



# TOWN COUNCIL

## Regular Meeting

October 17, 2013

St. Charles Parish Hall

6:00 PM

1. Call to Order
  - A. Roll Call
  - B. Establish quorum
2. Invocation and Pledge of Allegiance
3. Recognition of Visitors / Presentations
  - A. Cape Charles Rotary
4. Public Comments (3 minutes per speaker)
5. Consent Agenda
  - A. Approval of Agenda Format
  - B. Approval of Minutes
6. Department Reports
  - \*A. Treasurer's Report
  - B. Planning Commission and Boards
  - C. Other Department Reports
7. Old Business
  - A. Cape Charles Multi-Use Trail Project Update
  - B. NEA Our Town Project Update
  - \*C. Zoning Ordinance Section 3.9 - Harbor Density
  - \*D. Waste Collection Services Contract Award
8. New Business
  - A. Notice of Appeal – Historic District Review Board
  - \*B. Fuel Services Contract Extension/Provider Name Change
  - \*C. Virginia Local Disability Program
  - \*D. National Friends of Libraries Week Proclamation
  - \*E. Fishing Pier – Permanent Repairs
  - \*F. Virginia Local Government Insurance Association
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
  - October 25, 2013 – Movie in Central Park, 6:30 PM
  - October 26, 2013 – Trunk or Treat, Pumpkin Carving & Haunted Harbor
  - October 31, 2013 – Trick or Treating
  - November 7, 2013 – Town Council Work Session, 6PM, Town Hall
  - November 11, 2013 – Town Offices Closed in Observance of Veterans' Day
  - November 21, 2013 – Town Council Regular Meeting, 6PM, St. Charles Parish Hall
11. Adjourn at 8:00 P.M.



**DRAFT**  
**TOWN COUNCIL**  
**Regular Meeting**  
**Cape Charles Fire Hall**  
**September 19, 2013**  
**6:00 P.M.**

At 6:00 p.m. Vice Mayor Chris Bannon, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Vice Mayor Bannon, present were Councilmen Bennett, Godwin, Sullivan and Wendell, and Councilwoman Natali. Mayor Sullivan was not in attendance. Also in attendance were Assistant Town Manager Bob Panek, Town Planner Rob Testerman, Treasurer Kim Coates and Town Clerk Libby Hume as well as the Department Heads and approximately 25 members of the public.

Vice Mayor Bannon announced a moment of silence which was followed by the recitation of the Pledge of Allegiance.

**RECOGNITION OF VISITORS / PRESENTATIONS**

*John Chandler and Chad Saunders, Bayshore Concrete Products*

Mr. Chandler gave a brief history of Bayshore Concrete Products adding that it was started in 1960 and located at a deep water harbor with no overhead obstructions which was very important in the shipping industry. The least expensive mode of shipping was water, followed by railway, then truck. Bayshore had access to all three modes. Mr. Chandler went on to describe a number of large projects along the East Coast that they were bidding on. In the late 1990s and early 2000s, Bayshore employed as many as 500 workers, but there had been a steady decline in employees since that time due to the economy and increased competition. The employment levels over the next two years were projected to be back up to 300-400, provided Bayshore won the contract bids. The construction of the Cape Charles Harbor Access Road would benefit Bayshore by providing a better access to U.S. 13 and would enable them to build larger pieces which were required for many of the larger projects. The access road would also enable other companies, such as Orbital Science, to access U.S. 13 and could open up numerous opportunities for the area. Currently, Orbital Science shipped their rockets to a port in Wilmington, DE and trucked them down to Wallops Island.

Mr. Saunders stated that the concrete beams used on the original Chesapeake Bay Bridge Tunnel (CBBT) were 75' long. The beams for the newer portion of the CBBT were 100' long. The spans for most projects now were 130' – 200' long. Concrete was the most cost effective for bridge construction and the most durable. Bayshore Concrete had turned down a number of projects because of the current road and the lack of the ability to load an appropriately sized barge to handle the load. A longer and wider barge was needed for stability in the ocean. Bayshore Concrete Products was trying to partner with the Town, County, the State of Virginia, the Virginia Port Authority and others to improve their infrastructure to allow loading of larger barges. Mr. Saunders went on to describe their project for improvements to include 250' long finger piers for barge loading, including a wave break on the western pier. The work would benefit all users of the harbor. Mr. Saunders concluded by thanking the Town for the support and assistance with the permitting process, etc.

**PUBLIC COMMENTS:**

*Lisa Bell, 20545 Lankford Highway*  
Please see attached.

*Deborah Bender, 300 Fulcher Street*  
Please see attached.

*Spencer Parker, President of the Cape Charles Volunteer Fire Company*  
Mr. Parker addressed Council and recognized all the volunteers and donations for the two new bathrooms in the fire hall. The renovations were completed with a lot of hard work. Mr. Parker added that the kitchen project would begin in December and concluded by thanking all the volunteers for their time.

*Mike Steelman, Cheriton*  
Mr. Steelman began by stating that he was proud of Bayshore Concrete and added that the Town should look at its priorities and that Bayshore Concrete should be a priority for the Town Council. Mr. Steelman felt that now was not the time for the Town of Cape Charles to introduce the wastewater treatment system into the Town of Cheriton, adding that they needed to prioritize and not jeopardize spending money that they didn't have as far as the County was concerned for a system that they did not need right now.

*Irene Morris, 3369 Stone Road and Cape Charles Marine*  
Ms. Morris stated that no one had considered whether anyone did or did not want the wastewater system. The Town Council should have provided the information to the public first but that was not done. Everyone was upset about it. Their taxes were doubling and many could not afford it. Many businesses got by during the summer months but business would be slow for the next six months.

*Wayne Downing, Cape Charles*  
Mr. Downing spoke in opposition to the regional wastewater system.

*Chad Davis, 5 Randolph Avenue*  
Mr. Davis thanked the Town Council and asked that they get all the information together to consider the thoughts of the citizens and not to shoot themselves in the foot. Mr. Davis distributed a written statement to be included in the record. Please see attached.

*Elizabeth Brown, Stone Road*  
Ms. Brown spoke in opposition to the proposed special tax district. Ms. Brown stated that the extension would promote business outside of Cape Charles and added that she attended the information meeting two nights ago where it was mentioned that efforts would be made to attract businesses that would not affect the businesses that were in Cape Charles. Ms. Brown stated that she thought that was absolutely absurd.

There were no additional public comments to be heard nor any written comments submitted prior to the meeting.

**CONSENT AGENDA – APPROVAL OF AGENDA FORMAT:**

Councilman Wendell stated that he had an objection on the agenda under Mayor and Council comments and asked how five minutes per speaker had been decided. Councilman Bennett stated that he had suggested that at the last meeting and via email to the Town Council. The responses received were in support of the 5 minute time limitation and was relayed to the Town Clerk for implementation.

**Motion made by Councilman Bennett, seconded by Councilman Sullivan to approve the agenda format as presented. The motion was approved by majority vote with Councilman Wendell opposed.**

**CONSENT AGENDA – APPROVAL OF MINUTES:**

The Town Council reviewed the minutes of the August 15, 2013 Executive Session, August 15, 2013 Regular Meeting, the September 10, 2013 Joint Public Hearing with the Planning Commission, and the September 12, 2013 Work Session.

Councilwoman Natali noted a typographical error in the August 15, 2013 Regular Meeting.

Councilman Wendell commented that the minutes from the September 12, 2013 Work Session, for which he was not in attendance, did not contain enough detail regarding the presentation from South Port Investors.

**Motion made by Councilwoman Natali, seconded by Councilman Bennett, to approve the minutes from the August 15, 2013 Executive Session, August 15, 2013 Regular Meeting, the September 10, 2013 Joint Public Hearing with the Planning Commission, and the September 12, 2013 Work Session as amended. The motion was approved by unanimous consent.**

**DEPARTMENT REPORTS:**

*A. Treasurer's Report:*

Treasurer Kim Coates reviewed the Treasurer's report dated August 31, 2013 which showed \$55 in the Bank of America account, \$353,683 in the Shore Bank account, \$68,479 in the Local Government Investment Pool (LGIP) account for the New Library and \$440,457 in the Local Government Investment & Restricted Funds with the Total Cash on Hand at \$862,674. The total cash held in reserve was \$356,089. Kim Coates went on to review the Tax Collection Comparison for Fiscal Years (FY) 2013 and 2014, the revenues vs. expenditures and the capital improvement projects. Kim Coates informed Council that Northampton County was contracting out services for the IT portion of their real estate bills and were working to complete the adjustments for the 2013 assessment book. The Town should receive the revised assessments within the next couple of weeks and she was hoping to get the tax bills out by the end of October or early November with a December 5, 2013 due date. By law, the Town had to get the bills out within 15 days of the due date. Kim Coates continued to report on the Virginia Local Disability Program (VLDP) through the Virginia Retirement System. The Town had to decide whether to opt in or out of the program by November 1, 2013. Once the decision was made, the locality would be bound by the decision and not be able to change to other programs offered by the Virginia Municipal League (VML), the Virginia Association of Counties (VACO) or any other company at any time in the future. She attended two meetings regarding this issue and many of the localities in Virginia, including Chesapeake and Norfolk, were opting out of the VLDP. More information and other options would be provided to Council in October.

**Motion made by Councilman Bennett, seconded by Councilman Wendell, to accept the Treasurer's Report as submitted. The motion was unanimously approved.**

*B. Planning Commission and Boards:*

Town Planner Rob Testerman reported the following: i) The Historic District Review Board (HDRB) met on September 17 and held a public hearing to change its by-laws and reviewed an application for an addition at 209 Jefferson Avenue. The by-laws change was approved and a certificate of appropriateness was issued for 209 Jefferson Avenue; and ii) An appeal was received regarding the HDRB certificate of appropriateness approved for the development of the former school building.

C. *Other Departmental Reports:*

*Public Utilities:*

Director Dave Fauber gave an update on the backwash for the water system. Currently, the Town was flushing one filter tank at a time and the backwash was staying in the settling vault. Pricing was being obtained to expand the size of the vault so that both filters could be flushed at the same time. The Department of Environmental Quality (DEQ) suggested installation of filter bags to filter the effluent before being released. The DEQ was agreeable to expansion of the tank. Dave Fauber stated that he had spoken with South Port Investors and they had verbally committed to the expansion as well.

Councilman Bennett asked about the meeting with representatives from Baymark regarding the automatic flush valve for Heron Point. Dave Fauber stated that he met with Bobby Thomas and Bobby Jarman and added that it would take about double the amount of water to flush the wastewater collection system adequately. A storage tank for the flush would be installed in October or November but a specific location with a water source and sewer pod needed to be determined in Heron Point. Councilman Bennett stated that he would like to hear the solution and the amount of water to be used before moving forward with installation. Dave Fauber stated that about 5K gallons per week would be used for a total of about 250K gallons per site and there would be about seven to eight sites.

Councilman Wendell asked the representative from the PSA for a report. Councilman Bennett stated that the PSA gave formal updates regularly to the Council and suggested waiting until the next update. Councilman Wendell stated his objection to this matter adding that there were no updates given. Vice Mayor Bannon stated that there were updates every other month and pointed out that Councilman Wendell was not in attendance at some of them.

There were no further questions regarding any of the other monthly Departmental Reports.

**OLD BUSINESS**

A. *Zoning Ordinance Section 3.9 – Harbor District:*

Rob Testerman stated that a joint public hearing was held with the Planning Commission on September 10, 2013 to hear comments regarding the proposed modifications to the Harbor District in regards to density. The Planning Commission worked on the Harbor District ordinance and added language that would regulate density of development in the district using the Floor Area Ratio (FAR). FAR was the relationship of the total developed square feet to the total square feet of the parcel. Incorporating FAR into the district would limit the density of future development in the Harbor District preventing any hugely dense, out of character development. Rob Testerman reviewed the draft modified ordinance as follows: i) § 3.9(B) was added to define the “Mainstreet Mixed Use Area” as well as defining the FAR standards for the Harbor District. The Mainstreet Mixed Use Area would have a maximum FAR of 1.25. Other areas in the district would have a maximum FAR of 1.5. This section also stated that parking at levels other than ground level would count as floor space. The Tavi project had proposed two levels of underground parking; ii) § 3.9(E)1 regulated the block lengths on the south side of Mason Avenue stating that the block lengths should be equal to those on the north side and the viewsheds should be maintained; and iii) § 3.9(E)2 stated that the maximum height of buildings in the Mainstreet Mixed Use Area should be 40’ and that in other parts of the district, buildings over 40’ but equal to or less than 55” would require a conditional use permit. No building should have the same continuous elevation for a distance of more than 80 linear feet.

Rob Testerman went on to state that at the last meeting a question came up about the FAR for the Tavi project. Building plans were never submitted for the project so he looked at the site plans to determine the square footage of the footprint of the buildings. Using the dimensions from the site plans and elevation drawings and the area of the lot, he determined that the FAR

for the development would have been approximately 2.25, not including the underground parking. The proposed modifications required underground parking to be counted towards the FAR so the FAR would have ended up being well over 2.25 with two levels of underground parking.

Rob Testerman continued to state that he had reached out to various planners in localities currently using FAR in their zoning ordinances, as well as the Virginia Chapter of the American Planning Association, to get their opinions on the success of the methodology. He received information from several localities as follows: i) Loudon County had used FAR since the 1970s and stated that it worked well for commercial/industrial districts, which is what the Harbor District is generally; ii) Roanoke used FAR and reported no problems. Their FAR range went from 1.0 in their Mixed Use District and up to 15 in their Downtown District. They have a maximum of 5.0 in their neighborhood commercial, general commercial and commercial large-site districts; iii) Other localities using FAR are Stafford County, Alexandria, Fairfax, Prince William, Orange and many others. This was not a new or unique tool for managing non-residential density either in Virginia or across the country. Generally, the feedback received stated that FAR was a more simple and flexible approach to density issues and was widely a used tool.

Councilman Wendell asked how the FARs of 1.25 and 1.5 were determined. Rob Testerman stated that these numbers were a carryover from the previous planner but were a result of the Town wanting to control density in the Harbor District after the Tavi proposal fell through. Councilman Wendell expressed his concern that the south side of Mason Avenue should reflect the north side and that the Town needed to talk to similar communities, not communities in Northern Virginia and added that he wasn't sure if this was applicable to Cape Charles. Councilman Wendell continued to express his concern that the Town might know of a developer interested in the area. At the September 12 workshop, it was discussed that the railroad tracks were possibly moving to the south side of the harbor and the land could be available for possible development and asked how many of the Council had prior knowledge of this plan.

Councilman Bennett stated that the reason this issue was on the table was because of the Tavi proposal. Most of the people in Town were opposed to the proposed plan. Councilman Bennett expressed his concern that a FAR of 1.25 and 1.5 went too far in the other direction adding that he didn't think a developer could mimic the north side of Mason Avenue with a FAR of 1.25. The Tavi plan had the required amount of open space with two to three story buildings. Councilman Bennett went on to state that he didn't think a developer could have two to three story buildings and maintain a FAR of 1.25.

Councilwoman Natali stated that the objective was to have this area be more consistent with the existing buildings on the north side of Mason Avenue and to maintain differences in building heights from the street level.

Councilman Bennett reiterated his concerns that a FAR of 1.25 was too restrictive and added that he would like to reconsider the FAR number. He added that he didn't have a problem with the other language but felt that the FAR numbers were too restrictive.

**Motion made by Councilman Bennett, seconded by Councilwoman Natali, to table the decision regarding the proposed modifications to Section 3.9 - the Harbor District until the numbers could be reworked.**

Councilman Wendell stated that since the railroad had relaxed its position on permitting access to the crossing to the harbor, the Town should include in the ordinance language that a developer of this property needed to negotiate with the railroad to make an access road from Mason Avenue to the harbor. Vice Mayor Bannon stated that the Town had met with the railroad and as long as it was an active railroad, the Town could not have access to the property.

Councilman Wendell stated that if the railroad moved to the south side of the harbor, the land would be available. Councilwoman Natali stated that this discussion did not have anything to do with density or FAR and asked what Councilman Wendell wanted the Planning Commission to do. Councilman Wendell responded that he wanted the Planning Commission to include language asking for the access road to the harbor. Rob Testerman stated that he didn't think the Town could add language in the Zoning Ordinance requiring this road. It could be something that could be discussed during the process to issue a conditional use permit. Councilman Wendell commented that planning was the point of a Comprehensive Plan.

**The motion was unanimously approved.**

**NEW BUSINESS:**

**A. 2014 Boating Infrastructure Grant:**

Assistant Town Manager Bob Panek stated that the last two years, the Town requested and was awarded \$10K per year to assist in the development of a marketing campaign designed to attract transient boaters to the Harbor's transient slips and sanitary facilities. This year, the Town would like to apply for \$25K for a similar marketing campaign with the additional \$15K to be used for brochures, signage at the Harbor, security cameras, life rings, fire extinguishers and safety jackets for staff. The Town match varied from year to year. In FY 2012, the Town's match was 27% and in FY 2013, the match was 33%. The awards would be announced in the spring of 2014 so the Town's match could be discussed during the budget review process and included in the FY 2014/2015 Harbor Fund Budget.

**Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to authorize the Town Manager to submit a grant application for the Boating Infrastructure Grant Program Tier 1 for \$25K to be used towards a marketing and safety campaign for the Cape Charles Harbor. The motion was approved by unanimous consent.**

**B. Police Car Replacement:**

Chief Charles Brown stated that the Police Department was on a 5-year rotation schedule for replacement of vehicles. The last 2006 Ford Crown Victoria was scheduled for replacement during FY 2013-2014. It had 75K miles and 4,600 hours on the engine and drive train. The new vehicle would be a 2014 Dodge Charger for a state contract price of \$23,236. The first annual payment would be included in the FY 2014-2015 budget.

Kim Coates reviewed the Police Vehicle Payments Schedule for the existing vehicles plus the new 2014 Dodge Charger. The USDA Rural Development (RD) rates were currently 3.125% and their new fiscal year would start on October 1, 2013. She would research other financing options but the rates from USDA RD were typically lower than their competitors.

Councilman Wendell asked how much interest was paid by the Town for the police vehicles. Kim Coates responded that she did not know the total amount of interest being paid. Councilman Wendell asked why the Town didn't budget to purchase the vehicles outright and save interest. Councilman Bennett stated that spreading the payments over four years saved the Town from having to raise the tax rate. Bob Panek stated that he had calculated the first year interest at an estimated \$471.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to authorize the Town Manager to submit an application for loan and grant funding to the USDA RD in the amount of \$23,236 for the purchase of a new police car as discussed. The motion was approved by majority vote with Councilman Wendell opposed.**

**C. Constitution Week Proclamation:**

Vice Mayor Bannon stated that Constitution Week was an American observance to commemorate the adoption of the United States Constitution and ran annually from September 17 to September 23. It was enacted into Public Law #915 on August 2, 1956 by President

Dwight D. Eisenhower but it was President George W. Bush who officially declared the inception of Constitution Week in September 2002. The purpose of the observance week was to i) emphasize citizens' responsibilities for protecting and defending the Constitution, preserving it for posterity; ii) inform the people that the Constitution was the basis for America's great heritage and the foundation for our way of life; and iii) encourage the study of the historical events which led to the adoption of the Constitution on September 17, 1787. Localities across the United States annually proclaimed the week of September 17-23 as Constitution week. This year marked the 226<sup>th</sup> anniversary of the actual signing of the Constitution. Vice Mayor Bannon read Proclamation 20130919 Designating September 17-23, 2013 as Constitution Week in the Town of Cape Charles, Virginia.

Councilman Wendell stated that the Town proclaimed this week in 2012 as Constitution Week and Town Council decided to limit the public's participation at meetings. This year, the Town was proclaiming this week as Constitution Week again and limited the amount of time available for Council comments to five minutes. Councilman Wendell added that it was hypocritical.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Proclamation 20130919. The motion was approved by majority vote with Councilman Wendell opposed.**

*D. Appointment of Zoning Administrator:*

Rob Testerman stated that § 2.4.1 of the Cape Charles Zoning Ordinance outlined that the Town Council should appoint a Zoning Administrator to serve under the direction of the Town Manager and the Zoning Administrator's authority to enforce the Town's Ordinance. The Town Planner's duties included guiding long range land use planning and natural resource management for the Town and to implement related programs and regulations, including zoning, subdivision, erosion and sediment control, and flood plain management. The Planner monitored changes in the state and federal law and was responsible for initiating modifications to the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance. The Planner's duties also included conferring with the Town Manager on zoning and subdivision topics and enforcing compliance with the Town's zoning, subdivision and wetland ordinances. Rob Testerman stated that he joined the Town's staff in May 2013 as the new Town Planner.

**Motion made by Councilman Bennett, seconded by Councilwoman Natali, to appoint Rob Testerman as the Zoning Administrator. The motion was approved by unanimous consent.**

*E. Long Term Financing Selection:*

Kim Coates stated that as part of the annual budget preparations, she and Heather Arcos met with Mr. David Rose of Davenport & Company, LLC to discuss and evaluate the Town's debt profile and capital needs. The financial advisory services provided by Davenport & Company came highly recommended by Northampton and Accomack Counties as well as the Town of Kilmarnock. After the review and evaluation of the Town's existing debt service and future capital needs, the potential savings opportunities were presented as follows: i) potential refinance of two water and wastewater loans which were currently financed through USDA RD. The debt service savings could save the Town over \$230K over the term of the loan; and ii) potential of \$1M availability for financing current and future capital projects at low interest rates. Services offered by VML and VACO were very similar, but staff recommended developing a relationship with Davenport & Company. Their services would be procured under the cooperative contract with the City of Poquoson, Virginia dated November 9, 2009. Northampton County also procured their services under this cooperative contract. The next step would be to authorize Davenport & Company to competitively solicit for refinancing and for current and potential capital needs to local, regional and national banks. This process did not obligate the Town to move forward nor did it cost the Town at this point. Davenport & Company would review the financing options resulting from the solicitation and provide a written summary and recommendation to Council for consideration.

David Rose reiterated that the Town would not have any obligation unless Council agreed to move forward with one of the financing options which would be presented at a later date. Davenport & Company would work to find options to help save the Town money. The same maturity dates, or shorter terms, would be provided at lower interest rates.

Councilman Bennett asked the benefit of procuring their services under the cooperative contract with the City of Poquoson. Mr. Rose responded that the state of Virginia permitted cooperative procurement agreements to help localities save money and time. Bob Panek added that several months ago, the Town Council approved modifications to the Town's procurement policy in the Town Code to permit cooperative agreements. There was much discussion regarding the cooperative contract, the research and offers for refinancing options and options for new money, and the terms for repayment. Mr. Rose confirmed that even after signing the Notice of Acceptance, the Town would have no obligation to pursue the financing options offered if Council did not like the terms of the offers.

**Motion made by Councilman Bennett, seconded by Councilwoman Natali, to authorize the Town Manager to execute the Notice of Acceptance. The motion was approved by majority vote with Councilman Wendell opposed.**

#### **MAYOR AND COUNCIL COMMENTS**

Councilman Bennett commented on the following: i) The Free Fishing Pier and Public Beach signage at Route 13 adding that some people felt the signage brought people into the Town over the summer. The signage was great to have for the summer months but suggested that the signs be changed periodically to bring people into the Town to stay. Vice Mayor Bannon stated that 20 years ago, there were very few people on the beach but this last summer, the beach was packed with people; and ii) He had an opportunity to tour the new wastewater treatment plant today and it was an amazing piece of construction and engineering. The facility was well built, well run and well maintained. He added that if anyone on Council had not seen it yet, they needed to do so and suggested offering public tours of the plant. Bob Panek stated that Heather Arcos and Dave Fauber were working on a schedule to offer tours to the public.

Councilman Wendell commented on the following: i) He was very impressed with the program and the thoroughness of the project presented by the Cape Charles Yacht Center. The project had great potential for ecotourism and he hoped that a bicycle trail would be coming into town from the county; ii) Northampton County and the Town were not following their Comprehensive Plans in regards to the PSA and commercial development along Route 13; iii) He never thought he'd see the Town agree to a contract that they had not seen; iv) The commercial rate to the PSA was \$42-\$45. He didn't understand it and it wasn't addressed; and v) Abuse of power was having the ability to write emails and change the format of the meeting. Councilman Bennett stated that Council could self-regulate themselves and put items on the agenda.

Vice Mayor Bannon stated that the move of the hospital could kill Cape Charles. One of the first things people asked about when coming to Town was the location of the hospital. Mayor Sullivan had lead the fight to bring an emergency room facility into Town or lower Northampton County. The comments and outpour regarding the PSA and Old School Cape Charles needed to be redirected to the hospital. Once the hospital moved to Onley, growth here would slow down.

Councilwoman Natali commented on the following: i) Last week at the Town Council work session was the first time a consolidated plan was presented by South Port Investors. This was the first that she had heard of South Port's plan regarding the helipad, Port of Cape Charles and Oyster. There had been no collusion with Council because this was the first that Council had heard of the plan; ii) She took offense that Councilman Wendell accused Council of negotiating in advance to make changes. The bottom line was that she tried to listen to all opinions, including Councilman Wendell's. People talked to her on the street and she tried to understand from their perspective

before making any decisions. Her decisions were for the best alternative for the Town. Not everyone agreed on everything and she did not like being told that Council knew about a developer interested in the railroad property so that was why FAR was being considered in the Harbor District. Councilman Wendell asked if that was the reason for adaptive reuse because there was a developer waiting to obtain the property. Councilwoman Natali responded that last week was the first time it had come up regarding the possible relocation of the railroad tracks. The Planning Commission was charged to review the density issue in the Harbor District so another big project like the Tavi project could not come in. FAR looked like it would be the best fit. She didn't want to see something like the Tavi project because the citizens stated they didn't want it.

**Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to adjourn the Town Council Regular Meeting. The motion was approved by majority vote with Councilman Wendell opposed.**

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Vice Mayor Bannon

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Town Clerk

DRAFT

Public Comments Provided in Writing  
September 19, 2013

*Lisa Bell 20545 Lankford Highway*

Mayor Sullivan: At last month's Town Council meeting you insulted Mr. & Mrs. Bender. From what I understand you gave an off the cuff apology outside the meeting that night in front of maybe three people. Mr. & Mrs. Bender deserve a public apology, tonight in front of all of the people sitting here. Just because they may have ideas that you don't agree with, that does not give you the right to publicly insult them. You were wrong, rude, insulting and you need to make this right.

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*Deborah Bender, 300 Fulcher Street*

At the PSA meeting Monday night, Bob Panek threw the Town Council under the bus. He clearly stated that the Town Council were the people to voice your complaints to. He said that the Town Council had formally decided to approve the sewer pipe. He had a map that showed the areas that would be included in the special tax district. He called the color of the specified area magenta. There was an elderly gentleman in the crowd, Michael Steelman's father. Mr. Steelman called the color blood.

Mr. Panek answered one lady's question as to how many homes would have to be hooked up to get the sewer rate to a reasonable charge. Mr. Panek stated at least 5,000 homes. Are you kidding me? There are only 11,000 people in the whole county.

Councilwoman Natali stated recently that the Town could MAKE MONEY on the sewer pipe. How nice Ms. Natali. It seems you have learned a little something from your buddies Edwin Gaskin and David McCormack. You remember them don't you? They were the men that you and the Town Council paid \$40,990 to to take our school. They also like to make money on the backs of tax payers.

Many of us are wondering why the Town has gotten into this in the first place. The Town's own comprehensive plan calls for keeping business in the Town, not outside of Town.

Tonight many of the people that will be directly affected by the sewer pipe are here. Will the people in the audience that will be affected by the sewer pipe during phase 1 and phase 2 please stand up.

The Town Council has the power right here, right now to stop this deal they are entering into with the Board of Supervisors.

This pipe will damage the businesses in Cape Charles. This pipe will damage the businesses in the special tax district. It may even cause a few of the businesses in the special tax district to close.

Many of the homeowners in phase 2 of the project left Cape Charles to get away from the taxes and the water and sewer bills. How do you think they feel now that Cape Charles is chasing them down?

How dare you come up with a plan to pay for your new sewer plant by damaging all of these people and businesses?

SHAME ON YOU!

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*Austin Chadwick Davis, 5 Randolph Avenue*

I rise to ask the members of Town Council not to allow the use of our sewer treatment plant by anyone who does not pay the full connection fee and full treatment fee, or under any agreement which will lead to a higher County-wide property tax, or which is under an open ended arrangement with entities (the PSA and County) over which we do not have enough representation to influence, much less control our future. I trust and depend on your judgment to please not shoot yourselves in the foot.

I submit this and the following further comments in writing for inclusion in your records.

The PSA can ask the County to set up a special tax district consisting of the area served by new sewer connections and let that tax district or future grants pay the full cost of whatever they want to build. If they want us to treat the effluent, Cape Charles must in fairness and good stewardship be paid the full connection and treatment fees plus an extra fee to compensate for bringing us more rapidly towards our capacity limit. When we do one day reach our capacity limit, Bay Creek may say they do not have to pay up because it would not be Bay Creek that put us over the limit.

Even if each party thereby pays for the construction and treatment, and provides escrow funds for future new capacity, we are still left with the question: Do we help create infrastructure for faster development on Highway 13? I think sewage treatment must be planned for Cheriton and for the Cape Charles to Oyster job creation axis, but only as grant funds become available, and not for development of the Route 13 groundwater recharge corridor. Let storefronts prosper in Cheriton, Cape Charles and Oyster and keep Route 13 in lower Northampton County the peaceful countryside tourists seek. Please! Please! Do not allow the County Board of Supervisors to shoot you in the foot!

Any involvement by Cape Charles must clearly be of advantage to the Town, town businesses and citizens of Cape Charles.

Thank you for your attention.

DRAFT



**DRAFT**  
**TOWN COUNCIL**  
**Work Session**

Town Hall  
September 25, 2013  
5:30 p.m.

At 5:30 p.m., Vice Mayor Chris Bannon, having established a quorum, called to order the Town Council Work Session. In addition to Vice Mayor Bannon, present were Councilmen Godwin and Sullivan and Councilwoman Natali. Councilman Wendell arrived at approximately 5:33 p.m. and Councilman Bennett arrived at approximately 5:35 p.m. Mayor Sullivan was not in attendance. Also present were Town Manager Heather Arcos, Treasurer Kim Coates, Public Works Director Dave Fauber, Assistant Town Clerk Amanda Hurley and Assistant Town Manager Bob Panek. There were eight members of the public in attendance.

Vice Mayor Bannon announced that the order of business for this evening would be the Wastewater Treatment Plant financial analysis for the proposed regional system and a letter from the Cape Charles Business Association.

A. *Wastewater Treatment Financial Analysis for Proposed Regional System*

Heather Arcos stated that this was one of several Work Sessions to provide a cost estimate for wastewater treatment and other operational support to the Public Service Authority (PSA) and went on to state that it was important for everyone to understand the evolution of the project. In 2009, a project management team was formed by Northampton County to discuss how to solve current and future regional wastewater issues. This team consisted of representatives from all Towns, Board of Supervisors, citizens, and hospital, Health Department and Housing and Community Development. In 2010, there were preliminary engineering reports completed for the northern and southern nodes of a regional wastewater system for the County. One of the options was to purchase services to process wastewater from the Cape Charles Wastewater Plant.

The PSA was reinstated in 2010 and had appointments from four incorporated Towns as the Board of Supervisors. Northampton County designated the Southern Node, Commercial District Phase 1 as a priority for economic development. Recently, the County held a public hearing to hear comments about establishing the special tax district and the PSA held an information session. Property owners in the proposed tax district were notified on August 26<sup>th</sup>. The Town was notified on August 20<sup>th</sup> via letter from the PSA asking for the Town to provide a cost estimate and methodology for wastewater processing, collection system maintenance, meter reading, and customer billing to service the commercial district; as well as a draft agreement. No progress had been made on drafting an agreement.

Heather Arcos stated that staff had requested through the Virginia Institute of Government for other localities and PSAs to provide their agreements and how other localities established methodologies to handle cost, but had received little response. It would take more than one work session to also discuss capacity and connection fees. Heather Arcos reviewed the Town of Cape Charles Regional Wastewater System PowerPoint presentation (copy attached).

Councilman Wendell stated that a question was asked at the Cheriton meeting that if the project were to happen, what effect it would have on the annexation agreement and the Town's ability to recoup costs from the developers, specifically Dick Foster of Bay Creek and Sinclair Communications vs. the people. Councilman Wendell stated that he recalled that Assistant Town Manager and PSA Chairman Bob Panek stated that it was unclear.

Councilman Wendell went on to state that at one point the Town thought they were entitled to \$20M and had been speculated down to \$5M which would be convenient to wipe out outstanding debt and stabilize rates and asked Heather Arcos what her answer was as Town

Manager. Heather Arcos stated that when they did the projected growth analysis in 2009, they had included the proposed Cape Harbor and Harbor Development Group (Tavi) developments and the Equivalent Residential Connections (ERC's) associated with these projects. At that time, based on the projected development it was a certain percentage, associated with Bay Creek but that would depend on when the expansion needs occurred and the projected growth at that time.

Dave Fauber commented that it depended on when the time frame was and where development was and explained that it would be whatever percentage Bay Creek caused as far as expansion. It was not a cut and dry answer.

Councilman Bennett stated that he believed that the annexation agreement dealt with capacity increase within the Town of Cape Charles and if they were expanding the border to give capacity to someone else, that needed to be considered with the annexation agreement because at some point in time they were going to need to increase the size of the plant and when that time came, people who were causing the increase were the ones who needed to pay their share.

Councilman Sullivan believed that the annexation agreement dealt entirely with expansion inside the town, but a legal opinion was needed. Councilman Bennett agreed. Councilman Sullivan stated they needed a legal opinion to ensure the terms of the annexation agreement would not be jeopardized before they proceeded.

The following was discussed as a part of the presentation: i) Kim Coates reviewed the detail of the Financial Analysis including an overall summary and rate per gallon calculation, and explained the methodology used as described in the FY14 Budget Summary and Detail; ii) Councilman Wendell asked where the cost of the man hole project would be covered. Staff indicated that this was part of the Town portion and was not part of the discussion of providing service to the PSA; iii) If an agreement was reached, the PSA would be considered a contracted customer and the Town would bill the PSA for the services rendered and the PSA would determine the rate to be charged in the commercial district. The Town would determine what they would charge per gallon to accept the wastewater. The debt service on the old plant was not included in operational cost of the new plant. Meter reading fees were based on 30 existing properties; iv) Connection Charges were discussed (connection fee and a facility fee). The facility fee covered the capital cost of the treatment works capacity. If the 30 existing businesses paid a connection charge, the total was estimated to be over \$200K. It was noted that all PSA planning documents have assumed no connection charges for existing properties; and v) There have been 321 new connections in Town in the last ten years. There were several projections proposed, but no trend.

Councilwoman Natali commented that the rates should be consistent regardless if the citizen or business was located inside or outside of Town. There was much discussion regarding the facility fees, discounts and what the Town would charge the PSA.

Councilman Wendell asked if anyone had any qualms with this being in conflict with the Town and County Comprehensive Plans and if it had any impact. Councilman Bennett agreed that it did and stated that the concept of the PSA was good and it was the right thing to do. Regionalization was the only way the Town was going to be able to afford to continue operating water and wastewater services. Councilman Bennett stated that this was an issue throughout the State and eventually water and wastewater services would be required for the entire Eastern Shore and that was going to have to be accommodated.

Councilman Sullivan stated that the Town Council didn't fully understand what the County wanted them to do and went on to state that they were not going to charge fees outside of Town that were less than what they charged the people who lived in Town. Because there were no grants available, the County was trying to self-finance and that became a financial burden on all the tax payers because it was not spread across the Commonwealth with loans

from the State and Federal Government. There was much discussion regarding grant funding for connections.

Dave Fauber stated that Kim Coates had calculated what it cost the Town per gallon to process the wastewater and clarified that the Town was just treating the wastewater, not collecting it and suggested that the Town could charge between 1.2¢ and 3¢ per gallon to accept the wastewater.

Councilman Wendell read questions that Supervisor Hubbard asked at a workshop meeting that weren't fully answered and added that he thought these were unrealistic expectations.

Councilman Godwin suggested that the PSA go back to the drawing board as there were a lot of questions but no answers. Heather Arcos stated that she, Kim Coates and Dave Fauber would add the equations with the connection fees. Councilman Bennett stated that the monthly charge and the connection fees were separate.

Councilman Wendell commented that the information for the work session was not made available to the public and asked if it was all online now. Heather Arcos stated that information was available to the public at the time it was sent to the Town Council, however, it was not available online. The Town website was updated by the Town Clerk who was out sick and the only requirement the Town had was to post the agenda. Joan Natali pointed out that once the new Town website was up and running, there would be more than one person who could access and make updates, but currently only one user had the ability to make changes.

Councilman Bennett concluded by stating that additional information was needed before they could determine what services the Town was going to propose and draft a Memorandum of Agreement. Heather Arcos stated that they would obtain a legal opinion on the annexation agreement and evaluate the existing businesses to establish the connection fees.

B. *Letter from the Cape Charles Business Association*

Mr. George Proto began by stating that there seemed to be three financial pieces including: i) How to pay for expansion as the need arises and that was the connection fee issue; ii) Our own debt service, maintenance and chemical costs for the existing plant and that was part of the fees that they charged; and iii) The County's portion and how they would pay for that line. Mr. Proto stated that he liked the idea that they were all going toward connection fees, but there was still a concern that if the plant was connected, they would need to expand sooner and that meant that everyone would need to pay for that in some way and questioned whether the Town was going to have enough money to be able to do that or would the Town have to borrow more money.

Vice Mayor Bannon stated that in connecting to the commercial area, he didn't see where that would affect businesses in Cape Charles because they were a specialized niche and didn't foresee any large chain coming as we did not have the population and did not see growth taking off especially with the move of the hospital.

Mr. Proto gave the example of Milford, DE stating that there were huge shopping malls on Route 113 and the Town of Milford had finally recovered to an extent, so there were no empty store fronts, but most were offices, not stores like Cape Charles had. Mr. Proto stated that he had concerns and if the Town went through with this there would have to be an economic development plan to make the Town bulletproof and he felt it was a risk. Mr. Proto stated that Charles McSwain had been clear that development was going to happen along Route 13 and went on to state that preventing the PSA line would not prevent development, but they needed to work very hard to make the Town stronger than it was.

Councilman Wendell asked why the Town would want to hasten development if it jeopardized the uniqueness of Cape Charles and stated that they would be hastening the day they expanded the plant and asked what percentage of the collected connection fees would

pay for the new expansion, adding that they might only pay for half or less. Councilman Wendell asked what would happen if the County or other Towns or even Cape Charles decided to defund and withdraw and asked who assumed the level of responsibilities.

Councilman Bennett stated that the existing plant was built with an initial expansion in mind for an additional 250K gallons per day and asked if there was a cost associated with that additional construction. Bob Panek stated that there was no estimate made by the engineers to increase the plant from 250K to 500K gallons per day, and went on to state that the original estimate for the 500K plant was about \$25M but the actual total cost was \$19M for the 250K plant.

Councilman Wendell commented that the County should underwrite some of the cost associated with the study and calculations. If it benefitted all county residents, they should help study the situation.

Councilman Godwin asked where they would go from here adding that Council had shot down every idea and stated that he did not have a level of confidence yet because he did not see structure. Councilman Godwin went on to state that he did not want to waste time and commented that he was not pleased with the way Council was going about it, but the Town needed to move Cape Charles forward. The Town was going to have wastewater problems, the County was going to have wastewater problems and he had said from the beginning that the biggest problem would be water, but he believed they had a level of expertise to solve that problem.

Mr. Proto commented that the benefit to Cape Charles was a critical issue and was interested to know how the revenue affected the rates for the residents of Cape Charles. Heather Arcos stated that based on 20K gallons per day, the calculations of adding the revenue back into the rate equated to a \$5 or \$6 decrease per user per month. Kim Coates clarified that Bob Panek had calculated this amount. Councilwoman Natali asked if this information could be made available at future meetings. Heather Arcos stated that ultimately they would need to know what the expansion cost would be, as well as what was in the reserve from connection fees, to be able to budget appropriately.

Ms. Deborah Bender commented that at the Board of Supervisor's meeting, a decision was made to stop the project until the Board of Supervisors could figure out a way that would not harm the business people across the highway. Supervisor Willie Randall stated if citizens were unhappy with Mr. Panek, they needed to speak with the Towns. Ms. Bender stated Councilman Wendell was the only Council member in attendance. Heather Arcos stated that it was a public hearing and no decision was to be made. Ms. Bender commented that Council needed to be there to get the full impression. Ms. Bender thanked the Town Council for allowing her to comment.

**Motion made by Councilwoman Natali, seconded by Councilman Sullivan, to adjourn the Town Council Work Session. The motion was approved by unanimous consent.**

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Vice Mayor Bannon

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Asst. Town Clerk

# **Town of Cape Charles Regional Wastewater System**

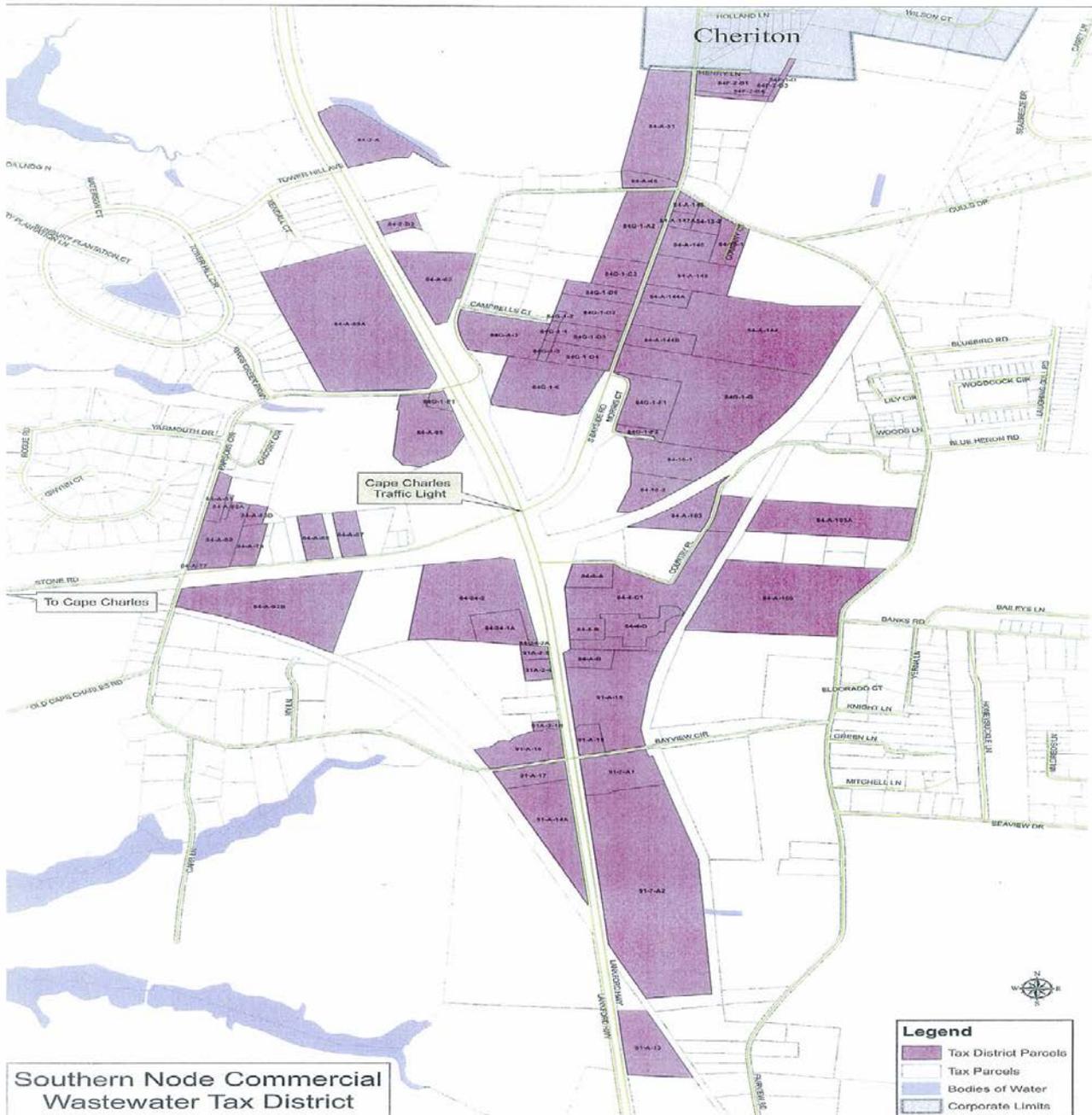
September 25, 2013

# Background

- Northern Node - \$11.3 million. On hold until Riverside decides on disposition of medical campus in Nassawadox after hospital move.
- Southern Node - \$11.9 million. Original estimate including Cheriton and surrounding areas in County.
- Both projects heavily dependent on grants or other capital contributions to yield affordable rates.
- State and Federal agencies indicated little grant funding available.

# Background

- Focus narrowed to Southern Node Commercial District, Phase 1, around US 13/SR 184/Bus 13 intersection.
- Supports BOS strategic plan to provide infrastructure to better enable private sector economic development and job creation.
- Affordable first step to regionalization.



Southern Node Commercial Wastewater Tax District

# Southern Node Commercial District, Phase 1

- Low pressure grinder pump collection system.
- Capital cost of approximately \$1.8M.
- Debt service of approximately \$124K/yr., 20 years.
- Debt service funded via real property tax.
- Cape Charles (CC) WWTP utilized for treatment.
- Operations cost (treatment, maintenance, billing, etc.) via rates.

# Real Property Taxes

- 75% of debt service via Special Tax District – rate of \$0.52 / \$100.
- 25% of debt service via general tax – rate of \$0.0014 / \$100.
- Covered in rate adopted by County for FY 2014.
- Total tax rate in District:  $\$0.6728 + \$0.52 = \$1.1928$
- Total tax rate in Cape Charles:  $\$0.6728 + \$0.2759 = \$0.9487$

# Cape Charles WWTP

- Design capacity of 250K GPD, based on TN & TP discharge limits.
- Actual capacity somewhat higher based on performance.
- Average daily flow for past year is 150K GPD.
- Now about 1,200 Equivalent Residential Connections (125 GPD/ERC).
- Over the past 10 years 321 new connections.
- About 800 ERCs remain.
- Estimated current new service area demand of 15K to 20K GPD or max of 160 ERCs.
- Plant designed for easy expansion to 500K GPD.

# Connection Charges

- Town Code Section 71-42
- Connection charges shall consist of a connection fee and a facility fee. The connection fee contributes to maintaining the treatment works. The facility fee covers the capital cost of the treatment works capacity.
  - Class I, Residential shall be \$875.00 and the facility fee shall be \$6,600.00, for a total charge of \$7,475.00.
  - Class II, Commercial shall be \$875.00 and the facility fee shall be calculated on a consumption based formula as follows: Class I facility fee + (class I facility fee × residential equivalent × ten percent).
- The commercial facility fee calculation yields a higher amount than a residential facility fee. Amount is dependent on usage estimate for each building.
- The PSA financial model assumes no connection charges for existing buildings.

# Benefit of Regionalization

- Economy of scale is important.
- Systems with a small number of customers have relatively high rates.
- < 5,000 average 14% higher than > 5,000. CC has about 1,100.
- CC rate increased significantly due to debt service on new plant.
- About 70% of WWTP operating costs are fixed.
- Adding customers will reduce rate.

# Financial Analysis

- Review of attached Overall Summary, Rate Per Gallon Calculation, FY14 Budget Summary and Detail.
- Explain Methodology used for the current cost to provide wastewater processing, customer meter reading & billing along with collection system maintenance and repair.
- Discussion on PSA model which assumes connection fees for existing users in this district will be waived; based on minimum calculations of residential estimated to be \$223K.
- Proposed Service District estimates on average 20,000 gallons per day; equates to 10% of the expense/revenue to provide service to the PSA.

# Next Steps

- Determine if additional information is needed.
- Determine what services the Town will propose; all or partial.
- Provide draft MOA and Cost Proposal to the PSA for review.

Town of Cape Charles  
 PSA Analysis - Overall Summary  
 9/25/2013

Account Description	Annual Cost WWTP	Annual Cost Town of Cape Charles Pump Stations	Total Cost TOCC Pump Stations & WWTP
<b>ANNUAL PERSONNEL COSTS - Salaries &amp; Benefits</b>	\$ 203,823.34	\$ 53,962.81	\$ 257,786.15
<b>ANNUAL WASTEWATER TREATMENT PLANT OPERATIONS &amp; MAINTENANCE - IS, Cleaning, Security, Water Samples, Advertising, Landfill Disposal, Electric, Heating, Postage, Telecom, Insurance, Equipment, Travel, Office Supplies, Computer, Janitorial, Repair &amp; Maintenance, Vehicle &amp; Powered Equip Fuel &amp; Supplies, Uniforms, Books &amp; Subscriptions, Education, Employee Certification, Lab Supplies, Chemicals, Licensing &amp; Fines, Small Hand Tools, Debt Service</b>	\$ 461,315.04	\$ 90,184.48	\$ 551,499.52
<b>TOTAL ANNUAL WASTEWATER OPERATIONS &amp; MAINTENANCE COSTS</b>	\$ 665,138.37	\$ 144,147.29	\$ 809,285.66
<b>ANNUAL BILLING COSTS - Salaries, Benefits, Information Systems, Utility Bills, Postage Utility Bills</b>	\$ 24,234.58	\$ -	\$ 24,234.58
Divide by # of Current Town of Cape Charles Users	1,080.00		
TOTAL ANNUAL BILLING COST PER USER	\$ 22.44		
Divide by 12 Months	12		
<b>TOTAL MONTHLY BILLING COST PER USER</b>	\$ 1.87		
<b>METER READING FEES - based on 30 meters</b>			
Meter Read - One Total Monthly Base Rate \$30 / Mo x 12 Mos (not per meter)	\$ 360.00		
Meter Read Per Meter - \$5 / Mo x 12 Mos x 30 Meters	\$ 1,800.00		
<b>TOTAL ANNUAL METER READING FEES</b>	\$ 2,160.00		
<b>PUMP STATION FEES</b>			
Daily Check - 1 Pump Station x \$30 per day x 365 days	\$ 10,950.00		
Quarterly Removal & Service of Pumps - \$480 / Quarter	\$ 1,920.00		
<b>TOTAL ANNUAL PUMP STATION FEES</b>	\$ 12,870.00		

\* Pretreatment Required & Effective Grease Traps Needed  
 \* Emergency Repairs During Regular Business Hours Charged at \$60 per Man Hour in Addition to Rates Above  
 \* Emergency Repairs After Hours & Weekends Charged at \$90 per Man Hour in Addition to Rates Above  
 \* Does Not Include Parts Needed for Repairs at Pump Station  
 \* Connection Fees Not Included Above - To Be Discussed  
 \* Does Not Include Any Unforeseen Costs Related to this Proposal

Town of Cape Charles  
 PSA Analysis - Rate Per Gallon Calculation  
 9/25/2013

Total Annual Cost to Operate & Maintain Wastewater Plant	\$ 665,138.37
Divide by 150,000 Gallons Used per Day	<u>150,000</u>
	\$ 4.43
Divide by 365 Days a Year	<u>365</u>
<b>Total Price Per Gallon</b>	<b><u>\$ 0.01215</u></b>
Total Price Per Gallon	\$ 0.01215
PSA Gallons Used Per Day (Approx.)	<u>20,000</u>
<b>Daily Cost to PSA (Approx.)</b>	<b><u>\$ 242.97</u></b>
Monthly Cost to PSA (Approx.) - 30.42 Avg Days/Mo	<u>\$ 7,390.43</u>
<b>Annual Cost to PSA (Approx.) - 365 Days/Yr</b>	<b><u>\$ 88,685.12</u></b>

Town of Cape Charles  
PSA Analysis - Summary  
9/25/2013

Account Description	Annual Cost to WWTP	Annual Cost to Pump Stations	Other	Portion to Water Fund	Total Cost
Salaries	\$ 164,684.90	\$ 38,896.60	\$ -	\$ 43,751.90	\$ 247,333.40
FICA	\$ 12,598.39	\$ 2,975.59	\$ -	\$ 3,347.02	\$ 18,921.00
VRS Retirement	\$ 14,376.92	\$ 3,386.05	\$ -	\$ 3,845.79	\$ 21,608.77
Health & Dental	\$ 27,611.79	\$ 6,931.80	\$ -	\$ 6,816.39	\$ 41,359.97
Life Insurance	\$ 1,946.36	\$ 458.41	\$ -	\$ 520.65	\$ 2,925.42
Short Term Disability	\$ 1,175.07	\$ 277.36	\$ -	\$ 312.45	\$ 1,764.88
Employee Assistance Program	\$ 89.70	\$ 23.40	\$ -	\$ 19.50	\$ 132.60
State Unemployment	\$ 418.78	\$ 113.60	\$ -	\$ 77.98	\$ 610.36
Workers Compensation	\$ 2,706.00	\$ 900.00	\$ -	\$ 6.00	\$ 3,612.00
Information Systems	\$ 400.00	\$ -	\$ -	\$ 200.00	\$ 600.00
Maintenance Service Contracts	\$ 8,768.00	\$ -	\$ -	\$ -	\$ 8,768.00
Security Monitoring	\$ 450.00	\$ -	\$ -	\$ -	\$ 450.00
Water Sampling	\$ 5,000.00	\$ -	\$ -	\$ -	\$ 5,000.00
Advertising	\$ 200.00	\$ -	\$ -	\$ -	\$ 200.00
Employee Testing/Validation	\$ 150.00	\$ 50.00	\$ -	\$ -	\$ 200.00
Landfill Disposal	\$ 20,000.00	\$ -	\$ -	\$ -	\$ 20,000.00
Electric	\$ 42,250.00	\$ 22,750.00	\$ -	\$ -	\$ 65,000.00
Heating	\$ 948.60	\$ -	\$ -	\$ -	\$ 948.60
Postage	\$ 1,800.00	\$ -	\$ -	\$ 1,650.00	\$ 3,450.00
Telecommunications	\$ 3,798.06	\$ 3,496.98	\$ 102.50	\$ 102.47	\$ 7,500.00
Flood Insurance	\$ -	\$ 2,117.00	\$ -	\$ -	\$ 2,117.00
General Liability Insurance	\$ 26,054.00	\$ -	\$ -	\$ -	\$ 26,054.00
Equipment	\$ 1,201.20	\$ -	\$ -	\$ -	\$ 1,201.20
Lease Right of Way Underground Pipeline	\$ -	\$ 2,120.50	\$ -	\$ -	\$ 2,120.50
Mileage, Gas & Tolls	\$ 1,125.00	\$ 375.00	\$ -	\$ -	\$ 1,500.00
Lodging & Meals	\$ 750.00	\$ 250.00	\$ -	\$ -	\$ 1,000.00
Dues & Associations	\$ 800.00	\$ -	\$ -	\$ -	\$ 800.00
Office Supplies	\$ 1,800.00	\$ -	\$ -	\$ 700.00	\$ 2,500.00
Computer Purchase	\$ 1,200.00	\$ -	\$ -	\$ 400.00	\$ 1,600.00
Janitorial Supplies	\$ 100.00	\$ -	\$ -	\$ -	\$ 100.00
Repair & Maintenance Supplies	\$ 30,000.00	\$ 20,000.00	\$ -	\$ -	\$ 50,000.00
Vehicle & Powered Equipment Fuel	\$ 1,200.00	\$ 4,800.00	\$ -	\$ -	\$ 6,000.00
Vehicle & Powered Equipment Supplies	\$ 600.00	\$ 2,400.00	\$ -	\$ -	\$ 3,000.00
Uniforms	\$ 1,875.00	\$ 625.00	\$ -	\$ -	\$ 2,500.00
Books & Subscriptions	\$ 225.00	\$ 75.00	\$ -	\$ -	\$ 300.00
Education	\$ 900.00	\$ 300.00	\$ -	\$ -	\$ 1,200.00
Employee Certification & Testing	\$ 225.00	\$ 75.00	\$ -	\$ -	\$ 300.00
Laboratory Supplies	\$ 6,500.00	\$ -	\$ -	\$ -	\$ 6,500.00
Chemicals	\$ 35,000.00	\$ -	\$ -	\$ -	\$ 35,000.00

Town of Cape Charles  
 PSA Analysis - Summary  
 9/25/2013

Account Description	Annual Cost to WWTP	Annual Cost to Pump Stations	Other	Portion to Water Fund	Total Cost
Licensing & Fines	\$ 2,500.00	\$ -	\$ -	\$ -	\$ 2,500.00
Small Hand Tools/Expendable Small Equip	\$ 750.00	\$ 750.00	\$ -	\$ -	\$ 1,500.00
Capital - Pump Stations	\$ -	\$ 30,000.00	\$ -	\$ -	\$ 30,000.00
Transfers to Wastewater Reserves	\$ -	\$ -	\$ 46,200.00	\$ -	\$ 46,200.00
Principal	\$ 241,792.00	\$ -	\$ 12,576.00	\$ -	\$ 254,368.00
Interest	\$ 25,403.18	\$ -	\$ 9,327.11	\$ -	\$ 34,730.29
<b>TOTAL ANNUAL COSTS</b>	<b>\$ 689,372.95</b>	<b>\$ 144,147.29</b>	<b>\$ 68,205.61</b>	<b>\$ 61,750.14</b>	<b>\$ 963,475.99</b>

Town of Cape Charles  
 PSA Analysis - Detail  
 9/25/2013

Account Description	Budget / Estimates	% WWTP	\$ Allocated to WWTP	Notes
Salary - Dave Fauber 2/3	\$ 39,670.80	50%	\$ 19,835.40	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater)
Allocated Wages Staff	\$ 16,945.00	50%	\$ 8,472.50	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater)
Salary - Patrick Christman	\$ 45,593.60	100%	\$ 45,593.60	Based on FY14 Salary 100% Wastewater - WWTP
Salary - Dan Dabinett	\$ 35,048.00	100%	\$ 35,048.00	Based on FY14 Salary 100% Wastewater - WWTP
Salary - Freddie Meditz	\$ 39,166.40	100%	\$ 39,166.40	Based on FY14 Salary 100% Wastewater - WWTP
Salary - Billy Powell	\$ 38,521.60	0%	\$ -	Based on FY14 Salary 100% Wastewater - Pump Stations
Salary - Carmela Williams	\$ 30,888.00	50%	\$ 15,444.00	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater Billing)
Overtime - Wastewater	\$ 1,500.00	75%	\$ 1,125.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
FICA - Dave Fauber	\$ 3,034.82	50%	\$ 1,517.41	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater)
FICA - Allocated Wages	\$ 1,296.29	50%	\$ 648.15	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater)
FICA - Patrick Christman	\$ 3,487.91	100%	\$ 3,487.91	Based on FY14 Salary 100% Wastewater - WWTP
FICA - Dan Dabinett	\$ 2,681.17	100%	\$ 2,681.17	Based on FY14 Salary 100% Wastewater - WWTP
FICA - Freddie Meditz	\$ 2,996.23	100%	\$ 2,996.23	Based on FY14 Salary 100% Wastewater - WWTP
FICA - Billy Powell	\$ 2,946.90	0%	\$ -	Based on FY14 Salary 100% Wastewater - Pump Stations
FICA - Overtime	\$ 114.75	75%	\$ 86.06	Based on FY14 Budget - 75% WWTP 25% Pump Station
FICA - Carmela Williams	\$ 2,362.93	50%	\$ 1,181.47	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater Billing)
VRS - Dave Fauber	\$ 3,487.06	50%	\$ 1,743.53	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater)
VRS - Allocated Wages	\$ 1,489.47	50%	\$ 744.73	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater)
VRS - Patrick Christman	\$ 4,007.68	100%	\$ 4,007.68	Based on FY14 Salary 100% Wastewater - WWTP
VRS - Dan Dabinett	\$ 3,080.72	100%	\$ 3,080.72	Based on FY14 Salary 100% Wastewater - WWTP
VRS - Freddie Meditz	\$ 3,442.73	100%	\$ 3,442.73	Based on FY14 Salary 100% Wastewater - WWTP
VRS - Billy Powell	\$ 3,386.05	0%	\$ -	Based on FY14 Salary 100% Wastewater - Pump Stations
VRS - Carmela Williams	\$ 2,715.06	50%	\$ 1,357.53	Based on FY14 Salary (split 1/2 Water & 1/2 Wastewater Billing)

Town of Cape Charles  
 PSA Analysis - Detail  
 9/25/2013

Account Description	Budget / Estimates	% WWTP	\$ Allocated to WWTP	Notes
Health & Dental - Dave Fauber	\$ 4,621.43	50%	\$ 2,310.72	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Health & Dental - Allocated Wages	\$ 2,079.54	50%	\$ 1,039.77	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Health & Dental - Patrick Christman	\$ 6,931.80	100%	\$ 6,931.80	Based on FY14 Budget 100% Wastewater - WWTP
Health & Dental - Dan Dabinett	\$ 6,931.80	100%	\$ 6,931.80	Based on FY14 Budget 100% Wastewater - WWTP
Health & Dental - Freddie Meditz	\$ 6,931.80	100%	\$ 6,931.80	Based on FY14 Budget 100% Wastewater - WWTP
Health & Dental - Billy Powell	\$ 6,931.80	0%	\$ -	Based on FY14 Budget 100% Wastewater - Pump Stations
Health & Dental - Carmela Williams	\$ 6,931.80	50%	\$ 3,465.90	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Life Insurance - Dave Fauber	\$ 472.08	50%	\$ 236.04	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Life Insurance - Allocated Wages	\$ 201.65	50%	\$ 100.82	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Life Insurance - Patrick Christman	\$ 542.56	100%	\$ 542.56	Based on FY14 Budget 100% Wastewater - WWTP
Life Insurance - Dan Dabinett	\$ 417.07	100%	\$ 417.07	Based on FY14 Budget 100% Wastewater - WWTP
Life Insurance - Freddie Meditz	\$ 466.08	100%	\$ 466.08	Based on FY14 Budget 100% Wastewater - WWTP
Life Insurance - Billy Powell	\$ 458.41	0%	\$ -	Based on FY14 Budget 100% Wastewater - Pump Stations
Life Insurance - Carmela Williams	\$ 367.57	50%	\$ 183.79	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Disability - Dave Fauber	\$ 285.63	50%	\$ 142.82	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Disability - Allocated Wages	\$ 116.88	50%	\$ 58.44	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Disability - Patrick Christman	\$ 328.27	100%	\$ 328.27	Based on FY14 Budget 100% Wastewater - WWTP
Disability - Dan Dabinett	\$ 252.35	100%	\$ 252.35	Based on FY14 Budget 100% Wastewater - WWTP
Disability - Freddie Meditz	\$ 282.00	100%	\$ 282.00	Based on FY14 Budget 100% Wastewater - WWTP
Disability - Billy Powell	\$ 277.36	0%	\$ -	Based on FY14 Budget 100% Wastewater - Pump Stations
Disability - Carmela Williams	\$ 222.39	50%	\$ 111.20	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
EAP - Dave Fauber	\$ 15.60	50%	\$ 7.80	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
EAP - Patrick Christman	\$ 23.40	100%	\$ 23.40	Based on FY14 Budget 100% Wastewater - WWTP

Town of Cape Charles  
 PSA Analysis - Detail  
 9/25/2013

Account Description	Budget / Estimates	% WWTP	\$ Allocated to WWTP	Notes
EAP - Dan Dabinett	\$ 23.40	100%	\$ 23.40	Based on FY14 Budget 100% Wastewater - WWTP
EAP - Freddie Meditz	\$ 23.40	100%	\$ 23.40	Based on FY14 Budget 100% Wastewater - WWTP
EAP - Billy Powell	\$ 23.40	0%	\$ -	Based on FY14 Budget 100% Wastewater - Pump Stations
EAP - Carmela Williams	\$ 23.40	50%	\$ 11.70	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
State Unemployment - Dave Fauber	\$ 75.74	50%	\$ 37.87	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
State Unemployment - Allocated Wages	\$ 34.22	50%	\$ 17.11	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
State Unemployment - Patrick Christman	\$ 113.60	100%	\$ 113.60	Based on FY14 Budget 100% Wastewater - WWTP
State Unemployment - Dan Dabinett	\$ 113.60	100%	\$ 113.60	Based on FY14 Budget 100% Wastewater - WWTP
State Unemployment - Freddie Meditz	\$ 113.60	100%	\$ 113.60	Based on FY14 Budget 100% Wastewater - WWTP
State Unemployment - Billy Powell	\$ 113.60	0%	\$ -	Based on FY14 Budget 100% Wastewater - Pump Stations
State Unemployment - Carmela Williams	\$ 46.00	50%	\$ 23.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Workers Comp - Patrick Christman	\$ 900.00	100%	\$ 900.00	Based on FY14 Budget 100% Wastewater - WWTP
Workers Comp - Dan Dabinett	\$ 900.00	100%	\$ 900.00	Based on FY14 Budget 100% Wastewater - WWTP
Workers Comp - Freddie Meditz	\$ 900.00	100%	\$ 900.00	Based on FY14 Budget 100% Wastewater - WWTP
Workers Comp - Billy Powell	\$ 900.00	0%	\$ -	Based on FY14 Budget 100% Wastewater - Pump Stations
Workers Comp - Carmela Williams	\$ 12.00	50%	\$ 6.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Information Systems - Dave Fauber	\$ 200.00	50%	\$ 100.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Information Systems - Wastewater	\$ 200.00	100%	\$ 200.00	Based on FY14 Budget (100% for computers in WWTP)
Information Systems - Carmela Williams	\$ 200.00	50%	\$ 100.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Maintenance Service - Office Cleaning	\$ 2,400.00	100%	\$ 2,400.00	Based on FY14 Budget (100% for WWTP)
Maintenance Service - Hach Nitrate Probe	\$ 6,368.00	100%	\$ 6,368.00	Based on FY14 Budget (100% for WWTP)
Security Monitoring	\$ 450.00	100%	\$ 450.00	Based on FY14 Budget (100% for WWTP)
Water Sampling	\$ 5,000.00	100%	\$ 5,000.00	Based on FY14 Budget (100% for WWTP)

Town of Cape Charles  
 PSA Analysis - Detail  
 9/25/2013

Account Description	Budget / Estimates	% WWTP	\$ Allocated to WWTP	Notes
Advertising	\$ 200.00	100%	\$ 200.00	Based on FY14 Budget (100% for WWTP)
Employee Testing / Validation	\$ 200.00	75%	\$ 150.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Landfill Disposal	\$ 20,000.00	100%	\$ 20,000.00	Based on FY14 Budget (100% for WWTP)
Electric - WWTP	\$ 65,000.00	65%	\$ 42,250.00	Based on FY14 Budget (65% for WWTP & 35% Pump Stat based on FY13 usage)
Heating - Propane WWTP	\$ 948.60	100%	\$ 948.60	Based on FY13 Actual - May have some in FY14
Postage - Wastewater	\$ 150.00	100%	\$ 150.00	Based on FY14 Budget (100% for WWTP)
Postage - Carmela Williams	\$ 3,300.00	50%	\$ 1,650.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Verizon - WWTP	\$ 4,965.33	52%	\$ 2,581.97	Based on FY14 Budget (Verizon FY13 52% WWTP, 48% Pump)
AT&T - Dave Fauber	\$ 307.43	33%	\$ 102.47	Based on FY13 Actual (33.33% for WWTP)
AT&T - WWTP	\$ 2,227.24	50%	\$ 1,113.62	Based on FY13 Actual (50% for WWTP & 50% for Pump Station)
Flood insurance - Pump Stations	\$ 2,117.00	0%	\$ -	Based on FY14 Budget (0% for WWTP)
General Liability Insurance	\$ 26,054.00	100%	\$ 26,054.00	Based on FY14 Budget (100% for WWTP)
Equipment - ADP	\$ 1,201.20	100%	\$ 1,201.20	Based on FY14 Budget (100% for WWTP)
Lease Right of Way Underground Pipeline	\$ 2,120.50	0%	\$ -	Based on FY14 Budget (100% for Pump Stations)
Mileage, Gas & Tolls	\$ 1,500.00	75%	\$ 1,125.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Lodging & Meals	\$ 1,000.00	75%	\$ 750.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Dues & Associations	\$ 800.00	100%	\$ 800.00	Based on FY14 Budget (100% for WWTP)
Office Supplies - Wastewater	\$ 1,100.00	100%	\$ 1,100.00	Based on FY14 Budget (100% for WWTP)
Office Supplies - Carmela Williams	\$ 1,400.00	50%	\$ 700.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater Billing)
Computer Purchase - Dave Fauber	\$ 800.00	50%	\$ 400.00	Based on FY14 Budget (split 1/2 Water & 1/2 Wastewater)
Computer Purchase - Wastewater	\$ 800.00	100%	\$ 800.00	Based on FY14 Budget (100% for WWTP)
Janitorial Supplies	\$ 100.00	100%	\$ 100.00	Based on FY14 Budget (100% for WWTP)
Repair & Maintenance Supplies	\$ 50,000.00	60%	\$ 30,000.00	Based on FY14 Budget (Once Warranty Expires, Feit 60% WWTP/40% Pump)

Town of Cape Charles  
 PSA Analysis - Detail  
 9/25/2013

Account Description	Budget / Estimates	% WWTP	\$ Allocated to WWTP	Notes
Vehicle & Powered Equipment Fuel	\$ 6,000.00	20%	\$ 1,200.00	Based on FY13 Usage, Billy Used 960 gal x \$3.46 (80% Pumps, 20% WWTP)
Vehicle & Powered Equipment Supplies	\$ 3,000.00	20%	\$ 600.00	Per Dave Fauber 80% Pumps, 20% WWTP
Uniforms	\$ 2,500.00	75%	\$ 1,875.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Books & Subscriptions	\$ 300.00	75%	\$ 225.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Education	\$ 1,200.00	75%	\$ 900.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Employee Certification & Testing	\$ 300.00	75%	\$ 225.00	Based on FY14 Budget - 75% WWTP 25% Pump Station
Laboratory Supplies	\$ 6,500.00	100%	\$ 6,500.00	Based on FY14 Budget (100% for WWTP)
Chemicals	\$ 35,000.00	100%	\$ 35,000.00	Based on FY14 Budget (100% for WWTP)
Licensing & Fines	\$ 2,500.00	100%	\$ 2,500.00	Based on FY14 Budget (100% for WWTP)
Small Hand Tools/Expendable Small Equip	\$ 1,500.00	50%	\$ 750.00	Based on FY14 Budget (50% for WWTP & 50% for Pump Station)
Capital - Pump Stations	\$ 30,000.00	0%	\$ -	Based on FY14 Budget (100% for Pump Stations)
Transfers to Wastewater Reserves	\$ 46,200.00	0%	\$ -	Based on FY14 Budget (0% for WWTP, 0% Pump Station, 100% Other)
Principal	\$ 254,368.00	95%	\$ 241,792.00	Based on FY14 Budget (95% for WWTP to include only 2010C Bond)
Interest	\$ 34,730.29	73%	\$ 25,403.18	Based on FY14 Budget (73% for WWTP to include only 2010C Bond)
<b>TOTALS</b>	<b>\$ 963,475.99</b>		<b>\$ 689,372.95</b>	



**DRAFT  
TOWN COUNCIL  
Special Meeting  
Town Hall  
October 3, 2013  
6:00 P.M.**

At 6:00 p.m. Vice Mayor Chris Bannon, having established a quorum, called to order the Special Meeting of the Town Council. In addition to Vice Mayor Bannon, present were Councilmen Bennett, Godwin, and Sullivan, and Councilwoman Natali. Mayor Sullivan and Councilman Wendell were not in attendance. Also in attendance were Town Manager Heather Arcos, Harbor Master Smitty Dize and Town Clerk Libby Hume as well as five members of the public.

**PUBLIC COMMENTS:**

*Deborah Bender, 300 Fulcher Street*

Ms. Bender commented on the necessity of building another bathroom facility at the Harbor stating that the Town spent approximately \$300K on the last one. Ms. Bender stated that she heard the Health Department had something to do with it, but she found that hard to believe and reiterated that more bathrooms were ridiculous.

There were no additional public comments to be heard nor any written comments submitted prior to the meeting.

**ORDER OF BUSINESS:**

**Motion made by Councilman Bennett, seconded by Councilwoman Natali, to take action on items 3A-Re-appointment of Planning Commission, 3B-Re-appointment of Board of Zoning Appeals Member, and 3C-Re-appointment of Wetlands & Coastal Dune Board Member as one item. The motion was approved by unanimous consent.**

- A. *Re-Appointment of Planning Commission;*
- B. *Re-Appointment of Board of Zoning Appeals Member;*
- C. *Re-Appointment of Wetlands & Coastal Dune Board Member:*

**Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to re-appoint Sandra Salopek to the Planning Commission and Ray Salopek to the Board of Zoning Appeals and the Wetlands & Coastal Dune Board for another term. The motion was approved by unanimous consent.**

- D. *Request to Accomack-Northampton Planning District Commission:*

Town Manager Heather Arcos stated that she and Town Planner Rob Testerman had met with Elaine Meil, Executive Director of the Accomack-Northampton Planning District Commission (ANPDC) regarding their assistance to review and update the Comprehensive Plan. The cost savings were expected to be significant with a potential decrease of up to 50% vs. using the services of a consulting firm. The ANPDC helped the Town with a previous Comprehensive Plan update in 1999. The ANPDC would work with the Planning Commission on the review and update process. If selected, the ANPDC would be able to begin their work with the Town staff and Planning Commission in January 2014. The Planning Commission was currently reviewing sections of the Comprehensive Plan to provide their recommendation on areas needing to be

reviewed further and/or updated. The ANPDC needed a letter from the Town requesting its services. Upon receipt of the letter, Ms. Meil would present the request to their board for approval. Upon approval, Ms. Meil would provide the Town with a scope of work and cost estimate for the work. Councilman Bennett clarified that Council would review the scope of work and cost estimate then vote on whether to move forward with the ANPDC.

**Motion made by Councilman Sullivan, seconded by Councilman Bennett, to authorize the Town Manager to request the assistance of the Accomack-Northampton Planning District Commission for the review and update of the Comprehensive Plan. The motion was approved by unanimous consent.**

E. *Harbor Development Master Plan:*

Heather Arcos stated that the current Cape Charles Harbor Master Plan was approved in 2007. Part of the plan had been accomplished and some changes in the waterfront utilization had occurred or were under consideration. On August 1, 2013, Council approved a change order to the Langley & McDonald contract to update the Harbor Master Plan. Heather Arcos pointed out several areas on the draft plan and stated that once the new Harbor Master building was completed, another bathroom facility would be needed for the inner harbor due to requirements in the Virginia Administrative Code which stated that “adequate sanitary facilities shall be conveniently located within 500’ of walking distance from the shore end of any dock they are intended to serve...” There was also a table outlining the requirement in the number of commodes, urinals, lavatories and showers needed based on the number of seasonal and transient slips. Copies of the Virginia Administrative Code “Required Facilities for Marinas and Other Places Where Boats are Moored and Their Operation” were distributed. There was much discussion regarding the bathroom facility. Heather Arcos stated that the bathroom facilities did not need to be addressed until the Town built the new Harbor Master building. Councilman Bennett stated that this was a conceptual master plan and showed a lot of new buildings on it for the future but the Town was not funding the projects now.

Councilman Bennett added that the two versions of the plan being reviewed needed to be consistent in how they were drawn and labeled and went on to point out several areas that needed to be addressed as follows: i) Several areas were not labeled; ii) The proposed location of the new Fun Pier was not shown. Heather Arcos stated that the Town did not know if FEMA would approve the relocation of the pier, but since this was a conceptual plan, she would have it added; iii) It showed a “Peach Street Framework View Corridor” that had not been discussed. Smitty Dize explained that during the public meetings when the conceptual plan was being developed in 2006, the citizens had wanted a connection from Peach Street to the Harbor. Councilwoman Natali added that as long as the railroad owned the property she didn’t think the Town could do anything about this. This item would be removed; iv) The staff report, item 6, described a wave attenuator which was not reflected in the plan. Heather Arcos stated that it would not be a new wave attenuator but relocation of the existing one and was shown on the plan as “relocated dock;” v) The plan showed two turnouts in the inner harbor area which were unnecessary; and vi) The Maritime Academy Training Davit needed to be shown vs. just two arrows. Councilwoman Natali added that the plan had the davits labeled as “proposed” and there was one already there.

Vice Mayor Bannon stated that the Waterman’s Memorial was not shown on the plan. Heather Arcos responded that the circle was shown on the plan but it was not labeled for the Waterman’s Memorial.

Heather Arcos went on the state that the Town had received a grant award of \$75K from the Virginia Port Authority (VPA), with a \$25K Town match, for a new project harbor protection. At one time, the Town was considering two wave attenuators to help South Port’s property, but the plans had changed when it was determined that breakwaters would provide the best protection for the Harbor. The plan showed a dock reconfiguration by The Shanty which staff

would like to leave in place as a future option. The Town could submit a request to the VPA to use the \$75K grant funding toward breakwaters.

**Motion made by Councilman Bennett, seconded by Councilwoman Natali, to send the comments back to Langley & McDonald to revise the draft Harbor Conceptual Master Plan as discussed. The motion was approved by unanimous consent.**

F. *Harbor Protection Capital Projects:*

Heather Arcos stated that the VPA granted the Town's \$500K grant carryover request. Recently, staff met with Bayshore Concrete to review a wave study that was completed as part of their pier project. The study showed the effects of the waves assuming the three remaining breakwaters were constructed. The breakwaters would protect the Harbor by significantly reducing the wave driven swells. The updated cost estimate to complete the three remaining breakwaters was \$2.4M. The estimate for the southernmost breakwater was \$900K. The breakwaters were permitted through April 2015 and the Town had been aggressively seeking additional funding opportunities. A letter was sent to Delegate Lynwood Lewis and other legislators requesting their assistance as well. The Town was hoping that the Harbor Access Road would bring added interest to the Town to assist with additional funding for the completion of the remaining breakwaters. Several meetings had been held with the Harbor stakeholders and Heather Arcos was optimistic that prospective funding sources would come through. The Town would also be refinancing the USDA Rural Development loans and there was a possibility to finance one of the breakwater sections.

Heather Arcos went on to state that she and Smitty Dize had met with the U.S. Army Corps of Engineers regarding the O&M dredging and the representative would check into the option of building a sandbar with the dredges to help reduce costs for the breakwater project. This had been done in other areas and the breakwater was built on the sandbar.

Councilwoman Natali asked about the former launching slip and asked whether it was going to be closed off. Smitty Dize responded that it would be docked over when the new Harbor Master building was constructed.

Heather Arcos stated that the primary capital focus at the Harbor was the breakwaters. Smitty Dize agreed and added that the wave action was a concern of the boaters as well as South Port Investors.

Heather Arcos stated that once the master plan had been updated, the revised plan would be provided to Council for further review.

**Motion made by Councilman Godwin, seconded by Councilwoman Natali, to adjourn the Town Council Special Meeting. The motion was approved by unanimous consent.**

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Vice Mayor Bannon

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Town Clerk

MUNICIPAL CORPORATION OF CAPE CHARLES

CASH POSITION

SEPTEMBER 30, 2013

<u>Cash on Hand</u>	<u>8/31/2013</u>	<u>9/30/2013</u>
Bank of America Checking	55	15
Shore Bank	353,683	267,452
Local Government Investment Pool - New Library Funds from CD *	68,479	68,486
Local Government Investment & Restricted Funds	440,457	440,499
<b>Total Cash On Hand</b>	<b>\$ 862,674</b>	<b>\$ 776,452</b>

<u>Restricted Cash Balance</u>	<u>8/31/2013</u>	<u>9/30/2013</u>
LGIP - Rural Development	97,267	97,276
Shore Bank Savings Account - Police Funds	1,231	1,231
US Bank - VRA Interest Free Loan	257,591	257,595
<b>Total Cash Held in Reserve</b>	<b>\$ 356,089</b>	<b>\$ 356,101</b>

Tax Collection Comparison - SEPTEMBER 30, 2013:

<u>Tax Category</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>Difference</u>
Admission Taxes	7,777.01	8,550.79	773.78
Business License Tax	1,146.74	2,677.70	1,530.96
Consumer Utility Taxes	11,223.70	10,988.13	(235.57)
Electric, Gas & Telephone	12,293.87	15,603.67	3,309.80
Franchise License Taxes	-	-	-
Golf Cart Decals	1,271.00	558.00	(713.00)
License Tax **	21.40	-	(21.40)
Machinery & Tools	-	-	-
Meals Tax	85,939.50	111,206.62	25,267.12
Penalties & Interest - All Property Taxes	7,929.21	3,035.46	(4,893.75)
Penalty & Interest - Miscellaneous Taxes	-	-	-
Personal Property Taxes	-	118.76	118.76
Prior Year Real Estate & Personal Property Taxes	4,532.31	12,063.14	7,530.83
Real Estate Taxes	41,398.29	1,201.80	(40,196.49)
Short Term Rental Tax	1,396.42	1,276.58	(119.84)
Transient Occupancy Tax	26,984.93	33,215.01	6,230.08
<b>Total</b>	<b>\$ 201,914.38</b>	<b>\$ 200,495.66</b>	<b>\$ (1,418.72)</b>

\* Funds will be transferred to Shore Bank account and a portion used for the reserve amount related to the Library Grant

MUNICIPAL CORPORATION OF CAPE CHARLES  
 TREASURER'S REPORT  
 SEPTEMBER 30, 2013  
 REVENUE VS. EXPENDITURES

FUND	ANNUAL BUDGET	CURRENT MONTH	CURRENT YEAR-TO-DATE	PRIOR YEAR-TO-DATE	INCREASE/DECREASE YTD		% REALIZED/EXPENDED FY14	
GENERAL REVENUES EXPENDED	2,957,183	118,596	378,706	410,362	(31,656)		12.81%	
	2,957,183	165,149	381,342	522,114	(140,772)		12.90%	
PUBLIC UTILITIES REVENUES EXPENDED	1,496,082	148,345	659,009	693,955	(34,946)		44.05%	
	1,496,082	134,561	292,597	299,309	(6,712)		19.56%	
HARBOR REVENUES EXPENDED	2,566,869	84,348	391,962	395,173	(3,211)		15.27%	
	2,566,869	159,554	313,249	226,897	86,352		12.20%	
SANITATION REVENUES EXPENDED	160,452	15,251	45,580	42,369	3,211		28.41%	
	160,452	610	14,393	14,022	372		8.97%	



MUNICIPAL CORPORATION OF CAPE CHARLES  
TREASURER'S NOTES  
SEPTEMBER 30, 2013

**Treasurer's Notes:**

**2013 TAX BILLS**

Northampton County is contracting out services for the IT portion of their real estate bills. They dropped off the revised 2013 assessment books on Friday, September 27th. The IT staff at Northampton County staff is currently working with our database provider to upload the real estate and personal property files into our database. Once uploaded, we will verify the data for accuracy, make any necessary adjustments and try to get the bills out by the end of October or mid November the latest. The data file conversion from the county is taking place at least 2-3 weeks later than last year because of some unforeseen circumstances that happened on the county level this year. If residents want to know what their real estate bills may be, they may contact our office for a quick calculation based on the assessments versus the new tax rates.

# Planning Commission Report for Town Council

From: Rob Testerman  
To: Town Council  
Date: October 8, 2013  
Subject: Report for Planning Department

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1. Shortly, we will begin the process for updating the Flood Plain Ordinance. Based on the timeline I have seen, the 6 month ordinance adoption/compliance period will begin in March 2014. Charley Banks, of the Department of Conservation and Recreation, has provided me with the state's updated base model ordinance that will need to be incorporated into our Zoning Ordinance.
2. A few instances have arisen regarding residents in town keeping "backyard chickens". Currently, the Zoning Ordinance does not allow "agriculture", as defined, in the R-1 district. Staff will be proceeding accordingly to resolve the issues

## Planning Commission Meeting – October 1

1. The Planning Commission held its regular meeting on October 1
  - a. The Commission continued discussion on proposed modifications to Sec. 4.1 Sign Regulations of the Zoning Ordinance. After further discussion the Planning Commission recommended a few additional edits. These edits will be incorporated into the draft, and the draft will be forwarded on for legal review. Once a favorable legal review has been obtained the Commission will schedule a public hearing.
  - b. The Commissioners have begun reviewing the comprehensive plan. We have requested a scope of work and cost estimate for assistance from the Accomack-Northampton Planning District Commission. If approved, they would not be able to begin until January 2014. In the meantime, we will be reviewing Plan, identifying those sections most in need of updating.
  - c. The Planning Commission began discussion on Historic Town Entrance Overlay District. We will be reworking the draft overlay that was last edited in 2010, in an effort to deliver the product to the County for their consideration while they are updating their zoning ordinance and comprehensive plan.
2. The next regular meeting of the Planning Commission will be November 5.

## Historic District Review Board Meeting – September 17

1. The Historic District Review Board met on September 17 to review an application for an addition at 209 Jefferson Avenue, and to hold a public hearing regarding modifications to its by-laws. The application for the Certificate of Appropriateness for Jefferson Avenue was approved by a 4-0 vote, with one member being absent. The proposed modifications to the by-laws were also approved by a 4-0 vote.
2. The HDRB will meet on October 15 to review an application for an addition at 309 Mason Avenue, as well as an alteration of 219 Jefferson.

Wetlands Board Meeting – September 23

1. The Wetlands Board met and held a public hearing on September 23 to review and hear comments on a JPA application for shoreline hardening at Aqua. After discussion, the Board voted unanimously by those members in attendance to approve the permit request. The applicant is anxious to get started on the project as soon as possible after all other permits are obtained.

Board of Zoning Appeals – September 24

1. The Board of Zoning appeals met September 24 to hold a public hearing and review an application for a variance for 510 Brass Ring Avenue in Bay Creek. After hearing comments from the public and deliberating, the Board granted the variance by a vote of 4-1.

## Code Enforcement

Month of September FY 2014

### Building Permits Issued/Permit Fees Collected:

Permits this month: 15	
Permits this year: 53	Total permits last year: 257
Total construction this month: \$ 606,343	
Total construction this year: \$1,006,282	Total construction last fiscal year: \$7,411,540
Permit fees this month: \$18,440.13	
Total permit fees this fiscal year: \$24,157.95	Total permit fees last fiscal year: \$177,559.27
Bay Creek Water/Sewer Tap fees: \$0	
The Colony/Sewer Water Tap fees: \$0	
Marina Village/Marina Village East Sewer/Water Tap fees: \$0	
Bayside Village Sewer/Water Tap fees: \$12,350	
Old-Town Water/Sewer Tap fees: \$0	
Total Tap fees this year: \$12,350	Total Tap fees last fiscal year: \$105,756
Fire Dept. levy this month: \$445.55	
Total Fire Dept. levies this year: \$915.90	Total Fire Dept. levies last fiscal year: \$3,195.93
State levy this month: \$89.11	
Total state levies this year: \$183.18	Total state levies last fiscal year: \$638.20
Miscellaneous Revenue: \$10 for Sewer Screen	

### Existing Structures Code Enforcement Cases:

Total Cases: 27	
New this month: 0	
Closed this month: 0	
Rental Inspections: 0	
Rental C.O's Issued: 0	
Rental Inspection fees collected: \$0	
Grass cutting enforcement: 13	
Grass cutting: 7	
Enforcement fees charged this month: \$1,050	
Enforcement fees charged this year: \$2,750	Fees charged last fiscal year: \$10,050
Enforcement fees collected: \$0	
Enforcement fees collected this year: \$0	Fees collected last fiscal year: \$1,129.36

### Annual Fire Inspections (updated) (Completed)

Total Cases: 92  
Inspections conducted: 0  
Closed this month: 0  
Closed altogether: 92  
Cases unresolved: 0

### Annual Fire Reports (updated) (Completed)

Total Cases: 59  
Received this month: 0  
Closed: 59  
Unresolved: 0

Month of September FY14

**Other items of note:**

1. Completed 40 inspections
2. Conducted 0 zoning clearances
3. Completed 2 courtesy residential inspections
4. Conducted 0 courtesy commercial inspection
5. Conducted 28 E & S control inspections
6. Conducted 0 commercial plan reviews for Erosion and Sedimentation Control.
7. Completed 1 residential plan reviews
8. Issued 2 Public Utilities Shallow Well permits
9. Attended the Virginia Fire Prevention Association Conference in Roanoke the week of September 30, 2013.

10/08/13

# Permit/Construction Fee Report

Map Number	Permit #	Type	Date	Address	Work description	Permit Fee	Value
	PP130023	Plumbing	09/04/2013	202 Arnie's Loop	New Plumbing for S/F Residence	\$145.60	\$11,000
	PM130030	Mechanical	09/05/2013	202 Arnie's Loop	3 New Heat Pumps for S/F Res.	\$182.00	\$17,500
	PG130011	Gas	09/10/2013	202 Arnie's Loop	New Gas Piping for S/F Res	\$56.00	\$1,800
	PE130050	Electrical	09/12/2013	1011 Baysshore Road	3 Phase 400 Amp Service for Travel Lift Sit	\$644.00	\$50,000
	PB130085	Building	09/13/2013	605 Carousel Place	New S/F Residence	\$16,297.50	\$450,000
0090-00-00-00	PB130090	Building	09/25/2013	1 Clubhouse Way	40x40 Tent set up weekend of 9/27/13	\$50.00	\$500
	PU130001	PU Shallow W	09/10/2013	11 Kings Bay Drive	Shallow Well	\$100.00	\$1,000
	PU130002	PU Shallow W	09/19/2013	13 Kings Bay Drive	Shallow Well	\$100.00	\$1,000
	PB130091	Building	09/27/2013	627 Madison Avenue	Residential Alteration	\$98.00	\$10,000
	PB130092	Building	09/27/2013	500 Marina Village Cir	Handicapped Access Changes per Plan	\$168.00	\$10,000
	PB130089	Building	09/25/2013	900 Marina Village Cir	40x120 Tent set up for weekend of 9/27/12	\$50.00	\$500
	PE130051	Electrical	09/23/2013	506 Monroe Avenue	New Electrical for Addition & Room Over G	\$84.00	\$7,500
083A3-0203-00	PB130087	Building	09/24/2013	9 Randolph Avenue	Tear off/reroof to include new sheathing	\$187.60	\$18,500
083A3-0100-62	PB130086	Building	09/16/2013	240 Randolph Avenue	12x20 Prefab Shed	\$56.00	\$2,500
	PM130031	Mechanical	09/27/2013	423 Randolph Avenue	2 new air-to-air heat pumps	\$221.43	\$24,543

**Total Permits: 15**

**\$18,440.13**

**\$606,343**

Permits Issued Range from 09/01/2013 to 09/30/2013



# Town Harbor Town Council Report September, 2013

October 4, 2013

## Maintenance:

1. **Painting:** We have completed painting all buildings with the exception of the new bath house which does not need painting at this time. We will begin to paint the fuel tank this month while the weather is nice and possibly paint the parking lines in the boat ramp parking area.
2. **Boardwalk:** The boardwalk at the inner harbor has many boards that need to be re-screwed, we have completed a portion of this by the Harbor Masters Office and will continue throughout the course of the winter. Staff also finished repairing the section of walkway the leads to the steps at the harbormasters office.
3. **Fuel system:** We have had some minor issues with the roadside fuel pumps with the computer boards. These issues were corrected as we had to bring in Oil Equipment services.
4. **Bath House:** We installed the feminine sanitary containers in the women's restroom.
5. **Parking:** We filled in the pot holes at the beginning of shelled parking area.
6. **Floating Docks:** We replaced a deck board on B-Dock and a cleat on B-11.

## Projects:

1. **Harbor Protection:** Bayshore Concrete Products is working on a permit to construct the proposed 250ft piers. Part of this discussion was that they had a wave study on the harbor. The wave study clearly showed that the offshore breakwaters were the best line for protection, although an attenuator would help the breakwaters where the best line of defense against swells. It was also broke down as to the sections that would benefit the most and currently the next section to the south would be the best option.
2. **Waterman's Memorial:** Is moving forward slowly. We are optimistic that something will be presented to HARB soon for review.
3. **Dredging:** Staff met with Holly Carpenter this past week to discuss options and concerns for dredging and disposal areas. A site inspection was completed with two discrepancies. One, Site B for beach disposal was not in their real estate file. This area is the beach front of Bay Creek. The USACE would like to have an easement in place for this area before dredging begins. They would also like a letter for the Boardwalk crossing their easement. None of which should be a problem. We also brought up if it would be possible to build up the sand bar at the mouth of the harbor for better protection. Ms. Carpenter stated that she would look into that possibility.
4. **Updated Harbor Master Conceptual Plan:** Staff met with council on October 3<sup>rd</sup>, to gain input on completing the plan. We will take the input back to Langley & McDonald and represent to council once the changes have been made.



# Town Harbor Town Council Report September, 2013

## Other Items:

1. Follow us on Face Book (**Cape Charles Town Harbor**)
2. Beginning October 1<sup>st</sup>, our hours of operation are 8am to 5pm 7 days a week.
3. Commercial fishing and Sport fishing have been slow, as currently Puppy Drum can be caught but anglers are still a waiting for the Speckle Trout to emerge. Rock Fish season began October 4, 2013, as are slips are being booked up for November & December.

## Events at the Harbor:

1. **Mystic Whaler Visit:** Will be arriving October 21<sup>st</sup> between 2pm and 3 pm and will be open to the public from 4pm to 6pm.
2. **Godspeed Visit:** October 24<sup>th</sup> Arrival at D-Dock. October 25<sup>th</sup> – Educational Day. October 26<sup>th</sup> – Open to the Public 10 am to 5 pm. October 27<sup>th</sup> – Open to the Public 10 am to 5 pm. October 28<sup>th</sup> Departs.
3. **Haunted Harbor & Trunk or Treating:** October 26<sup>th</sup>,

**\*\*\*Note\*\*\* Numbers are through August, 2013**

## Business:

Average docking per day/night by category:

	<u>Rentals</u>	<u>Sep.13</u>	<u>Sep. 12</u>	<u>Ytd13/14</u>	<u>Ytd11/12</u>
1. Nightly:	6.8	9.0	8.8	7.2	
2. Weekly:	1.4	2.0	2.6	5.2	
3. Month/Quart:	3.0	8.9	4.0	8.8	
4. Seasonal:	17.0	16.4	21.4	14.1	
5. Annual:	37.0	37.6	38.7	38.9	
<b>Total Rentals,</b>	<b>65.2</b>	<b>73.9</b>	<b>75.5</b>	<b>74.2</b>	

## Cape Charles Memorial Library Report September 2013

1. September saw a decrease in library usage from the summer months; but we still had a total of 1,131 people to visit the library, 330 more than last September!
2. Beginning in September, our Arts & Crafts program is now being held on Wednesday at 4:00 and Chess Club is held on Thursday at 4:00. Toddler and Preschool Storytime remains on Thursday morning at 10:30.
3. Monthly attendance for programs held during September:
  - a. **Children's Programs:**

Wednesday	10:30 Crafts	26 attended
Thursday	3:30 Chess	32 attended
Thursday	10:30 Storytime	68 attended
  - b. **Adult Programs:**

<i>Spirit of the Bird</i>		8 attended
Total		134
4. On September 10 we partnered with the **Barrier Islands Center** to show their latest film "The Spirit of the Bird"; a film that explores the heritage of duck hunting and carving on the Eastern Shore. We had 8 people to view the movie and the Barrier Islands Center has donated a copy of the film for our DVD collection.
5. This year the Library participated in the **Job Fair** presented by the **Northampton County Chamber of Commerce** on October 1. Library Assistant Sharon Silvey provided help for people doing online job applications. Sharon made some great contacts through the Community College and the VEC and we are excited about doing workshops with these organizations in the future.
6. Beginning in October, the Library will again be offering computer classes in our **Computer Lab**. Introductory Computer Skills, Basic Email, and Intro to the Internet are just some of the classes we will be offering. If you would like to take a class, call the Library at 331-1300 for dates and time. Our Computer Lab has 10 computers available for use by people taking online classes or doing job search activities.
7. The last week of September was **Banned Book Week** and as usual the Library featured a popular display of banned books in the Library. This is always a good reminder of the value of libraries and that we have the freedom to read whatever we choose.
8. For additional information about library programs and library related information check out the Cape Charles Memorial Library's **Facebook** page!

	CAPE CHARLES MEMORIAL LIBRARY 2013												
	January	February	March	April	May	June	July	August	September	October	November	December	YTD
<b>INCOME:</b>													
Donations	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$27.80	\$0.00	\$0.00	\$0.00	\$27.80
Copier/Prt	\$63.05	\$54.30	\$80.90	\$43.10	\$53.60	\$84.42	\$144.75	\$99.00	\$87.70	\$0.00	\$0.00	\$0.00	\$710.82
Faxes	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13.00	\$36.50	\$0.00	\$0.00	\$0.00	\$49.50
<b>TOTAL</b>	<b>\$63.05</b>	<b>\$54.30</b>	<b>\$80.90</b>	<b>\$43.10</b>	<b>\$53.60</b>	<b>\$84.42</b>	<b>\$144.75</b>	<b>\$112.00</b>	<b>\$124.20</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$760.32</b>
Deposit													
<b>BOOK CIRC-ADLT</b>													
Fiction	513	0	0	350	340	480	561	513	457	0	0	0	3214
Non-fiction	182	0	0	87	112	114	229	203	173	0	0	0	1100
DVDs	149	0	0	139	86	183	224	304	211	0	0	0	1296
<b>TOTAL 2013</b>	<b>844</b>	<b>0</b>	<b>0</b>	<b>576</b>	<b>538</b>	<b>777</b>	<b>1014</b>	<b>1020</b>	<b>841</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5610</b>
Books Circ. 2012	578	579	468	561	610	642	1166	944	765	698	605	585	8201
<b>BOOKS CIRC-JUV</b>													
Fiction	343	0	0	216	287	605	726	609	488	0	0	0	3274
Non-Fiction	121	0	0	60	49	76	84	63	118	0	0	0	571
DVDs	77	0	0	60	64	127	168	150	129	0	0	0	775
<b>TOTAL 2013</b>	<b>541</b>	<b>0</b>	<b>0</b>	<b>336</b>	<b>400</b>	<b>808</b>	<b>978</b>	<b>822</b>	<b>735</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4620</b>
Books Circ 2012	377	461	508	454	325	691	900	795	511	544	465	286	6317
<b>TOTAL 2013</b>	<b>1385</b>	<b>0</b>	<b>0</b>	<b>912</b>	<b>938</b>	<b>1585</b>	<b>1992</b>	<b>1842</b>	<b>1576</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10230</b>
Total Circ. 2012	955	1040	976	1015	935	1333	2066	1739	1276	1242	1070	871	14518
<b>ATTENDANCE 2013</b>	<b>656</b>	<b>575</b>	<b>675</b>	<b>718</b>	<b>756</b>	<b>1418</b>	<b>2160</b>	<b>1586</b>	<b>1131</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9675</b>
Attendance 2012	843	810	802	878	847	1223	1618	1256	734	1135	979	705	11830
<b>PROGRAMS 2013</b>	<b>8</b>	<b>6</b>	<b>9</b>	<b>10</b>	<b>8</b>	<b>14</b>	<b>20</b>	<b>13</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>101</b>
Programs 2012	11	15	13	10	10	12	15	12	10	9	11	8	136
<b>PROG. ATTEND 2013</b>	<b>65</b>	<b>74</b>	<b>95</b>	<b>112</b>	<b>67</b>	<b>21</b>	<b>582</b>	<b>199</b>	<b>134</b>				<b>1349</b>
Prog. Attend 2012	104	164	111	129	76	236	487	320	100	127	124	78	2056
Computer Classes	0	0	0	0	1	0	0	0	0	0	0	0	1
Class Attendance	0	0	0	0	1	0	0	0	0	0	0	0	1
<b>INTERNET USE 2013</b>	<b>200</b>	<b>162</b>	<b>207</b>	<b>201</b>	<b>172</b>	<b>333</b>	<b>510</b>	<b>414</b>	<b>335</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2534</b>
Internet use 2012	368	314	373	300	309	499	549	511	267	277	314	225	4306
<b>LIBRARY CARDS 2013</b>	<b>6</b>	<b>9</b>	<b>8</b>	<b>7</b>	<b>7</b>	<b>26</b>	<b>52</b>	<b>32</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>171</b>
Library cards 2012	20	11	7	22	14	25	22	22	8	7	15	12	185
<b>Volunteer Hours</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>6.50</b>	<b>0.00</b>	<b>9.00</b>	<b>5.50</b>	<b>9.00</b>	<b>4.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>34</b>

  <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Cape Charles Police Department		<b>AGENDA DATE</b> <b>OCTOBER 17,2013</b>
	<b>SUBJECT/PROPOSAL/REQUEST: SEPTEMBER 2013</b> Monthly Law Enforcement Statistic		<b>ITEM NUMBER</b>
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action ( ) Information ( X )
	<b>STAFF CONTACT (s):</b> Charles Brown Chief of Police	<b>REVIEWED BY:</b> Heather Arcos Town Manager	

The following information is the monthly statistics regarding law enforcement activities for the Cape Charles Police Department.

Calls for Service in Cape Charles: 30

Calls for Service Outside of Cape Charles: 12

10-13 Calls

(A) By Dispatch: 31

(B) By Phone via Officer/Trooper: 04

(C) In Person 07

Felony Arrests: 03

Misdemeanor Arrests: 04

DUI Arrests: 00

Traffic Summons Issued: 15

Traffic Warnings Issued: 03

Parking Tickets Issued: 06

Assisted Northampton County Sheriff's Office: 10

Assisted Virginia State Police: 01

Assisted Other Local Police:

Assisted Other Federal Agencies

Assisted Fire & Rescue: 09

Assisted VDOT:

Hours of Training Received & What Type? 160 HRS BASIC TRAINING

# Public Utilities

## Monthly Report September 2013



### Production Summary

- Miss Utility Tickets: 13
- Emergency Call Outs After Hours and Weekends:
  - Number of times called out: 9
  - Total Man Hours: 10.5
- Sludge: 4 Tons
- Water: Total Production: 3,400,000 gallons
  - High: 191,000 on September 2
  - Low: 76,000 on September 25

Average	Raw Water	Finished Water
Hardness	421.6	140.4
Iron	8.2	.018
Manganese	.513	.008

All Data in PPM

- Waste Water:
  - Average Flow Data not available until 10<sup>th</sup> of Month
  - Maximum Data not available until 10<sup>th</sup> of Month
  - Total for Month Data not available until 10<sup>th</sup> of Month

### Personnel

- Water
  - Ron Bailey Operator Class 3 water
  - Scottie Neville Operator in Training
  - Gerald Elliott Maintenance
- Waste Water
  - Patrick Christman Operator in Charge, Class 2
  - Freddie Meditz Operator Class 3, Lab Manager
  - Dan Dabinett Operator Class 3, Maintenance
  - Billy Powell Maintenance Supervisor

### Completed Projects

- We submitted the Aquifer Test Report for the Keck Wells to the DEQ for review.

## Public Utilities

### In Progress

- Replacement of aging water meters.
- Plans have been drawn for the expansion on the backwash vault and the cost is being estimated.

### Upcoming Projects

- An automatic flush valve will be installed in Heron Point to introduce water into that vacuum sewer system to increase the flow through the pump station in an effort to reduce the septic odors created when sewage water resides in the system for extended periods of time. Met with reps from Baymark on design and location.

### Capital Projects

- Water:
  - Emergency Generator for Water Plant           \$45k
    - No Action.
    - Advertising and Request for Bids; November 2013
    - Contractor and Bid approval by council; December
    - Install; December-January
  - Engineering for Keck Wells                         \$60k
    - VDH Grant award notification October-November
    - Execute GDH Task Order No.2 to begin engineering
    - Submit Engineering to VDH for approval February 2014
    - Evaluate the construction timeline for connection of Wells during the FY 15 budget preparation.
- Waste Water
  - Engineering for pump station improvements \$30k
    - An Evaluation of the pump stations was done under Task Order WW-4.
    - Pump Station PER Draft created under T.O. WW-7
    - Create new Task Order with GHD to finalize PER
    - Submit PER to DEQ; January 2014
    - Create Construction Documents; pending DEQ approval January-March
    - FY 15 budget to include construction of the Plum Street Pump Station

# PUBLIC WORKS

## September 2013

### Dump Fees

- Oyster Landfill: 19 Trips, 8.56 Tons @ cost of \$556.4

### Personnel

- Peter Leontieff, Foreman
- Maintenance Workers: Mike Mulner, Paul Yates, Willie Lyons

### Routine Monthly Responsibilities

- Water meter reading - Assist the Utilities Department Staff
- Maintenance of town vehicles and equipment.
- Maintenance, cleaning, and landscaping for outdoor public areas, including public beach, Central Park, Fishing Pier, Harbor and downtown commercial district. (Slowing Down)
- Maintenance, cleaning, and landscaping of all public facilities, including the town hall, library, water and wastewater, public works, and old library.
- Maintain streets and alleys in the historic district; including debris pickups/work orders.
- Assistance with preparation for events being held in town.
- Mowing of Town properties outside of Old Town area. (Slowing Down)

### Completed Projects

- Fishing pier & beach access broken boards repaired
- The Town Lot at the Northeast corner of Fig and Randolph was cleaned up.
- 2 Mason ave lights repaired
- 1 Central Park light ballast repaired
- Skate park repainted

### In Progress

- Drop inlets at the intersection of Plum and Madison are being repaired and cleaned out.
- Installation of sand fence on the beach.
- Central Park electrical work on installation of new timer for the light poles, and new outlets,
- Reviewing inventories on Christmas lights; in order to purchase new to decorate the park and public areas.
- Sidewalk project is wrapping up with punch list items on curbs in various sections of town.

## Upcoming Events

- Fall Festival/Birding Festival

## Man Hours per Project/Task

Vehicle Maint.	Equipment Maint.	Building Maint.	Public Debris Areas	Street Cleaning	Beach Maint.	Public Sanitation	Public facilities cleaning	Admin. training	Property maint. & repair	Events	Meter Reads
27.5	7.5	39	87.5	57.5	18	29	28	35.5	121	5	11.5

## Capital Projects

- Central Park Restrooms, contractor in progress with framing of the bathroom.
- Multi-Use Trail - design and engineering underway; construction estimated to begin in April 2014.
- Former Library building; Leon Parham is assisting us on the design of the ramp, bathroom in an effort to keep the historical integrity of the building intact.

## October 2013 Council Report

### Recreation Department

#### **Programs and Events**

1. New Roots Youth Garden Fall Garden Club – 30 children showed up for the first fall garden session. The kids spend time in the garden planting fall crops, learning about gardening and doing a Get Fit Activity. The Fall Club will run every Thursday through November 14 from 4:00 – 5:00 p.m. New Roots Youth Garden has also started its Fall Fundraiser. This year they will be selling Mocha Pecan Pie and Sweet Potato Cheesecake Pie. Please contact Jen if she can help you with your order.
2. Chess Club continues to meet every Thursday with a steady number of participants. The Club accommodates the more advanced players as well as beginners.
3. Arts and crafts meet every Thursday from 4:00 – 4:30 p.m. The kids will be working on Halloween crafts the month of October.

#### **Projects**

1. Jen is reaching out to all boards and organizations to start putting together a 2014 event schedule. Please send your event name, location, contact number, date, time and website information to Jen.

#### **Upcoming Events**

October 25 – Kids Halloween movie in the park – Hocus Pocus

October 26 – Trunk or Treating  
Haunted Harbor

 <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Cape Charles Community Trail – Phase 2		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Update based on 90% design status.		<b>ITEM NUMBER:</b> 7A
	<b>ATTACHMENTS:</b>		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<b>STAFF CONTACT (s):</b> Bob Panek	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

Council adopted the Cape Charles Master Trail Plan on September 11, 2007. This multi-use trail is being constructed in phases as funding is available. Eighty percent of the cost is funded by Federal grants authorized under the Transportation Enhancement Act for the 21<sup>st</sup> Century (TEA-21), now succeeded by the Transportation Alternatives Program, and twenty percent by local funds. To date, the Town has been awarded \$2.3M in grant funding. Of that, about \$1M was utilized for the Master Plan and for design, engineering and construction of Phase 1 in Central Park. About \$1,389K remains available for Phase 2 – North Peach St. and Washington Ave.

**DISCUSSION:**

Our consulting firm, Land Studio, PC, submitted the 60% design documentation to VDOT on May 17, 2013. They subsequently addressed all VDOT review comments on August 1, 2013. VDOT has not rejected any major design elements; thus, the overall layout is as previously presented (available in the Town Hall).

Council approved a change order to the Land Studio contract for test holes to locate 26 utility components along Peach Street and Washington Avenue. This has been completed and they are incorporating the information into the design documents.

Land Studio has also made VDOT aware of the beach erosion at the northern terminus of the concrete boardwalk where Phase 2 will connect. They are incorporating an extension of the existing rock revetment over the storm drain outfall into the design documents.

The project cost estimate of \$1.4M will be updated when these design changes are completed.

The current schedule anticipates: 100% design/Bid Documents in November, VDOT approval in January 2014, Bidding in February, contract award in March, and construction start in April.

**RECOMMENDATION:**

Provided for information only.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Our Town Project		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Update on NEA “Our Town” project.		<b>ITEM NUMBER:</b> 7B
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<b>STAFF CONTACT (s):</b> Bob Panek	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

Arts Enter Cape Charles was awarded a \$50,000 “Our Town” grant from the National Endowment for the Arts (NEA) for an arts-focused creative place-making project that contributes toward the livability of the community. This \$175,000 two year project will plan a network of public spaces, enlivened by the performing and visual arts, to foster citizen engagement, enhance commerce, and build an identity for Cape Charles as an arts and cultural destination, by leveraging the existing plans for Central Park, the Community Trail and the Town Harbor. Arts Enter, the Town of Cape Charles, Citizens for Central Park (CCP) and the Cape Charles Business Association (CCBA) are the major stakeholders. Approximately \$48,000 of in-kind effort by the stakeholders is included in the project. Council has approved a cash match of \$25,000, principally for the planning efforts.

The original budget of \$175,000 was based on receiving a \$75,000 NEA grant. The \$25,000 grant shortfall has been made up by obtaining a total of \$15,000 in additional grants (Virginia Tourism Commission and Virginia Commission for the Arts), supported by \$11,450 of cash matches. Arts Enter and the Cape Charles B&B Association spearheaded this effort.

**DISCUSSION:**

Tourism Website and Marketing. \$26,450 has been allocated for implementation of a tourism website and a marketing campaign. The website, [www.capecharlesbythebay.com](http://www.capecharlesbythebay.com), is operational and the print and social media marketing campaign is in place, including advertisements in the next issue of the Virginia and Eastern Shore tourism guides. A plan is being developed to sustain the website and marketing campaign, and to transition this from the Our Town Project to another organization.

Planning. A \$22,000 contract amendment was executed with Land Studio for the “Arts Walk” planning efforts. A steering committee of residents, business owners and CCBA has worked with the consultants to formulate proposals to link existing performance spaces and create additional spaces. The proposals were reviewed at an October 2 public meeting and included:

1. A way finding system with a signature arts piece and Town map at several locations.
2. Improvements in the business district; Strawberry Street and south side of Mason Avenue, including reuse of the former grocery store property.
3. Art displays around the trail in Central Park; trail along Peach Street to remain the primary connection between the Park and business district.
4. Development of a beach front performance venue.

The steering committee will prioritize the proposals and the recommendations will be presented to Council and, if approved, reflected as a modification to the Cape Charles Master Trail Plan.

Events. Just under half of the NEA grant funds have been utilized to support events during the first year of the project. Upcoming events include the Fall Festival and the Lighted Boat Parade & Grand Illumination of Central Park. Arts Enter has reviewed the very successful Harbor for the Arts Festival and will likely plan next summer’s festival over a longer period with events concentrated around weekends.

**RECOMMENDATION:**

Provided for information only.

 <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Harbor District Zoning Ordinance Modification		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Determine whether to approve or disapprove the proposed modifications		<b>ITEM NUMBER:</b> 7C
	<b>ATTACHMENTS:</b> Draft Modified Section 3.9 Harbor District		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Rob Testerman	<b>REVIEWED BY:</b>	

### **BACKGROUND:**

As the Council is aware, for some time, the Planning Commission has been working on modifications to the Harbor District to add in language that would regulate density of development in the district. The Planning Commission recommends the use of the Floor Area Ratio (FAR) to accomplish this. Incorporating FAR into the district will limit the density of future development in the Harbor District, preventing any hugely dense, out of character development.

The FAR is the relationship of the total developed square feet to the total square feet of the parcel. This means that a one acre parcel fully covered by a one acre, one floor building has a FAR of 1. If the building only covered half of the property then the FAR would be .5.

As it was reported at the September meeting, the attached draft modified ordinance contains the following changes:

1. Section 3.9(B) was added to define the “Mainstreet Mixed Use Area”, as well as defining the Floor Area Ratio standards for the Harbor District. The Mainstreet Mixed-Use area will have a maximum FAR of 1.25. Other areas in the district will have a maximum FAR of 1.5. Section 3.9(B) also states that parking at levels other than ground level will count as floor space.
2. In Section 3.9(E) 1 the block lengths on the south side of Mason Avenue are proposed to be regulated. The block lengths shall be equal to those on the north side and the viewsheds shall be maintained. These two items are not in the current ordinance.
3. Section 3.9(E) 2 states that the maximum height of buildings in the Mainstreet Mixed Use Area shall be 40 feet, and that in other parts of the district, buildings over 40 feet, and equal to or less than 55 feet will require a conditional use permit.
4. Section 3.9(E) 2 added that no building shall have the same continuous elevation for a distance of more than 80 linear feet.

Also as mentioned last month, the “Cape Harbor” project that was approved at the harbor would have likely yielded a FAR around 2.5 or higher after calculating the floor area of the underground parking that was proposed for the development.

### **DISCUSSION**

At the September Town Council meeting, it was mentioned that proposed maximum Floor Area Ratio’s for the Harbor District may be too low. For comparison, I have looked at the existing commercial district on the north side of Mason Avenue to determine the approximate FAR of this area. When looked at as a whole, the district has a FAR of approximately 1.1, however looking at individual buildings shows a wide range of FAR’s, ranging from approximately 0.3 to 4.0.

Council also inquired about the possibility of extending the roads to give access to the Harbor without having to drive over the hump. As mentioned, I do not believe there is language that could be put into the ordinance that would require a developer to install a new road. Additionally, I feel that with the proposed ordinance modifications keeping the viewsheds intact, that it will create a valuable pedestrian friendly area that would be better served to not have roads extending through it. However, should Council feel that something such as a road connecting to the Harbor area would be necessary, that could be something to look at in future Conditional Use Permit applications.

As a reminder, Council can approve these modifications as written, or approve the ordinance with changes that would make the ordinance **less** restrictive than what was advertised for the public hearing (i.e. increasing the maximum FAR would make it less restrictive). Should Council wish to make it **more** restrictive (i.e. changing current by-right uses to uses requiring a Conditional Use Permit would make it more restrictive), the ordinance would have to go to a new public hearing by both Planning Commission and Council.

**RECOMMENDATION:**

Staff recommends that Town Council discuss the proposed modifications, after the discussion move to either approve or disapprove the proposed modifications to Section 3.9 Harbor District, of the Cape Charles Zoning Ordinance.

**Town of Cape Charles**

**ARTICLE III**

**District Regulations**

**Section 3.9 Harbor District (revised 01-08-09)**

A. Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.

B. Mainstreet Mixed Use Area; Floor Area Ratio.

1. The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 300 feet from the south side of Mason Avenue, is defined as the "Mainstreet Mixed Use Area."

2. The Mainstreet Mixed Use Area shall use the Floor Area Ratio (FAR) to measure the density of permitted and conditional development. For each lot, the FAR is calculated as the ratio of the gross floor area of all structures and improvements on the lot to the lot area in square feet. For purposes of this Article III, "floor area" shall also include parking areas other than uncovered ground level parking areas. The maximum FAR for the Mainstreet Mixed Use Area shall be 1.25.

C. The maximum FAR for the balance of the Harbor District shall be 1.50. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III.

D. Permitted Uses. The following uses are permitted by right:

1. Accessory uses customarily associated and clearly incidental and subordinate to a principal use.
2. Food service related uses of the following types:
  - a. Bakeries, confectionaries, delicatessens, and catering services

- b. Cafes and coffee shops
  - c. Delicatessens
  - d. Eating and drinking establishments
  - e. Ice cream parlors
  - f. Restaurants
3. Marine related uses of the following types:
- a. Bait and tackle shops
  - b. Boat rentals
  - c. Marinas, docks and wharves if contiguous to harbor
  - d. Sail and canvas making and repair
  - e. Ship stores and chandleries
4. Office and institutional uses of the following types:
- a. Business studios
  - b. Civic and government facilities
  - c. Educational facilities
  - d. Financial institutions
  - e. Medical clinics
  - f. Medical, dental and other laboratories
  - g. Offices
  - h. Office supply stores
  - i. Real estate sales and rentals
5. Recreational, cultural, and entertainment uses of the following types:
- a. Art galleries and art studios
  - b. Athletic clubs
  - c. Conference centers
  - d. Health and fitness facilities
  - e. Libraries and galleries
  - f. Museums and cultural centers
  - g. Outdoor recreational uses
  - h. Parks
6. Retail goods establishments of the following types with 2,500 square feet or less of gross floor area:
- a. Antique shops
  - b. Bookstores, new and used
  - c. Camera shops
  - d. Candy stores
  - e. Clothing stores
  - f. Dry goods stores
  - g. Florists, gift shops, card shops, and stationery shops
  - h. Grocery stores
  - i. Music stores
  - j. Newsstands
  - k. Tobacco stores
  - l. Upholstering shops and fabric stores

- m. Video stores
  - n. Watch and jewelry stores
7. Retail service establishments of the following types with 2,500 square feet or less of gross floor area:
- a. Beauty and barbershops
  - b. Bicycle, moped, and street legal golf cart sales and rentals
  - c. Blueprinting shops
  - d. Dressmaking, tailoring, millinery, dry cleaning
8. Public Utility Facility
- E. Conditional Uses. The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance:
1. Marine related uses of the following types:
- a. Boat and marine engine repair shops
  - b. Boatels
  - c. Marine and sports equipment consignment stores
2. Markets of the following types:
- a. Crafts markets
  - b. Farmers' markets
  - c. Watermen's markets
3. Recreational, cultural, and entertainment uses of the following types:
- a. Assembly halls
  - b. Auditoriums
  - c. Commercial recreational uses
  - d. Entertainment establishments
  - e. Theaters
4. Retail goods establishments of the following types with more than 2,500 square feet of gross floor area:
- a. Antique shops
  - b. Bookstores, new and used
  - c. Camera shops
  - d. Candy stores
  - e. Clothing stores
  - f. Dry goods stores
  - g. Florists, gift shops, card shops, and stationery shops
  - h. Grocery stores
  - i. Music stores
  - j. Newsstands
  - k. Tobacco stores
  - l. Upholstering shops and fabric stores
  - m. Video stores
  - n. Watch and jewelry stores

5. Retail service establishments of the following types with more than 2,500 square feet of gross floor area:
    - a. Beauty and barbershops
    - b. Bicycle moped, and golf cart sales and rentals
    - c. Blueprinting shops
    - d. Dressmaking, tailoring, millinery, dry cleaning
  6. Single-family and multi-family dwellings provided the following requirements are met:
    - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first level is not permitted.
    - b. Dwelling units shall occupy no more than 50 percent of the first floor of any building.
    - c. The first floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.
  7. Other miscellaneous uses of the following types:
    - a. Bed and breakfasts and tourist homes, provided the following requirements are met:
      - (1.) The owner and family must occupy the residence. The owner and his/her appointed agent is responsible for supervising guests.
      - (2.) The single-family dwelling appearance must be maintained.
      - (3.) Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off street parking areas.
      - (4.) A sign no larger than four square feet shall be permitted.
      - (5.) The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council.
      - (6.) The dwelling must meet all of the requirements of Section 3.9.E.D.6.
    - b. Child care and child care education centers
    - c. Hotels and motels
    - d. Laundromats
    - e. Liquor and package stores
    - f. Off-site parking
  8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which is determined to be compatible with the intent of the District.
- F. Lot and Height Requirements. Within the Harbor District, the following standards shall apply:
1. Minimum lot requirements

lot area ..... 11,200 square feet  
lot frontage ..... 80 feet  
lot depth ..... 140 feet

block length.....all blocks in the Mainstreet Mixed Use Area shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor shall be maintained.

2. Height

- a. Measurement criteria. For the purpose of the Harbor District, height means the vertical distance measured from the crown of the nearest street to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. When the crown of the nearest street has an elevation greater than three feet above the adjacent ground elevation of the building, the adjacent ground elevation shall be used in place of the crown of the nearest street when measuring height. Note: Mechanical equipment, chimneys, air conditioning units, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions. However, these exclusive items may not exceed the height limit by more than fifteen feet.
- b. Maximum permitted height. No building or structure shall exceed 40 feet in height in the Mainstreet Mixed Use Area. No building shall have the same continuous elevation for a distance of more than 80 linear feet. ~~Unless a conditional use permit is obtained.~~ Building heights greater than 40 feet and equal to or less than 55 feet may also be permitted in other parts of the Harbor District, subject to securing a conditional use permit as provided for in this ordinance. When reviewing a conditional use permit application for the height of a building in the Harbor District, the following criteria shall be met:
  - (1.) On each block, the average height of all buildings greater than 40 feet and equal to or less than 55 feet in height shall not exceed 45 feet. For the purpose of this section, a block is defined as the property fronting on one side of a right-of-way or waterway, and lying between two intersecting rights-of-way or otherwise limited by a waterway or other physical barrier of such nature as to interrupt the continuity of development.
  - (2.) The application shall adhere to policies established in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

3. Setback Regulations.

- a. Mason Avenue setback requirement. No building or structure shall be located within 8 feet of the Mason Avenue VDOT right-of-way.
  - b. Waterfront setback requirement. No building or structure shall be located within 30 feet of the Cape Charles Harbor or within 30 feet of a Resource Protection Area [not part of an Intensely Developed Area \(IDA\)](#). This requirement shall not preclude any other applicable regulations, including but not limited to those associated Chesapeake Bay Preservation Areas. The following shall be exempt from the waterfront setback requirement when permitted by all other applicable regulations:
    - (1.) Water-dependent facilities as defined by Zoning Ordinance Section 7.3.
    - (2.) Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.
- G. Required open space. Open space shall be provided equivalent to 25 percent of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by pedestrians and open to the public. Such open space amenities shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from street level. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.
- H. Utilities. All utilities shall be installed underground.
- I. Harbor Development Certificate required. No zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued. Submission of a Harbor Development Certificate Application and approval by the Town Council shall be required to obtain a Harbor Development Certificate.
1. Content of Harbor Development Certificate Application. The Harbor Development Certificate Application shall consist of the General Application and the Detailed Application.
    - a. General Application. The General Application shall include the following items:
      - (1.) An application on forms provided by the Zoning Administrator.
      - (2.) A fee established by the Town Council.
      - (3.) A letter of application stating in general terms the proposed use of the property, the effect of the changes on the surrounding area, and the reason for the request.
      - (4.) A plot plan in accordance with the Site Plan Ordinance.

- b. Detailed Application. The contents of the Detailed Application may be delineated on the plot plan required for the General Application, or provided in separate maps, elevations, or written document as appropriate. The Detailed Application shall indicate the following:
    - (1.) Location, amount, character and continuity of open space.
    - (2.) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, including elevations demonstrating protection of views from existing streets, and a statement of how such will be accomplished.
    - (3.) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets.
    - (4.) Separation of pedestrian and vehicular traffic.
    - (5.) Landscape plans delineating dimensions and distances and the location, type, size, and description of all existing and proposed plant materials.
    - (6.) Location and dimensions of on-site signage.
    - (7.) Conceptual renderings of building exteriors.
    - (8.) Such other matters as are appropriate to determinations in the specific case. Other information may be requested by the Zoning Administrator, the Harbor Area Review Board, or Town Council.
2. Review procedure.
- a. Pre-application meeting. Prior to application submission, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a pre-application meeting. The purpose of the meeting shall be to discuss the general goals of the project and application procedures.
  - b. General Application. Following the pre-application meeting, the applicant shall submit a General Application. The contents of the General Application are detailed in Section 3.9.1.a.
  - c. Post-application meeting. Within 30 days of receipt of the complete General Application, the Zoning Administrator and the Harbor Area Review Board shall meet in a post-application meeting. The purpose of the meeting shall be to discuss the content of the General Application and to formulate recommendations for the applicant.
  - d. First review meeting. Within 30 days of the post application meeting, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a first review meeting. The purpose of the meeting shall be to provide the applicant with the Harbor Area Review Board's recommendations and to provide notice to proceed with the Detailed Application.
  - e. Town Council summary. Following the first review meeting, the Harbor Area Review Board will present the Town Council with the General

Application and a general description of discussion held at the first review meeting. The Town Council summary will be provided at a Town Council regular session or a Town Council work session for informational purposes.

- f. Detailed Application. Following the first review meeting, the applicant shall submit a Detailed Application. The contents of the Detailed Application are provided in Section 3.9.GH.1.b.
  - g. Zoning Administrator action. Following the Zoning Administrator's receipt of the Detailed Application and his determination that it is complete pursuant to Section 3.9.GH.1.b, the Zoning Administrator shall prepare a thorough review and analysis of the Harbor Development Certificate Application and a written staff report. The Zoning Administrator's written report shall be forwarded to the Harbor Area Review Board within 45 days of receipt of the Detailed Application.
  - h. Second review meeting. After receipt of the Detailed Application, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a second review meeting. The purpose of the meeting shall be to review the Harbor Development Certificate Application, consisting of the General Application and the Detailed Application, and provide the applicant with any necessary recommendations. Follow up meetings may be scheduled to further review the application or to review modifications to the application.
  - i. Harbor Area Review Board action. After the second review meeting, the Harbor Area Review Board shall forward its recommendation to approve, deny, or approve subject to modification, to the Town Council along with written findings of fact supporting its recommendation.
  - j. Town Council action. After receipt of the Harbor Area Review Board's recommendations and findings, the Town Council shall decide to approve, deny, or approve subject to modification.
  - k. Concurrent review permitted. Other development applications, including application for any necessary Certificate of Appropriateness, may be submitted concurrently with an application for a Harbor Development Certificate.
3. Criteria for review. In reviewing the Harbor Development Certificate Application, the Zoning Administrator, the Harbor Area Review Board, and the Town Council shall consider the following criteria:
- a. Use characteristics of the proposed development.
  - b. Preservation of historic structures; preservation of significant features of existing buildings when such buildings are to be renovated; relation to nearby historic structures or districts including a need for height limits.

- c. Location and adequacy of off-street parking and loading provisions, including the desirability of bicycle parking.
  - d. Vehicular circulation within the development and its relation to other existing and proposed transportation facilities.
  - e. Inclusion of alleys to enhance vehicular transportation within the development.
  - f. Provision of concealed commercial loading and unloading areas adjacent to alleys to prevent loading, unloading, and trash collection along public rights of way.
  - g. Traffic generation characteristics of the proposed development in relation to street capacity.
  - h. Provision of open space to meet the requirements of the district; the location, design, landscaping and other significant characteristics of this public open space, and its relation to existing and planned public and private open space.
  - i. Multi-modal transportation facilities within the proposed development and their relation to public open space and pedestrian circulation patterns.
  - j. Architectural relationships, both formal and functional, of the proposed development to surrounding buildings, including building siting, massing, proportion, and scale.
  - k. Use of architectural details, storefront design, window openings, roof shapes, porches, and columns to balance the proportions of facades into pleasant and cohesive compositions.
  - l. Microclimate effects of proposed development, including effects on wind velocities, sun reflectance, and sun access to streets and/or existing buildings and/or public open space.
  - m. Protection of significant views and view corridors, particularly views of the Cape Charles Harbor from existing road intersections.
  - n. Relationship of on-site lighting and landscaping to other surrounding lighting and landscaping designs both public and private.
  - o. Relationship of on-site signage to architectural elements of the proposed development and relationships to nearby development.
  - p. Adherence to policies included in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.
  - q. Adherence to the intent and requirements of the Harbor District.
4. Other requirements. Issuance of a Harbor Development Certificate shall not exempt a property owner from obtaining other necessary zoning clearances and building permits as required.

J. Exemption.

Railroad activities in this district are subject to federal preemption to the extent that the activities are an integral part of the railroad's interstate operations. 49 U.S.C. 10501 (b). Therefore, "state and local permitting or pre-clearance requirements [such as building permits, zoning clearances, and site plan requirements] which, by their nature, interfere with interstate commerce by

giving the [Town of Cape Charles] the ability to delay or deny the [railroad's] right to construct facilities or conduct operations are preempted." *Borough of Riverdale v. New York Susquehanna & Western Railway Corporation*, Surface Transportation Board, Docket No. FD 33466 0, September 9, 1999.

However, environmental and other public health and safety issues and "activities and facilities not integrally related to the provision of rail service are not subject to [Surface Transportation Board] jurisdiction or subject to federal preemption." *Id.* Also, "interstate railroads ... are not exempt from certain local fire, health, safety and construction regulations and inspections." *Id.*

4810-4397-4933, v. 1

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Waste Collection Services Contract Award		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Award contract for Waste Collection and Disposal Services		<b>ITEM NUMBER:</b> 7D
	<b>ATTACHMENTS:</b>		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Dave Fauber, Director Public Works/Utilities	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The Request for Proposal for Waste Collection and Disposal Services closed on August 30, 2013. One responsive bidder was received by Davis Disposal Co., Inc., Mr. Michael W. Davis of Craddockville, VA.

Davis Disposal Co., Inc. is the current service provider with a contract expiration of October 31, 2013.

**DISCUSSION:**

The one responsive bidder was Davis Disposal Co., Inc.; the request for proposal required the contractor to provide/supply the following:

**Residential Accounts:** Contractor shall collect a maximum of 120 gallons at each account. A 96 gallon container to be provided by the Town may be supplemented with bagged garbage not to exceed two (2) bags. Pick up of residential accounts will be once per week.

**Commercial/Food Service Accounts:** Contractor shall service commercial dumpsters of a size and at a specified frequency. Contractor shall provide two, four, six or eight cubic yard commercial dumpsters to locations mutually agreed upon by the Contractor and the Town and shall dispose of waste in the dumpsters once, twice or three times per week as mutually agreed.

**Recycling Services – Bid Alternative:** The Contractor provided a cost to provide recycling services, options for curbside and or a central recycling center.

Davis Disposal bid included the following terms:

- The residential account reflects an increase of .18 cents effective November 1, 2013. The monthly cost for pick up will be \$12.75 per account. The current cost for pick up is \$12.57 effective July 1, 2013.

The increase of \$1,584 in the Sanitation Fund for the remaining budget year ending June 30, 2014; will be covered in our positive fund balance. The proposal provides the cost for service based on the options to extend up to three years. The cost would increase to \$13.50 for years 2 and 3; and on \$13.85 on the last year.

- The food service accounts will continue to be billed per business according to container size and dumping frequency.

- Recycling curbside pickup would be \$5.00 per household or businesses per month with an every other week pick up. The service would be based on the same number of residential accounts.

The acceptable items would be paper and cardboard products. Plastics marked with #1 or #2. Any electronics with cords removed and no larger than 20 pounds (CRT/tube type television) and glass is not accepted at this time.

- The contract shall be for one year with the option of three annual extensions.

The proposal is valid for a period of one hundred twenty (120) days from the date of submission, August 30, 2013.

**RECOMMENDATION:**

Staff requests authorization for the Town Manager to execute the contract with Davis Disposal Co., Inc. for waste collection and disposal services effective November 1, 2013 through August 31, 2014.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Notice of an Appeal of the Certificate of Appropriateness		<b>AGENDA DATE:</b> October 17 , 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Reject the notice of Appeal submitted by Old School Cape Charles (OSCC)		<b>ITEM NUMBER:</b> 8A
	<b>ATTACHMENTS:</b> Letter dated September 19, 2013, and Sections 8.15 and 8.34 of zoning ordinance		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<b>STAFF CONTACT (s):</b> Heather Arcos/Rob Testerman	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

Old School Cape Charles (OSCC) filed a “Notice of Appeal of the Certificate of Appropriateness for School Project” dated September 18, 2013 to the Town Council on September 19, 2013.

Per Section 8.34 of the zoning ordinance – “An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved by said decision, which shall be taken within thirty (30) days after the decision appealed by filing with the Administrator a notice of appeal specifying the grounds thereof.

If a proper appeal was filed, a decision would have to be made within sixty (60) days.

**DISCUSSION:**

The Zoning Administrator as well as Town Manager reviewed the notice of an appeal and will reject the appeal unless otherwise directed by Council based on the following facts:

- OSCC reasons for appeal are not grounds for an appeal. Per the OSCC letter. 1) The approval of the 5 items reviewed by the board did fulfill the requirements. 2) The Department of Historic Resources approval process is not in the purview of the Historic Review Board. 3) The board reviewed similar work, discussed and approved.
- The appeal is procedurally deficient as its Notice of Appeal, directed to the Town Council, OSCC cites Section 8.15 of the Zoning Ordinance as grounds for its Notice. Specifically, OSCC cites the language “the decision of the Historic Review Board may be appealed to the Town Council.” However, Section 8.34 of the Zoning Ordinance further explains the steps to give notice of an appeal. An appeal must be filed with the Zoning Administrator, but OSCC filed the appeal to the Town Clerk. The appeal is addressed to the Town Council.
- OSCC is a Virginia limited Liability Company, not a landowner.
- OSCC does not own the school. The Virginia State Code section 15.2-2306 (A)(3) defines an “aggrieved party” and OSCC must own property within or in close proximity to the subject property, serving to establish a “direct, immediate, pecuniary, and substantial interest in the decision.”

- OSCC must demonstrate a “particularized harm to some person or property, right, legal or equitable, or imposition of a burden or obligation upon the petitioner different from the suffered by the public generally.”

OSCC does not meet the requirement to challenge a decision by the Historic Review Board. OSCC does not own land at all. Further, OSCC does not have contractual rights or financial obligations with regards to the school building. Therefore, OSCC fails to attain the “aggrieved party” status.

In the appeal OSCC states three points, none of which are related to a property right, burden or obligation. OSCC is not accurate in its allegations, did not follow the proper procedure to initiate an appeal and does not have standing as an aggrieved party to bring an appeal before the Town Council.

**RECOMMENDATION:**

The Staff recommendation is to reject the appeal for the reasons set for above. Unless the Council overrides the Staff recommendation the next step would be to respond to OSCC in writing explaining the rejection of the appeal.

Old School Cape Charles, LLC  
548 Monroe Avenue  
Cape Charles, VA 23310

September 18, 2013

Dear Town Council:

**Notice of Appeal of Certificate of Appropriateness for School Project**

Old School Cape Charles is aggrieved by the provision of a Certificate of Appropriateness to Charon Ventures for the school project by Town Planner Robert Testerman. Our group provided the attached letter that enumerated our concerns to the Historic District Review Board prior to the meeting. Those concerns were not considered by the Board.

Old School Cape Charles maintains that a Certificate of Appropriateness should not have been provided for the following reasons:

- 1) The Historic District Review Board did not give a blanket approval of the project. The Board only approved the five items listed in the developer's application. The developer does not have authority to determine criteria for a Certificate of Appropriateness, but it effectively was given that authority, as it chose which items to request to be approved. The approval of those requested items does not fulfill the requirements for a Certificate of Appropriateness.
- 2) Town Manager Heather Arcos incorrectly informed Town Council that the Virginia Department of Historic Resources had approved the developer's application for tax credits. That was not true then and remains untrue today.
- 3) There are many deficiencies in the developer's application that have not been addressed. For example, the Historic District Review Board requested to see the full-scale mockup of the roofline, which the developer is required to provide to the Virginia DHR. The mockup has not been provided, and other requirements also have not been met by the developer.

The Town Zoning Ordinance states:

Section 8.15: . . . the decisions of the Zoning Administrator may be appealed to the Historic District Review Board, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

This letter formally introduces our appeal of the Certificate of Appropriateness for this project.

Sincerely,



Wayne Creed  
President, Old School Cape Charles, LLC

Attachment:  
August 20, 2013 letter to Historic District Review Board

RECEIVED SEP 19 2013  
Hand delivered by  
Frank Wendell  
12:08pm  
L.H.

August 20, 2013

Prior to the Cape Charles Historic District Review Board meeting on Tuesday, August 20, 2013 Old School Cape Charles presented its concerns to the Board. Those concerns were not raised at the meeting at which the Board approved the five items listed in the developer's application.

We are providing these comments to Town Council with our appeal. As citizens and residents of Cape Charles we are aggrieved by the provision of the Certificate of Appropriateness for this project without consideration of these concerns.

TO THE HISTORIC DISTRICT REVIEW BOARD:

Old School Cape Charles is committed to the common good of our town. One of our town's most valuable assets is Central Park, which until recently included the Old School, the basketball court, and the playground parking lot.

In order for an historic property to receive tax credits it must adhere to the **Secretary of the Interior's Standards for Rehabilitation**, ([Click to read](#)) including the following:

**A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.**

Converting our historic Old School, playground parking, and basketball court into an apartment house and private parking lot is a far cry from creating minimal change to the building and its use.

**The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The developer wants to call the side of the building the front, even though there will be no front door. Not only will the historic character of the building be lost, but the developer hopes to attract vacationers to rent the apartments. Town Council's giveaway of a park resource thereby becomes competition to vacation and other rental property owners.

**Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.**

Turning our historic Old School into an apartment house in no way recognizes its record in time, place, or use.

**Changes to a property that have acquired historic significance in their own right will be retained and preserved.**

Changes to our town's Old School site will be gone – the basketball courts, the auditorium, the school library, the offices in the building -- all created at taxpayer expense.

**New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.**

The reason Mr. McCormack was adamant that his site plans for the Old School not be considered by the Historic Review Board is because he knows the plans do not meet the Secretary of the Interior's Standards.

Town Planner Testerman has recommended that you grant a Certificate of Appropriateness to this developer who worked secretly with our town staff to take our school without the knowledge or consent of the majority of town residents. But you have the right and the ability to think for yourselves. There is no reason to approve this project at this time. Richmond has not approved it, and the sale and rezoning have been appealed to the Virginia Supreme Court. There should be no haste, since the project will not begin any time soon. The developer has stated that he does not have funding for the project and will not have it until the litigation is settled.

We hope that you will agree that this project is not in in accord with the Secretary of the Interior's Standards. We ask you to delay any decision until the courts and the Virginia Department of Historic Resources have spoken.

For the Historic District Review Board to make a decision while the state Department of Historic Resources is still deliberating is possibly unprecedented. Of course, Town Manager Heather Arcos reported to Town Council months ago that the Department of Historic Resources had approved the developer's application. That statement was not true then and it remains untrue today.

Old School Cape Charles implores you to wait until the developer supplies the drawings and mockup required by the state. Then you will be in a better position to make an informed decision.

Sincerely,

Old School Cape Charles, LLC

### **Section 8.14 Historic District Review Board; Powers and Duties**

The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district: In addition, the Board shall have the following duties:

- A. To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies, and property owners in matters involving historically significant sites at buildings or other properties in historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.
- B. To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
- C. To conduct studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts and means of preservation, utilization, improvement, and maintenance of historic assets in the Town.
- D. To propose additional historic districts or additions or deletions to districts.
- E. To adopt standards for review to supplement the standards set forth in this Ordinance.
- F. To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- G. To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites, or areas within the Town.

### **Section 8.15 Summary of Administration Review Procedures**

In general it is the purpose of this ordinance to establish review procedures for actions affecting properties in the Historic District which will be relatively simple with minimum delay for those actions which will have little if any permanent effect on the character of the historic district or on a significant structure but to require a more thorough review for actions which may have a substantial effect on the character of the district or on a significant structure. To this end, some actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Zoning Administrator or by the Historic District Review Board acting with original jurisdiction, or, in the most serious cases, action by the Town Council following action by the Historic District Review Board. In all cases the decisions of the Zoning Administrator may be appealed to the Historic District Review Board, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final

decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

**Section 8.16 Certain Minor Actions Exempted from Review by the Historic District Review Board**

Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

- A. Repainting the structure in the same color or a very similar color or painting the structure with those colors specified in the design guidelines. (Original painting of masonry surfaces is not exempted from review.)
- B. Replacement of missing or broken window panes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.
- C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or other existing wall openings (if no building permit is required for such addition or deletion).
- D. Addition or deletion of television and radio antennas or skylights and solar collectors in locations not visible from a public street or a waterway.
- E. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, small fountains, ponds and the like, which will not substantially affect the character of the property and its surroundings.
- F. If consistent with the design guidelines, erection of any sign permitted in a residential district and any permitted non-illuminated flat or wall sign not exceeding three inches from a wall and not exceeding four square feet in area in a commercial or industrial district.
- G. Construction of off-street loading areas and off-street parking areas containing five spaces or less in a commercial or industrial district.
- H. Creation of outside storage having a structure footprint of less than forty-one (41) square feet in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.

**Section 8.17 Certain Actions Recommended in Design Guidelines Exempted from Review by the Historic District Review Board; Delegation of Authority**

- A. The Historic District Review Board, or the Zoning Administrator upon receiving a grant of any authority pursuant to this section from the Historic District Review

Failure of negotiations within this period shall be the equivalent of a denial of the application by the Historic District Review Board or, on appeal, by the Town Council.

**Section 8.33 Conditions Imposed by the Historic District Review Board**

In approval of any proposal under this section, the Historic District Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require, including but not limited to, the specifications enumerated for conditional uses and for the Town Council.

**Section 8.34 Appeals; Decisions of the Historic District Review Board**

An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved by said decision, which shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Town Council all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within 60 days. At the hearing the appealing party may appear in person or by agent. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Historic District Review Board.

**Section 8.35 Appeals; Decisions of the Zoning Administrator**

An appeal from a decision of the Zoning Administrator may be taken to the Historic District Review Board by the owner of the property in question or by any party aggrieved by said decision, which shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Historic District Review Board all the papers constituting the record upon which the action appealed from was taken. The Historic District Review Board shall fix a reasonable time for the meeting, give public notice thereof as required pursuant to §15.2-2204; Code of Virginia, and decide the same within 60 days. At the meeting the party may appear in person or by agent. In exercising its powers, the Historic District Review Board may reverse or affirm, wholly or partly, or may modify, any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made.

**Section 8.36 Appeal to the Circuit Court from a Decision of the Town Council**

An appeal from a final decision of the Town Council may be filed with the Circuit Court within 30 days after said decision in the manner prescribed by law by the owner of the property in question or by the Historic District Review Board or by any party aggrieved by said decision or by any party who recorded an appearance at the hearing before the Town Council. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building, or structure. The court may reverse or modify the decision



TOWN OF  
CAPE CHARLES

**AGENDA TITLE:** Fuel Services Contract Extension / Name  
Change of Provider

**AGENDA DATE:**  
October 17, 2013

**SUBJECT/PROPOSAL/REQUEST:** Extension of Fuel Services  
Contract with Pep-Up, Inc.

**ITEM NUMBER:**  
8B

**ATTACHMENTS:** Extension Letter to Pep-Up, Inc.

**FOR COUNCIL:**  
Action (X)  
Information ( )

**STAFF CONTACT (s):**  
Heather Arcos

**REVIEWED BY:**  
Heather Arcos, Town Manager

### **BACKGROUND:**

On November 8, 2010, the Town of Cape Charles awarded a contract effective December 1, 2010 to Bagwell Gas & Oil for all fuel services for the Town. The contract was for one year with the option to renew for three additional years. In November 2013, the Town awarded the second of three possible contract extensions.

### **DISCUSSION:**

The current contract expires at midnight on November 30, 2013 and the Town wishes to exercise the right to renew at current fuel prices with no increase for another year. We are very satisfied with the services provided by Bagwell Gas & Oil.

In August 2013, the Town received notification that Bagwell Gas & Oil had merged into Pep-Up, Inc., a full service petroleum distributor serving a territory from the Chesapeake Bay Bridge at Annapolis to Kiptopeke, including all of Accomack and Northampton Counties. Pep-Up is operating out of the same offices as Bagwell Gas & Oil in Belle Haven and Onancock and has retained all the former employees, including Marty Kemp as the general manager

### **RECOMMENDATION:**

Staff requests Council authorize the Town Manager to execute a one-year contract extension with Pep-Up, Inc. to provide fuel services to the Town.

October 4, 2013

Mr. Martin N. Kemp  
General Manager  
Pep Up, Inc.  
P O Box 527  
Onancock, VA 23417

Dear Mr. Kemp:

Reference is made to the contract between the Town of Cape Charles and Bagwell Oil Company dated November 18, 2010. Referring to IFB # 10-26-10, "Instructions to Bidders," Item # 3, the Town of Cape Charles requests the third renewal of subject contract being effective December 1, 2013, and expiring midnight November 30, 2014.

The Town of Cape Charles requests that all prices and procedures remain the same as stated below:

<b>Regular Unleaded</b>	<b>\$0.12</b>	
<b>Super Unleaded</b>	<b>\$0.12</b>	<b>If non-ethanol is discontinued.</b>
<b>Plus Unleaded</b>	<b>\$0.43</b>	<b>(Non-Ethanol)</b>
<b>Diesel</b>	<b>\$0.12</b>	
<b>Transport Diesel</b>	<b>\$0.12</b>	
<b>Propane</b>	<b>\$0.40</b>	

By signing and returning the attached Acknowledgement indicates that your company agrees to the extension with the prices reflected above. Also, please forward to this office an updated Certificate of Liability of Insurance.

Thanking you in advance for your consideration of this request. Please contact me should you have any questions.

Sincerely,

Heather Arcos  
Town Manager

  <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Virginia Local Disability Program Opt-Out Resolution		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST</b> Adopt Resolution 20131017 to Opt Out of the Virginia Local Disability Program		<b>ITEM NUMBER:</b> 8C
	<b>ATTACHMENTS:</b> Resolution 20131017 & VLDP At-a-glance Document		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Kimberly Coates	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The 2012 Virginia State General Assembly created the Virginia Local Disability Program (VLDP) through Virginia Retirement System for political subdivision and school division employees who will be covered under the VRS Hybrid Retirement Plan effective January 1, 2014. VLDP provides short-term and long-term disability coverage to employees. Coverage for employees is automatic under VLDP unless a governing body elects to opt out and provide a comparable employer-paid program. Employers must opt out by November 1, 2013 and the election to opt out of VLDP is irrevocable. Any employee who is hired for the first time in a covered position, with no VRS creditable service, on or after January 1, 2014 will be enrolled in the new mandatory hybrid retirement plan through Virginia Retirement System. Current members in Plan 1 and Plan 2 may elect to transfer to the hybrid retirement plan during an opt-in period between January 1, 2014 and April 30, 2014. This will be an irrevocable election.

**DISCUSSION:**

Staff has been researching the option of staying with the Virginia Local Disability Program which is administered by the Virginia Retirement System (VRS). VLDP currently has the highest rates of all available programs and offers the shortest rate guarantee period of only 6 months. Once you opt-in with VLDP, you must remain in the program even if the rates increase in the future.

Example:

**VRS Rates \$0.91 per \$100 covered payroll/mo (rate guarantee 6 months & permanently locked into program)**

\$25,000 salary = \$2,083/mo divide by \$100 = \$20.83 x \$0.91 = \$18.95 per month rate

\$50,000 salary = \$4,166/mo divide by \$100 = \$41.66 x \$0.91 = \$37.91 per month rate

**VMLIP Option 1 \$2.49 per employee/mo STD & \$0.49 per \$100 payroll/mo for LTD (rate guarantee 24 months)**

\$25,000 salary = \$2,083/mo divide by \$100 = \$20.83 x \$0.49 = \$10.21 + 2.49 = \$12.70 per month rate

\$50,000 salary = \$4,166/mo divide by \$100 = \$41.66 x \$0.49 = \$20.41 + 2.49 = \$22.90 per month rate

Many localities are opting to participate in alternate programs through the Virginia Municipal League or other companies. These options allow localities the flexibility of moving between plans in the future and all offer lower rates and longer rate guarantees than VLDP. Town of Cape Charles currently offers short term disability to all full-time employees with another company. VML Insurance Programs (VMLIP) offers a significantly lower rate if we switch all eligible employees to their Option 1 program. Switching all staff to this program would lower our monthly bills and add more benefits offered to staff. At this time, staff feels that the VML Insurance Programs Option 1 is the best option for the Town.

**RECOMMENDATION:**

Staff recommends Council adopt Resolution 20131017 – Irrevocable Election Not to Participate in Virginia Local Disability Program. Staff requests approval from Town Council to move forward with enrolling in VML Insurance Programs Option 1 for all eligible employees.

**RESOLUTION 20131017**

**Irrevocable Election Not to Participate in Virginia Local Disability Program**

WHEREAS, by enacting Chapter 11.1 of Title 51.1 of the *Code of Virginia*, the Virginia General Assembly has established the Virginia Local Disability Program ("VLDP") for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code § 51.1-169; and

WHEREAS, for purposes of VLDP administration, an employer with VLDP-eligible employees may make an irrevocable election on or before September 1, 2013 (or November 1, 2013 if employer requested an extension), requesting that its eligible employees not participate in VLDP as of the VLDP effective date of January 1, 2014, because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meets or exceeds the coverage set out in Chapter 11.1 of Title 51.1 of the *Code of Virginia*, with the exception of long term care coverage, by January 1, 2014; and

WHEREAS, it is the intent of the Town of Cape Charles, VRS member number 5-5379, to make this irrevocable election to request that its eligible employees not participate in VLDP;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town of Cape Charles, irrevocably elects not to participate in VLDP because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees; and it is further

RESOLVED that, as an integral part of making this irrevocable election, the Town of Cape Charles certifies that it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

Adopted in Cape Charles, Virginia this 17<sup>th</sup> day of October, 2013.

BY:

	Mayor
	Title
Authorized Signature	

ATTEST:

\_\_\_\_\_  
Town Clerk

# Virginia Local Disability Program

For Political Subdivisions and Schools

Effective January 1, 2014

## At-a-glance



The 2012 General Assembly created the Virginia Local Disability Program for political subdivision and school division employees who will be covered under the VRS Hybrid Retirement Plan effective January 1, 2014. The Hybrid Retirement Plan will apply to most new employees

hired on or after January 1, 2014 and current employees who opt to switch to the plan.

For detailed program information, view the VLDP Employer Manual at [www.varetire.org/ermanuals](http://www.varetire.org/ermanuals).

<b>Eligibility</b>	This program applies to political subdivision and school employees covered by the VRS Hybrid Retirement Plan that do not submit an opt-out resolution to VRS. Coverage is automatic. VLDP-covered employees are not eligible for VRS Disability Retirement.
<b>Exemptions</b>	Hazardous duty employees covered under enhanced benefits are exempt from the Hybrid Retirement Plan and will continue to be covered under VRS Disability Retirement.
<b>Rates</b>	Rates beginning January 1, 2014 through June 30, 2014: Teachers: 0.39 percent of Hybrid Retirement Plan covered payroll Political Subdivisions: 0.91 percent of Hybrid Retirement Plan covered payroll Schools will pay the teacher rate for teachers and the political subdivision rate for non-administrative employees. New rates will be set each biennium.
<b>Opting Out</b>	Coverage for your employees is automatic under VLDP unless your governing body elects to opt out and provide a comparable employer-paid program. The comparable program does not require you to provide long-term care coverage even though this coverage is included in VLDP. To opt-out, return the VLDP opt-out resolution to VRS by September 1, 2013 (Attn: Susan Keith, P.O. Box 2500, Richmond, VA 23218-2500). The election to opt out of VLDP is irrevocable. Schools that decide to opt out will submit one resolution for all employees (teachers and non-administrative employees).
<b>Program Features</b>	VLDP provides income protection if an employee can't work because of a non-work related or work-related illness, injury or other condition, such as surgery, pregnancy, complications from pregnancy or a catastrophic or major chronic condition. It includes both short-term and long-term disability coverage. The program focuses on assisting employees with their recovery and helping them make a safe return to their full work duties, if possible. Program details are available in the VLDP Employer Manual at <a href="http://www.varetire.org/ermanuals">www.varetire.org/ermanuals</a> .

  <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Friends of the Cape Charles Memorial Library Proclamation		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Proclamation recognizing the Friends of the Cape Charles Memorial Library during National Friends of Libraries week		<b>ITEM NUMBER:</b> 8D
	<b>ATTACHMENTS:</b> Proclamation 20131017		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Heather Arcos	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

October 20-26, 2013 is the eighth annual National Friends of Libraries Week.

**DISCUSSION:**

This is an opportunity to recognize and celebrate the Friends of the Cape Charles Memorial Library for their continued help and support through programs and services to the Library and to the community. The Friends group formed in 2003 and has since then offered support through sponsoring, promoting and funding the Cape Charles Memorial Library.

**RECOMMENDATION:**

Staff recommends Council review and approve Proclamation 20131017 to recognize the Friends of the Cape Charles Memorial Library during National Friends of Libraries Week.

# Town of Cape Charles Proclamation 20131017

**Recognizing the Friends of the Cape Charles Memorial Library  
during National Friends of Libraries Week October 20-26, 2013**

**WHEREAS**, Friends of the Cape Charles Memorial Library raise money that enables our library to move from good to great -- providing the resources for additional programming, much needed equipment, support for children's summer reading, and special events throughout the year;

**WHEREAS**, the work of the Friends highlights on an on-going basis the fact that our library is the cornerstone of the community providing opportunities for all to engage in the joy of life-long learning and connect with the thoughts and ideas of others from ages past to the present;

**WHEREAS**, the Friends understand the critical importance of well funded libraries and advocate to ensure that our library gets the resources it needs to provide a wide variety of services to all ages including access to print and electronic materials, along with expert assistance in research, readers' advisory, and children's services;

**WHEREAS**, the Friends' gift of their time and commitment to the library sets an example for all in how volunteerism leads to positive civic engagement and the betterment of our community;

**NOW, THEREFORE, BE IT RESOLVED THAT** I, Dora Sullivan, Mayor of the Town of Cape Charles, proclaim October 20-26, 2013, as Friends of Libraries Week in Cape Charles, Virginia and urge everyone to join the Friends of the Cape Charles Memorial Library and thank them for all they do to make our library and community so much better.

In witness whereof, I have hereunto set  
my hand and caused the official seal of the  
Town of Cape Charles to be affixed this  
17<sup>th</sup> day of October, 2013.

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Mayor Dora Sullivan

ATTEST:

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Town Clerk

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Cape Charles Fishing Pier Repairs		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Replacement of the section of the fishing pier damaged in Hurricane Sandy.		<b>ITEM NUMBER:</b> 8E
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Dave Fauber	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The old section of the fishing pier was constructed in 1993. It is approximately 600 feet long and is 4' wide between the rails. Four scenic overlook platforms are located approximately every 100 feet along its length. The newest section extension was constructed in 2006.

The 2009 November Nor'easter damaged the old section of the pier and the town received funding from FEMA (Federal Emergency Management Agency) to perform repairs and mitigation to the pier. The mitigation funds were used to add new structural supports to the offset portions of the pier. In 2012, the old section of the pier was damaged again during Hurricane Sandy and was closed to the Public until the structure was repaired, inspected, and deemed safe. On December 6, 2012; representatives from FEMA and VDEM (Virginia Department Emergency Management) inspected the damage and declared the pier would qualify for a Public Assistance Grant.

The old section of the pier was considered as a separate project from the new portion, since anything more than 50% damage qualifies for complete replacement of the old section. The damage portion of the old section exceeds this threshold. FEMA recommended the Town hire a structural engineer to inspect the damages and provide recommendations.

**DISCUSSION:**

At this time, FEMA has determined the available funding will not replace or repair a damaged structure except in the same footprint as the original. The next step is to remove the temporary repairs of this section and replace with the new permanent section in the same location. FEMA has allocated \$288,300 and the Town matches of \$21,700 for a total estimated project of \$310,000 and is included in the FY 14 budget.

We plan pending approval by the Town Council to start on project in order to be open before May of 2014. The pier will be closed for a period of time.

**RECOMMENDATION:**

Staff recommends authorizing the Town Manger to move forward to design and put out to bid in order to make our spring deadline for reopening the pier.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Schedule Public Hearing for Ordinance to Approve Joint Powers Association Agreement for VML Insurance Programs/VLGIA		<b>AGENDA DATE:</b> October 17, 2013
	<b>SUBJECT/PROPOSAL/REQUEST</b> Public Hearing for Ordinance to approve Joint Powers Association Agreement related to VMLIP Option 1 Disability Insurance Needed to Comply with General Assembly requirements		<b>ITEM NUMBER:</b> 8F
	<b>ATTACHMENTS:</b> Ordinance 20131017A, Memorandum from VML Insurance Programs & Virginia Local Government Insurance Association Joint Powers Agreement		<b>FOR COUNCIL:</b> Action        ( X ) Information (   )
	<b>STAFF CONTACT (s):</b> Kimberly Coates	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

VML Insurance Programs (VMLIP) has developed, through Lincoln Financial Group, a disability program as an alternative to the state’s Virginia Local Disability Program (VLDP). To allow non VMLIP members to take advantage of this offering, a joint powers association has been created that Town of Cape Charles must join to obtain these coverages and services. The name of the association is the Virginia Local Government Insurance Association (VLGIA). Virginia statute (15.2-1300) requires that counties, cities and towns must approve the JPA agreement by ordinance rather than by resolution.

**DISCUSSION:**

Staff researched the options of going with Virginia Retirement System’s Virginia Local Disability Program or opting out to go with a comparable plan. VML Insurance Programs (VMLIP) offers a significantly lower rate if we switch all eligible employees to their Option 1 program. At this time, staff feels that the VML Insurance Programs Option 1 is the best option for the Town. To move forward with coverage to be effective by December 31, 2013, staff recommends for Town Council to schedule a public hearing to discuss the Form of Ordinance Approving Joint Powers Association Agreement.

**RECOMMENDATION:**

Staff recommends setting a Public Hearing on November 21, 2013 for the Joint Powers Association Agreement.

## MEMORANDUM

To: Key Officials, Virginia Local Political Subdivisions

From: Steve Craig, Managing Director, VML Insurance Programs

Re: Joining VLGIA

VML Insurance Programs (VMLIP) has developed, through Lincoln Financial Group, a disability program of as an alternative to the state's Virginia Local Disability Program (VLDP). To allow non VMLIP members to take advantage of this offering, a joint powers association has been created that your entity must join to obtain these coverages and services. The name of the association is the Virginia Local Government Insurance Association (VLGIA).

Attached are materials including the Joint Powers Agreement, Bylaws and sample Ordinance/Resolution. Virginia statute (15.2-1300) requires that counties, cities and towns must approve the JPA agreement by ordinance rather than by resolution. Schools and authorities may do so by resolution. Samples of both documents are enclosed.

To obtain these coverages through VLGIA, your entity must join by December 31, 2014. There is currently no budget for the association nor any dues contemplated. VMLIP may receive compensation from a carrier for billing or other administrative services it provides.

If you have questions about these documents please contact me at (804) 273-0038.

**Form of Ordinance 20131017A**  
**Approving Joint Powers Association Agreement**

**WHEREAS**, Virginia political subdivisions are authorized by law to provide group life insurance, accident and health insurance and other employee benefits programs for their officers and employees; and

**WHEREAS**, Virginia Code §15.2-1300 provides that any power, privilege or authority exercised, or capable of being exercised by a political subdivision in the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, except where express statutory procedure is otherwise provided for the joint enterprise; and

**WHEREAS**, said Code section authorizes two or more political subdivisions to enter into agreements with one another for such joint action and to appropriate funds and sell, lease, give or otherwise supply such property, personnel or services therefore as legally empowered to furnish; and

**WHEREAS**, the Virginia Public Procurement Act (the “Procurement Act”) exempts from its competitive sealed bidding and competitive negotiation requirements (the “Requirements”) the joint procurement by public bodies, utilizing competitive principles, of insurance purchased through member associations under the conditions set forth in the Procurement Act; and

**WHEREAS**, members of Virginia Local Government Insurance Association (the “Association”) are Virginia political subdivisions who have executed the Joint Powers Association Agreement, a copy of which is attached to and made part of this Resolution (the “Joint Powers Agreement”); and

**WHEREAS**, members of the Association may procure insurance through the Association; and

**WHEREAS**, insurance products purchased through the Association are more cost effective than those purchased through alternative means; and

**WHEREAS**, the procurement of insurance should be effectuated as provided in the Joint Powers Association Agreement, in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and

**WHEREAS**, it appearing to the Town Council of Town of Cape Charles that the procurement of insurance pursuant to the Joint Powers Agreement is otherwise in the best interests of Town of Cape Charles

**NOW, THEREFORE, BE IT HEREBY ORDAINED** that:

(1) Competitive sealed bidding and competitive negotiation for the procurement of insurance are not fiscally advantageous to the public because of the administrative and economic advantages of procuring such insurance through the Association.

(2) The procurement of insurance pursuant to the Joint Powers Agreement is hereby approved.

(3) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of Town of Cape Charles are hereby authorized and approved.

(4) The Town Manager is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of Town of Cape Charles in substantially the form presented to this meeting.

(5) The payment obligations of Town of Cape Charles pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefor by the Town Council.

(6) This Ordinance shall take effect immediately upon its adoption or passage.

\*\*\*\*\*

Adopted by the Town Council of Cape Charles on November 21, 2013

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

**VIRGINIA LOCAL GOVERNMENT INSURANCE ASSOCIATION**  
**JOINT POWERS AGREEMENT**

**THIS AGREEMENT**, made and entered into as of the 1st day of August, 2013, by and between local governments and other political subdivisions of the Commonwealth of Virginia which are signatories hereto, hereinafter collectively referred to as “the Political Subdivisions” or “Members”, and VML Insurance Programs, hereinafter referred to as “the Administrator”; and

**WHEREAS**, the Political Subdivisions are each authorized by law to provide group life insurance, accident and health insurance and other employee benefits programs for their officers and employees; and

**WHEREAS**, Virginia Code §15.2-1300 provides that any power, privilege or authority exercised, or capable of being exercised by a political subdivision in the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, except where express statutory procedure is otherwise provided for the joint enterprise; and

**WHEREAS**, said Code section authorizes two or more political subdivisions to enter into agreements with one another for such joint action and to appropriate funds and sell, lease, give or otherwise supply such property, personnel or services therefore as legally empowered to furnish; and

**WHEREAS**, the Political Subdivisions, pursuant to the authority granted in Code sections 15.2-1300, *et seq.* or such similar authority as may from time to time be authorized under the Code, desire to enter into a joint powers agreement and associate as members hereunder for the purposes, among other things, of promoting the interest and welfare of the members and developing a closer relation among them; and

**WHEREAS**, the Virginia Public Procurement Act (the “Procurement Act”) exempts from its competitive sealed bidding and competitive negotiation requirements (the “Requirements”) the procurement by public bodies, utilizing competitive principles, of insurance purchased through member associations under the conditions set forth in the Procurement Act;

**WHEREAS**, the Political Subdivisions now seek to exercise jointly, and continue to exercise jointly, their respective powers and authority to procure employee benefit programs by use of competitive principles, including, without limitation, accident and health, medical, dental

and vision care, either by insurance or by service providers, and in pursuance thereof to enter into the purpose set forth.

**NOW, THEREFORE,** in consideration of the premises and the undertakings hereinafter stated, each of the Political Subdivisions agrees one with the others as follows:

1. **Name.** The undertakings of the Political Subdivisions hereunder shall be named and designated as the Virginia Local Government Insurance Association (hereinafter “the Association”).

2. **Term of the Agreement.** This Agreement shall be effective for the period commencing on the date set forth above (with each Member to adopt the Agreement on or after such commencement date) and shall terminate upon the earlier of (a) a unanimous vote of all the remaining Members providing for such termination or (b) when the membership has decreased to one Member. Upon such termination, any property owned by the Association (or the proceeds from the sale of such property) shall be distributed to each remaining Member in accordance with the Association’s bylaws, as such bylaws may be amended from time to time by the Board governing the Association (the “Bylaws”).

3. **Purpose of the Agreement.** The Members enter into this Agreement for the purpose of acting jointly to promote the interest and welfare of, and develop close relationships with, similar public bodies, and from time to time, to procure from qualified insurers and other providers by use of competitive principles, such employee benefits as designated by Members for its or their officials and employees, active or retired, including, without limitation, group life insurance, health and accident insurance, hospitalization, medical, dental and vision care insurance and other professional services, collectively “the Employee Benefits”. The Political Subdivisions acknowledge that certain benefits may be derived from their purchase through the Association. Each Member agrees, subject, however, to annual appropriation to pay its per capita share of the budget or the membership fees as hereinafter set forth.

4. **Governance.**

(a) **The Board.** The Association shall be governed by a Board (the “Board”) which shall have power to decide all matters relating to the Association’s activities and operations. The Board shall consist of all members of the Members’ Supervisory Board of VML Insurance Programs. Any changes in the

membership of such Members' Supervisory Board shall be automatically reflected in the membership of the Association Board.

(b) Meetings of the Board. The Board shall meet at such times and places as shall be designated in the Bylaws.

(c) Officers of the Board; Powers and Duties of Officers. The Board shall have such officers as provided in the Bylaws and with such powers as prescribed therein.

(d) Quorum for the Board. A majority of board members shall constitute a quorum for any Board meeting.

(e) Actions by the Board. All matters for action by the Board may be adopted upon the affirmative vote of Board members voting at a meeting where a quorum is present, or otherwise as may be specified in this Agreement or in the Bylaws.

(f) Bylaws. The initial Bylaws are set forth in Schedule A to this Agreement. The Bylaws may be amended upon the affirmative vote of two-thirds of all the Board members or upon the affirmative vote of two-thirds of all the Members. In the event that the Bylaws contradict any provision of this Agreement, this Agreement shall control.

5. **Purchase of Insurance Products.** The purchase of at least one insurance product through the Association is a requirement for Association membership. Individual Political Subdivisions are responsible for payment of their share of all premiums directly to insurers, reinsurers, third party administrators and other providers of service for insurance coverage. Political Subdivisions agree to pay premiums to the carrier in a timely manner. Members agree that the Board may authorize VML Insurance Programs or its designee to perform billing and other administrative functions for insurance products purchased through the Association.

6. **Other Benefit Programs and/or Services.** The Board may vote to explore additional purchasing opportunities for new benefit programs and/or services at any time.

7. **Budget of the Association.** The Board shall establish a budget for the Association with funding by the Members based upon a per capita share of the budget or, if applicable and approved by the Board, a minimum membership fee. Such per capita shares and minimum fees shall be assessed, if at all, on an annual basis.

8. **New Members.** In addition to the initial Political Subdivisions, other political subdivisions may apply to join the Association and membership shall be subject to the approval of the Board. Acceptance of such conditions and adoption of this Agreement is dependent upon the appropriate action of such applicant's governing body by resolution or ordinance. Notwithstanding the foregoing, the Board empowers the Administrator to accept new members to the Association based on any additional criteria, if any, it may prescribe.

9. **Termination or Withdrawal From Membership.** A Political Subdivision may terminate participation in any employee benefit program or other product of the Association in which the Political Subdivision is a participant upon notice delivered to the Board. After 30 days' written notice to the Member, the Board may terminate the membership of any Member who fails to pay its membership fees, comply with the Bylaws, this Agreement, or other rules and regulations for Members, as established from time to time by the Board. Should any member fail to pay premiums owed to any insurer, reinsurer, third party administrator or other provider of service, membership may be terminated without notice.

10. **Administrator.**

- (a) The Board may, in its discretion, engage and appoint an Administrator for the Association. Except as may be limited in this Agreement or by the Board, the Administrator shall have full authority to act on behalf of the Members in connection with the undertakings specified herein, and to issue requests for proposals and receive such proposals as authorized by the Board and to take such other actions as may be deemed necessary or convenient in connection therewith.
- (b) The Administrator is authorized and empowered on behalf of the Members to comply with the applicable provisions of the Virginia Procurement Act for and on behalf of the Members to the extent such joint action is not inconsistent with Virginia law.

- (c) The Administrator shall be entitled to receive for its services hereunder such compensation as shall be mutually agreed by the Board and the Administrator. The Administrator's reasonable expenses incurred in connection with its services hereunder shall also be reimbursed by the Association.
- (d) The Administrator shall obtain and maintain insurance against dishonest or infidelity of any officers, employees or agents of the Administrator acting within the scope of its or their authority in such amount as shall be reasonably required by the Board in relation to the monies which are in its custody.
- (e) The Members agree that VML Insurance Programs, or its successor in interest, shall serve as the Administrator of the Association. The Board may, in its discretion, remove VML Insurance Programs, or its successor in interest as the Administrator, and appoint and engage an alternative Administrator for the Association.

11. **Exculpatory Provisions.** The Administrator shall not be liable to the Political Subdivisions except for acts or omissions constituting gross negligence and willful misconduct.

12. **Indemnification.** None of the parties hereto shall be liable for any separate independent duty or obligation of any other Political Subdivisions hereunder and each agrees to indemnify the others for any claim, loss or damage and expense therefore as shall be sustained by such others, including reasonable attorney's fees, arising out of or the result of such separate independent duty or obligation of the indemnifying Political Subdivision.

13. **Execution of Multiple Originals.** This Agreement may be executed by the Administrator and by one or more of the Political Subdivisions in the multiple original copies and, when so executed, deemed to be the agreement of, and shall be binding on, all such signatories.

In Witness Whereof, the Administrator and the Political Subdivisions have each caused this Agreement to be executed for and on its behalf, by its duly authorized officer pursuant to ordinance if a member county, city or town, or resolution if another political subdivision, effective as of the date first above written.

VML INSURANCE PROGRAMS

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

MEMBER

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_