TOWN COUNCIL
Public Hearing

February 10, 2011
St. Charles Parish Hall
6:00 PM

1. Call to Order at 6:00 PM

    A. Roll Call
    B. Establish quorum

2. Public Hearing Comments:

    A. Conditional Rezoning Application for a portion of the Mack Building located at Strawberry Street and Randolph Avenue

    B. Proposed modifications to the Cape Charles Town Code – Water and Sewer Ordinances

3. Adjournment

TOWN COUNCIL
Regular Meeting

February 10, 2011
St. Charles Parish Hall
Immediately Following the Public Hearing

1. Call to Order
   A. Roll Call
   B. Establish quorum

2. Invocation and Pledge of Allegiance

3. Public Comments (3 minutes per speaker)

4. Consent Agenda
   A. Approval of Agenda Format
   B. Approval of Minutes

5. Report Presentations
   A. Town Manager
   B. Treasurer's Report
   C. Recreation Report
   D. Library Report
   E. Harbor Report
   F. Public Works/Public Utilities Report
   G. Code Enforcement
   H. Planning Report

6. Old Business
   *A. Zoning Ordinance Modification – Wind Energy Ordinance
   *B. Rezoning Request – Strawberry Street & Randolph Avenue (Mack Building)
   *C. Mason Avenue Forcemains & Pump Station Upgrade Contract Award
   *D. Town Code Updates – Water and Sewer Ordinances

7. New Business
   *A. Water and Sewer Facility Fees
   B. Cape Charles Volunteer Fire Company Presentation – Nick Braatz, President
   *C. Harbor Rates
   *D. Harbor Rules & Regulations Update

8. Announcements
   - February 21, 2011 – Town Offices Closed for President's Day
   - February 24, 2011 – Town Council Work Session
   - March 10, 2011 – Town Council Regular Meeting
   - March 31, 2011 – Town Council Work Session – Budget

9. Adjourn at 8:00 P.M.

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TOWN COUNCIL & PLANNING COMMISSION

Joint Public Hearing

Town Hall
December 7, 2010
6:00 p.m.

At 6:03 p.m. Chairman Bruce Brinkley, having established a quorum, called to order the Public Hearing of the Planning Commission. In addition to Chairman Brinkley, present were Commissioners Malcolm Hayward, Dennis McCoy, Joan Natali and Mike Strub. Commissioners Ben Lewis and Roger Munz were not in attendance.

Mayor Dora Sullivan, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Sullivan and Veber and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were also five (5) members of the public in attendance.

Chairman Brinkley announced the evening's public hearing was to hear public comment regarding the Conditional Use Permit applications for residential over commercial at 207 Mason Avenue and a home occupation at 546 Madison Avenue.

PUBLIC COMMENTS:
There were no public comments to be heard and no written comments were submitted prior to the hearing.

Motion made by Dennis McCoy, seconded by Joan Natali, to close the Planning Commission Public Hearing. The motion was approved by unanimous consent.

Motion made by Chris Bannon, seconded by Mike Sullivan, to close the Town Council Public Hearing. The motion was approved by unanimous consent.

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Mayor Sullivan

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Chairman Brinkley

_____
Town Clerk

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TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
January 13, 2011
6:00 p.m.

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Sullivan and Veber and Councilwoman Natali. Councilmen Bennett and Evans were not in attendance. Also in attendance were Town Manager Heather Arcos, Consultant Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume. The Department Heads were also in attendance along with 10 members of the public.

Mayor Sullivan offered the invocation and led the Pledge of Allegiance.

PUBLIC COMMENTS:

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

CONSENT AGENDA:

Mayor Sullivan stated that she would like to add under New Business, Item #7H – Appointment of Code, Fire and Maintenance Official and added that she would like to move Item #7A – Community Rating System Presentation by the Department of Conservation and Recreation prior to the Report Presentations since the DCR representative was from out of Town. Moving this item up in the agenda would enable him to leave the meeting earlier.

Motion made by Councilman Sullivan, seconded by Vice Mayor Bannon, to approve the agenda as amended. The motion was approved by unanimous consent.

The Town Council reviewed the minutes of the December 9, 2010 Public Hearing, the December 9, 2010 Regular Meeting, and the January 6, 2011 Work Session.

Councilwoman Natali noted that in the December 9, 2010 Regular Meeting minutes, the motion regarding the Proration of Personal Property Tax (Old Business Item A), there was a typographical error regarding the Ordinance number which should show 20101209.

Councilman Bennett emailed Heather Arcos with two changes to the December 9, 2010 Regular Meeting minutes. i) Under New Business Item C – Cape Charles Trail Project Agreement Amendment, Councilman Bennett asked that Heather Arcos' statement regarding revisiting the priorities for future phases be added to the minutes. ii) Under New Business Item D – Rental of Billboard, Councilman Bennett asked that language in the second paragraph be revised to reflect that not one sale had been made in the Bay Creek Resort Community because of a billboard.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to approve the minutes for the December 9, 2010 Public Hearing, the December 9, 2010 Regular Meeting, and the January 6, 2011 Work Session as amended. The motion was approved by unanimous consent.

NEW BUSINESS:

A. *Community Rating System Presentation by the Department of Conservation and Recreation:*
Mr. Richard Sobota from the Department of Homeland Security and the Federal Emergency Management Agency (FEMA) congratulated the Town of Cape Charles for its leadership, hard work and accomplishments on behalf of its citizens in achieving the distinction of a Class 9 rating on FEMA's Community Rating System effective May 1, 2010. There were 285 communities in the Commonwealth of Virginia participating in FEMA's National Flood Insurance Program (NFIP) but only 19 of those communities have achieved this rating. Cape Charles residents would now receive a premium discount on their NFIP flood insurance policies which amounts to approximately $53 annually per policy.

REPORT PRESENTATIONS:

A. *Town Manager's Report:*
Town Manager Heather Arcos reported the following: i) Councilman Bruce Evans was appointed by Circuit Court Judge Tyler to fill the vacancy on the Town Council. We are currently awaiting notification regarding the date of the special election; ii) The work on the fishing pier repairs have been completed by J. A. Habel Corporation; and iii) Jeb Brady recently celebrated 5 years as an employee of the Town.

Mayor Sullivan added that she had been in contact with a veterinarian from Virginia Beach who was interested in coming to Cape Charles once each month to provide services for pet owners in Cape Charles and Northampton County. The veterinarian would set up in the Cape Charles Fire Hall and a portion of her fee would be donated to the fire company.

B. *Treasurer's Report:*
The Treasurer's report dated December 31, 2010 showed $2,719,954 in the Bank of America checking account and $910,096 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of $3,630,051. Treasurer JoAnna Leatherwood stated that she had no additions to her written report and the Council did not have any questions for her.

Motion made by Councilwoman Natali, seconded by Councilman Veber, to accept the Treasurer's Report as presented. The motion was approved by unanimous consent.

C. *Recreation Report:*
Community Events/Recreational Coordinator Jen Lewis reported that the Recreation Department had received a popcorn machine from an anonymous donor, in honor of Mayor Sullivan and Vice Mayor Bannon. The popcorn machine would be used at various events.

D. *Library Report:*
Librarian Ann Rutledge reported that the Cape Charles Memorial Library Board, the Cape Charles Historical Society and Arts Enter were sponsoring a showing of the *Clam Digger's Daughter (aka The Story of Mr. Hobbs)* this Sunday, January 16th, beginning at 3:00 PM at the Palace Theater. Admission is free but donations would be accepted. This movie was filmed in Cape Charles in the 1940s. The Women's Club would be sponsoring a contest for Northampton High School seniors to write an ending to this movie since the original ending could not be located.

E. *Harbor Report:*
Harbor Master Smitty Dize stated he and Heather Arcos met with the Virginia Port Authority (VPA) earlier in the day to update them on the projects at the Cape Charles Harbor. The VPA was impressed with the breakwaters and stated that they would do what they could to help the Town on future Harbor projects. Overall, it was a very informative meeting.

Mayor Sullivan stated that Cape Charles had a track record with the VPA and they realize that the Town used the grant money wisely to improve the Harbor and the VPA could see the results.

Heather Arcos added that the VPA representatives would be attending this year's Blessing of the Fleet in April and spending the weekend in Cape Charles.

F. *Public Works / Public Utilities Report:*
Public Works / Public Utilities Director Dave Fauber stated that he was still collecting data on the water table regarding the wells and hopefully within the next couple of months, a plan could be submitted to the Department of Environmental Quality.

G. *Code Enforcement / Central Park Trail Update:*
Combination Inspector Jeb Brady stated that he had no additions to his written report and the Council did not have any questions for him.

H. *Planning Report:*
Town Planner Tom Bonadeo reported the following: i) The broadband fiber optic had been installed from Cheriton to Cape Charles along the railroad tracks to Fig Street. There were three to four more areas left to be installed; and ii) The computers and tables purchased through the broadband grant have been set up in the Cape Charles Christian School and a plan would be developed regarding usage by the public.

OLD BUSINESS:

A. *Personnel Policy Manual Update:*
Heather Arcos stated that in an ongoing effort to update the current Personnel Policy Manual, four sections were reviewed by the Council at the December 9th meeting. The changes to two of the sections were approved by Council and two sections had additional changes. The recommended changes to Sections 1 and 2 were incorporated and were being presented for final review.

Heather Arcos presented the revisions to Section 1.5 removing "part-time" from Item A since part-time employees were not designated as Exempt Employees. Since "Exempt Employees" was already defined in Item A as a salaried employee, references to salaried employees were deleted from Items B and C. No additional changes were made.

Heather Arcos continued to present the revisions to Sections 2.9 and 2.13. Section 2.9 corrected the amount of annual and sick leave credited to a part-time employee after three months of employment to 12 hours. Language was added to Section 2.13 to clarify that internal promotions could be made by the Town Manager to fill vacant positions other than appointed officer positions, bypassing the advertisement and interview process if a qualified individual worked for the Town. Language was also added regarding the Town's objective to promote or hire the best-qualified candidate for the position.

Councilman Veber stated that he would like language emphasizing employment-at-will to be added in Section 2.9 and Section 2.13 should state that the Town Manager and Department Head would make the decision regarding the best-qualified candidate for a position.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adopt the proposed revisions to Sections 1 and 2 of the Cape Charles Personnel Policies, Rules and Regulations as amended, contingent on legal review. The motion was approved by unanimous consent.

B. *Wastewater Treatment Plant Status:*
Consultant Bob Panek informed Council that the construction on the wastewater plant was over 50% completed. An invoice in the amount of $1.3M was just received which brought the billed amount to approximately 40% of contract value. Three requisitions have been submitted to the

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DEQ for reimbursement through the Nutrient Removal Grant, ARRA Stimulus Fund and the 0% interest loan.

NEW BUSINESS:

B. *Town Code Updates – Water and Sewer Ordinances:*
Bob Panek stated that three Town Council work sessions had been held on October 28, 2010, November 18, 2010 and January 6, 2011 to discuss the proposed revisions, many of which were incorporating the required standards of the DEQ and Environmental Protection Agency (EPA). The final changes have been incorporated and a public hearing must be held before the revisions could be adopted by Council.

Motion made by Councilwoman Natali, seconded by Councilman Sullivan, to schedule a Public Hearing on February 10, 2011, immediately preceding the Town Council Regular Meeting, to hear public comment regarding the proposed modifications to the Water and Sewer Ordinances. The motion was approved by unanimous consent.

C. *Zoning Ordinance Modification – Wind Energy Ordinance:*
Tom Bonadeo stated that in 2001, the Town Council approved a permit to build six wind turbines but nothing came to fruition. Tom Bonadeo went on to inform Council that the Planning Commission had worked on the new Wind Energy Ordinance for some time and the final draft of the ordinance incorporated some comments from outside sources of expertise including representatives from James Madison University. Tom Bonadeo stated that the DEQ had developed a new "Permit by Rule" which would simplify the permit process for operators of wind projects up to 5 megawatts. These operators would only need approval from the locality housing the wind project. The Commonwealth of Virginia and the Port of Hampton Roads were well set to be the center of the development process and Cape Charles was also set to be a potential part of the supply chain since we have a deep water port. Before the ordinance could be adopted, a public hearing must be held. The Planning Commission recommended scheduling a Joint Public Hearing with the Commission on February 1, 2011.

Motion made by Councilwoman Natali, seconded by Councilman Veber, to schedule a Joint Public Hearing with the Planning Commission on February 1, 2011 to hear public comment regarding the proposed Wind Energy Ordinance. The motion was approved by unanimous consent.

D. *Conditional Rezoning Request – Portion of the Mack Building – Strawberry Street & Randolph Avenue:*
Tom Bonadeo explained that a conditional rezoning request had been reviewed by the Planning Commission for a portion of the Mack Building located at the corner of Strawberry Street and Randolph Avenue from C-1 Commercial to CR Commercial Residential. The building had been sold and the new owner had requested a rezoning of the property. This portion of the building contains four small, one-floor office/apartments. There were three areas on Randolph Avenue zoned C-1 and this parcel was the only one with a building on it.

The Commission discussed the application, held a public hearing and recommended approval of the application with the express intent to use this zone as a bridge between commercial and residential areas. This application for rezoning included the following proffers: i) creation of four parking spaces in the rear of the building for the potential tenants to keep cars from being parked on the street; ii) removal of the utility poles which currently block the alley access and installation of a 12' wide easement across the property connecting to the alley easement entering from Mason Avenue to restore the alley for emergency vehicle access at the least. The easement would encumber portions of two lots owned by the Mack building; iii) planting of a 12' evergreen landscape easement on 609 Randolph Avenue which was the vacant lot to the east of this property to block the view of the alley from Randolph Avenue; and iv) creation of a 12' rear yard area for the Randolph Avenue spaces to provide tenants space in the rear of the building to be used as a yard. The building front was on the sidewalk property lines and

previous renters used the sidewalk as their front yard. The Planning Commission and the applicant agreed that all leases for the units in the building should, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering was permitted on the public right of way. The Commission received two letters of support and one personal public comment which was answered during the Commissions' review. The following benefits would be gained by rezoning this parcel to CR: i) The building could be used for business or residential; ii) The proffers would keep the look of the building while providing for the juxtaposition between the residential and commercial neighbors; iii) The proffers would reconnect the alleyway for the buildings along Mason Avenue, Strawberry Street and Randolph Avenue; and iv) Removal of the utility poles would allow emergency access to the rear of the commercial building along the above listed streets. The Planning Commission recommended approval of the Conditional Rezoning application with proffers after holding a public hearing.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to schedule a Public Hearing on February 10, 2011 to hear public comment regarding the conditional rezoning application for a portion of the Mack Building. The motion was approved by unanimous consent.

E. *Historic District Review Board Member Reappointment:*
Tom Bonadeo stated that the Historic District Review Board oversees the Town's Historic District and was comprised of five members each serving five-year terms. Mr. Jan Neville has been a member of the Historic District Review Board for a number of years and his current term expired January 8, 2011. Mr. Neville has expressed his interest in continuing his service on this board.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to reappoint Mr. Jan Neville to the Historic District Review Board for another term. The motion was approved by unanimous consent.

Tom Bonadeo added that Mr. Melvin Dudley had recently submitted his resignation from the Historic District Review Board so there was a vacancy on this Board.

F. *2012 Virginia Port Authority Grant Request:*
Heather Arcos stated that each year during the General Assembly, staff went before the Virginia Port Authority (VPA) to officially ask for grant funds to be appropriated to continue improvements to the Harbor as part of the Harbor Redevelopment Plan. The VPA required a letter signed by the Mayor in order to officially accept the Town's request. By signing the letter, we are stating that if the VPA approved the Town's request, the Town would have money budgeted for FY 2011/2012. The funds for the Town match were included in the $1.2M long-term loan for Capital Improvement Projects. This year, the Town would like to request another $500K towards completion of the bath house. The estimated project cost was $900K and the remaining balance would be financed through the long-term loan for Capital Improvement Projects. The VPA funds would be awarded in May 2011. Last year, the Town received $447K and $500K was received the previous year.

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to authorize Mayor Sullivan to sign the letter requesting grant funding from the Virginia Port Authority. The motion was approved by unanimous consent.

G. *Northampton County Funding Request:*
Heather Arcos stated that the Town submitted a letter to Northampton County each year requesting funding assistance for the Cape Charles Memorial Library, the 4th of July celebration and any other projects deemed eligible by the Town Council. Over the last several years, the Town has received $15,500 from the County for the Cape Charles Memorial Library. This year, the Town would like to request $20K for the Library and $5K for the 4th of July celebration.

Heather Arcos asked the Council to let her know of any additional projects to include in the letter. Heather Arcos added that she had spoken to Ms. Glenda Miller who informed her that, similar to last year, the Town would be fortunate to receive funding assistance for the Library.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to authorize Mayor Sullivan to sign the letter requesting funding assistance from Northampton County. The motion was approved by unanimous consent.

H. *Appointment of Code, Fire and Maintenance Official:*
Heather Arcos stated that in January 2009, the former Building Code Official, Doug Smith, left his employment with the Town. Since that time, Jeb Brady has worked hard to complete his training to obtain his certification as Building Code Official. On January 6, 2011, Jeb Brady passed the final portion of the examination to obtain his certification. Section 18-2 of the Cape Charles Town Code outlined that the code official should be appointed by the Town Council.

Mayor Sullivan added that Jeb Brady was a small-town success story by going away to school and coming home to become part of the community. Mayor Sullivan concluded by stating that she and the Town were very proud of Jeb.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to appoint Jeb Brady as the Building Code, Fire and Maintenance Official for the Town of Cape Charles effective immediately. The motion was approved by unanimous consent.

ANNOUNCEMENTS:

- January 14, 2011 – Town Offices Closed for Lee-Jackson Day
- January 15, 2011 – 20th Annual Epiphany Party at the Cape Charles Fire Company. Proceeds from the party would go to Russell Moore, Manager of Sting Rays who was battling leukemia.
- January 16, 2011 – Clamdigger's Daughter being shown at the Palace Theater
- January 17, 2011 – Town Offices Closed for Martin Luther King, Jr. Day
- January 27, 2011 – Town Council Executive Session, 6PM at the Town Hall
- January 28, 2011 – Town Council Retreat all day at the Town Hall
- February 3, 2011 – Legislative Day in Richmond. Council needs to inform the Town Clerk if able to attend.
- February 9, 2011 – Trip to Harrington Casino sponsored by the Friends of the Cape Charles Memorial Library. $50 per person.
- February 10, 2011 – Town Council Regular Meeting, 6PM at St. Charles Parish Hall
- February 24, 2011 – Town Council Work Session, 6PM at the Town Hall

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to adjourn the Town Council Regular Meeting. The motion was approved by unanimous consent.

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Mayor Sullivan

Town Clerk

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TOWN COUNCIL
Executive Session
Town Hall
January 27, 2011
6:00 P.M.

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Executive Session of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Evans, Sullivan and Veber and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos and Town Planner Tom Bonadeo.

Motion made by Councilman Veber, seconded by Councilman Bennett and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:

Paragraph 5: Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

Specifically: Potential New Business

Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Potential Land Acquisitions

Motion made by Councilman Evans, seconded by Councilman Bennett and unanimously approved to return to Open Session.

Motion to certify to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

It was noted that Mayor Sullivan left the meeting at 6:45 p.m. during the Closed Session.

Motion made by Councilman Bennett, seconded by Councilman Sullivan and unanimously approved to adjourn the Town Council Executive Session.

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Mayor Sullivan

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Vice Mayor Bannon

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Town Clerk

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TOWN COUNCIL
Retreat
Town Hall
January 28, 2011
8:00 AM

At 8:10 a.m. at the Town Hall, Mayor Dora Sullivan, having established a quorum, called to order the Town Council Retreat. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Evans, Sullivan and Veber. Councilwoman Natali arrived at 8:15 a.m. Also present were Town Manager Heather Arcos and Town Clerk Libby Hume. Town Planner Tom Bonadeo and Public Works/Utilities Director Dave Fauber were in attendance for a portion of the day. There were three (3) members of the public in attendance for portions of the day.

Mayor Sullivan opened by stating that she had attended many Retreats in the past and that numerous topics would be discussed and encouraged the Council to share any ideas they may have whether an item was on the agenda or not.

FY 2010/2011 Budget – 6-Month Update of Revenue and Expenses

The Council began by reviewing the Budget Revenue Summary and Town Manager Heather Arcos stated that the revenue from personal property taxes was down but the delinquent billing is scheduled to be mailed out within the next week. Also below budget were the Facility and Connection Fees under the Public Utilities Fund and the Revenues from Sales and Service under the Harbor Fund, but it was noted that the business at the Harbor would be picking up in the Spring. There was some discussion regarding the discounted tax rate given to Bayshore Concrete on their tools and machinery which was approved by Council several years ago and Council felt that this issue could be revisited.

Council continued to review the Budget Expense Summary. Heather Arcos stated that the Finance Department was below budget due to the accountant position which was included in the budget not being filled as yet. Interviews have taken place and JoAnna Leatherwood would be calling the individual later today with an offer of employment. Heather Arcos noted that, under Public Utilities, the cost of the two new wells were included under Waterworks, but have not yet been paid for and the Harbor Fund included the cost of the floating slips.

Heather Arcos distributed the proposed FY 2011/2012 Budget Timeline and asked Council to let her know of any conflicts with the proposed meeting dates. The audit had been scheduled for the first week of March and staff had begun working on their departmental budgets.

Town Council Priorities from Comprehensive Plan

The Council reviewed the Town Council Priorities included in the Comprehensive Plan and discussed the following issues:

<u>Business Development – Economic Development Committee:</u> Heather Arcos explained that a new group had been created by Northampton County, spearheaded by Supervisor Willie Randall and consisting of several members of the community. Their first meeting was held in August 2010. Mayor Sullivan suggested hiring a part-time economic

development person to concentrate on this issue for the Town and added that she had an individual in mind. In the past, it was proven that most committees don't work. The Council discussed the Virginia Economic Development Partnership (VEDP) and some programs that were available for new businesses coming in to the State. Tom Bonadeo explained that Council needed to learn what the State had to offer and added that everyone believed that the State had lots of money for the development of new business but the programs were structured to help businesses that already have money to bring to the table. The State would contribute, but it was a small portion compared to the start-up costs for a new business. The Town had met with several potential businesses in the past, but they did not have the funding to make the business a reality. It would be beneficial for the Town to have one individual to devote their time and focus on this issue. Discussion continued regarding scheduling work sessions to meet with various people and the president of the VEDP, who Councilman Sullivan and Councilwoman Natali met at last year's Newly Elected Officials Conference in Richmond. The Town also needed to work with the County so efforts would not be duplicated. Councilman Veber stated that Council needed to be proactive to pursue businesses to come to Town and agreed that Mayor Sullivan's idea was good and needed to be looked into.

Alley Easements: Heather Arcos stated that the Town had worked on this issue in the past and letters were sent to property owners of several blocks in Town. Councilman Veber stated that this was not a priority, but Tom Bonadeo informed Council that citizens have requested the Town to continue with the alleys. Councilman Evans added that re-opening the alleys would clean up the Town, especially Mason Avenue, by allowing garbage collection, deliveries, etc. to be done from the alley and that Mason Avenue should be a priority. Councilman Evans stated that he had been informed that his insurance premium on his house could be reduced if an alley were to go behind his property due to increased accessibility for emergency vehicles.

Substandard Housing / Buildings and Non-Profit Organization to Assist Property Owners: Council asked whether there was a non-profit board that could help redevelop these buildings and Tom Bonadeo informed them that the Concerned Citizens for Cape Charles could be such a group. The group had purchased properties, fixed them up and resold them using grant money, but the Community Development Grants were capped at $25K per house which was not enough to revitalize most of the houses. The lesser expensive solution was to tear down the buildings and the Town had demolished buildings in the past, but continuing to demolish these historic buildings could jeopardize the Town's historic designation. Vice Mayor Bannon added that if the houses were torn down, there would not be any place for the inhabitants to go. Tom Bonadeo stated that during the 1990s, a group from Northampton County used grant funding to build new houses in the Bayview area. These houses had not been maintained and now cannot be differentiated from the older homes in the area.

Mayor Sullivan asked whether the Town could address this issue with the property owners through code enforcement. Many of the houses in need of repair were rental properties where individuals bought properties, fixed them up a little and rented them out. Councilman Evans stated that several commercial buildings were vacant and also in need of repair and added that the Town may want to talk to Mr. Bruce Brinkley, Chairperson of the Planning Commission, who works in code enforcement in the City of Portsmouth and had dealt with these issues. Councilwoman Natali added that run-down buildings cause the insurance premiums for neighboring property owners to be higher and that the Town needed to do something to help the existing businesses and property owners.

The discussion continued regarding possible tax sales and Council asked whether the Town was putting liens on properties with delinquent taxes. Heather Arcos responded that JoAnna Leatherwood had contacted the attorney who handled the tax sales for Northampton County and would report back to Council regarding the process involved in a tax sale.

Tom Bonadeo stated that he and Code Enforcement Officer Jeb Brady would survey the buildings throughout Town to develop a list of buildings and their conditions to see how many of these buildings were in the Town.

Community Center: Councilman Bennett asked about the 20 computers placed in the Cape Charles Christian School (CCCS) and whether the computers were accessible to the public. Tom Bonadeo explained that these computers were purchased by the Town as part of the Broadband Project grant for a community center and the Town was currently working with the CCCS to develop a schedule for public use. Councilman Bennett added that it was not a community center unless it was open to the public at all times. Councilman Veber suggested the Town renting a house close to the Cape Charles Memorial Library for a community center and computer lab.

Vice Mayor Bannon asked whether the Town could place a computer at Heritage Acres for its residents. Council agreed that it was the responsibility of the owner and management of Heritage Acres, not the Town's, to provide a computer for its residents. Councilwoman Natali suggested an agreement or partnership with Heritage Acres for the Town to provide the computer(s) and the management provide the connectivity. Councilman Sullivan added that would open up other issues such as who would be responsible for maintaining and repairing the computer, etc.

Parking Solutions: Vice Mayor Bannon stated that the Planning Commission did a study regarding parking several years ago. Tom Bonadeo added that VDOT was working on a preliminary plan regarding parallel parking on South Peach Street in conjunction with the Multi-Use Trail Plan.

Councilman Evans asked about the parking situation on Fig Street. Tom Bonadeo stated that the "No Parking" signs had been removed and the parking was not being enforced.

Chesapeake Bay Meteor Impact Interpretive Center: Council agreed that this would be a great project to do but there was not enough time or money to dedicate to this project at this time. It would be kept on the list since it was included in the Comprehensive Plan.

Other Projects / Priorities

Gazette: Currently being done monthly. Council agreed that this was a good communication tool and as long as the Town is getting good feedback, it should be continued. Council asked about circulation and the number of subscribers. Councilman Sullivan stated that about 17 users have unsubscribed in the last year, but explained that the sign-ups and opt-outs were done by the subscriber and he only sees the end number which was 783 as of last month. Vice Mayor Bannon asked whether the Town could start collecting email addresses and send the Gazette to all utility customers, but Councilman Sullivan stated that subscribers have to opt-in to receive the Gazette and the Town could not send anything unsolicited. Councilman Veber suggested adding a notice to the utility bills informing users of the Gazette and how to sign up. Councilwoman Natali stated that she had received feedback from several subscribers telling her that they liked the Gazette but did not like having to go to the Town's website to view the Gazette. Heather Arcos

stated that the main reason for the change was due to cost and that subscribers only had to click on the link in the email to open the Gazette, not go to the website to locate it. Councilman Sullivan added that another reason behind the change in the Gazette was that many subscribers still did not have a DSL connection to the internet and having to download the emailed Gazette using a dial-up connection took time. Council agreed to keep the Gazette as is.

Compensation Study: Heather Arcos stated that the current compensation study was completed several years ago when Bob Panek was the Interim Town Manager. The compensation study needs to be updated to bring the salary scales in line with other small municipalities in the State. Councilman Veber stated that the Virginia Municipal League (VML) had much of this information available. Councilman Evans stated that the Town needed to have a study performed by a professional adding a method of administration. Councilman Veber cautioned that the compensation package remain flexible to enable the Town to get the good, qualified people to come to work. Job evaluations also needed to be done but were expensive to do. Councilman Evans added that if an employee did a good job and reached their maximum amount for compensation, that individual needed to be promoted to another position.

Mayor Sullivan noted that the Planning Commissioners received $25 per month which was a joke. The Town should either double the amount or not pay anything.

After much discussion, it was agreed that the compensation study needed to be updated and it was important to do so periodically. Information was available from the VML and the Weldon Cooper Center for Public Service.

Development of Procurement Manual: Councilman Bennett stressed the importance of having a procurement manual and asked what was currently being used. Heather Arcos stated that the Town currently followed the Town Code and guidelines outlined in the Code of Virginia. Tom Bonadeo added that three quotes were obtained for smaller items and bids were advertised for the larger items. A procedure was in place, but needed to be put in writing. There was some discussion as to whose responsibility it was to develop this manual. Vice Mayor Bannon added that it would fall on Heather Arcos, Libby Hume and Tom Bonadeo to get this manual produced but that it was important to ensure that it get done. Councilman Veber stated that Heather Arcos was performing the job of two people and it was important not to overwork her. Councilman Bennett added that the Assistant Manager position was created when Joe Vaccaro became the Town Manager. It was noted that Heather Arcos was hired as the administrative assistant to help Cela Burge when she was the Town Manager. Vice Mayor Bannon stated that he did not think any other town on the Eastern Shore functioned as well as Cape Charles. Mayor Sullivan added that no other Council on the Eastern Shore functioned as well as the Cape Charles Town Council and stated that this was the first time since she has been in Cape Charles where the staff was running the Town and Council was there to say "Good Job." Councilman Evans stated that it was gratifying to see the strength of the Town's employees and to have staff that could do what was needed to get the job done which made it easier on the Town Council.

Local Attorney: Heather Arcos informed the Council that she would like to re-advertise for bids for a local attorney stating that she was not entirely satisfied with the current attorney in regards to their responsiveness, timeliness of billing, etc.

Government Access TV Channels: Heather Arcos informed Council that Bay Creek Communications had two cable channels for use by the Town. A PowerPoint presentation

could be developed to show slides of upcoming events for the Library, Recreation and Town. Heather Arcos stated that she had met with Mr. Brian Manley of Bay Creek Communications to discuss how we could utilize these channels. Tom Bonadeo stated that Bay Creek Communications had 150-160 cable customers and some of these may not be full-time residents. Vice Mayor Bannon stated that many residents of Town were customers of Charter Cable and asked if there was a possibility that the Town could access their government access channel. Tom Bonadeo stated that the original cable contract was with Falcon Cable and several cable companies have taken over the contract which he believed was on automatic renewal. The channel itself was not expensive but getting the information to the cable company could be. Councilwoman Natali recommended that the Town investigate availability of such a channel through Charter Cable.

Recording of Town Meetings and Ways to Share/Publish with Public: Heather Arcos stated that this topic was investigated in 2008 and discussed at the November 2008 Town Council Retreat and the major issue was the temporary location for meetings. Tom Bonadeo added that the Town still did not have a permanent location for meetings and setting up and tearing down of the audio equipment for the Council meetings had caused some damage to the equipment. Councilman Sullivan stated that the cost to produce recordings for the meetings would be more than it was worth and that the Town could currently put the audio recordings of the meetings on the website. Tom Bonadeo added that the quality of the recordings from the digital recorder were poor. Councilman Evans stated that the citizens did not attend the current meetings and asked how much interest there would be to watch or listen to the meetings online. It was noted that several citizens have stated that they did not come to or stay at the meetings because they could not hear the discussion. Councilman Evans stated that, as a start, the Town could get more microphones so everyone at the table could have their own. We already have an audio system and several microphones and just need to expand on what we have.

Vacant Buildings:

Meatland: Heather Arcos informed Council that she and Tom Bonadeo had a conference call with one of the owners of the Meatland building and they would prefer to lease the building but did not want to spend any money to fix the building. The Town may be able to work out something if the Town could improve the property. The owner was informed that the building was deteriorating and other issues may come to surface through Code Enforcement. Tom Bonadeo added that the owners may be open to selling the building. A partnership with the Town was discussed for taxes, etc. and the owner stated that they did not want to lose the building. Councilman Veber stated that he would like the Town to do something to make the building look better since it was an eyesore coming into Town. Tom Bonadeo explained that it would cost approximately $100-$160 per square foot to fix the commercial space. The shell of the building was week but the roof was okay. With 10K square feet of space, the Town could use 3K for the Library, 3K for Town Hall, 1K for meeting spaces and still have room for a possible community center. The building was not a health hazard or in danger of falling down so it would be difficult to condemn. Eminent domain takes money and it would be costly to fix up. There was further discussion regarding contacting the owners for i) a possible long-term lease at little cost to the Town if we fix it up; or ii) to purchase the property. Councilman Bennett expressed his concern that it would cost a fortune to make it usable since it had no heat, no air conditioning, walls you could see through, etc. and added that a reasonable expectation of costs would need to be determined before moving forward.

Belo: Heather Arcos informed Council that she had spoken with Mr. John Ward, the attorney for one of the trustees. The Board of Trustees could not agree to financially do anything with the building. Mr. Ward, upon his client's request, had taken legal action to dissolve the current Board of Trustees which could enable something to be done with the property. Mr. Ward also asked whether the Town would be interested in any part of the building. Tom Bonadeo stated that he would like to get an agreement regarding the parking lot so the Town could control the parking and have the ability to ticket vehicles and equipment that are stored on the lot. The Town would continue to work with Mr. Ward and were hopeful that this building could be revitalized.

There was much discussion regarding the types of businesses which could come to Town. Vice Mayor Bannon stated that there were not enough people in Cape Charles to sustain a retail business. Councilman Veber added that he had spoken to Mr. Ron Dennis, former president of Farm Fresh Grocery Stores, and he stated that Cape Charles was a nice little town but there were not enough full-time residents to sustain a business.

Old Hotel: Councilwoman Natali asked about the old hotel on Mason Avenue, by the beach. Tom Bonadeo explained that a couple was negotiating with the property owner regarding the building with plans to open another hotel.

Cape Charles Hotel: Tom Bonadeo informed Council that he had spoken with the owner of the property who stated that he would be submitting plans for the building within the next several weeks. Their plans were to renovate the building and reopen as a hotel by this summer.

Former Delisheries Building: Tom Bonadeo stated that two potential buyers were interested in this building which was under foreclosure. A full-price offer was submitted but the bank raised the price by $20K. Negotiations have stalled.

245 Mason Avenue, lower floor, and Frank Wendell's Building: These buildings were mentioned but there was no discussion.

Old Rosenwald School: Councilman Evans asked about the status of this building and the current asking price. Heather Arcos stated that she had just spoken to the real estate agent and the current cost of the main building was $695K and the telephone building was $195K, but the real estate agent stated that any offer would be submitted to the owner. Councilman Evans stated that this building would be a great location for the Library especially with the golf cart path being constructed along Old Cape Charles Road and suggested that an appraisal be done on the property. Councilwoman Natali suggested that a long term lease with an option to buy could be possible and with enough grant funding, the Town could fix it up for the new Library. Tom Bonadeo stated that there was a potential buyer last year and an inspection was done. The inspection discovered some powder post beetles and some asbestos floor tiles, but other than that, the building was in pretty good shape. The current assessment was under $300K. A previous study done, stated that this building should be the focal point of the Town. This school was larger than most Rosenwald Schools and was unique since it was made with brick. Tom Bonadeo went on to explain that there was grant funding from $1500 - $5K available to Rosenwald Schools. Tax credits were also available but could not be utilized by the Town. There was much discussion regarding this building and the opposition from some people who would not want the Town to

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use the building. They would like to see the building restored but did not have the money to do so.

Council mentioned again that many of the issues with these vacant buildings could be handled through code enforcement. Tom Bonadeo stated that he and Code Enforcement Officer Jeb Brady would include the commercial buildings in their survey of buildings as well to see what items could be corrected through code enforcement.

Doggie Park: There was some discussion regarding possible locations for a doggie park. Two locations mentioned were the Keck Property and the Town-owned property across the street from the old school next to the skateboard park. Mayor Sullivan stated that she received several requests for a doggie park which would be a place for people and their pets to gather. It would be something small and not very expensive.

Recycling Options: Heather Arcos stated that the Town had received requests for a recycling program and mentioned that she had contacted TFC Recycling from Hampton Roads, who handled the recycling program for Northampton and Accomack Counties, and they were interested in providing recycling service to the Town to collect paper, cardboard and some plastics every two weeks. If Council was interested, pricing could be obtained. Councilwoman Natali asked whether the Town could provide a receptacle for the residents to bring their recyclable items. Tom Bonadeo stated that the Town currently had a receptacle for cardboard which was not used. Many people may not be aware of this box. Information would be included in the next Gazette to notify the residents of the cardboard recycling box as well as the location of the Cheriton Convenience Center. Councilwoman Natali suggested contacting Northampton County regarding pickup of recyclable items if the Town were to obtain a container similar to those at the convenience centers.

Promotional Ideas: Tom Bonadeo informed Council that the Town was a member in several networks such as the Chesapeake Network and the John Smith Trail Network where Town events could be publicized on their websites and newsletters. Councilman Sullivan suggested that events could also be sent to the ANEC to publish in their magazine. Councilman Evans suggested contacting Mr. Dick Foster of Bay Creek Resort regarding a possible partnership for advertisements. Brochures from other localities were discussed and Councilman Evans mentioned that he had seen maps in a tablet form which could be distributed to visitors. Heather Arcos stated that more Cape Charles brochures need to be printed and provided to the Welcome Center who sent quite a few visitors to Town last year. Maps and place mats could also be printed and provided to local businesses and restaurants, including Sting Rays and the Chesapeake Bay Bridge Tunnel restaurant.

Welcome Package for New Residents: Mayor Sullivan stated that the City of Virginia Beach had rack cards containing basic information regarding the City and various services such as special trash pickup, etc. Vice Mayor Bannon stated that a card could be developed and distributed to new utilities customers. The information could be available on the website also. Heather Arcos stated that the Town used to have such a document containing a list of questions and answers and she would check into having something developed.

Business Guide: Councilwoman Natali suggested that something similar to the Welcome Package for New Residents be developed for new businesses. Heather Arcos stated that she thought the County was working on something and stated that she would contact Ms. Katie Nunez.

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Licensing of Dogs & Cats by the Town: Heather Arcos stated that the County currently required licensing of dogs and cats and if the Town were to implement licensing, residents of Town would have to obtain two licenses for their pets. There was some discussion regarding this issue and Council agreed not to pursue this issue. Councilwoman Natali suggested that the information regarding the County's Animal Control Officer be included in the Welcome Card for New Residents.

Hump Maintenance: Heather Arcos informed Council that a request for proposal was being finalized to advertise for lawn service in areas around the Town, including the hump.

Councilman Veber asked whether the Town had authority to trim around the Cape Charles Sign at Route 13. Heather Arcos responded that the Town did maintain the area around the sign.

Other Issues?
Councilwoman Natali asked why the Town had not replaced the Assistant Town Manager position. Councilman Bennett stated that previous Town Managers did not have assistants and this issue should be investigated as part of the Compensation Study. Heather Arcos stated that the Town had consolidated several areas and other areas could also be combined. Councilman Evans stated that staff was working together nicely and had gotten a lot done in the past year including many items on the priority list. Councilman Veber also added that the Town had done a great job in obtaining grant funding to help with many of the projects. Councilwoman Natali suggested that the Town check into hiring another part-time employee or intern to assist Heather.

5-Year Capital Improvement Plan

Council reviewed the 5-Year Plan regarding the Wastewater Treatment Plant (WWTP) Replacement, WWTP Expansion, WWTP Reuse, Wastewater Collection I&I Forcemain and Pump Station and Connection of the New Wells. Heather Arcos explained that several items under the General Fund were also included in the Comprehensive Plan such as the Tree Planting Plan, Randolph Avenue Roundabout, Blight Remediation, Alternate Energy Plan and Old High School Plan. The Randolph Avenue Roundabout was also included in VDOT's 2020 Plan. The Sidewalk Repair Plan is ongoing and staff had a list of sidewalks needing repair throughout Town. The work on the Harbor Redevelopment – Marina should begin by the end of January and the plans for the Harbor Redevelopment – Bath Houses was still being reviewed to reduce the cost.

Heather Arcos stated that this spreadsheet would be revised and would continue to be updated as projects are completed and new projects added to the list. Councilman Bennett asked that the columns be added showing the amount previously spent and the amount of grant funding expected by year.

Future Facility Fee Analysis – Water and Wastewater

Council reviewed the facility fee analyses for wastewater and water. Councilman Bennett questioned the assumption of no payment under the Annexation Agreement and added that he did not remember any opposition for payment once the Town reached current capacity. Mr. Oral Lambert stated that he had spoken with Bob Panek and Heather Arcos and Bay Creek was willing to work together with the Town. Mr. Lambert stated that it was always good when fees could be reduced, but added that the fees would be what they had to be to pay for the plant and expressed his desire to help with the review of the water plant. Heather Arcos stated that the figures would be revised to take into consideration

the Annexation Agreement which may further reduce the fee but the Town still needed to build a reserve. Councilman Bennett agreed that the Town needed to build a reserve for capital improvements so the money would be available when needed vs. the Town making a profit off the fees. Heather Arcos stated that the numbers would be revised and reviewed again by Council and a public hearing would have to be scheduled.

Keck Property Future / Vision

Tom Bonadeo explained that the deed permitted the Town to use the 15 acres of the Keck Property for public purposes but there were several requirements as follows: i) residential and commercial uses were prohibited; ii) the Town must keep the property for 15 years but could sell it afterwards; iii) the Town could construct buildings or structures and store heavy equipment but a 100' setback must be maintained on the west and south borders and a Class III vegetated buffer must be planted along the west, south and eastern boundaries of the property. The Town installed two new wells for future production and several test wells on the northwest corner of the property. There were no utility services on the property other than the electrical line supplying service to the wells. The property is currently zoned RE – Residential Estates which permitted conditional uses such as parks and playgrounds, churches and schools. The Town could rezone the property if it wished to use the property in other ways. No additional work would be required if the Town were to leave the property as is. If the Town wished to use the property for one of the conditional uses on a small scale, only entrance improvements would be required. If the Town wished to use the property for larger scale recreation, a new entrance would be required and some facilities such as water, sewer and electrical. If the Town wished to construct buildings, structures or vehicle storage, the Class III buffer would have to be planted. There was some discussion regarding possible uses and Councilman Evans suggested starting to plant the buffer as buffering material became available. Tom Bonadeo stated that he would develop a "Keck Plan" to include this information and any additions from Council.

Comprehensive Plan Update

Tom Bonadeo informed the Council that the County was in the process of updating their Comprehensive Plan. Cape Charles needed to look at the areas regarding the Corridor Overlay and Town Edge Plan to include the County's language. The Planning Commission had already developed the Corridor Overlay, but the language was not very strong. The Town needed to go back to the County Planning Commission with a "wish list" for the Corridor Overlay. Tom Bonadeo continued by stating that he did not recommend the Town moving forward with the boundary adjustment at this time. The Town should continue to support the Town of Cheriton's boundary adjustment and both towns needed to work together regarding the right kind of development in the area. Heather Arcos stated that if the plans on the Corridor Overlay and Town Edge did not work out, the Town could still pursue a boundary adjustment at that time.

25 MPH on Route 642 / Cart Path Future

Tom Bonadeo stated that the Town had been working with VDOT to lower the speed limit on Old Cape Charles Road with minimal success. Speed was not the only issue for VDOT on this stretch of highway. There was a 90° turn with very limited visibility in both directions and the road is regularly travelled by large trucks going to and from the industrial area to Route 13 which raise safety concerns for golf carts at any speed. The Code of Virginia did permit localities the opportunity to set speed limits but the responsibility for road maintenance would fall to the locality. Staff began work with VDOT to build a cart path

along this road between Bayshore Road and Bay Creek but the proposed path was outside VDOT's right-of-way. A plan has now been developed with Bay Creek and the Town has applied for a Tourism Infrastructure Grant to help with this path. The contractor for the WWTP had installed piping in this location and the ground was ready to smooth and finish. Bay Creek would construct a portion of the path on their property south of Old Cape Charles Road. Councilwoman Natali stated that she would like to keep the goal of 25 MPH on this portion of Old Cape Charles Road on the table for the future.

Technology and Tourism Zones

Tom Bonadeo stated that the Planning Commission reviewed all Technology Zones within the State, per Council's request, regarding the cost and value of designating such a zone in Cape Charles. During the research, Tourism Zones came to light and the Commissioners recommended the possible adoption of Tourism Zones as well. In order for the Commission to move forward, direction was needed from Council regarding several issues. After review of the issues, Council agreed on the following: i) the Town should adopt both Technology and Tourism Zones; ii) the entire Town limits should be included in both zones; iii) a list of target businesses needed to be developed; and iv) fees for water and sewer, BPOL and real estate taxes could be offered as incentives. Tom Bonadeo stated that the smallest locality with a designated Technology Zone had a population of 6K. Councilman Sullivan stated that the Town Manager of another Town in the State spoke at the Newly Elected Officials Conference regarding working with his county regarding a Technology Zone. The Town needed to work with Northampton County regarding this issue since it would benefit both the Town and the County. Tom Bonadeo stated that this information would be referred to the Planning Commission to draft language for the Zoning Ordinance.

Other Issues:

Old Cape Charles School: Heather Arcos stated that she had spoken with Mr. Berkley Rayfield regarding the proposed lease and plans to expand the Cape Charles Christian School and he expressed his continued interest but could not commit to the outlined timeframe. Councilwoman Natali asked about the legal requirements to lease the school. Heather Arcos explained that the Town needed to put out a solicitation to lease the building which could be specific for a school. It was approximately a 60-day process. There was some discussion of the options available for the Town if the CCCS did not lease the building regarding whether to keep the building to restore or demolish. Tom Bonadeo stated that the building itself was not in that bad of shape but that it would probably could not house the Library due to the weight of the books. The gymnasium could not hold hundreds of people but could be used for a recreational facility for basketball, etc. Councilwoman Natali suggested the Town move forward with advertising the solicitation for bids with the same parameters given to the Cape Charles Christian School so the Town could get a feel for any other interest in the building. Council agreed that since the Retreat was ahead of schedule, they would go on a tour of the school building after the other issues were discussed.

Update on Harbor Development and Landmark Conditional Use Permits (CUP): Tom Bonadeo stated that Mr. Tom Gallagher, Harbor Development, had just obtained VDOT approval for the entrance. One building had been demolished and they were starting on the second building. Mr. Gallagher had met with the Army Corps of Engineers regarding the permit and there were several issues regarding the areas being proposed to fill in but he was hoping to have everything finalized within the next several weeks. Another stumbling block was provided by an unnamed person contacting the National Oceanic and

Atmospheric Administration (NOAA) in an attempt to stop the project. No further word had been received regarding this latest setback.

Tom Bonadeo informed the Council that no word had been received from Landmark Holdings since Ms. Judy Morgan was let go and he did not have any other contact information. Heather Arcos stated that the developer owed current year taxes, and would check with the Treasurer regarding previous years. Councilman Evans added that all the properties owned by Mr. Nimrod Tavi were lost to foreclosure with the exception of this property. Tom Bonadeo continued by stating that Council granted a one-year extension to the CUP in July 2010 and that would expire this coming July.

Safe Crossing from Downtown to Harbor: Councilwoman Natali stated that the Town needed to construct a safe, legal passage for people to go from Mason Avenue to the Harbor without having to cross the hump or the railroad tracks. Heather Arcos stated that Bay Coast Railroad was willing to work with the Town regarding this crossing. This could be included in a future phase of the Trail Plan but that would probably not be possible for several years.

Bike Trail to Route 13: Councilman Evans stated that he would like to see a bike trail built behind the crape myrtles along Route 184 to Route 13. Tom Bonadeo stated that the VDOT Bike Plan, dated 2004, included plans for a trail from Cape Charles to Cheriton and continuing on to the Wildlife Refuge.

Recap of Retreat Items / Actions Items

Heather Arcos stated that she would compile a list of action items and distribute it to Council. Councilman Bennett also asked Heather Arcos to rate the items with her priorities before sending to Council for their review.

Council and Ms. Karen Jolly Davis left to take a tour of the old high school building.

Motion made by Councilwoman Natali, seconded by Councilman Sullivan and unanimously approved to adjourn the Town Council Retreat.

Mayor Sullivan

Town Clerk

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Recreation Department
February Council Report

1. The Birding festival is moving along with plans for the 2011 event. Rack cards are in the process and will be placed in various locations locally and off the shore. The poster contest will kick off in February.

2. The flag football tournament on January 22 was a success with four teams coming out on one of the coldest days of the year. There participants ranged in age from 11 to 40+ years of age.

3. Teen movie night was held January 28. There were 15 children and 3 adults in attendance. The movie was Prom Night which is rated PG-13. Anne, Sharon and Jen got to use the new popcorn machine that was donated.

4. January 29 was games for kids at the library. There were only two children who came out but we will try this again in the future.

5. Arts and crafts continue on Wednesday afternoons with anywhere from 6 10 15 children in attendance.

6. Heather, Dora and Jen were issued a check for $600 from the Cape Charles Women's Club. This money will be used to build a shade shelter for the park. All were present for a picture and presentation of the check on February 1, 2011. Look for the picture in the newspaper.

7. Heather and Jen received many helpful suggestions from the Women's Club on how to spruce up the playground. We are in the process of contacting schools to see if they would be interested in painting murals to replace the existing murals in the playground.

8. The next birding festival meeting will take place Tuesday, February 8, 2011 at the Bay Creek Welcome Center.

9. February Freeze will take place on the beachfront February 12, 2011. Further information is available on the Town's website.

10. There will be a Valentine's Celebration sponsored by the Town at Aqua on February 13, 2011 from 1:00 to 2:30. The kids are invited out to make Valentine's for their special someone and to eat pizza.

11. There will be a CPR class sponsored by The Town of Cape Charles on Wednesday, February 16, 2011 at 10 a.m. The cost of the class is $40 per person and it will be instructed by Kim Caison. Please contact Jen by February 11 as space is limited.

12. The next Teen Night will be February 18, 2011. Anne, Sharon and Jen are in the process of determining if a Wii can be hooked up to the projector in the library. This would offer another activity for the kids (and adults) in town.

Cape Charles Memorial Library
January 2011
Monthly Report Presented by Ann Rutledge

1. **Toddler/Preschool Storytime** was held on Thursday at 10:30 and a total of 77 children and caregivers attended this month.

2. The **Friends of the Library** and **Library Board** met on January 12 at 5:00 in the Library.

3. The library **displays** for this month featured Valentine books for children and novels featuring food for adults.

4 On ***Sunday, January 16 at*** 3 p.m., The Board of the Cape Charles Memorial Library in association with Arts Enter and the Cape Charles Historical Society sponsored a showing of the **Clam Diggers Daughter (aka The Story of Mr. Hobbs)** at the Historic Palace Theatre. We had 200 people to attend this program and everyone was incredibly generous in donations for the Friends of the Library. Thank you all.

5. On Friday, January 28 another **Teen Movie Night** was held and the movie *Prom Night* was shown. We had 15 teens to attend and they enjoyed popcorn and sodas. Another thank you to the generous donor of the popcorn machine. The popcorn was great!

6. The Cape Charles Memorial Library now has a Facebook page. Check it out!

Harbor Report
January, 2011.

Maintenance

1. Finished Painting fuel pumps 1 & 2.
2. Department of Game and Inland Fisheries replaced broken ladders at the Boat Ramps.
3. Posted a boat ramp rules sign.
4. Relocated the Boat US life Jacket Loaner program storage box.
5. Installed new recycling station at the Harbor for plastic and glass.
6. Replaced two light fixtures on the west dock.

Upcoming, Scheduled Maintenance

1. Replace broken pile caps
2. Paint Fuel Tank
3. Re-coat dock

Capitol Projects:

1. Heather and I updated the Virginia Port Authority on the Breakwater completion, slip and bath house construction on January 13, 2011.
2. Pre- construction meeting was held on January 24, 2011 and equipment should start arriving the week of January 31, - February 4.
3. The bath houses and site work to be put out to bid on a later date which is scheduled to be reviewed by HARB first.

Other:

1. The Harbor will only be open Monday through Friday 9am to 5pm. We will reopen on weekends in April.
2. Staff continued working on the Blessing of the Fleet, we will schedule a series of meetings for February and March.
3. Staff reviewed the rate structure, and rules and regulations. we are making recommendations to council.
4. Staff began preparing 11/12 budget request.
5. Staff has began reviewing chapter 14 of the town code, we will make recommendations if any changes are needed.
6. Follow us on Face Book **(Cape Charles Town Harbor)** Pictures of the slip construction will be posted weekly.

Incidents: We had a computer malfunction this month, we where able to take parts from an old computer for a temporary fix until we receive our new one in the next couple of weeks.

Notes:

4th Annual Blessing of the Fleet, Begins on April 8th, 2011 @ 5:30 pm.
Buy Boat Reunion, August 5th, thru the 8th 2011.

Harbor Report
January, 2011.

Business:

Average Boats in the Harbor per night by category:

Rentals	January	December	10/11	9/10
1. Nightly:	0.1	0.3	1.3	1.3
2. Weekly:	1.7	4.4	5.5	7.6
3. Monthly:	8.8	10.5	12.0	11.8
4. Seasonal:	2.0	3.0	8.1	8.6
5. Annual:	29.0	28.0	27.2	25.7
6. Total Rentals,	41.6	46.2	54.1	55.1

Wharf Fees by Pounds:

	January	December	10/11	9/10
1. Crabs:	0	0	206,820	1,429,920
2. Fish:	15,720	1,050	480,166	501,141
3. Conchs:	0	22,945	46,410	73,580
4. Horse Shoes:	0	0	0	63,280
5. Gravel:	0	0	1,000,000	0
6. Clams	0	0	0	0
7. Oysters	0	0	0	0
8. Conch Pots	0	0	0	0
9. Crab Pots	0	0	0	0
10. Total Pounds:	15,720	23,995	1,733.396	2,067,921

Waiting List:	12/31	Registered	Removed	1/31
1. 60ft Slips:	3	0	0	3
2. 50ft Slips:	3	0	0	3
3. 45ft Slips:	13	0	0	13
4. 36ft Slips:	9	0	0	9
5. 30ft Slips:	22	0	0	22
6. 24ft Slips:	20	0	0	20
7. 20ft Slips:	9	0	0	9
Total	79	0	0	79

William Smith Dize Jr.
Harbor Master
February 1, 2010

PUBLIC WORKS
January 2011

Dump Fees

- **Oyster Landfill** – 5 Trips
- **Sludge**- 0 Tons

Work Orders Open: 5
Work Orders Completed: 31

Staff Report

- We had 21 applicants for the position vacated when Diego Upshur left. Ten were selected to interview. Interviews start Feb. 2.

Completed Projects

- Repaired Mason Avenue Street Lights.
- Installed Rotary sign.
- Took Down Christmas décor.
- Picked up Christmas trees and took them to the beach.

In Progress

- Preparing Invitation for Bid (IFB) for grounds maintenance.
- Preparing road patches for asphalt. Repairs will be complete when asphalt plant opens.
- Keeping beach walkways open.

Upcoming Projects

- Repairs to exterior of Municipal Building.
- Repairs to Boardwalk. (FEMA)

Special Events

- Blessing of the Fleet
- Buy Boats coming to Cape Charles Harbor

PUBLIC UTILITIES
January 2011

Work Orders Completed

- Miss Utility Tickets: 15

Staff Report

- Billy Powell and Dan Dabinett worked with Busch Pump personnel to rebuild vacuum pump #2 from the New Quarter Pump Station.

Completed Projects

- Received bids for re-phased Mason Ave. pump station and force main improvements. Bids and bidders are being reviewed by GHD. Low bid was just over $1.2 M and falls within the range budgeted for the project.
- Rebuilt 1 of 3 vacuum pumps for New Quarter pump station.
- Submitted Inflow and Infiltration report concerning our collection to DEQ as part of the requirements for the consent order issued in September 2010.
- Inspected sand level in pressure filters at water plant and added sand to bring up to specified level.

New WWTP

- The Operations Building has the metal roof trusses erected.
- The Operation Building has the plywood sheathing, felt paper, and ice and water shield installed. Sand blasting of the floor is also taking place.
- The Headworks Building has block walls 100% complete. The mechanical coarse screen, and both fine screens have been placed in position. Stop gate frames are currently being installed. Concrete walls are being sand blasted for painting. Grit pumps are on the equipment pads. Metal roof trusses will be installed in February.
- The Reactor Distribution Box and Reactors are being leak tested and leak repair is to continue. Pipe hangers and the 14 inch ductile iron piping and the stainless steel piping is currently being installed along the entire south side of Reactor #1. 90 percent of the grating at the Distribution box has been installed. 50 percent of the mixer pumps and mixer masts have been installed.
- The Membrane Tanks have 90% of the Structural Steel erected. This work to continue through February. The walls have been sand blasted for the Chemical Resistant Finish to be applied.
- The Process Building block installation is 98% complete. Structural roof steel erection to continue thru February.
- The UV Structure currently has davit crane installed and is currently having UV trough diverters being installed.
- The Waste Sludge tanks have had the fill concrete installed in the bottom of the tanks, and are currently being leak tested and leak repaired. All blower pads to the east of the tanks have been installed.

- Solids process building is 100% complete with block installation. Metal roof truss erection will continue into February. Belt filter press is installed in the building, along with the screw conveyor and 2 sludge pumps.
- Electrical man holes and hand hold continue to be installed, along with concurrent electrical conduit and underground duct banks. Underground duct banks 85% complete.
- 98 % of yard piping has been installed to date.
- The Emergency Generator is on site and in place on the pad.
- Outfall piping will continue thru February.
- Various pieces of equipment have arrived on site for the membrane system from GE.
- Construction entrances are being repaired.

In Progress

- Awaiting response from DEQ for our Ground Water withdrawal permit. Will be issued upon adoption of new water & waste water codes by council. (Month 34)
- Repainting pipes and valves in water plant.(25% Complete)
- Working with DEQ to finalize Keck Well Aquifer Plan.
- Collecting flow data looking for sources of inflow and infiltration in the Plum Street Pump Station Basin sewer mains. Current flow meter location is the intersection of Peach and Jefferson.
- Collecting data for response to DEQ review letter on the Keck Well Aquifer Test Plan.
- Trying to clear Pine Street force main which has some sort of restriction in it, causing the station to run in high water from time to time.
- Installing shell road to Keck Wells. Held up due to wet weather.
- Preparing IFB for new emergency generator and transfer switch at the Plum Street Pump Station.

Upcoming Projects

- Mason Ave Pump Station force main rerouting
- Fig Street Force Main rerouting.
- Install of new metering system for chemical feed pumps at the water plant.
- PER for connection to Keck Wells.
- PER for chlorination byproducts. (Received VDH grant money)
- Painting of interior of water tower tank (Spring).

Code Enforcement

Month of January FY 2011

Building Permits Issued/Permit Fees Collected:

Permits this month: 13

Permits this year: 95 Total permits last year: 200

Total construction this month: $90,056

Total construction this year: $1,970,826 Total construction last fiscal year: $3,967,519

Permit fees this month: $1,232.98

Total permit fees this fiscal year: $61,748.21 Total permit fees last fiscal year: $63,902.48

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: $0

Old-Town Water/Sewer Tap fees: $0

Total Tap fees this year: $40,000 Total Tap fees last fiscal year: $20,000

Fire Dept. levy this month: $110.09

Total Fire Dept. levies this year: $1,657.36 Total Fire Dept. levies last fiscal year: $3,282.54

State levy this month: $22.01

Total state levies this year: $332.46 Total state levies last fiscal year: $664.67

Miscellaneous Revenue:$0

Existing Structures Code Enforcement Cases:

Total Cases: 26

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: 0

Grass cutting: 0

Enforcement fees charged this month: $0

Enforcement fees charged this year: $2,512 Fees charged last fiscal year: $7,351.98

Enforcement fees collected: $0

Enforcement fees collected this year: $1,850.21 Fees collected last fiscal year: $2,768.58

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: 12

Closed:59

Unresolved: 0

Month of January FY11

Central Park Trail (T-21 Grant) (updated)
Hours spent working on project this month: 15

Key Notes:

- Substantial Construction is complete
- Contractor still has a few items left on punch list however due to weather have been postponed until spring
- Have 4 more trashcans ready to install around East Node & Gazebo
- Received signage, ready to install
- Ordered ornamental bollards for around the fountain. Should receive within 2 weeks
-

Other items of note:

1. Completed 33 inspections
2. Conducted 0 zoning clearances
3. Completed 4 courtesy residential inspections
4. Conducted 2 courtesy commercial inspection
5. Conducted 30 E & S control inspections
6. Conducted 0 commercial plan reviews for Erosion and Sedimentation Control.
7. Completed 0 residential plan reviews
8. Issued 0 Public Utilities Shallow Well permits
9. Made site inspections throughout the month on the New Waste Water Treatment Plant Project.
10. Continued work on a nuisance ordinance update to incorporate piling of trash, garbage, materials, etc of an unnecessary quantity as a violation.
11. Conference call with Heather and State Fire Marshal's Office regarding firework regulations. Decided to secure bids from outside sources for 4th of July this year. Called three companies. Have only received one response. Good sources and feedback from prior shows. Only stipulation is that it will be on July 3 not July 4 as originally planned.
12. Jeb Brady passed 2nd portion of Certified Building Official Exam on January 6, 2011.
13. Met with Heather regarding priorities of Department over the next year. Re-assessing all active Code Enforcement cases and possible new ones.
14. Started preparing for upcoming budget cycle.

Permit/Construction Fee Report Jan-11

Address	Type	Permit #	Date	Work Description	Permit Fee	Value
406 Claret Court	Building	PB110001	1/4/2011	Finish up work to obtain C.O.	$56.00	$2,500
406 Claret Court	Plumbing	PP110001	1/4/2011	Finish up work to obtain C.O.	$56.00	$2,500
406 Claret Court	Mechanical	PM110002	1/4/2011	Finish up work to obtain C.O.	$56.00	$2,500
406 Claret Court	Electrical	PE100001	1/4/2011	Finish up work to obtain C.O.	$56.00	$2,500
120 Creekside Lane	Mechanical	PM110004	1/18/2011	New Mech. For s/f res.	$219.16	$24,136
218 Monroe Avenue	Building	PB100079	1/4/2011	Alteration per application	$212.80	$23,000
509 Monroe Avenue	Mechanical	PM110005	1/28/2011	2 New air to air heat pumps	$84.00	$5,000
631 Monroe Avenue	Building	PB110004	1/26/2011	Tear off/reroof & Interior Demo.	$95.20	$6,000
110 Tazewell Avenue	Mechanical	PM110001	1/4/2011	Mech per app	$78.40	$4,500
110 Tazewell Avenue	Electrical	PE110002	1/5/2011	Upgrading to 200 amp service	$56.00	$1,400
233 Tazewell Avenue	Mechanical	PM110003	1/7/2011	1 new air to air heat pump	$88.48	$5,400
530 Tazewell Avenue	Electrical	PE110003	1/26/2011	Upgrading to 200 amp service	$78.40	$4,500
715 Tazewell Avenue	Building	PB110002	1/5/2011	Tear off/reroof	$96.54	$6,120
				Totals	$1,232.98	$90,056

Printed: 02/01/2011

Revenue Totals by Category/Items

From: 01/01/2011 to: 01/31/2011

Miscellaneous		
Fire Dept Fee	13	$110.09
Miscellaneous totals	**13**	**$110.09**
Residential		
Valuation Res $2.5K - $10K	1	$70.00
Residential totals	**1**	**$70.00**
State Tax		
STATE TAX.	13	$22.01
State Tax totals	**13**	**$22.01**
Valuation		
Valuation Res $0 - $2.5K	1	$50.00
Valuation Res $0-$2.5K	4	$200.00
Valuation Res $2.5K - 10K	5	$395.20
Valuation Res > $10K	2	$385.68
Valuation totals	**12**	**$1,030.88**
Grand Totals	**39**	**$1,232.98**

MONTHLY INSPECTION TOTALS

Jeb Brady

Final	01/21/2011
COURTESY	01/18/2011
Insulation	01/03/2011
Final	01/25/2011
Footing	01/10/2011
Footing (Shed)	01/05/2011
Slab (Shed)	01/19/2011
Sheathing	01/27/2011
Final	01/10/2011
Sheathing (Roof)	01/05/2011
Final	01/21/2011
COURTESY	01/18/2011
Final	01/20/2011
CUT-IN	01/10/2011
Final	01/18/2011
CUT-IN	01/18/2011
CUT-IN	01/04/2011
Final	01/10/2011
Final	01/21/2011
Final	01/07/2011
COURTESY	01/18/2011
Final	01/21/2011
COURTESY	01/18/2011
Rough-In	01/03/2011
COURTESY	01/20/2011
Final	01/27/2011
Final	01/10/2011
Rough-In	01/03/2011
Final	01/27/2011
Final	01/21/2011
COURTESY	01/18/2011
Final	01/07/2011
Final	01/07/2011

Total	33
Grand Total	33

InsDateCompleted Range from 01/01/2011 to 01/31/2011

Planning Commission Report for Town Council

From: Tom Bonadeo

To: Town Council

Date: February 10, 2011

Subject: Report for Planning Department

Planning Commission Meeting–February 1

1. The Planning Commissions meeting was held on Tuesday February 1st.

2. The Planners held a joint public hearing and discussed the following items:

    a. Wind Energy Ordinance
        i. The planners have been working on the ordinance for over a year and have completed the final revision. They have had help from other localities and the Wind Energy Consortium at JMU along with outside consultants. They held a joint public hearing with Council to finalize the project.
3. The Commission worked on the Corridor Overlay project and will be submitting items to the County Planning Commission for their review.
4. Three of the newest Commissioners are planning to attend the Certified Training Class.
5. The planner has been working on the following projects
    a. Central park – final trees have been replaced/planted. Some trees do not meet the standards and Land Studio is working with the vendor on resolution.
    b. Beach plan review. The winter snow fence appears to be working at this time.
    c. Re-zoning Application- an action item on your agenda
    d. Boundary Adjustment-working with county planning on alternative action plan.
6. Numerous setback informational issues for new and prospective property owners.
7. Shore Erosion issues for some Cape Charles residents. A preliminary on-site meeting was held with Sea Breeze, Bay Vista owners and all the state and federal agencies to review erosion and to discuss the options available to the owners.
8. Economic development work with several possibilities.
9. Worked with the Town Manger and other staff on the Council Retreat.

Historic District Review Board Meeting – January18

Several historic homes have been sold in the last two months and we expect a busy spring. The house at 204 Bay is planned for a Historic Restoration for Tax Credits and is in the approval process at the State.

The Board reviewed and approved two applications for remodeling and additions to contributing historic homes in Cape Charles.

TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Police Department		AGENDA DATE February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: JANUARY 2011 Monthly Law Enforcement Statistic		ITEM NUMBER
	ATTACHMENTS: None		FOR COUNCIL: Action ( ) Information (X)
	STAFF CONTACT (s): Charles Brown Chief of Police	REVIEWED BY: 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: 29

Calls for Service Outside of Cape Charles: 13
10-13 Calls
(A) By Dispatch: 39
(B) By Phone via Officer/Trooper:
(C) In Person 03

Felony Arrests: 02

Misdemeanor Arrests: 01

DUI Arrests: 00

Traffic Summons Issued: 36

Traffic Warnings Issued: 02

Parking Tickets Issued:01

Assisted Northampton County Sheriff's Office: 07
Assisted Virginia State Police: 00
Assisted Other Local Police: 00
Assisted Other Federal Agencies 00

Assisted Fire & Rescue: 05
Assisted VDOT: 00

Hours of Training Received & What Type? N/A

TOWN OF CAPE CHARLES	AGENDA TITLE: Wind Energy Ordinance – New Zoning Ordinance		AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: Create a new ordinance for the regulation of wind turbines in Cape Charles		ITEM NUMBER: 6A
	ATTACHMENTS: Final Draft Ordinance		FOR COUNCIL: Action (x) Information ( )
	STAFF CONTACT (s): Tom Bonadeo - Heather	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Item Specifics

The Town Council, numerous citizens and potential businesses have expressed interest in alternative energy. The Governor of Virginia plans to promote Virginia as a center for Offshore Wind Power Development. The Planning Commission has worked on this ordinance for some time and this attached document incorporates some comments from outside sources of expertise. This shows the extensive review by outside agencies in Virginia other than the Town of Cape Charles.

Staff Review

The Planning Commission reviewed the ordinance after the Joint Public Hearing on February 1, 2011. The Commission made two text changes that helped clarify the ordinance but made no substantive changes.

The attached draft has been modified in the following places:

1. The acronym ANSI has been spelled out American National Standards Institute.
2. The sentence "A Cape Charles Building permit is required," has been added.

No other changes have been made to the ordinance since the public hearing.

Recommendation

Review the attached final draft ordinance. Staff recommends adoption of the ordinance.

Section 4.12 Wind Turbines

A. Statement of Intent.

The intent of this ordinance is to regulate the placement, construction and modification of wind energy systems while promoting the safe, effective and efficient use of the wind energy resource and wind energy systems while not interfering with the development of independent renewable energy sources. Wind Energy Systems meeting the requirements will be allowed by Conditional Use Permit. The Zoning Administrator shall maintain an inventory of wind energy systems to include their installation, operation and removal dates to be updated annually.

B. Applicability

The requirements set forth in this section shall govern all zones and wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws (Code of Virginia, 56-594), serve as an independent source of energy or serve in a hybrid system.

Wind Energy Systems Setback Matrix

	Minimum Lot Size	Minimum Setback Requirements[1]					Maximum Height from Grade
		Occupied Buildings (Subject Property)[2]	Occupied Buildings (Adjacent Prop.) [2,3]	Property Lines[2]	Public/ Private Right-of-Way	Hwys 184 & 642	
Anemometers	20,000 Sq. Ft.	1.0	1.5	1.0	1.5	2.5	Nacelle Height
Micro System	5,600 Sq. Ft.	0.0	1.0	1.0	1.5	1.0	Note 4
Small System	20,000 Sq. Ft.	0.0	1.5	1.0	1.5	2.5	120 Ft.
Large System	5 Acres	1.0	2.0	1.0	1.5	2.5	250 Ft.
Utility System	25 Acres	1.5	2.5	1.5	1.5	2.5	500 Ft.

[1] Measured from the center of the wind turbine base to the property line, ROW, or nearest point on the foundation of an occupied building.

[2] Calculated by multiplying the required setback number by the wind turbine height.

[3] This setback proposes to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent property or work site.

[4] One system per lot with a maximum of 18 feet above the roof.

1. As part of the Conditional Use Permit Process the setback requirements may be waived if the following conditions are met:

    a. Property owners may waive the occupied building setback requirements on both the subject property and/or the adjacent properties, and the property line setback requirements for wind turbines , by executing a signed waiver that sets forth the applicable setback provisions and proposed changes.

    b. The Written waiver shall notify the applicable property owners of the setback required by this ordinance, describe how the proposed wind turbine and/or wind energy facility is not in compliance and state that the consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance.

    c. Any such waiver shall be signed by all affected property owners and be recorded in the Northampton County Clerks office. The waiver shall describe the properties benefited and/or burdened, and advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

C. Definitions

Anemometer – Measures the wind speed and may transmit wind speed data to the controller.

Hybrid System – An energy system that uses more than one technology to produce energy or work (for example a wind/solar system)

kW – Kilowatt

mW - Megawatt

Nacelle – The cover housing surrounding the turbine, usually at the center of the blades.

Tower – The structure on which the wind system is mounted.

Tower Height – The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

Wind Energy Facility – An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and building, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large System – A system which has a rated capacity of not more than 999kW.

Wind Energy Facility, Micro System – A building mounted wind system that has a manufacturer's rating of 10kW or less and projects no more than 18 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the area or setback requirements. Only one facility is allowed per dwelling unit.

Wind Energy Facility, Small System – A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

Wind Energy Facility, Utility Scale – A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1MW or greater.

Wind Farm – See "Wind Energy Facility – Utility Scale."

Wind Power – Electrical Power generated by wind driven turbine blades turning an electrical generator.

Wind Pump – A type of windmill used for pumping water from a well or pond.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height – The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill – A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

D. Conditional Use Permit Requirements

1. The application shall demonstrate that the proposed wind energy facility will comply with this ordinance and shall contain at a minimum the following:

    a. A narrative describing the proposed wind energy facility;

    b. The approximate generating capacity of the wind energy facility;

    c. The specific number, representative types and height or range of heights of the wind turbines to be constructed, including their generating capacity,

dimensions and respective manufacturers and description of ancillary facilities;

d. Identification and location of the properties on which the proposed wind energy facility will be located;

e. A plot plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties with the geographical boundaries of any applicable setback;

f. Evidence of compliance with Federal Aviation Administration regulations;

g. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics.

h. An Environmental Assessment is required for small, large and utility scale wind energy facilities, which shall include review and comments from the applicable state and federal agencies, including but not limited to, Virginia Department of Mines, Minerals and Energy, DNR, USACE, US Fish and Wildlife and a completed Virginia Renewables Siting Scoring System (VRS3). The Planning Commission may require an additional Environmental Impact Statement (EIS) for the installation of three (3) or more turbines or if significant impacts could result from the installation.

i. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for the decommissioning and restoration and the anticipated manner in which the wind power project will be decommissioned and the site restored. This obligation shall be recorded and goes with the land.

j. Signature of the property owner(s) and the facility owner/operator of the energy facility;

k. Other relevant studies or reports that may be reasonably requested by the Town of Cape Charles to ensure compliance with this ordinance.

2. Throughout the permit process the applicant shall promptly notify The Town of any changes to the information contained in the permit application.

3. Changes to the pending application that do not materially alter the initial site plan may be adopted administratively.

4. Historic District Review Board or Harbor Area Review Board approval is required for systems within the Historic District Overlay District or Harbor District.

E. Installation and Design

1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of ANSI (American National Standards Institute.)

2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable town, state and national codes and ordinances. A Cape Charles Building Permit is required.

3. Small and Micro wind energy facilities shall not exceed 60 decibels as measured at the property line. The level, however, may be exceeded during short term events such as utility outages and/or severe windstorms.

4. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.

5. The visual appearance of wind energy facilities shall at a minimum:

   a. Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;

   b. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety;

   c. Not display advertising, including flags, streamers or decorative items, except for the identification of the turbine manufacturer, facility owner and operator.

F. Decommissioning or Abandonment

1. The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months. Repair, maintenance or redesign plans shall be submitted to the zoning administrator if turbines will be off-line for 12 months or more.

2. Decommissioning shall include removal of the wind turbines, buildings, cabling, electrical components, roads and any other associated facilities. Foundations shall be removed to a depth of 48" below finished grade.

3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. The

required Erosion and Sediment measures shall be put in place per the Virginia Erosion and Sediment Control Handbook.

TOWN OF CAPE CHARLES	AGENDA TITLE: Conditional Rezoning of Randolph portion of the Mack Building		AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: 546 Madison Avenue – Schedule a joint public hearing with Planning Commission		ITEM NUMBER: 6B
	ATTACHMENTS: Drawings and application		FOR COUNCIL: Action (x) Information ( )
	STAFF CONTACT (s): Tom Bonadeo - Heather	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Item Specifics

The Planning Commission has received a complete application for rezoning a portion of the Mack Building located at the corner of Strawberry and Randolph. They have discussed the application, held a public hearing and recommend approval of the application with the express intent to use this zone as a bridge between commercial and residential areas. This portion of the Mack Building contains four small, one floor office/apartments. This building has been zoned C-1 Commercial for some years.

During the past 10 years these spaces have been used as offices and apartments. Most recently the apartment use came to the attention of the zoning administrator and the residents were removed as residential use on the first floor is not a permitted use in the C-1 zone. The owner at that time requested a zoning variance to allow residential use on the first floor of a commercial building. The Board of Zoning Appeals considered the application and public comment and denied the request.

The Mack Building has been purchased and the new owner has requested a rezoning of the property to CR - Commercial-Residential and made several proffers that make good sense for the property and Town.

Staff Review

The building faces Randolph Avenue, a residential avenue in Town. The CR zone recognizes the juxtaposition of residential and commercial buildings in the boundary between the two zones. It specifically recognizes the residential buildings on a predominantly commercial Mason Avenue. It is designed to promote the continued character of the building while encouraging compatible uses.

The Randolph Avenue property was remodeled by the former owner to include all items necessary to create residential dwelling units. These often rented at a low rate and the resulting situation was uncomfortable for the neighbors. The neighbors spoke out at the public hearing against the zoning appeal.

The former owner was required to demolish the residential building (old Green Monster) just to the east on Randolph and subsequently blocked the rear of the building and alleyway with large pieces of utility poles. This access had been used in years past for the trash truck to travel from Mason Avenue to Randolph through the rear of this property. The actions of the landowner created two dead end drives.

This application for rezoning includes the following proffers:

1. The applicant proffers four parking spaces in the rear of the building for the potential tenants. This will keep cars from being parked on the street.
2. The applicant proffers to remove the utility poles blocking the alley access and install a 12' wide easement across the property connecting Randolph Avenue to the alley easement entering from Mason Avenue. This will restore the alley for emergency vehicle access at the least. It will no longer be a "dead end" alley. This easement will encumber portions of two lots owned by the Mack Building.
3. The applicant also proffers a 12' evergreen landscape easement on 609 Randolph, the vacant lot to the east of this property. This will block the view of the alley from Randolph Avenue.

4. The applicant will create a 12' rear yard area for the Randolph Avenue spaces. The building front is on the sidewalk property line and previously the renters used the sidewalk as their front yard. This will allow the renters space in the rear of the building as a yard.
5. The Planning Commission and the owner agreed that all leases for the units in the building shall, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering is permitted on the public right of way.

These proffers along with the CR zoning create the best use of the property for the owner and the Town. Using the CR zone provides the following benefits for the neighbors and Town:

1. The building can be used for business or residential as the need permits.
2. The proffers will keep the look of the building while providing for the juxtaposition of the building between the residential neighbors and the commercial neighbors.
3. The proffers will reconnect the alleyway for the buildings along Mason Avenue, Strawberry Street and Randolph Avenue.
4. Removal of the utility poles will aid in emergency access the rear of the commercial buildings along the above listed streets.

The Commission received two letters of support and one personal public comment. The public comment was answered during the commissions review.

Recommendation

The Planning Commission recommended the approval of the Conditional Rezoning with proffers. Town Council should review the public comment. Staff recommends approval of the Conditional Rezoning with Proffers as listed above.

MUNICIPAL CORPORATION OF CAPE CHARLES, VIRGINIA
Application for Zoning Map Amendment

Zoning Map Amendment Number: N/A

Date: 23 NOVEMBER 2010

Map Reference:

Tax Map Sheet:
Parcel:
Deed Book:

To the Governing Body of the Town of Cape Charles, Virginia

1. I/We PATRICK HAND, owner(s), _____ contract owner _____.

2. of _____ (Mailing Address)
757 377 4222 (Telephone) _____ (Fax)

3. do hereby petition you to amend the Zoning Map of the Town of Cape Charles, Virginia, by reclassifying and rezoning from the C-1 District to the C-R District the property described as follows and shown on the attached plat and outlined in red attached hereto, which is made a part of the application.

4. 12-26 STRAWBERRY ST AND 316-320 RANDOLPH AVE (Address of Property, if any)
_____ (Magisterial District)
_____ (Total Area – acres or sq. ft.)

5. Property Location MACK BLDG. - CORNER STRAW. & RANDOLPH

6. Description of Property (attach if described by metes and bounds) LEGAL - SEE ATTACHED

7. Proposed Use COMMERCIAL/RESIDENTIAL

8. PATRICK HAND (Name of Owner of Record)
2242 ARLINGTON CHASE CAPE CHARLES VA 23310 (Address)

9. Signature of Owner(s) Patrick Hand
Signature of Contract Owner(s) N/A
By: N/A (Agent)
_____ (Address and phone)

[redacted] 4970

12/1/2010 Date

68-7254/2514 03

Pay to the Order of TOWN OF CAPE CHARLES $ 300.00

THREE HUNDRED AND 00/100 Dollars

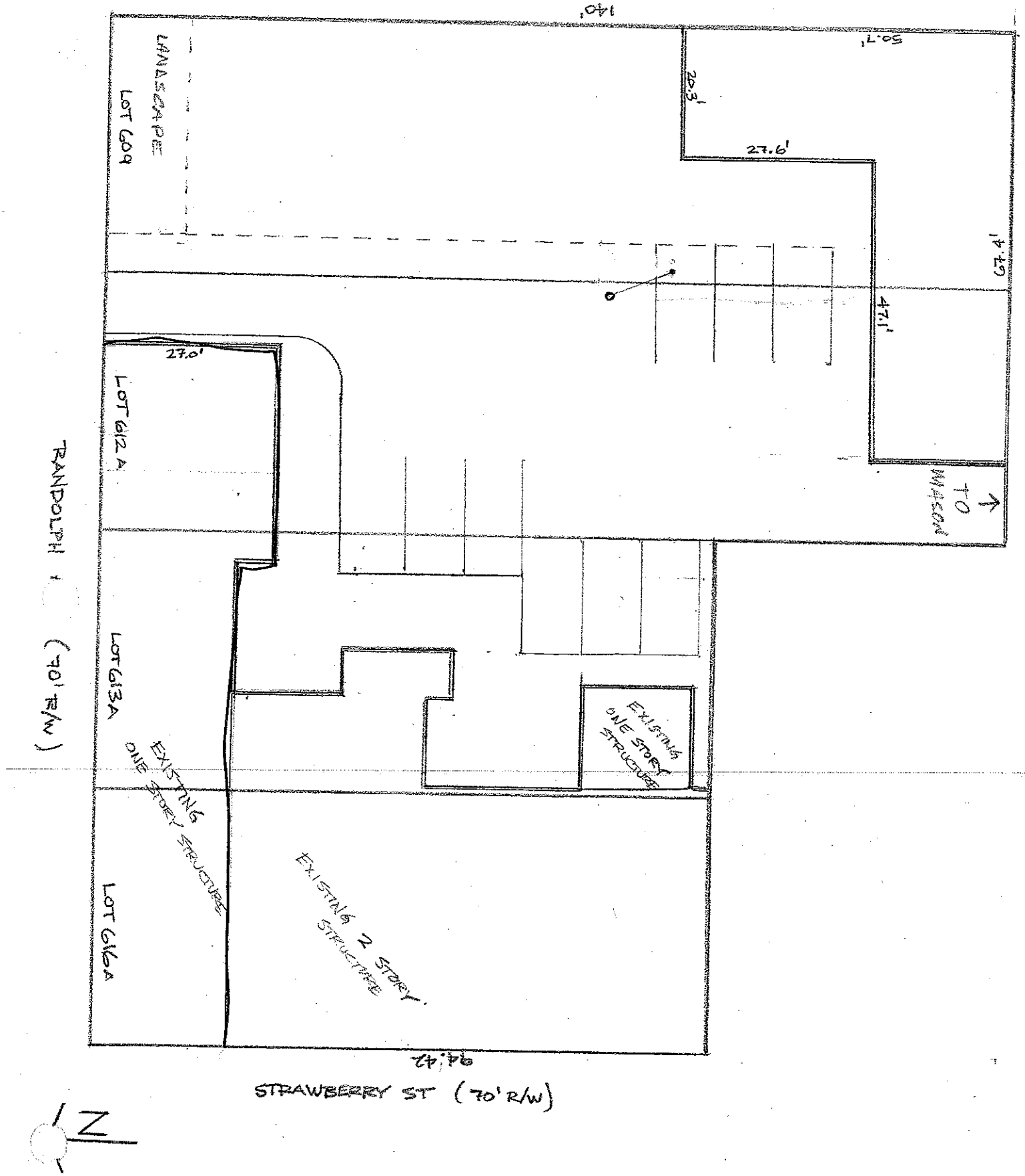
Shore Bank
Cape Charles, Virginia 23310

For REZONING AP MACK BUILDING Patrick Hand

[redacted]

on

00+$70 ac.



SITE PLAN MACK BUILDING

1" = 20'0"

30 NOV., 2010
PATRICK HAND

23 November,2010

Rezoning of Mack building 12 thru 24 Strawberry St and 316 thru 320 Randolph Ave Cape Charles, Va

The Purpose of the rezoning request is to better utilize the existing historic building. The four spaces adjacent to Randolph Ave are configured as apartments but in my opinion are poorly done. It is my intention to significantly improve the interior space of each potential one bedroom apartment to attract responsible, clean, long term tenants. I believe there is a need for clean, safe, affordable residential rentals in town. I believe there is merit in utilizing existing historic structures rather than letting them sit idle and building new apartments in areas that currently have a rural character. The exterior of the building will be unchanged on the Randolph Ave side except for improvements in landscaping and maintenance. The rear courtyard of the Mack building will have 10 parking spaces delineated and 12 feet immediately behind 318 and 320 Randolph delineated as outdoor space for those apartments. There will be provisions in lease agreements for 316, 318, and 320 Randolph that prohibit placing of furniture or other personal property outside on the Randolph Ave side of the building. There is currently a glut of empty office space in Cape Charles and I believe it will be a long time before it is absorbed. I am offering an easement across the western six feet of lot 609 and a lane thru lot 612 for town access to the rear of all those buildings on lots 610 thru 616. The existing unused utility poles will be removed. I am also offering a landscape easement on the northern 12 feet of lot 609 to act as a visual buffer between Randolph Ave and parking, storage buildings, and the backs of various buildings. In my proposal the existing storefronts at 12, 16, 18, and 22 will be restricted to uses under there current zoning and the 4 second floor apartments will be restricted to there current use.

Respectfully submitted,

Tom Bonadeo

From: kjd <kdavis@infionline.net>
Sent: Thursday, December 02, 2010 3:49 PM
To: planner@capecharles.org
Subject: Patrick Hand's zoning request

To the members of the Planning Commission:

I support Patrick Hand's application to re-zone the Randolph Avenue portion of the Mack Building to allow apartments.

Years ago, the former owner of the Mack Building drove cut-off telephone poles into the alley behind it, preventing the well-established access to the back of my Mason Avenue property. My building has been a restaurant in the past, and may be a restaurant in the future. It is important to have access to the rear entrance for deliveries, for garbage removal, and most importantly, for fire trucks and other public safety vehicles.

I understand that Mr. Hand has proffered a town-owned easement through the alley; that it will remain permanently un-blocked, and that vehicles may access the rear of my building through this alley. This proffer is very important to me, and to all of the owners on the 300 block of Mason Ave.

I understand that Mr. Hand has also proffered a landscape easement and some off-street parking. These are good things, as well.

With these easements firmly in place, property values on this block will be upheld and the safety of people living and working on this block will be enhanced. It is, therefore, to our advantage to support the zoning change.

Thank you for your consideration.

Sincerely,
Karen Jolly Davis

Tom Bonadeo

From: Heather Arcos <heather.arcos@capecharles.org>
Sent: Monday, December 06, 2010 12:04 PM
To: planner@capecharles.org; 'Libby Hume'
Subject: FW: Letter of Support for Patrick Hand

Heather M. Arcos
Town Manager
Town of Cape Charles
2 Plum Street
Cape Charles, Virginia 23310
www.capecharles.org
(757) 331-3259 ext 12 Direct
(757) 331-4820 Fax
(757) 414-1429 Cell

From: Arts Enter [mailto:artsenter1@verizon.net]
Sent: Friday, December 03, 2010 4:22 PM
To: 'Heather Arcos'
Subject: Letter of Support for Patrick Hand

Hello,

We, Arts Enter, support Patrick Hand's project on Randolph St at the MAC Building.

Thank you,

Arts Enter Executive Committee

TOWN OF CAPE CHARLES	AGENDA TITLE: Mason Ave. Pump Station Upgrade and Force Mains Project.	AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: Award construction contract for Phase 1.	ITEM NUMBER: 6C
	ATTACHMENTS: Tabulation of Bids.	FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Bob Panek / REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

To minimize the potential of sewage overflows we have been planning to upgrade the Mason Ave. pump station and re-route the force mains from the Fig St. and Mason Ave. pump stations directly to the new wastewater treatment plant. We planned to spend about $1.2 million on this effort. About $663 thousand will be funded via an Environmental Protection Agency (EPA) grant which has been transferred from Northampton County to the Town. The balance will be funded via low interest Recovery Zone Economic Development Bonds provided by the American Recovery and Reinvestment Act (ARRA). The project has grown in scope as additional problems were discovered during the design phase. Construction bids were received from four contractors on 9-28-2010, ranging from a high of $3.15 million to a low of $1.86 million, well above the original budget and the engineer's estimate.

Consequently, the project was reconfigured into two phases for re-bidding. Phase 1 includes the new force mains, new gravity sewer going into the pump station, demolition of the inoperable grit chamber, reconfiguration of the headworks and minor improvements to the wet well. As this work will improve performance of the pump station by at least 50%, EPA and the Department of Environmental Quality (DEQ) have approved this approach. Phase 2 would include: new pumps, controls, channel grinder, generator and instrumentation, wet well reconditioning, and a new building.

DISCUSSION:

Bids were received for Phase 1 on January 27, 2011 (tabulation attached). The lowest base bid was from JCB Construction at $1.285 million, including $0.164 million of contingent items. GHD has completed review of the contractor's qualifications and has recommended award of the contract. GHD has also submitted the required procurement documentation to DEQ for clearance.

RECOMMENDATION: Staff asks Council to approve award of the contract to JCB Construction, contingent on DEQ clearance, and to authorize the Town Manager to execute the contract documents.

STEARNS & WHELER™
Environmental Engineers & Scientists

BID OPENING RESULTS

Client: Town of Cape Charles, VA
Project Name: Mason Ave. Forcemains and Sewer
Bid Date: January 27, 2011 2:00 p.m.
Location: Town Hall, 2 Plum Street, Cape Charles, VA 23310

Company	Schedule A (Lump Sum)	Schedule B (Allowance)	Schedule C (Lump Sum)	Schedule D (Lump Sum)	Schedule E (Lump Sum)	Schedule F (Diesel-powered Pump)	Schedule G (Channel Grinder)	Schedule H (Contingent Unit Price Items)	Schedule I (Total Base Bid)	K-1 (Fiber Optic Conduit)	K-2 (Deduct for Bayshore Rd. Crossing Change)
1) JCB Construction	$646,000.00	$15,000.00	$75,000.00	$250,000.00	$45,000.00	$45,000.00	$45,000.00	$163,950.00	$1,284,950.00	$33,000.00	$1.00
2) WM Schlosser Co.	$825,480.00	$15,000.00	$70,000.00	$119,000.00	$68,000.00	$47,000.00	$44,000.00	$99,520.00	$1,288,000.00	$19,000.00	-$3,000.00
3) Hill Construction	$867,157.00	$15,000.00	$204,366.00	$167,382.00	$47,891.00	$46,200.00	$44,900.00	$84,820.00	$1,477,716.00	$70,000.00	$0.00
4) Branscome Eastern Shore	Addendum #1 Not Acknowledged										
5) W.R. Hall Inc.	$957,315.00	$15,000.00	$183,865.00	$187,612.00	$66,500.00	$50,500.00	$48,927.60	$164,250.00	$1,673,969.60	$18,000.00	$18,000.00
6) Precon Construction Co.	$950,000.00	$15,000.00	$165,440.00	$275,000.00	$75,000.00	$46,000.00	$45,000.00	$174,525.00	$1,745,965.00	$115,080.00	-$1,000.00
7)											
8)											
9)											
10)											
11)											
12)											
13)											
14)											
15)											

TOWN OF CAPE CHARLES	AGENDA TITLE: Revision of Town Code, Chapter 70 – Water, Sewers and Sewage Disposal		AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: Approve revision.		ITEM NUMBER: 6D
	ATTACHMENTS: Proposed Ordinance implementing new Chapters 70, 71 and 72.		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Bob Panek	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The existing provisions of the Town Code pertaining to water and sewer need to be revised primarily for the following reasons:

1. To incorporate current sewer use standards required by the Environmental Protection Agency (EPA) and the Department of Environmental Quality (DEQ), much of which apply to significant industrial users.
2. To incorporate current requirements for water conservation and use restrictions during water shortage emergencies now required by state code and for renewal of our Ground Water Withdrawal Permit.
3. To more clearly delineate the separate requirements pertaining to water and sewer, as they are governed by different federal and state laws and regulations.
4. To update outmoded provisions of the existing code, e.g:
    a. Assigning authority to the Director of Public Utilities.
    b. Authorizing monetary forgiveness for leaks only for sewer charges.
    c. Deleting the requirement for meter deposits.
    d. Increasing miscellaneous service charges.
    e. Clarifying charges and fees related to uninhabitable structures and vacant lots.
    f. Revising due date for payment of utility bills from 15 to 21 days.

DISCUSSION:

The proposed revisions have been organized into three Chapters:

70 – Water Supply
71 – Sewers and Sewer Use
72 – Water and Sewer Service Charges

Council has reviewed the proposed revisions in several Work Sessions and staff has incorporated the changes requested. A Public Hearing was held this evening.

RECOMMENDATION:

Staff asks for a roll call vote on the attached ordinance implementing the revised water and sewer provisions.

ORDINANCE 20110210
REVISING WATER AND SEWER PROVISIONS OF THE TOWN CODE

WHEREAS, current sewer use standards required by the U.S. Environmental Protection Agency and the Virginia Department of Environmental Quality need to be implemented; and

WHEREAS, current requirements of the Code of Virginia for water conservation and use restrictions during water shortage emergencies need to be implemented; and

WHEREAS, several outmoded provisions of the existing Town Code pertaining to water and sewer need to be updated; now

THEREFORE BE IT ORDAINED by the Town Council of Cape Charles, this 10th day of February, 2011, that the existing Chapter 70 of the Town Code be replaced with new Chapters 70, 71 and 72, attached.

****

Adopted by the Town Council of Cape Charles on February 10, 2011.

By:_____
Mayor

ATTEST:

_____
Town Clerk

Chapter 70 Water Supply

ARTICLE I. GENERAL PROVISIONS

Sec. 70- 1. Purpose.

The purpose of this chapter is to provide for the beneficial public use of the Town of Cape Charles waterworks through regulation of connections; to provide for equitable distribution of the costs of the waterworks; and to provide procedures for complying with the requirements contained herein.

Sec. 70- 2. Scope.

(a) This chapter provides for use of the Town's waterworks, equitable distribution of costs, minimum connection standards and conditions, and penalties and other procedures in cases of violation.

(b) This chapter shall apply to the Town of Cape Charles and to persons outside the Town who are, by contract, permit or agreement with the Town, users of the Town's waterworks.

Sec. 70- 3. Administration.

The Director of Public Utilities, under the direction of the Town Manager, shall administer, implement, and enforce the provisions of this chapter. The Director of Public Utilities is the manager of the waterworks.

Sec. 70- 4. Fees and Charges.

(a) All fees and charges payable under the provisions of this chapter shall be paid to the Town of Cape Charles. Such fees and charges shall be as set forth herein or as established by the Town Council.

(b) Connection charges are due and payable as prescribed in Section 70-35.

(c~~b~~) Service~~All fees and~~ charges ~~payable under the provisions of this chapter~~ are due and payable as prescribed in Chapter 72~~upon the receipt of notice of charges~~. Unpaid service~~fees and~~ charges shall become delinquent and shall be subject to penalty charges.

Sec. 70- 5. Inspections.

(a) The Director of Public Utilities, Town Manager or authorized State or Federal officials, bearing the proper credentials and identification, shall be permitted to enter all user premises or buildings to examine the pipes and fixtures and the manner in which the water is used and such user must frankly and without concealment answer questions relative to the use of water on such premises or in such building, and the Town shall have the right, upon giving reasonable notice, to discontinue the service when such access is refused or not permitted.

(b) The Director of Public Utilities or Town Manager, bearing proper credentials and identification, shall be permitted to access ~~enter~~ all private property through which the Town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the Town's waterworks lying within the easement. All entry, and any

subsequent work on the easement, shall be done in ~~final~~ accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in Sections 70-5(a) and (b) above, the Director of Public Utilities shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

Sec. 70- 6. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Town's waterworks. No person shall deliberately obstruct or permit obstruction to the access to cutoff valves, water meters or other fixtures connected with the supply of water by placing of stone, brick, lumber, dirt, or any other material so as to obstruct its proper use, or permitting grass to grow over the meter box in such a manner as to cover the box and thereby obstructing its observance. Any person who violates this section shall be guilty of a class 1 misdemeanor.

Sec. 70- 7. Separability.

If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.

Sec. 70-8. Violations of Chapter and Liability for Damages.

(1) Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a class 3 misdemeanor.; see Section 1-10.

(2) Any person violating any provision of this chapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of such violation.

Sec. 70- 9. Amendments.

Public notice shall be given in accordance with applicable provisions of the Town Charter, other Town ordinances, State and Federal law, prior to adoption of any amendments.

ARTICLE II. DEFINITIONS

Sec. 70-21. Specific Definitions

Unless the context of usage indicates otherwise, the meaning of specific terms in this chapter shall be as follows:

"Backflow" shall mean the flow of water or other liquids, mixtures, or substances into the distribution piping of a waterworks from any source or sources other than its intended source.

"Backflow Prevention Device" shall mean any approved device, method, or type of construction intended to prevent backflow into a waterworks.

"Consumer" shall mean any person who drinks or otherwise uses water from a waterworks.

"Consumer's Water System" shall mean any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

"Cross Connection" shall mean any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

"Curb Stop" shall mean the device between the water main and the water meter utilized for stopping water flow to the meter.

"Director" shall mean the Director of Public Utilities, who is responsible for managing the Town of Cape Charles Waterworks, or an authorized designee.

"Distribution Main" shall mean a water main whose primary purpose is to provide treated water to service connections.

"Domestic Use" shall mean normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

"Groundwater" shall mean all water obtained from sources not classified as surface water (or surface water sources).

"Industrial User (Class II)" shall mean premises consuming water for all non-residential uses.

"Nonpotable Water" shall mean water not classified as pure water.

"Owner" or "Water Purveyor" shall mean an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government which supplies or proposes to supply water to any person within this state from or by means of any waterworks.

"Pure Water" or "Potable Water" shall mean water fit for human consumption and domestic use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.

"Residential User (Class I)" shall mean a premises consuming water for domestic use only.

"Service Connection" shall mean the point of delivery of water to a customer's building service line as follows:

1. If a meter is installed, the service connection is the downstream side of the meter;
2. If a meter is not installed, the service connection is the point of connection to the waterworks;
3. When the water purveyor is also the building owner, the service connection is the entry point to the building.

"Surface Water" shall mean all water open to the atmosphere and subject to surface runoff.

"Water Meter" shall mean the device installed between the water main and the service connection to measure the volume of water supplied to a house or other premises.

"Water Purveyor" has the same meaning as Owner.

"Water Supply" shall mean water that has been taken into a waterworks from all wells, streams, springs, lakes, and other bodies of surface waters (natural or impounded), and the tributaries thereto, and all impounded groundwater, but the term "water supply" shall not include any waters above the point of intake of such waterworks.

"Water Supply Main" or "Main" shall mean any water supply pipeline that is part of a waterworks distribution system.

"Waterworks" shall mean a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

ARTICLE III. CONNECTION TO WATERWORKS

Sec. 70- 321. Application for Service; Permit for Connection.

Every person requiring a supply of water, or desiring any change, alteration or repair to any lines furnishing such supply must make application therefore upon such form as may be

prescribed and provided for that purpose. The application must state truly and fully all the uses to which the water is to be applied and no different or additional use will be allowed except by written permission issued by the Director upon proper application being made. There shall be two classes of permits for connection to the Town's waterworks: Class I – residential, Class II – industrial. The connection permit shall be applied for at the same time as the building permit. The permit for connection to the service pipes or water mains shall be issued by the Director to a licensed contractor employed by the applicant to make such connection. Not more than one dwelling unit or premises shall be supplied from one connection, except by written permission of the Town Manager~~Director~~. Where such connection is made, the owner is ultimately responsible for payment of all accounts.

Sec. 70- 3~~2~~2. Town Service Connection.

The town will furnish, install and maintain all water meters. A ~~a~~ three-quarter-inch meter and curb stop~~corporation cock~~ are standard~~only~~. The owner shall make the tap at the water main. An applicant needing a meter larger than three-quarter-inch shall pay the difference in the cost of the larger meter and any ancillary appurtenances required.

Sec. 70- 3~~2~~3. Consumer's Connection.

(a) Service connections between the house or premises of the consumer and the town water main shall be laid and connected by the party making application for service, subject to the supervision and approval of the Director. After approval and acceptance, the line from the meter to the main becomes the responsibility of the town.

(b) Prior to authorization for final connection to the town's water supply system, an inspection by the designated agent of the town shall be performed on installed service laterals to ensure conformance of materials and workmanship with current building code standards. No connection shall be authorized unless such materials and workmanship are approved by the inspector.

(c) Leaking water lines running from the town's water meter to the designated property shall be repaired or replaced ~~within a reasonable length of time~~ at the expense of the property owner. Should the property owner fail to repair or replace such lines expeditiously~~within a reasonable length of time~~ after notice has been given in writing by authorized personnel of the town that such repairs or replacement are necessary, the town may turn the water off either at the curb stop~~corporation cock~~ or at the meter, whichever it deems necessary, until the lines are repaired or replaced.

Sec. 70- 3~~2~~4. Connection to Waterworks Required.

(a) The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be located a water main connected to the water treatment works of the Town, is required at the owner's expense to connect directly to the water main in accordance with the provisions of this chapter, within 90 days after notice that the water main is available within 100 feet of the property line.

(b) It shall be unlawful for any person or entity owning or occupying any property within the town for which town water is available to use any other water supply for potable use, including private deep or shallow wells, except as otherwise provided herein.

Sec. 70- 3~~2~~5. Connection Charges.

(a) Connection charges shall consist of a connection fee and a facility fee. The connection fee contributes to the costs associated with maintaining the waterworks. The facility fee covers the capital cost of creating waterworks capacity.

(b) Class I - The connection fee shall be $875 and the facility fee shall be $5,100, for a total charge of $5,975. Such charge, plus $100 for inspection and review fees, shall be paid to the Building Department at the time of building permit issuance, or to the Town Treasurer pursuant to any payment programs authorized by Town Council, prior to the initiation of connection related construction activities.

(c) Class II – The connection fee shall be $875. The facility fee shall be calculated on a consumption based formula as follows: Class I facility fee + (Class I facility fee x residential equivalent x 10%). Residential equivalent shall be the estimated daily water consumption rate for the building, as defined by the Virginia Department of Health Waterworks Regulations, divided by the residential daily water consumption rate of 125 gallons per day. For buildings qualifying under chapter 66, article VIII of this Code, the facility fee used in the consumption based formula shall be $1,375, rather than the Class I facility fee, if construction activity is commenced after the submission of the application or within the ten-year period of tax exemption. The inspection and review fees above also apply to Class II permits.

Sec. 70- 326. Protection of Capacity for Existing Users.

The Director shall not issue a permit for any class of connection to the Town's waterworks unless there is sufficient capacity, not legally committed to other users, in the waterworks to supply the quantity of water which the requested connection will require. The Director may permit such a connection if there are legally binding commitments to provide the needed capacity.

ARTICLE IVIII. WATER SERVICE

Sec. 70- 431. Water Service Charges.

Charges and fees for the use of the public waterworks shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

Sec. 70- 432. Meter Required.

All water furnished by the town shall be measured by meters furnished by the town for that purpose.

Sec. 70-433. Turning Water On or Off Without Authority.

(a) Except in emergency situations, it shall be unlawful for any person, not acting under the authority of the Director, to turn the water of the town on or off for any premises whatsoever.

(b) It shall be unlawful for any person to take any water from the waterworks system of the town except in accordance with the provisions of this article.

(c) This section shall not be construed to prohibit plumbers from turning water into pipes to test the same or for purposes of testing plumbing connected thereto.

Sec. 70- 434. Regular and Uninterrupted Supply Not Guaranteed.

The town does not guarantee a regular and uninterrupted supply of water to any consumer and shall not be liable for any failure to supply the same, nor shall it be liable for any claims or damages by reason of the breaking of any main, service pipe stopcock or other equipment, or if the supply of water is cut off to make repairs, connections or extensions or for any other reason whatsoever. The right is reserved to cut off the supply of water at any time. When possible to do so, reasonable notice of such discontinuance shall be given to the consumers affected.

Sec. 70- 435. Discontinuance of Service at Request of Consumer.

Water service may be discontinued upon request by the consumer whenever the premises are to be unoccupied. There shall be a $25.00 fee for discontinuing service and a $25.00 fee for reactivation of service. Work performed during other than normal business hours shall require a $75.00 fee. Normal monthly minimum service charges will still apply.

Sec. 70- 436. Disconnection to use Private Water System Prohibited.

It shall be unlawful for any person or entity owning or occupying any property within the town which property is connected to the town water system to disconnect such property from the system to use a private water system.

ARTICLE IV. Shallow Wells.

Sec. 70- 541. Shallow Wells.

(a) Notwithstanding the provisions of this chapter, shallow wells with a depth of less than or equal to 50 feet shall be permitted within the town for such purposes and under such conditions as are set forth in this section.

(b) Shallow wells permitted by this section shall be limited to outdoor use only, such as for landscaping and gardening. No shallow well shall be connected to plumbing facilities for the purposes of providing internal water supply or service to any structure situate on any property within the town. The water supply provided by shallow wells permitted hereunder shall not be used for drinking purposes. All fixtures connected to shallow wells shall be clearly and permanently marked "Water Unsafe for Drinking".

(c) All shallow wells permitted by this section shall comply in all respects with the provisions of Article V of this chapter as well as other applicable federal, state and local laws and regulations.

(d) Prior to the installation and operation of any shallow well permitted by this section, the owner or occupant of the property to be served thereby, or such owner's agent, shall first obtain a shallow well permit from the town. To obtain a permit, such owner, occupant or agent shall file a completed permit application on forms provided by the town and shall pay a nonrefundable permit fee to the town in such amount as the town council may from time to time designate. The town manager shall have the authority to promulgate and revise such permit application forms from time to time as are necessary for the administration of this section. Within 30 days after receipt of a properly completed application and payment of the required fee, a shallow well permit shall be issued if the proposed well is found to otherwise comply with the requirements of this section.

ARTICLE VI. Water Cross-Connection Control and Backflow Prevention.

Sec. 70- 651. State Regulations Adopted.

Article 4, Cross Connection Control and Backflow Prevention in Waterworks, of 12VAC5-590, Waterworks Regulations, is hereby adopted. The containment policy, standards, and backflow prevention device requirements specified therein shall pertain to town waterworks consumers.

Sec. 70- 652. Inspections.

(a) The Director shall require inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections shall be established based on potential health hazards involved.

(b) Representatives of the town shall have the right to enter, at any reasonable time, properties served by a connection to the town waterworks for the purpose of inspecting the piping system for cross-connections. Upon request, the owner or occupant of property so served shall furnish to the inspector pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

Sec. 70- 653. Protection of Potable Water.

The potable water made available on properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this Article and the building code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the waterworks must be labeled as "Water Unsafe for Drinking" in a conspicuous manner.

Sec. 70- 654. Denial or Discontinuance of Service for Lack of Required Device.

The town may deny or discontinue water service to a consumer if a required backflow prevention device is not installed. If it is found that the device has been removed or bypassed, or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below ten pounds per square inch, the town shall take action to ensure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with this Article and to the satisfaction of the Director.

ARTICLE VII. Water Conservation.

Sec. 70-761. Waste of Water Prohibited.

In accordance with 9VAC25-610-100, the waste of water supplied by the Town's waterworks is prohibited to minimize the demand for groundwater withdrawal.

Sec. 70-762. Low Flow Devices and Fixtures.

(a) Low flow devices and fixtures, as specified in the Virginia Uniform Statewide Building Code, are required in all new construction and in all remodeling and/or replacement of plumbing fixtures in existing structures.

(b) Lavatories in a public facility restroom shall be equipped with standard valve or spring self-closing faucets having outlet devices that limit the flow rate to a maximum of 0.5 gallons per minute or self-closing metering valves which limit flow of 0.25 gallons per cycle.

(c) All new car wash installations shall be equipped with a water recycling system approved by the Director.

(d) All new construction, repair or replacement of continuous flow devices and any other water connector device or appliance requiring a continuous flow of five (5) gallons per minute or more shall be equipped with a recycling system approved by the Director.

Sec. 70-763. Repair of Leaks.

The owner of any property who is found to be an excessive user of water due to leakage from water lines or plumbing fixtures on the premises, and who fails to repair and stop such leakage during a reasonable period of time, per Sec. 70-323, shall be subject to the penalties for noncompliance.

Sec. 70-764. Water Conservation Evaluation.

For all new commercial or industrial construction, an evaluation of potential options to minimize groundwater withdrawal, e.g., water reuse, rainwater collection, low irrigation landscaping, etc., shall be conducted and the results submitted with the applicable land use and building permit applications.

Sec. 70-765. Waste of Water Generally.

No person shall permit water to run from any hydrant, meter, valve, or fixture without proper care to prevent waste.

Sec.70-766. Penalties for Noncompliance.

(a) Any person who shall violate any provision of this Article, shall, upon conviction thereof, in addition to additional charges and/or other actions set forth herein, be fined not more than two hundred fifty dollars ($250.00). Each act or each day's continuation of a violation shall be considered a separate offense.

(b) In addition to the foregoing, the Director may suspend water service to any person violating the provisions of this Article. If water service is terminated, the person shall pay a reconnection fee of fifty dollars ($50.00) plus all outstanding fines and fees before service will be restored.

ARTICLE VIII. CONSERVATION DURING WATER SHORTAGE EMERGENCIES

Sec. 70-871. Water Shortage Emergencies.

During emergency water supply conditions the protection of the health, safety and welfare of the residents of the Town may require that certain uses of water, nonessential to public health, safety and welfare, be reduced, restricted or curtailed; and as the shortage of potable water becomes increasingly more critical, conservation measures to further reduce consumption or curtail essential water use may be required. Consumers will be notified in writing and by other expeditious means that a water shortage emergency has been declared by the Town Council or Director of the Virginia Department of Environmental Quality and that water use reductions or

restrictions are mandatory.

Sec. 70-8~~7~~2. Conservation Measures, Generally.

Upon declaration of a water shortage emergency, the Town Manager or his or her designee will implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain non-essential purposes for the duration of the water shortage. In exercising this authority, the Town Manager or his or her designee shall give due consideration to water storage, treatment and pumping capacity, daily consumption data, fire service requirements, distribution system conditions including stoppages and leaks, estimates of minimum essential supplies to preserve public health and safety, and any other pertinent data. Additionally, conservation measures will be tailored to recognize consumption by governmental activities and commercial businesses for purposes necessary for public health, safety and welfare, and to avoid severe economic hardship or a substantial loss of employment. When moderate but limited supplies of water are available prior to declaration of a water shortage emergency, consumers will be requested to voluntarily restrain water usage and to conserve water by whatever means available.

Sec. 70-8~~7~~3. Specific Conservation Measures.

(a) Condition 1; Mandatory Restrictions. When very limited supplies of water are available, consumers shall be ordered to curtail less essential usage of water, including, but not limited to, one or more of the following:

1) The watering of shrubbery, trees, lawns, grass, plants or any other vegetation, except indoor plantings, greenhouse or nursery stocks, and except watering by commercial nurseries of freshly planted plants and once a week for five (5) weeks following planting.

2) The washing of automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, with the exception of facilities operating with a water recycling system approved by the Town Manager; provided, however, that any facility operating with a water recycling system shall permanently display in public view a notice stating that such recycling system is in operation. In lieu of the provisions hereof, the Town Manager may curtail the hours of operation of commercial enterprises offering such services.

3) The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces.

4) The operation of any ornamental fountain or other structure requiring a similar use of water.

5) The filling of swimming or wading pools, or the refilling of swimming or wading pools which were drained after the effective date of the order, except those for commercial use.

6) The use of water from hydrants for any purpose other than fire suppression or other public emergency.

(b) Condition 2; Rationing. When critically limited supplies of water are available, mandatory reductions shall be instituted as follows:

1) Non-residential consumers shall be allotted a percentage reduction based on their average monthly billings over the preceding six-month period.

2) Residential consumers shall be limited to a specific volume or percentage reduction based on their average monthly billings over the preceding six-month period.

3) If allotted monthly usage is exceeded, the consumer shall be charged ten dollars ($10.00) for every thousand (1,000) gallons of water consumed above the allotted volume. Where prior consumption data is not available, allocations shall be estimated based on the best available data.

(c) Condition 3; Curtailment. When only the most limited supplies of water are available, the use of water shall be restricted to purposes that are absolutely essential to life, health and safety.

Sec. 70-~~8~~74. Report Required.

When a water shortage emergency is in existence, a written report documenting the water supply status and conservation measures implemented will be prepared by the Town Manager and provided to the Town Council. The Town Clerk shall make the report available for public inspection.

Sec. 70-~~8~~75. Notice of Temporary or Final Ceasing of Emergency

The Town Manager shall notify the Town Council when the water shortage is over and the emergency situation no longer exists. Consumers will be notified of the temporary or final ceasing of emergency conditions.

Sec. 70-~~8~~76. Penalties for Noncompliance

Any person who shall violate any provision of this Article, shall, upon conviction thereof, be subject to the penalties specified in Article VII.

Chapter 71 Sewers and Sewer Use

ARTICLE I. GENERAL PROVISIONS

Sec. 71- 1. Purpose.

The purpose of this chapter is to provide for the maximum possible beneficial public use of the Town of Cape Charles treatment works through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable distribution of the costs of the treatment works; and to provide procedures for complying with the requirements contained herein.

Sec. 71- 2. Scope.

(a) The definitions of terms used in this chapter are found in Article II. The provisions of this chapter shall apply to the discharge of all wastewater to treatment works of the Town. This chapter provides for use of the Town's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of User Permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation.

(b) This chapter shall apply to the Town of Cape Charles and to persons outside the Town who are, by contract, permit or agreement with the Town, users of the Town's treatment works.

Sec. 71- 3. Administration.

The Director of Public Utilities, under the direction of the Town Manager, shall administer, implement, and enforce the provisions of this chapter. The Director of Public Utilities is the manager of the Town's treatment works.

Sec. 71- 4. Fees and Charges.

(a) All fees and charges payable under the provisions of this chapter shall be paid to the Town of Cape Charles. Such fees and charges shall be as set forth herein or as established by the Town Council.

(b) Connection charges are due and payable as prescribed in Section 71-42.

(c~~b~~) Service~~All fees and~~ charges ~~payable under the provisions of this chapter~~ are due and payable as prescribed in Chapter 72.~~upon the receipt of notice of charges~~. Unpaid service~~fees and~~ charges shall become delinquent and shall be subject to penalty charges.

Sec. 71- 5. Inspections.

(a) The Director of Public Utilities, Town Manager or authorized State or Federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this chapter and the Virginia Sewage Collection and Treatment Regulations.

(b) The Director of Public Utilities or Town Manager, bearing proper credentials and identification, shall be permitted to access~~enter~~ all private property through which the Town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the Town's treatment works lying within the easement. All entry, and any subsequent work on the easement, shall be done in ~~final~~ accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in Sections 71-5(a) and (b) above, the Director of Public Utilities shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

Sec. 71- 6. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Town's treatment works. Any person who violates this section shall be guilty of a class 1 misdemeanor.

Sec. 71- 7. Separability.

If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.

Sec. 71- 8. Violations of Chapter and Liability for Damages.

(1) Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a class 3 misdemeanor; see Section 1-10.

(2) Any person violating any provision of this chapter shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

Sec. 71- 9. Amendments.

Public notice shall be given in accordance with applicable provisions of the Town Charter, other Town ordinances, State and Federal law, prior to adoption of any amendments.

ARTICLE II. DEFINITIONS

Sec. 71- 21. Specific Definitions.

Unless the context of usage indicates otherwise, the meaning of specific terms in this chapter shall be as follows:

"Act" shall mean the Federal Clean Water Act, 33. U.S.C. 1251 et seq.

"Approval Authority" means the Executive Director or Director of the Department of Environmental Quality.

"ASTM" shall mean the American Society for Testing and Materials.

"Authorized Representative of Industrial User" shall mean:

(1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; or

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or

(3) A duly authorized representative of the individual designated in #1 or #2, above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the Director of Public Utilities prior to **or** together with any reports to be signed by the authorized representative.

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

"Building Sewer" shall mean the extension from a building wastewater plumbing facility to the treatment works.

"Categorical Pretreatment Standard or Categorical Standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(a) & 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

"Combined Sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.

"Day" shall mean the 24-hour period beginning at 12:01 a.m.

"Director" shall mean the Director of Public Utilities, who is responsible for managing the ~~manager of the~~ Town of Cape Charles Wastewater System, or an authorized designee.

"Discharger" shall mean person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.

"Easement" shall mean an acquired legal right for the specific use of land owned by others.

"EPA" shall mean the United States Environmental Protection Agency.

~~**"Establishment"** shall mean any industrial establishment, mill, factory, tannery, paper or~~ pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

"Existing Source" shall mean any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

"Garbage" shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

"Ground Water" shall mean any water beneath the land surface in the zone of saturation.

"Indirect Discharge" shall mean the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b) (c) or (d) of the Act.

"Industrial User or Significant Discharger" means a source of indirect discharge, or a nondomestic discharge to a treatment works.

"Industrial Wastes" shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

"Interference" shall mean an inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.

"May" is permissible; **"Shall"** is mandatory.

"Municipality" shall mean a city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

"Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

"New Source" shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).

~~**"VPDES"** shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.~~

"Owner" shall mean the Commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

"Pass-Through" shall mean the discharge of pollutants through a POTW into State waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

"Person" shall mean any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency or group.

"pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

"Pollutant" shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radio active material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

"POTW, Publicly Owned Treatment Works" shall mean any sewage treatment works that is owned by a State or Municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

"Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Town of Cape Charles treatment works.

"Pretreatment Requirements" shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

"Pretreatment Standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial users.

"Process Water" shall mean liquid resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources, excluding sanitary wastewater.

"Properly Shredded Garbage" shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than ½ inch in any dimension.

"Residential User (Class 1)" shall mean all premises used only for human residency and which is connected to the treatment works.

"Sanitary Wastewater" shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

"Significant Industrial User" shall be defined as follows:

(1) Has a process wastewater flow of 25,000 gallons or more per average work day, excluding sanitary, non-contact cooling and boiler blowdown wastewater;

(2) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;

(3) Is subject to categorical pretreatment standards; or

(4) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

"Slug Load" shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in Section 71-63 of this Ordinance or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

"Standard Methods" shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

"State" shall mean the Commonwealth of Virginia.

"Storm Sewer" shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

"Surface Water" shall mean:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate "wetlands";

(3) All other waters, such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(a) which are or could be used by interstate or foreign travelers for recreational or other purposes;

(b) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(c) which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as surface waters under this definition;
(5) Tributaries of waters identified in paragraphs (1) - (4) of this definition;

(6) The territorial sea; and

(7) "Wetlands" adjacent to waters other than waters that are themselves wetlands, identified in paragraphs (1) - (6) of this definition.

"Suspended Solids" shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

"Treatment Facility" shall mean only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

"Treatment Works" shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions, or alterations, and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment, or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

"Toxics" shall mean any of the pollutants designated by Federal regulations pursuant to Section 307 (a) (1) of the Act.

"User" shall mean a source of wastewater discharge into a POTW.

"User Permit" shall mean a document issued by the POTW to the User that permits the connection and/or introduction of wastes into the treatment works under the provisions of this chapter.

"VPDES" shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

"Wastewater" shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or storm water that may be present.

"WPCF" shall mean the Water Pollution Control Federation.

Sec. 71- 22. General Definitions.

Unless the context of usage indicates otherwise, the meaning of terms in this chapter and not defined in Section 71 -21 above, shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, Copyright 1969.

ARTICLE III - USE OF TREATMENT WORKS & TREATMENT FACILITY

Sec. 71- 31. Waste Disposal.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the Town of Cape Charles, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.

Sec. 71- 32. Wastewater Discharges.

It shall be unlawful under State and Federal Law to discharge without a VPDES permit to any natural outlet within the Town of Cape Charles or in any area under its jurisdiction. Wastewater discharges to the Town's treatment works are not authorized unless permitted by the Director in accordance with provisions of this chapter.

Sec. 71- 33. Wastewater Disposal.

Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

Sec. 71- 34. Connection to Treatment Works Required.

The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be located a sewer connected to the treatment works of the Town, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this chapter, within 90 days after notice that sewer is available within 100 feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this chapter and applicable State and Federal laws.

ARTICLE IV. BUILDING SEWERS AND CONNECTIONS

Sec. 71- 41. Connection Permit.

(a) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the Director.

(b) There shall be two classes of permits for connections to the Town's Treatment Works & Treatment Facilities: Class I – residential, Class II – industrial. In all cases, the owner shall make application for a permit to connect to the Town's treatment works on a form furnished by the Town. The permit application shall be supplemented by wastewater information required to administer this chapter. The connection permit shall be applied for at the same time as the building permit.

Sec. 71- 42. Connection Charges.

(a) Connection charges shall consist of a connection fee and a facility fee. The connection fee contributes to the Town's costs associated with maintaining the treatment works. The facility fee covers the capital cost of creating treatment works capacity.

(b) Class I - The connection fee shall be $875 and the facility fee shall be $13,150, for a total charge of $14,025. Such charge, plus $100 for inspection fees and review fees, shall be paid to the Building Department at the time of building permit issuance, or to the Town Treasurer pursuant to any payment programs authorized by Town Council, prior to the initiation of connection related construction activities.

(c) Class II – The connection fee shall be $875. The facility fee shall be calculated on a consumption based formula as follows: Class I facility fee + (Class I facility fee x residential equivalent x 10%). Residential equivalent shall be the estimated daily water consumption rate for the building, as defined by the Virginia Department of Health Waterworks Regulations, divided by the residential daily water consumption rate of 125 gallons per day. For buildings qualifying under chapter 66, article VIII of this Code, the facility fee used in the consumption based formula shall be $1,375, rather than the Class I facility fee, if construction activity is commenced after the submission of the application or within the ten-year period of tax exemption. The inspection and review fees above also apply to Class II permits.

Sec. 71- 43. Connection Costs.

The costs and expenses incidental to the building sewer installation and connection to the Town's treatment works shall be borne by the owner. This shall include the installation of sewer laterals between the owner's property line and the sewer main or other mutually agreeable point. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer and laterals.

Sec. 71- 44. Separate Connections Required.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. When this occurs, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The Town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

Sec. 71- 45. Existing Building Sewers.

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the Director, to meet the requirements of this chapter.

Sec. 71- 46. Building Sewer Design.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

Sec. 71- 47. Building Sewer Elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the Town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the Town sewer.

Sec. 71- 48. Surface Runoff and Groundwater Drains.

No person shall connect roof, foundation, basement sump pumps, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works. Such drains shall discharge to natural outlets or storm sewers.

Sec. 71- 49. Conformance to Applicable Codes.

The connection of a building sewer into a treatment works shall conform to the requirements of the building and plumbing code or other applicable requirements of the Town, or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia, and American Society of Testing Materials. The connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Director before installation

Sec. 71- 50. Connection Inspection.

The applicant for a building sewer connection permit shall notify the Director when such sewer connection, including laterals, is ready for inspection prior to its connection to the Town's treatment works. Such connection inspections and testing as deemed necessary by the Director shall be made by the Director or a designated inspector. No connection to the treatment works shall be authorized unless such materials and workmanship are approved by the inspector. Lateral lines and connections shall be left completely exposed until the inspection has been completed.

~~**Sec. 71- 51. Excavation Guards and Property Restoration.**~~

~~Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public~~

~~property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.~~

Sec. 71- 51~~2~~. Protection of Capacity for Existing Users.

The Director shall not issue a permit for any class of connection to the Town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The Director shall~~may~~ permit such a connection if there are legally binding commitments to provide the needed capacity.

ARTICLE V. CONDITIONS TO USE THE TOWN'S TREATMENT WORKS

Sec. 71- 61. Uses of Treatment Works.

All discharges of storm water, surface water, basement sump pumps, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this section and this ordinance.

Sec. 71- 62. Industrial User, General Prohibition Upon.

An industrial user shall not introduce any pollutants into the Town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.

Sec. 71- 63. Restricted Discharges.

(a) No person shall discharge or cause to be discharged to any of the Town's treatment works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to:

(1) Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; waste stream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;

(2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges having a pH lower than 5.0 or greater than 11.0;

(3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;

(4) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;

(5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the

discharge of heat cause the temperature in the Town's wastewater sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the Town has obtained prior approval from the approval authority;

(6) Contain more than 100 milligrams per liter of non-biodegradable oils of mineral or petroleum origin;

(7) Contain floatable oils, fat, or grease;

(8) Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;

(9) Contain radioactive wastes in harmful quantities as defined by applicable State and Federal regulations;

(10) Contain any garbage that has not been properly shredded;

(11) Contain any odor or color producing substances exceeding concentration limits which may be established by the Director for purposes of meeting the Town's VPDES permit;

(12) Petroleum oil, nonbiodegradeable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

(13) Any trucked or hauled pollutants except at designated discharge points.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this Article, the Director establishes concentration limits to be met by a user, the Director in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the State, such limits should become pretreatment standards.

Sec. 71- 64. Categorical Pretreatment Standards.

(a) No person shall discharge or cause to be discharged to any treatment works wastewater containing substances subject to an applicable Categorical Pretreatment Standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within 3 years of the date the standard is promulgated, provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(b) The Director shall notify any industrial user affected by the provisions of this Section and establish an enforceable compliance schedule for each.

(c) No person shall discharge trucked hazardous wastes to the Town's treatment works.

Sec. 71- 65. Special Agreements.

Nothing in this article shall be construed as preventing any agreement or arrangement between the Town and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character (only in terms of BOD and/or Suspended Solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable

Sec. 71- 66. Water & Energy Conservation.

The conservation of water and energy shall be encouraged by the Director. In establishing discharge restrictions upon users, the Director shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the Director, each user will provide the Director with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the Director, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

Sec. 71- 67. Excessive Discharge.

No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the Town or State.

Sec. 71- 68. Accidental Discharges.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town for review, and shall be approved by the Town before construction of the facility. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been

approved by the Town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Within five (5) days following an accidental discharge; the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ~~e~~insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

ARTICLE VI. INDUSTRIAL DISCHARGERS

Sec. 71- 71. Information Requirements.

(a) All industrial dischargers shall file with the Town wastewater information deemed necessary by the Director for determination of compliance with this chapter, the Town's VPDES permit conditions, and State and Federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the Director and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in Section 71- 71. (c).

(b) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location.

(c) Information and data on an industrial discharger obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the discharger. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the Virginia Pollutant Discharge Elimination System (VPDES) Permit, the State Disposal System permit and/or the Pretreatment Programs, provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Town as

confidential shall not be transmitted to any governmental agency or to the general public by the Town until and unless a ten day notification is given to the discharger.

Sec. 71- 72. User Permits.

(a) All Significant Industrial Users proposing to connect to or to contribute to the treatment works shall obtain a User Permit before connecting to or contributing to the treatment works. All existing Significant Industrial Users connected to or contributing to the treatment works shall obtain a User Permit within (180) days after the effective date of this chapter.

(b) Significant Industrial Users required to obtain a Permit shall complete, and file with the Town, an application in the form prescribed by the Town, and accompanied by a fee of $60. Existing Significant Industrial Users shall apply for a Permit within (30) days after the effective date of this chapter, and proposed new Significant Industrial Users shall apply at least (90) days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, and location (if different from address);

(2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;

(3) Wastewater constituents and characteristics including but not limited to those mentioned in Article V, Section 71-63 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;

(4) Time and duration of contribution;

~~(5) Average daily and peak wastewater flow rates, including daily, monthly~~ and seasonal variations, if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;

(7) Description of activities, facilities and plant processes on the premises including all constituents~~materials~~ which are or could be discharged;

(8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operations and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(9) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(ii) No increment referred to in paragraph (i) shall exceed (1) year.

(iii) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 1 year elapse between such progress reports.

(10) Each product produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) Any other information as may be deemed by the Town to be necessary to evaluate the User Permit application.

The Town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a User Permit subject to terms and conditions provided herein.

(c) Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the User Permit of users subject to such standards shall be revised to require compliance with such standard if they are more restrictive than the local limits developed by the POTW within the timeframe prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously

submitted an application for a User Permit as required by Section 71-72 (b), the user shall apply for a User Permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing User Permit shall submit to the Director, within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by paragraph (8) and (9) of Section 71-72 (b) of this Article.

(d) Permit Conditions:

User Permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the Town. Permits shall contain the following:

(1) Limits on the average and maximum wastewater constituents and characteristics;

(2) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(3) Requirements for installation and maintenance of inspection and sampling facilities, including sampling requirements and reporting procedures;

(4) Compliance schedules;

(5) Requirements for submission of technical reports or discharge reports - See Section 71 -73;

(6) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town, and affording the Town access thereto;

(7) Requirements for notification of the Town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works;

(8) Requirements for immediate notification of slug discharges;

(9) Other conditions as deemed appropriate by the Town to ensure compliance with this chapter.

(e) User Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) User Permits are issued to a specific user for a specific operation. A User Permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different

premises, or a new or changed operation without the approval of the Town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

Sec. 71- 73. Reporting Requirements for Permitee.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operations and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in Section 71-73 (b) (2) below. This statement shall be signed by an authorized representative of the user, and certified to by a qualified professional.

(b) (1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of such pretreatment standard or in the case of a new source, after commencement of the discharge into the treatment works, shall submit to the Director during the months of June and December, unless required more frequently in the pretreatment standard or by the Director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standard. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted.

(2) The Director may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported.

Sec. 71- 74. Provision for Monitoring.

(a) When required by the Director, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such

necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Director. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times

(b) The Director shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(c) Where the Director determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the Director may specify alternative methods of determining the characteristics of the wastewater discharge which will, in the Director's judgment, provide a reasonably reliable measurement of such characteristics.

(d) Measurements, tests, and analyses of the characteristics of wastewater required by this chapter shall conform to 40 CFR, Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the Town's laboratory, make arrangement with any qualified laboratory, including that of the discharger, to perform such analyses.

(e) Fees for any given measurement, test, or analysis of wastewater required by this chapter and performed by the Town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

Sec. 71- 75. Costs of Damage.

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the Town's treatment works or treatment facility, the Director shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

ARTICLE VII. PRETREATMENT

Sec. 71- 81. Wastewater with Special Characteristics.

(a) While the Director should initially rely upon the National Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the Director may require any or all of the following:

(1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;

(2) Control over the quantities and rates of discharge;

(3) Development of compliance schedules to meet any applicable pretreatment requirements;

(4) Submission of reports necessary to assure compliance with applicable pretreatment requirements;

(5) Inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;

(6) Remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Article IX of this chapter, or appropriate criminal penalties; or

(7) Rejection of the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

(b) When considering the above alternatives, the Director shall assure that conditions of the Town's permit are met. The Director shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the Director allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The Director shall review and recommend any appropriate changes to the program, within (30) days of submittal.

(c) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

Sec. 71- 82. Compliance with Pretreatment Requirements.

Persons required to pretreat wastewater in accordance with Section 71-81 above shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the Director as described in Article VI, Section 71-72 (b) (9). The plan shall be consistent with applicable conditions of the Town's Permit or other local, State or Federal laws.

Sec. 71- 83. Monitoring Requirements.

Discharges of wastewater to the Town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the User Permit.

Sec. 71- 84. Effect of Federal Law.

In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that

such user is exempt from pretreatment standards, such Federal regulations shall immediately supersede Section 71-81 (a) of this article if they are more stringent.

Sec. 71- 85. Certification.

All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional operations and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.

ARTICLE VIII. WASTEWATER SERVICE CHARGES AND INDUSTRIAL COST RECOVERY

Sec. 71- 91. Wastewater Service Charges.

Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

Sec. 71- 92. Industrial Cost Recovery.

Industrial users of the Town's treatment works and treatment facility will also be assessed industrial cost recovery charges as required by the Federal Water Pollution Control Act Amendments of 1972. These charges will recover the portion of the cost of construction of the treatment works and treatment facility, financed by EPA grants, which is allocable to the treatment of industrial wastes as prescribed in the Code of Federal Regulations, 40 CFR Part 35, Subpart E.

Sec. 71- 93. Determination of System Use.

(a) The use of the Town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, to the extent such measurement and analysis is considered by the Director to be feasible and cost-effective.

(b) Where measurement and analysis is not considered feasible, determination of use of the treatment works and treatment facilities shall be based upon the quantity of water used, whether purchased from the Town's water system or obtained from a private source.

(c) When a user's source of water is from a deep well, the property owner shall cause to be installed a water meter of the type currently used by the Town's water system to measure the consumption of water, and shall pay for sewer service an amount equal to what the bill would have been had the property been connected to the Town's water system. The meter shall be read as if it were a public meter with the same right of access and system protection as provided in Chapter 70. At the request of the property owner, the required meter and fittings may be furnished and installed by the Town at cost.

ARTICLE IX. ENFORCEMENT

Sec. 71- 101. Harmful Contributions.

(a) The Town may suspend the wastewater treatment service and/or a User Permit when such suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, causes interference to the treatment facilities or causes the Town to violate any condition of its VPDES Permit.

(b) Any person notified of a suspension of the wastewater treatment service and/or the User Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary, including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The Town shall reinstate the User Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Town within 15 days of the date of occurrence.

Sec. 71- 102. Revocation of Permit.

A user is subject to having his permit revoked for violation of applicable State and Federal regulations or the following:

(a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(d) Violation of conditions of the permit.

Sec. 71- 103. Notification of Violation.

Whenever the Town finds that any user has violated or is violating this chapter, User Permit, or any prohibition or limitation of requirements contained herein, the Town may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Town by the user.

Sec. 71- 104. Show Cause Hearing.

(a) The Town may order any user who causes or allows an unauthorized discharge to show cause why the proposed enforcement action should not be taken. Such hearings shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement

action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The Director may conduct the hearing and take the evidence, or may designate any officer or employee of the Town to:

(1) Issue in the name of the Director notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon.

(c) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(d) After the Director has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

Sec. 71- 105. Legal Action.

If any person discharges sewage, industrial wastes or other wastes into the Town's treatment works contrary to the provisions of this chapter, applicable Federal or State Pretreatment Requirements, or any order of the Town, or if any industrial user refuses access to the Director or his designee for purposes of inspection, the Town may commence an action for appropriate legal and/or equitable relief in the Circuit Court.

Sec. 71- 106. Penalties.

(a) Any person or user that violates the provisions of this chapter or a User Permit hereunder shall be subject to a penalty of $1,000 per day and/or shall, upon conviction, be guilty of a class II misdemeanor for each day the violation continues.

(b) Each day, or portion thereof, a violation continues shall constitute a separate violation.

Sec. 71- 107. Falsifying Information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or User Permit, or who falsifies any monitoring device or method required under this ordinance, shall upon conviction, be guilty of a Class I misdemeanor.

ARTICLE X. PRIVATE SEWAGE DISPOSAL SYSTEMS

Sec. 71- 111. General Prohibition.

Except as specifically provided herein, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

Sec. 71- 112. Required When Public Sewer Not Available.

Where a public sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Sec. 71- 113. Permit.

Before commencement of construction of a private sewage disposal system, the owner shall obtain a permit signed by the Director. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement by any plans, specifications and other information deemed necessary by the Director. A permit and inspection fee, in such amount as prescribed by the Town Council, shall be paid to the Town at the time the application is filed.

Sec. 71- 114. Design.

The type, capacity, location and layout of a private sewage disposal system shall comply with all regulations of the state department of health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Sec. 71- 115. Inspection.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Director. The Director, or his designee, shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Director when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Director.

Sec. 71- 116. Operation and Maintenance.

The owner shall operate and maintain a private sewage disposal system in a sanitary manner at all times, at no expense to the Town.

Sec. 71- 117. Abandonment When Public Sewer Becomes Available.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a connection shall be made as provided in Section 71-34, and the private sewage disposal system shall be abandoned, cleaned of sludge and filled with clean gravel or dirt.

Sec. 71- 120. Additional Requirements of Health Officer.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

Chapter 72 Water and Sewer Service Charges

Sec. 72- 1. Purpose.

The purpose of this chapter is to prescribe the process for charging and collecting for Town water and sewer service.

Sec. 72- 2. Rates.

Charges for water and sewer service shall be at such rates as are prescribed from time to time by the Town Council.

Sec. 72- 3. When to Commence.

Charges for water and sewer service shall commence immediately upon completion of the installation of the connection or upon the use of service.

Sec. 72- 4. Testing Meters; Adjustment of Account for Error; Estimates for Meter Out of Order.

(a) Any consumer may request that his or her water meter be tested by filing a request to that effect with the Director of Public Utilities. The Director will ensure that the meter is properly tested.

(b) Whenever a meter is found to have an overage in registration an adjustment shall be made between the Town and the consumer on the basis of the error found. If the metering equipment is found to be out of order or fails to register for a certain period, the amount of water consumed shall be estimated, using as a basis the amount consumed during a similar period and under comparable conditions.

Sec. 72-5. Adjustment for Leaks.

If there is found to be a leak on the consumer's side of the meter there shall be an adjustment of the sewage portion of the utilities bill to the previous twelve month average or length of current account, whichever is the shorter time span. No consumer shall be entitled to more than one adjustment every three years. There shall be no charge for the turning off or on of water because of a leak, with the exception of services performed during other than normal business hours, which shall have a $75.00 fee.

Sec. 72-6. Adjustment for Filling Pools.

There shall be an adjustment of the sewage portion of the utilities bill for the annual filling of pools. The consumer must notify the Director in advance of filling the pool. The adjustment will be based either on the volume of the pool to be filled or a pre and post filling read of the meter.

Sec. 72-76. When Due and Payable; Penalty for Delinquency; Discontinuance of Service for Delinquency.

Water and sewer bills shall be rendered monthly and shall be due and payable within 21~~15~~ days from the date of the mailing of the bill. If not paid within such 21~~15~~ days, a penalty of ten percent of the amount of the bill shall be added thereto and collected by the Town Treasurer. If

not paid within 45 days from the date of mailing of the bill, water service may be discontinued and shall not be turned on again until all delinquent charges ~~therefore~~ have been paid in full in addition to ~~an~~ $30.00 delinquency/nonpayment charge. After appropriate payment is received, any service that is restored during other than normal working hours shall require an additional $75.00 charge.

Sec. 72-8~~7~~. Collection of Fees, Rents and Charges.

(a) Such fees, rents and charges may be charged to and collected from any person contracting for the same, or from the owner or lessee or tenant, or some or all of them who use or occupy any real estate which directly or indirectly is or has been connected with the sewage disposal system, or from or on which originates or has originated sewage or industrial wastes, or either, which directly or indirectly have entered or will enter the sewage disposal system, and the owner or lessee or tenant of any such real estate shall pay to the town such fees, rents and charges at the time and place where the same are due and payable.

(b) Such fees, rents and charges, being in the nature of use or service charges, shall, as nearly as the Council shall deem practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate, or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate, or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate, or any other factors determining the type, class and amount of use or service of the sewage disposal system, or on any combination of such factors, or on such other basis as the Council may determine. Such fees, rents and charges shall be due and payable at such time as the Council may determine, and the Council may require the same to be paid in advance for periods of not more than six months. The revenue derived from any or all of such fees, rents and charges is hereby declared to be revenue of such water supply and sewage disposal system.

(c) If the fees, rents or charges charged for the use and services of the sewage disposal system by or in connection with any real estate shall not be paid when due, interest shall at that time begin to accrue thereon at the rate of one percent per month, and the owner, lessee or tenant, as the case may be, of such real estate shall until such fees, rents and charges shall be paid with such interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system, and if such owner, lessee or tenant shall not cease such disposal within two months thereafter, the Town shall cease supplying water thereto unless the health officers shall certify that shutting off the water will endanger the health of the occupants of the premises or the health of others.

(d) Such fees, rents and charges and interest thereon may be recovered by the Town by action at law or suit in equity, and shall constitute a lien against the property, ranking on a par with liens for unpaid taxes.

Sec. 72-9~~8~~. Liability for Minimum Charges.

~~The owner of any dwelling, mobile home, building or premises shall be liable for the minimum water and sewer charges. Owners of vacant lots are not required to pay minimum charges.~~

~~However, if a connection existed as of June 30, 2007 and the structure has since been demolished, the owner shall be liable for the minimum charges. In these cases, connection charges shall not apply when the vacant lot is rebuilt.~~

(a) The owner of any house, building or property which is used for commercial, industrial and/or residential purposes and is connected to the system shall be liable for the minimum water and sewer charges.

(b) The owner of a vacant lot is not required to pay the minimum charges. Connection charges shall apply when a house or building is constructed on a qualifying vacant lot, per Sections 70-24 and 70-25.

(c) If a connection existed as of June 30, 2007 and the house or building has since been demolished, the owner shall continue to be liable for the minimum charges. Connection charges shall not apply when the vacant lot is rebuilt.

TOWN OF CAPE CHARLES	AGENDA TITLE: Water and Sewer Connection Charges		AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: Consider revision of water and sewer connection charges.		ITEM NUMBER: 7A
	ATTACHMENTS: Alternatives		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Bob Panek	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The current connection charges for water and sewer service total $20,000. These charges were approved in 2009 based on growth projections, water and wastewater capacity expansion cost estimates, and grant/loan estimates available at that time. We are now well into construction of the new 250K GPD wastewater treatment plant, including the infrastructure on the plant site required for effluent reuse. We have achieved a greater grant percentage than assumed when the $20,000 connection charge was adopted, principally due to obtaining significant additional funding under the American Recovery and Reinvestment Act (ARRA).

DISCUSSION:

Council was provided a re-estimate of connection charges, totaling $16,850, for discussion at the recent Retreat. This reflects current cost estimates, the larger grant percentage, and a two year delay of the previous growth projection. It also assumes no payment under the Annexation Agreement, though Bay Creek Resort and Club represents about 68% of the growth projection driving capacity expansion needs. The current $20,000 connection charge is also based on this assumption. While much uncertainty exists over the timing of expansion and future capital cost estimates, payment under the Annexation Agreement has the largest affect on connection charges.

As requested by Council, we have prepared two additional estimates of connection charges. The first assumes payment of 50% of applicable costs under the Annexation Agreement; this estimate totals $12,350. The 50% estimate presumes negotiation of "applicable costs". The second assumes payment of 100% of applicable costs under the Annexation Agreement; this estimate totals $6,150. These alternatives, as well as the breakdown of current charges and the re-estimate provided at the Council Retreat, are reflected on the attachment for comparative purposes.

RECOMMENDATION:

Staff requests Council discuss these alternatives and, if consensus can be reached, schedule a Public Hearing for an ordinance revising the water and sewer connection charges.

ALTERNATIVES FOR FUTURE CONNECTION CHARGES - FEB. 10, 2011

	Current	Re-estimate	A.A. 34%	A.A. 68%
Water Facility Fee	5,100	6,100	4,000	2,000
Wastewater Facility Fee	13,150	9,000	6,600	2,400
Water Connection Fee	875	875	875	875
Wastewater Connection Fee	875	875	875	875
Total Connection Charges	**20,000**	**16,850**	**12,350**	**6,150**

Notes:
"Re-estimate" reflects assumptions presented at Council Retreat, including greater grant percentage achieved for 250K GPD WWTP construction, delay in growth projection, and no payment under Annexation Agreement.

"A.A. 34%" reflects payment of 50% of applicable costs under the Annexation Agreement.

"A.A. 68%" reflects payment of 100% of applicable costs under the Annexation Agreement.

TOWN OF CAPE CHARLES	AGENDA TITLE: Harbor Rates		AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: Adjustment of the Harbor Rates		ITEM NUMBER: 7C
	ATTACHMENTS: Rate Summary and Suggested Rate Structure		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): William Dize, Harbor Master	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

After reviewing the Harbor Rates, we feel the need to restructure some of the following rates (Docking, Storage, and Wharf fees) beginning March 15, 2011. Attached you will find the proposed rate changes and summary.

DISCUSSION:

Staff has taken into consideration the current economy and the re-development of the new slips and feels that the proposed rate increases are modest. We have also proposed to reduce rates during the off season to help attract more boaters during that time. A preliminary 2011/2012 budget has been developed to ensure that the new rate structure works and will cover debt service and other expenses. We also feel that there are some areas where fees need to be added.

RECOMMENDATION:

Staff recommends Council adopt the proposed rate changes.

Town Harbor
Proposed Rate Schedule 2011
Summary

Every year staff reviews all rates at the Harbor and brings recommendations to Town Council for review at their February meeting so that the rates can become effective March 15th or the beginning of the season. Below is a list of three major categories which we feel needs attention: Docking, Storage and Wharf fees.

Docking:

During the 2010/2011 budget process there was an initiative to install the new floating docks. At the time, we presented to Council a rate increase of $0.50 per foot for annual and seasonal slip holders to help pay for the slips. After another year of review and with the continued poor economy, we feel that the rate increase can be less and more spread out to achieve the same goal. In the attached spreadsheet you will find that we are proposing a $0.25 per foot increase on the base rate for annual, seasonal and nightly in-season rentals and are proposing to remove the bulkhead rate, which was less than the slip rate because of the new slips. We are also proposing to add the following rates:

1. Quarterly, for which we have had numerous inquiries.
2. Monthly and weekly off-season to try to lure more sports fishermen in the fall.
3. Nightly off-season to try to lure more snow birders or vessels headed south for the winter and also to try to lure more weekenders out of the Hampton Roads area. We are also hoping to attract nightly cruising or sailing clubs that bring 10 or more boats to the Harbor.
4. Hourly docking because we are seeing more vessels coming for lunch or day trips. These boaters actually create problems with nightly reservations because they state that they will be back at a certain time and in many cases, it has been up to 4 or 5 hours later. In one case, the boaters returned the next day.
5. Reservation cancellation fee. This fee will apply to all reservations and can be waived with the booking of the same time frame in the same calendar year. We also propose that one night's docking be charged to the boaters that do not call and cancel within 48 hours of arrival on normal weekends and one week prior to expected arrival on holidays. Customers will be required to hold their reservations with a credit card on file.

Storage:

Only a few changes are proposed in this area.

1. Seasonal increase to match Cape Charles Marine.
2. Boat Davit increase the same as the 60' slip.
3. Reduce the monthly since it is still more than Cape Charles Marine.
4. Offer a discount to people renting short term slips to store their trailer while they are here.
5. Heavy equipment. We had a rate in place when Billy Moore was renting the gravel dock. Over time there have been instances where cranes have been stored at the Harbor for a short term, mainly on a daily basis, for hauling out boat motors. We propose that rates be added to accommodate this.
6. Nightly over 10 days for gravel, piles and pots. We currently have a rate for gravel over 10 days. Typically, this would be charged when a customer loads or unloads at the Harbor and pays wharf fees on what is being loaded or unloaded. We give them a grace period of 10 days to clear the

dock. If the product still remains, we charge a storage rate for each additional day over 10. We propose to add piles and pots to the rate structure. In most cases, watermen bring in their pots at the end of the season and it takes longer to remove them than the timeframe allotted by the Town Code. The rate is for each pile and pot that is left on the dock for more than 10 days.

Wharfage:

No rate change is proposed to any existing Wharf fees. However, we do propose to add the following wharf fees and rates:

1. Small Trap Piles. These are small poles that can be moved by hand and the rate should not be as much as the larger trap piles.
2. Clams and Oysters - Basket or Bag. With aquaculture growing at a rapid rate on the lower Eastern Shore, more and more people are growing clams and oysters. During the last boating season, there where numerous problems at the boat ramps because the clammers and oystermen would pull their boats into the boat ramps, back their trucks down the ramp and offload their boats without getting charged a wharf fee. Town Code **Section 14-46 p**rohibits loading or unloading any commercial commodity or blocking the ramps. The State Code also prohibits blocking of the ramps. We received numerous complaints last year and worked with the Department of Game and Inland Fisheries to get a sign posted at the ramps prohibiting such activity. This means they will now begin to offload at our docks and a wharf rate is needed.
3. Crab and Conch Pots. There are a several reasons to establish this rate. Over the past two years, there has been an increase of small-volume watermen utilizing our docks to load or unload their crab/conch pots. They launch and retrieve their boats at the boat ramps every day and the Town gets no income from their use of the Town's facility. 99% percent of these watermen do not live in Town. Therefore, we propose a rate to charge for the use of the Town's docks.

Cape Charles Town Harbor
Proposed Rates 2011

Docking Rate Per/Ft

Docking Type	Base Rate			Residential/Rental Rate			Commercial Rate		
	Current	Proposed	Difference	Current	Proposed	Difference	Current	Proposed	Difference
Annual	$3.75	$4.00	$0.25	$3.57	$3.80	$0.23	$3.19	$3.40	$0.21
Seasonal	$4.50	$4.75	$0.25	$4.28	$4.52	$0.24	$3.83	$4.04	$0.21
Quarterly	N/A	$6.50	$6.50	N/A	$6.18	$6.18	N/A	$5.53	$5.53
Monthly In Season	$9.50	$9.50	$0.00	$9.03	$9.03	$0.00	$3.50	N/A	N/A
Monthly Off Season	$9.50	$7.50	-$2.00	$9.03	$7.13	-$1.90	$3.50	N/A	N/A
Weekly In Season	$4.50	$4.50	$0.00	$4.28	$4.28	$0.00	$1.00	$1.10	$0.10
Weekly Off Season	$4.50	$3.50	-$1.00	$4.28	$3.33	-$0.95	$1.00	$1.10	$0.10
Nightly In season	$1.25	$1.50	$0.25	$1.19	$1.43	$0.24	$0.35	N/A	N/A
Nightly Cruising Clubs	$1.25	$1.25	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Nightly Off Season	$1.25	$1.00	-$0.25	$1.19	$0.95	-$0.24	$0.35	N/A	N/A
First Hour Docking	N/A	$0.15	$0.15	N/A	N/A	N/A	N/A	N/A	N/A
Hours after First hour docking	N/A	$0.10	$0.10	N/A	N/A	N/A	N/A	N/A	N/A
Reservation Cancellation Fee	N/A	$15.00	$15.00	N/A	N/A	N/A	N/A	N/A	N/A

Docking Definitions

Annual	12 Month renters (4/1 to 3/31) we propose a $0.25 per/ft increase per month
Seasonal	Summer (5/1 to 11/30) Winter (12/1 to 4/30) Crabbing and Fishing, We propose the same as Annual
Quarterly	Minimum 3 months rent, new rate because of so many enquireys
Monthly In Season	Month to Month, (4/1 to 9/30) we propose no change
Monthly Off Season	Month to Month, (10/1 to 3/31) we propose a reduced rate to lure more sport fishermen
Weekly In Season	Week to Week, (4/1 to 9/30) we propose no change
Weekly Off Season	Week to Week, (10/1 to 3/31) we propose a reduced rate to lure more sport fishermen
Nightly In season	(4/1 to 9/30) We propose an increase of $0.25 per/ft
Nightly Cruising Clubs	we propose to keep the current rate for cruising/sailing clubs with 10 or more vessels
Nightly Off Season	(10/1 to 3/31) we propose to reduce the rate to lure more vessels from the Hampton Roads area.
First Hour Docking	Hourly docking for visitors poses problems, we propose these rates to help eliminate some of them.
Hours after First hour docking	this rate is for the second hour on and not to exceed the nightly rate.
Reservation Cancellation Fee	To avoid this fee a customer can request another date to reserve
Other	All Bulkhead rates which where $1.00 less than slip rates where removed due too new slips

Updated 2/2/2011

Cape Charles Town Harbor
Proposed Rates 2011

Storage Rates per occurrence

Storage Type	Base Rate			Residential/Rental Rate			Commercial Rate		
	Current	Proposed	Difference	Current	Proposed	Difference	Current	Proposed	Difference
Annual	$300.00	$300.00	$0.00	$285.00	$285.00	$0.00	$255.00	$255.00	$0.00
Seasonal	**$200.00**	**$210.00**	**$10.00**	**$190.00**	**$199.50**	**$9.50**	**$170.00**	**$178.50**	**$8.50**
Quarterly	**N/A**	**$105.00**	**$105.00**	**N/A**	**$99.75**	**$99.75**	**N/A**	**$89.25**	**$89.25**
Monthly Boat Davit	**$150.00**	**$165.00**	**$15.00**	N/A	N/A	N/A	N/A	N/A	N/A
Monthly	**$50.00**	**$40.00**	**-$10.00**	**$47.50**	**$38.00**	**-$7.50**	**$42.50**	**$34.00**	**-$8.50**
Monthly Heavy Equipment	$1,000.00	$1,000.00	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Weekly	$20.00	$20.00	$0.00	$19.00	$19.00	$0.00	$17.00	$17.00	$0.00
Weekly Heavy Equipment	**N/A**	**$300.00**	**$300.00**	N/A	N/A	N/A	N/A	N/A	N/A
Nightly	$5.00	$5.00	$0.00	$4.75	$4.75	$0.00	$4.25	$4.25	$0.00
Nightly with slip	**$5.00**	**$1.00**	**-$4.00**	**$4.75**	**$1.00**	**-$3.75**	**$4.25**	**$1.00**	**-$3.25**
Nightly Events (West Dock)	$75.00	$75.00	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Nightly Events (Gazebo)	$25.00	$25.00	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Nightly/Daily Heavy Equipment	**N/A**	**$50.00**	**$50.00**	N/A	N/A	N/A	N/A	N/A	N/A
Nightly Gravel over 10 days	$100.00	$100.00	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Nightly Piles over 10 days	**N/A**	**$1.00**	**$1.00**	N/A	N/A	N/A	N/A	N/A	N/A
Nightly pots over 10 days	**N/A**	**$0.10**	**$0.10**	N/A	N/A	N/A	N/A	N/A	N/A

Storage Definitions

Annual	12 Month renters (4/1 to 3/31) we propose no change
Seasonal	Summer (5/1 to 11/30) We propose a $10 increase, Cape Charles Marine is $30 per month
Quarterly	Minimum 3 months rent, new rate
Monthly Boat Davit	We propose to increase this rate, it's the same increase as a 60 ft slip
Monthly	Month to Month, we propose to reduce this rate, we are mor conveinient than Cape Charles Marine
Monthly Heavy Equipment	Cranes used to offload barges and such, we propose no change
Weekly	Week to Week, we propose no change
Weekly Heavy Equipment	new rate we propose for short term loading and unloading
Nightly	we propose no change
Nightly with slip	this is a new rate that we propose for customers renting short term slips.
Nightly Events (West Dock)	Harbor Parties and such, we propose no change
Nightly Events (Gazebo)	Birthday Parties and such, Wepropose no change
Nightly/Daily Heavy Equipment	This rate is new and its for crane operators wishing to haul out engines and such
Nightly Gravel over 10 days	this rate is for one which pays wharf fees for loading/unloading gravel, with a 10 day removal period.
Nightly Piles over 10 days	New rate for the same reason as gravel
Nightly pots over 10 days	new rate for the same reason as gravel and piles.

Updated 2/2/2011

Cape Charles Town Harbor
Proposed Rates 2011

Wharfees

Wharfage Type	Base Rate			Residential/Rental Rate			Commercial Rate		
	Current	Proposed	Difference	Current	Proposed	Difference	Current	Proposed	Difference
Crabs Bushel	$0.50	$0.50	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Conchs Bushel	$0.50	$0.50	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Horse Shoe Crabs Bushel	$0.30	$0.30	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Fish Pounds	$0.004	$0.004	$0.000	N/A	N/A	N/A	N/A	N/A	N/A
Scallops Bushel	$0.50	$0.50	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Gravel Tons	$0.75	$0.75	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Large Trap Piles each	$2.50	$2.50	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Small Trap Piles each	**N/A**	**$0.50**	**$0.50**	N/A	N/A	N/A	N/A	N/A	N/A
Clams Basket/Bag	**N/A**	**$0.50**	**$0.50**	N/A	N/A	N/A	N/A	N/A	N/A
Oysters Basket/bag	**N/A**	**$0.50**	**$0.50**	N/A	N/A	N/A	N/A	N/A	N/A
Crab Pots Each	**N/A**	**$0.25**	**$0.25**	N/A	N/A	N/A	N/A	N/A	N/A
Conch Pots each	**N/A**	**$0.25**	**$0.25**	N/A	N/A	N/A	N/A	N/A	N/A

Wharfage Definitions

Crabs Bushel	We propose no change
Conchs Bushel	We propose no change
Horse Shoe Crabs Bushel	We propose no change
Fish Pounds	We propose no change
Scallops Bushel	We propose no change
Gravel Tons	We propose no change
Large Trap Piles each	We propose no change
Small Trap Piles each	this is a new rate that we propose, these piles are much smaller and can be handled by hand.
Clams Basket/Bag	This ia a new rate, previously these where offloaded at the boat ramps, **See Summary**
Oysters Basket/bag	This ia a new rate, previously these where offloaded at the boat ramps, **See Summary**
Crab Pots Each	This is a new rate , **See Summary**
Conch Pots each	This is a new rate , **See Summary**

Updated 2/2/2011

TOWN OF CAPE CHARLES	AGENDA TITLE: Harbor Rules and Regulations		AGENDA DATE: February 10, 2011
	SUBJECT/PROPOSAL/REQUEST: Adopt the updated Harbor Rules and Regulations		ITEM NUMBER: 7D
	ATTACHMENTS: Proposed Rules and Regulations		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Smitty Dize, Jr.	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Every year, the Town Manager and staff review the Town Harbor Rules and Regulations. This year a few changes are being proposed for consideration by the Town Council.

DISCUSSION:

Under the Permit section, the following revisions are proposed (shown underlined and shaded):

Permits #2:

Annual and seasonal permits may be continually renewed provided the renter pays all assessed fees and taxes of any kind owed to the Town and abides by the provisions of this agreement. Annual and seasonal permits may be terminated after the first full year agreement, by the renter with a sixty (60) day written notice to the Harbor Master prior to termination. Monthly, weekly, and daily Permits are guaranteed only for the prepaid period and must be paid in advance. All Harbor fees are subject to current rate schedule.

"After the first full year agreement" is being added because in past years we have had customers from the waiting list that have been awarded either an annual or seasonal slips and after two or three months submit a sixty day termination notice.

Permits #3:

Each permit issued shall apply only to the particular space assigned and to a specific owner as listed in this permit. Permits are non-transferable and sub-renting or sub-letting is not permitted by the renter. No refunds will be made for slips space vacated during the rented period. The Harbor reserves the right to sub-rent the space on a nightly basis if the Renters vessel, trailer, equipment, etc., is absent for more than one week. Three days' notice for a scheduled return must be given to the Harbor Master to insure the space will be available upon the vessel's return.

This was inadvertently omitted from the previous rules which were updated in 2009.

Permits #19:

Any person, party, or agency wishing to rent dock space or the Gazebo for party's or events must first fill out a "Use of Facility Application- Harbor" and follow all rules and regulations.

The "Use of Facility Application – Harbor" form was created last year. It is being added to the rules so users are aware of the procedure for renting the Harbor facilities.

RECOMMENDATION:

Adopt the Town Harbor Rules and Regulations as presented.

Town Harbor
Rules and Regulations

The agreement between the Town of Cape Charles (Harbor) and harbor users (Renters) is to be signed, on the Proper permit (Docking, Storage, Wharf fee, Special Land Use, or Maintenance) registration form by Renter to insure the safety of the tenants and the orderly operation of the harbor. Your cooperation in the enforcement of these rules and regulations will provide everyone with the maximum enjoyment of the facility.

Mission Statement

The mission of the Municipal Corp. of Cape Charles Town Harbor is to protect and preserve the lives, health, safety and well being of any person who uses or works at the Harbor; to protect the property of such persons by regulating the use of the facility; and to make reasonable charges for the use of the Harbor.

The primary objective of the Municipal Corp. of Cape Charles Town Harbor is to provide a protective haven to a specific number of small boats. The Harbor policies are directed toward maximum use of the facility by all segments of the boating public up to the limit of the Harbor's capacity to accommodate numbers, size and use of boats. The secondary objective is to provide a facility that insures adequate access of the user to the safe and enjoyable boating in the Chesapeake Bay, basic assistance to the user-both of pleasure and commercial boats, and such services as the staff is capable of routinely providing. The third objective is to financially maintain the facility in such a way as to insure future improvements.

Permits

1. All Vessels, trailers, equipment, etc., utilizing or occupying any space for any length of time must first obtain a valid permit and agree to the Cape Charles Town Harbor Rules and Regulations or the parties will not be allowed to remain. All parties renting space will be provided with a copy of these Rules and Regulations.

2. Annual and seasonal permits may be continually renewed provided the renter pays all assessed fees and taxes of any kind owed to the Town and abides by the provisions of this agreement. Annual and seasonal permits may be terminated **after the first full year agreement,** by the renter with a sixty (60) day written notice to the Harbor Master prior to termination. Monthly, weekly, and daily Permits are guaranteed only for the prepaid period and must be paid in advance. All Harbor fees are subject to current rate schedule.

3. Each permit issued shall apply only to the particular space assigned and to a specific owner as listed in this permit. Permits are non-transferable and sub-renting **or sub-letting** is not permitted by the renter. No refunds will be made for slips space vacated during the rented period. The Harbor reserves the right to sub-rent the space on a nightly basis if the Renters vessel, trailer, equipment, etc., is absent for more than one week. Three days notice for a scheduled return must be given to the Harbor Master to insure the space will be available upon the vessel's return.

4. Renter shall provide daytime, nighttime, and alternate phone numbers where the Renter or his/her

agent may be reached in the event of an emergency, along with the mailing and physical address of the Renter. The Renter shall immediately notify the Harbor Master of any change of address or phone number.

5. A special land use permit will be required for parties or events with over 10 persons attending, for the Gazebo or other land surrounding the area, proper insurance will be required and at no time will alcohol be consumed without proper ABC license, which a copy must be received by the Harbor Master 7 days before such event.

6. Cooking Grills will be permitted in certain areas, which must be approved by the Harbor Master. At no time, will Cooking grills be allowed within one hundred and twenty five (125) feet of the fuel dock.

7. Temporarily installed items (dock boxes, ladders, steps, fenders, fire hoses, rings, cleats, etc.) shall be permitted with approval of the Harbor Master.

8. No signs shall be displayed nor shall any commercial business activities be conducted in the Harbor area without prior permission of the Harbor Master.

9. Rafting or tying abreast may be permitted at the regular dockage rates with the permission of the vessel being rafted to.

10. Mooring or anchoring in the Harbor or Federal Channel is not permitted. However, in emergency situations such may be necessary. In this event the Harbor Master or his/her assistants shall designate acceptable locations.

    Chapter 14 - Article III. Sec. 14-58 Town Code – Cross Reference: Penalty for a class 3 misdemeanor, Sec. 1-10

11. There shall be no discrimination in the use of or access to the benefits of the harbor facilities regardless of race, age, creed, handicap, color, national origin, religion, sex, political affiliation, sexual orientation, or beliefs.

12. In event of any default in this Harbor Agreement Rules and Regulations by the renter, the Town of Cape Charles may terminate Agreement immediately and, upon such termination, the renter shall be obligated forthwith to remove his/her vessel from the harbor or to have it removed by the Town of Cape Charles at renters risk and expense. The renter shall be liable to the Town of Cape Charles for all unpaid dockage and any associated Harbor fees, costs, and damages that the Town of Cape Charles may suffer as a result of renters default. In the event of any breach of this Agreement or the Harbor Rules and Regulations by the renter or the renter's authorized agent(s), the Town may pursue any and all remedies available to it to enforce same, either at law or in equity, including injunctive relief, and the Lessee shall be solely responsible for all costs incurred by the Town in pursuing any such remedy or enforcement action, including court costs and attorney's fees. Any of the following events shall constitute default on the part of the Renter:

    a. Failure to make timely payment,

    b. Breach of any covenant or condition contained in this Agreement,

    c. Failure to comply with the procedures listed in this Agreement and/or published by the Town of Cape Charles from time to time

    d. Failure to properly maintain vessel and keep in a safe and seaworthy condition, as determined by

the Harbor Master.

13. The Town of Cape Charles may obtain a lien against renter's vessel/equipment described in this Agreement, including all appurtenances and contents, for any unpaid sums due hereunder and for any damages caused to any docks, property or person in the Cape Charles Harbor. Said lien shall be in addition to and not limited by other lien provisions of the laws of the Commonwealth of Virginia.

14. Minor children must be accompanied and supervised by an adult while in the Harbor area.

15. Swimming, diving or bathing within the waters of the Harbor or from the docks is prohibited, except for repairs which must first be approved by the Harbor Master.

16. No persons renting or using any Harbor space shall not, steal from or do Vandalism to, any vessel or property and the properties of the Town of Cape Charles Harbor.
Chapter 50 – Article VIII, Sec. 50-165 Town Code – Cross Reference: Penalty for a class 1 misdemeanor, 50-166 – Cross reference: Penalty for a class three misdemeanor. 50 –168 Cross Reference: Penalty for a class 1 misdemeanor.

17. Restrooms and Shower facilities are provided for that specific use only. At no time shall they be utilized for sleeping or any other purpose.
Chapter 50 – Article VIII, Sec. 50-161 Town code. Violation Class 1 misdemeanor.

18. At no time shall any persons renting or using any portion of land and water within the harbor limits use profanity or be drunk in public.
Chapter 50 – Article VIII, Sec. 50-109 Town Code. Violation Class 4 misdemeanor

19. Any person, party, or agency wishing to rent dock space or the Gazebo for party's or events must first fill out a **"Use of Facility Application - Harbor"** and follow all rules and regulations.

Vessel Maintenance

1. Major and Minor Maintenance repairs must first be approved by the Harbor Master or his/her assistants. In any case all maintenance must not be damaging to the environment or Harbor Facilities.

2. All bildge pumps must be secure, before any oil or filter changes or repairs to any part of equipment that oil may disperse into the bildge area whether it is engine oil, fuel, gas, hydraulic oil, or any other kinds of oil that will cause sheen in the harbor area. Such bildge pumps may be unsecured when it is determined by the Harbor Master or his/her assistants; that such bildge is clear and free.

3. Minor sanding and painting will be allowed at times approved by the Harbor Master. All sanding must have a dust collection system and every effort must be made so that no paint or particles enter the water or surrounding land.

4. At no time will scraping and cleaning of vessels bottoms be allowed.
Cross References: penalty for a class three misdemeanor, Sec. 14-16 (b) town code

5. All spills, no matter what amount must be reported to the Harbor Master at once. If the Harbor office is closed contact the USCG at (800) 424-8802. at no time shall anyone try to cover up a spill with detergents or solvents.
Cross References: penalty for class 3 misdemeanor, Sec. 1-10; general prohibition against

littering, Sec. 58-2

Discharge of oil or oily waste is prohibited, "The Federal Water Pollution Control Act" up to $5,000 fine. Failure to report a spill may result in civil penalties. Adding detergents or solvents to cover up a spill could result in $25,000 in fines.

6. All work areas shall be freed of any oil, buckets, cans, or trash at the end of each day, this includes but not limited to, docks, parking lots, cat walks, etc. or a charge of $200.00 will be assessed for each day.

7. It shall be unlawful to deposit, or cause or permit to be deposited, in any of the waters of the Harbor, or along the shores thereof, or in any of the streams or ditches emptying therein, or on any of the land adjacent or contiguous to the Harbor, any abandoned/derelict boats, refuse, offal, waste matter, or other substances or material, whether earth, oil, liquid, animal, fish, or vegetable matter than may injuriously affect the sanitary, clean and safe conditions of the water in the harbor, or diminish the depth thereof.
Cross References: penalty for class 3 misdemeanor, Sec. 1-10; general prohibition against littering, Sec. 58-2

Discharge of oil or oily waste is prohibited, "The Federal Water Pollution Control Act" up to $5,000 fine. Failure to report a spill may result in civil penalties. Adding detergents or solvents to cover up a spill could result in $25,000 in fines.

8. Renter agrees that only reasonable and customary use shall be made of the docks and facilities covered hereby, and no unnecessary wear and tear, disturbance, nuisance, rubbish or garbage shall be permitted on the dock or premises. Renter shall keep dock and premises covered hereby free and clear of gear, tackle and all other obstructions. Renter agrees to discard nothing, including treated or untreated effluent or sewage from heads or holding tanks, into the Harbor basin. Infractions will be dealt with according to Local, State and Federal laws.
Cross References: penalty for class 3 misdemeanor, Sec. 1-10; general prohibition against littering, Sec. 58-2

Discharge of oil or oily waste is prohibited, "The Federal Water Pollution Control Act" up to $5,000 fine. Failure to report a spill may result in civil penalties. Adding detergents or solvents to cover up a spill could result in $25,000 in fines.

Liability

1. The agreement is for use of a specific permitted space only. Such space shall be used at the sole risk of the Renter and his/her guests. The Harbor shall not be responsible for the care or protection of Renters vessel and/or properties. The Town of Cape Charles shall not be liable for any loss or damage of whatever kind or description to Renters vessel and/or Properties. The Renter agrees to hold The Town of Cape Charles harmless for any such loss or damage.

2. The Town of Cape Charles shall not be liable for any personal injury to Renters, his/her guests, or crew members resulting from the use of any space, and the Renter agrees to indemnify and hold harmless The Town of Cape Charles from any such loss or personal injury.

3. Renters are responsible for damage to the Harbor facility caused by his/her vessel/properties. Renters are responsible for properly securing his/her vessel/properties, especially on approach of any storm.

4. In the event of an emergency, or if the vessel/Properties is unattended and the Renter cannot be reached, the Town of Cape Charles reserves the right for the Harbor Master or other Harbor employees to take whatever action is necessary to provide for the safety of the dock/property, vessel/properties, surrounding vessels/properties. However, the Harbor Staff is not obligated to take such action. Additionally, the Renter agrees to hold the Town of Cape Charles harmless from any and all liability, loss, or damage caused by or to the subject vessel/properties out of failure of Renter to move the vessel, the inability of the Harbor Staff to contact Renter, or the movement of the vessel by the Renter. As soon as the emergency is abated, efforts will resume to contact the Renter.

5. No permit granted by the Town assumes responsibility on the part of the Town for the condition or state of repair of walkways, roadways, parking areas, docks, slips, bulkheads, ladders, etc., within the Harbor. The renter of any slip, berth, properties, or storage, as a condition of its permit or use, shall be deemed to have agreed to hold the Town of Cape Charles, its council and mayor, officials, employees, and agents harmless from any liability resulting from damage to the waters, waterways and surrounding property caused by fire, explosion, fuel spills, hazardous discharges, or the like to which the renter, the user, or its vessel has in any way contributed, or from any liability resulting from injury or damage of any nature or kind to any person or property including any other vessels in the Harbor to which injury or damage the renter or the user or its vessel in any way has contributed.

6. Persons Renting dock space at the Town Harbor must have a current marine liability insurance policy for said vessel, and a certificate of this insurance must be submitted to the Harbor Master prior to renting any space, with yearly updates required.

7. No one shall sink or abandon any vessel at the Town Harbor or in the waters within.
Cross Reference: Class 3 Misdemeanor, Article I, Sec. 14-5 Town Code

Services, Utilities & Rates

1. Electrical power is available at most berths. Only water tight marine cords shall be used for dockside power. Electric heaters with exposed heating elements are not permitted. The Town of Cape Charles does not guarantee continuous electric service. Modifications to electric pedestals will not be permitted.

2. For environmental purposes, no one may bring fuel to the Harbor in hand carried portable containers, external tanks in pick up trucks, or by transport from any fueling company to fuel any vessel Moored to or floating over any portion of property owned by the Town of Cape Charles. Fueling of boats is permitted only at the fuel dock. Refueling by use of approved six (6) gallon containers capable of being carried by one person and designed for connection directly to a motor is permitted. Fueling by trucks will be permitted for vessels to large to get to the Town of Cape Charles fuel docks, this will be permitted in an area designated by the Harbor Master. Vessels will order their fuel through the harbor master, and will fill out the proper declaration forms.

3. Any party using land or docks within the Harbor area for loading or unloading conch or crab pots, fish traps, nets, timber or poles, or any other type of gear shall confine their activities to an area which has been designated by the Harbor Master for such usage. In no event shall any of the above listed gear be permitted to remain in the designated area for more that five (5) days with the exception dates ranging from March 1, thru May1. In the event the five day limit is exceeded, storage shall be charged to the owner of said property. A storage fee shall be charged at the rate of five dollars *($5)* per day for

each item for every day in excess of the five day limit unless a hardship can be proven by the owner. Any gear remaining in the storage for more than one month will be considered abandoned and disposed of by the Town of Cape Charles as it sees fit at the owners expense. No bait of any type shall be permitted on the docks or within the confines of the Harbor area for more than twenty-four (24) hours. In the event the twenty-four hour limit is exceeded, a penalty of ten dollars ($25) per day will be imposed against the owner of said bait for each day the limit is exceeded.
Cross References: Article I, Sec. 14-15, Town Code

4. Any party using land and/or dock space for the purpose of loading/unloading aggregate stone, sand, and any other material from a barge, shall be charged the appropriate wharf fees and docking fees approved by town council. All materials must be removed from dock area within ten (10) days or a storage fee of one hundred and fifty (150) dollars per day will be charged each day thereafter.

Safety

1. Extreme caution should be exercised in leaving and entering the dock and harbor area. The "No Wake Zone" will be enforced. **The "NO WAKE ZONE" will be adjusted from time to time by the Virginia Department of Game and Inland Fisheries. Please pay close attention to the signs/buoys posted around the harbor areas. NO WAKE is defined as a vessel making way as slow as possible without losing steerage.**

2. For the safety of your vessels and others, all vessels must be moored with a minimum of 3/8 inch 3 strand nylon line.

3. All vessels shall observe the COLREGS Rules of the Road as are prescribed by the regulation of the United States Coast Guard, CG-1 69. The rules and navigation laws of the United States will be strictly enforced.

Agreement

1. This document contains the entire understanding between the Harbor and Renter and no other representation or inducement, verbal or written, has been made which is not contained herein. The Harbor and Renter agree that if any paragraph or provision violates the law and is unenforceable, the remainder of this document will be valid.

2. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Renter certifies that this whole Agreement has been read and all conditions set forth are fully understood. Signing of the any "Permit" enforces this agreement