that would stand independent of the creek would require a bridge 1,000 feet in length, at a cost of about \$1 million, adding the flooding would continue.

Mayor Fisona stated if the bridge was raised and the creek bed was widened the water would flow unimpeded by the debris dam that was created by the bridge. Mr. Vaughan stated while he understood the theory that widening the channel would create a faster flow of water, he reiterated that the issue was not the speed of the flow, but the abrupt flattening of the stream bed.

Commissioner Hicks questioned if the stream bed could be altered to create a flatter surface further downstream. Mr. Preisch stated the creek was impacted by tidal waters, and the only solution to that issue would be a tide gate, which would not address the sediment problem.

Commissioner Jablonski stated she felt the design of the bridge exacerbated the flooding issues, saying she watched a debris dam form under the bridge during a rain event.

Commissioner Jablonski, referring to cleanup operations conducted by SHA crews, requested that the debris be completely removed instead of depositing it on Town property, as has been done in the past. Mr. Holsey stated he would address the issue right away.

Commissioner Piner requested that warning signage to motorists be placed in various locations when the roadway was closed due to flooding, to alleviate drivers having to make U-turns at Delaware Avenue. Mr. Holsey stated he would talk with SHA to address the issue.

Commissioner Givens questioned if there was any solution to the flooding issues. Mr. Vaughan stated the only way to alleviate the issue was to not have a road in a flood plain.

Commissioner Jablonski, stating the current condition of the stream bed took 9 years to accumulate, reiterated her request for removal of the debris. She questioned the possibility of creating a 10-year dredging schedule. Commissioner Hicks concurred with Commissioner Jablonski's statements. Discussion ensued regarding debris removal along the Little Elk Creek water shed.

Discussion continued regarding impacts to the Town's Water Treatment Plant (WTP). Mr. Vaughan stated the WTP was constructed in the 100-year floodplain.

**Town Administrator's Report  
Ordinance 8-2013 Zoning Ordinance & Comprehensive Zoning Maps –  
Presented for Adoption**

Mr. George presented Ordinance 8-2013 Zoning Ordinance and Comprehensive Zoning Maps for adoption.

Commissioner Piner recognized Mr. and Mrs. Andrew Whitehead, owners of 305 Landing Lane. Referring to the amended site plan, presented by Mr. Schlachman, Commissioner Piner stated he wanted to hear the Whiteheads' comments prior to voting on the Ordinance.

Mr. Whitehead stated he appreciated the efforts on the part of Mr. Schlachman to amend the site plan, moving the proposed driveway further from the Whitehead's home however the driveway still impacted the back half of his property at 305 Landing Lane. He stated the amended site plan indicated the home next to his would remain, and expressed concerns there was no guarantee that would happen. He expressed concerns regarding traffic backups and safety in front of his home. He stated he did not oppose the Wawa but was concerned a Commercial zoning designation could affect the resale value of his home.

Mr. Chris Nelson, Esquire, introduced himself to the Board. He stated he represented Messrs. Avtar Ghuman, Riken Patel and Sam Patel, explaining they owned separate businesses (convenience store, gas station, liquor store) in the area of the proposed Wawa. He stated the proposed Wawa would have negative impacts on each of the businesses. He stated the business owners were also concerned about traffic and pedestrian safety.

Mr. Nelson asked the Board to consider if the developers of the Wawa proved the gas station / convenience store was in the best interest of the Town.

Mr. Nelson presented a petition opposing the Wawa, a copy of which was placed in the record of the minutes.

Mr. Bill Feehley introduced himself to the Board. He stated he was Treasurer of the Knights of Columbus, as well as President of the Becker Home Corporation, which owned the Knights of Columbus site. He stated the organization's facility was located at the site upon which the Wawa was proposed, saying Wawa was the contract purchaser of the property.

Mr. Feehley stated the issue before the Board was a zoning decision. He stated the Wawa would bring business and competition to the area, adding the change in zoning would open the door to additional businesses locating at the intersection.

Mr. Feehley stated the Knights of Columbus facility was facing foreclosure, and if the rezoning failed the charity would have no choice but to close its doors.

Mr. Tom Podlesak, Grand Knight of the Knights of Columbus, stated the organization was a small group that could no longer maintain the property. He expressed concerns that the property, if foreclosed, would suffer an increase in criminal activity. He stated a Wawa at the location would increase safety for the neighborhood.

Mr. Robert Gorman, Deputy Grand Knight of the Knights of Columbus, concurred with the statements of Messrs. Feehley and Podlesak, stating the property had been on the market since 2008. He stated the Wawa would be an asset to the neighborhood.

Mr. Schlachman stated Wawa was interested in Elkton, and would look to properties adjacent to the original site if the zoning was not approved.

Commissioner Piner thanked Mr. Schlachman for his comments, stating he supported the Wawa, but questioned if the driveway was crucial to the project. Discussion ensued regarding the design of most convenience stores, which had two entrances.

Mayor Fisona requested a motion to accept Ordinance 8-2013 Zoning Ordinance & Comprehensive Zoning Maps, as amended, for adoption.

**ACTION:** The request to accept Ordinance 8-2013 Zoning Ordinance & Comprehensive Zoning Maps was approved on a motion made by Commissioner Jablonski. The motion died for lack of a second.

### **Discussion**

Mr. George stated the Board could fall back on the Comprehensive Zoning Maps adopted in 1994 while reaching a consensus on Ordinance 8-2013 Zoning Ordinance &

Comprehensive Zoning Maps. He stated the Board could have a subsequent meeting to reach a consensus and bring Ordinance 8-2013 Zoning Ordinance & Comprehensive Zoning Maps back for adoption.

**ACTION:** Commissioner Piner made a motion to further discuss Ordinance 8-2013 Zoning Ordinance & Comprehensive Zoning Maps in order to reach a consensus, and bring Ordinance 8-2013 to a vote at a subsequent meeting. The motion was seconded by Commissioner Hicks and approved by all present.

### **Ordinance 9-2013 Subdivision Regulations – Presented for Adoption**

Mr. George presented Ordinance 9-2013 Subdivision Regulations for adoption.

**ACTION:** Ordinance 9-2013 Subdivision Regulations was approved for adoption on a motion made by Commissioner Givens. The motion was seconded by Commissioner Jablonski and approved by all present.

### **CliftonLarsonAllen LLP (Independent Auditors) Recommendation for Contract Extension (FY 2014 – FY 2016)**

Mr. George presented a contract extension request from CliftonLarsonAllen LLP, the Town's Independent Auditors, for Fiscal Years 2014, 2015 and 2016. He stated the group performed the Town's audits for the last 3 fiscal years, and proposed to continue the service for the next 3 fiscal years.

**ACTION:** The request to extend the contract with CliftonLarsonAllen, LLP for Fiscal Years 2014, 2015 and 2016 was approved on a motion made by Commissioner Jablonski. The motion was seconded by Commissioner Hicks and approved by all present.

### **Old Business**

Commissioner Piner requested enforcement of shopping cart theft from area stores. Commissioner Givens requested a mailing to local merchants advising them to monitor their carts.

Commissioner Hicks commended the Elkton Alliance for the recent Fall Fest, and expressed hopes for continuing the event.

### **Mayor Fisona's Report**

Mayor Fisona announced the Maryland Municipal League Cecil Harford Chapter 10 dinner, scheduled for October 24, 2013 at the Charlestown Fire Hall.

Mayor Fisona announced a vacancy for an alternate member of the Elkton Housing Authority Board, and requested a motion to approve the appointment of Ms. Asma Manejwala to the position.

**ACTION:** The request to appoint Ms. Asma Manejwala as an alternate member of the Elkton Housing Authority Board was approved on a motion made by Commissioner Givens. The motion was seconded by Commissioner Hicks and approved by all present.

Mayor Fisona, referring to the Town's previously adopted Bicycle Plan, stated participating Cecil County towns received grant funding for signage and racks for their respective plans.

Commissioner Hicks questioned the status of the Town's goals to reopen the train station. Mayor Fisona expressed hope that the train station would become a reality in the future.

#### **Commissioner Jablonski's Report**

Commissioner Jablonski thanked participants in Cecil County's Breast Cancer Awareness Campaign, and thanked the Department of Public Works for installation of pink gels on lights in town.

#### **Commissioner Givens' Report**

Commissioner Givens announced Halloween "Trick or Treat" was scheduled for Thursday October 31, 2013 from 6:00 p.m. until 8:00 p.m.

#### **Public Comment**

Ms. Becky McKinney requested increased services for senior citizens.

Ms. Melissa Whitehead stated she was appearing on behalf of her parents, owners of 305 Landing Lane. She asked the Board to oppose the rezoning request, citing traffic safety concerns, increased crime, and her parents' rights as property owners.

Mr. Bill Feehley thanked the Board for considering ongoing public comments regarding the zoning request, and asked the Board to support the rezoning request for the properties on Landing Lane.

#### **Motion to Adjourn**

Hearing no additional business to come before the Board, Mayor Fisona requested a motion to adjourn the meeting.

**ACTION:** The request to adjourn the meeting was approved on a motion made by Commissioner Givens. The motion was seconded by Commissioner Jablonski and approved by all present.

Mayor Fisona adjourned the meeting at 9:21 p.m.

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L. Michelle Henson  
Administration Office Secretary

AN AUDIO AND VIDEO RECORDING OF THIS MEETING RETAINED AT THE  
ADMINISTRATION OFFICE

Note: The minutes of regularly scheduled public meetings conducted by the Mayor and Commissioners of the Town of Elkton, following their approval, are posted at [www.elkton.org](http://www.elkton.org). The minutes, in hard copy format, are retained indefinitely by the Town of Elkton, Administration Office, 100 Railroad Avenue, Elkton, Maryland 21921.