

TOWN COUNCIL

Regular Meeting

January 13, 2011

St. Charles Parish Hall

6:00 PM

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 / Trail Update
 - H. Planning Report
6. Old Business
 - *A. Personnel Policy Manual Update
 - B. Wastewater Treatment Plant Update
7. New Business
 - A. Community Rating System Presentation by the Department of Conservation and Recreation
 - *B. Town Code Updates – Water and Sewer Ordinances
 - *C. Zoning Ordinance Modification – Wind Energy Ordinance
 - *D. Rezoning Request – Strawberry Street & Randolph Avenue (Mack Building)
 - *E. Historic District Review Board Member Reappointment
 - *F. 2012 Virginia Port Authority Grant Request
 - *G. Northampton County Funding Request
8. Announcements
 - January 14, 2011 – Town Offices Closed for Lee-Jackson Day
 - January 17, 2011 – Town Offices Closed for Martin Luther King, Jr. Day
 - January 27, 2011 – Town Council Executive Session - tentative
 - January 28, 2011 – Town Council Retreat – location to be determined
 - February 3, 2011 – VML Legislative Day in Richmond
 - February 10, 2011 – Town Council Regular Meeting @ 6PM
 - February 24, 2011 – Town Council Work Session
9. Adjourn at 8:00 P.M.



DRAFT
TOWN COUNCIL
Public Hearing
St. Charles Parish Hall
December 9, 2010
6:00 p.m.

At 6:00 p.m. 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. The Department Heads were also in attendance along with 13 members of the public.

Mayor Sullivan announced the evening's public hearing was to hear public comment regarding Town Code modifications of § 66-5 - Proration of Personal Property Taxes, and Zoning Ordinance modifications regarding Group Homes, Temporary Family Health Care Structures and the Chesapeake Bay Preservation Act requirements.

PUBLIC COMMENTS:

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

Mayor Sullivan adjourned the Town Council Public Hearing by unanimous consent.

Mayor Sullivan

Town Clerk



DRAFT
TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
December 9, 2010

Immediately Following Public Hearing

At 6:05 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 Bennett, Sullivan and Veber and Councilwoman Natali.

Bruce Evans addressed the Council and attendees informing everyone that during a verification process of all newly elected officials, the County came across a blank oath from 2008 that did not have his signature on it which meant that effective immediately, he would not be participating in this meeting or any other meetings until this matter was resolved. Mr. Evans went on to state that he had 18 months and 22 days left on this Council term and that he would love to serve but that it was totally up to the Council at this point. Mr. Evans explained that he was out of Town visiting family in Florida when Councilmen Bennett and Veber were given their oaths in June 2008 and that he thought he had gone to the County to get sworn in after his return but the County could not find any record supporting this. The Town was working with the attorney to get this matter resolved. Mayor Sullivan thanked Mr. Evans for coming forward and making this public and added that this issue would be added to the agenda as a new action item so the Town could move forward to petition the courts to get this resolved as soon as possible.

Also in attendance at the meeting were Town Manager Heather Arcos, Town Planner Tom Bonadeo, Town Treasurer Jo Anna Leatherwood, Harbor Master Smitty Dize and Town Clerk Libby Hume. The Department Heads were also in attendance along with 13 members of the public.

Councilwoman Natali offered the invocation and led the Pledge of Allegiance.

PUBLIC COMMENTS:

Mr. Frank Donahue, 408 Jefferson Avenue:

Mr. Donahue submitted a letter and addressed the Council informing them of a serious problem at his property which was built in 2006 using "Chinese drywall." The house must be gutted to the framing studs and rebuilt, replacing the plumbing and electrical systems, appliances, HVAC, flooring and trim work, but he was having difficulty in locating a builder willing to perform the work. Mr. Donahue requested that the utilities be disconnected for two years, or until the rehabilitation work was completed, and that the monthly utility fees and the reconnect fee be waived. (See attached) Mayor Sullivan and Town Manager Heather Arcos informed Mr. Donahue that this issue would be reviewed and the Town would be contacting him regarding his request.

Ms. Louise Powell, 234 Randolph Avenue:

Town Clerk Libby Hume read a letter submitted by Ms. Powell informing the Mayor and Council of water leaks in her house in June and October 2010 and requesting consideration regarding an adjustment for the charges. (See attached) Heather Arcos stated that this issue would be addressed during the work session on December 16th.

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 #7E – Petition the Court on Behalf of Bruce Evans, and Item #7F – Award of Contract for Marina Slips. Mayor Sullivan added that she would like to move Item #7A – Commendation for Officer James Pruitt prior to the Report Presentations since he was on duty this evening.

Motion made by Councilman Veber, 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 October 28, 2010 Work Session, the November 8, 2010 Regular Meeting, the November 18, 2010 Special Meeting and the November 18, 2010 Work Session.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to approve the minutes for the October 28, 2010 Work Session, the November 8, 2010 Regular Meeting, the November 18, 2010 Special Meeting and the November 18, 2010 Work Session as presented. The motion was approved by unanimous consent.

NEW BUSINESS:

A. Commendation for Officer James Pruitt:

Mayor Sullivan explained that on the night of November 12, 2010, a fire broke out in the house located at 6 Tazewell Avenue. Officer James Pruitt noticed the flames and used a garden hose from his house to douse the flames until the fire department arrived. If Officer Pruitt had not acted so quickly, the house would have sustained much more damage from the fire. Mayor Sullivan read Proclamation #20101209 Commending Officer James Pruitt and presented him with a Certificate of Commendation. Officer James Pruitt received a standing ovation from the Council and attendees.

REPORT PRESENTATIONS:

A. Town Manager's Report:

Town Manager Heather Arcos reported the following: i) A meeting had been scheduled next week with VDOT regarding the Town's request for school crossings around the Cape Charles Christian School. The Peach Street parking issue would also be reviewed; ii) In November, possible projects for the Northampton County Tourism Infrastructure Grant were reviewed by Council and on November 19th, two grant applications were submitted for a Golf Cart and Bike Trail to be constructed between the Bay Creek Golf Community and the Historic District to provide safe access for golf carts and bicyclists and an ADA access to be constructed from the boardwalk to the bathrooms at the south end of the beach to provide much-needed access to the bathrooms for individuals with physical disabilities. The Town would be giving a presentation to the County on January 20th regarding these projects; and iii) Jeb Brady has completed Part I of the International Code Council Legal and Management Exam. Part II would be taken later in December. After passing these exams, Jeb Brady would receive his certification and be appointed as the Building Code Official in January 2011.

B. Treasurer's Report:

The Treasurer's report dated November 30, 2010 showed \$2,192,625 in the Bank of America checking account and \$910,096 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$3,102,721. As of December 6th, 94% of the budgeted real estate taxes and 75% of the budgeted personal property taxes have been collected. The balance also included reimbursement of expenses from loan funds. A portion of the funds in the Bank of America checking account would be transferred to the LGIP account next week.

Heather Arcos added that the Town was on target regarding the budget at 42% for the year.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, 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 the following: i) She and Heather Arcos have been working with the Cape Charles Women's Club regarding a facelift for the playground: a) Mulch would be added in the spring; b) A handicap-accessible port-a-potty would be placed at the playground; c) The panels would be repainted. The Town would purchase new panels and the Women's Club would provide panels to each of the schools in the area for the children to paint; and d) The rock wall would be repainted with a mural; and ii) Christmas caroling throughout the Town would be held on December 20th. Anyone wanting to participate should meet in the parking lot across from Bailey's Bait and Tackle at 5:30 PM. Jeb Brady has volunteered to drive the trailer for any young children and the elderly and anyone not able to walk the distance around Town. Councilwoman Natali suggested inviting the horse and buggy to participate as well.

D. Library Report:

Librarian Ann Rutledge thanked Dave Fauber for having the new doors installed at the Library and announced that during the month of December, if anyone with outstanding fines brought in a donation of canned food, \$1 would be deducted from the amount of the fine.

E. Harbor Report:

Harbor Master Smitty Dize stated that he had no additions to his written report and the Council did not have any questions for him. Mayor Sullivan stated that she received a comment from a boater regarding the cost of electricity at the Harbor and when she contacted Smitty Dize, learned that the Town passed on the rate charged by the electric company and did not make any profit from providing this service to the boaters.

F. Public Works / Public Utilities Report:

Public Works / Public Utilities Director Dave Fauber apologized that he did not have an update on the Wastewater Treatment Plant construction as stated in his monthly report. The superintendent had been out sick and could not provide the needed information. Dave Fauber informed the Council that he would email the updated information next week. Dave Fauber continued and reported the following: i) A company that provided storage tanks for draining the water tower had contacted him. It seemed that the contracted company for the water tank maintenance was getting prepared to paint the interior of the water tower. April would be the best month to schedule the interior painting in order to have the work completed before the tourist season. This work was included in the maintenance contract of the water plant; ii) It appears that the Town would be issued the DEQ Groundwater

Withdraw Permit after the adoption of the new Water Ordinance by Town Council which was the last item required for this permit; and iii) The crew has been working on the areas of asphalt needing repairs. Several areas of asphalt have been cleaned out and the Town would be patching the holes weather permitting. The temperatures have to warm up some before Branscome can operate their asphalt plant.

Councilman Bennett asked what was entailed in the repairs to the exterior of the Municipal Building. Dave Fauber explained that the Town had budgeted \$50K for window lential repairs and that he was working on an invitation for bids for these repairs.

Councilman Bennett asked about the outcome of the drawdown test of the water plant. Dave Fauber stated that the water plant was offline for approximately 48 hours to see how low the water level would get and everything went well.

Councilman Bennett commended Dave Fauber and his crew for doing a good job on the Christmas lights throughout Town. Councilman Veber added that the Grand Illumination Ceremony and lights in the downtown area have not ever looked as good. There was a lot of effort put into the Christmas lights and they were well received. Mayor Sullivan commended Peter Leontieff, Public Works Supervisor, for his idea to hang the Christmas trees along Mason Avenue from poles adding that they look great.

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 stated that he had no additions to his written report and the Council did not have any questions for him.

OLD BUSINESS:

A. Proration of Personal Property Tax - Town Code Revision:

Heather Arcos stated that a public hearing was held this evening immediately preceding the Town Council meeting and no comments were heard. Currently, if a resident moves in or out of the Town or buys or sells their vehicle or other taxable personal property, they were billed for the full year regardless of the amount of time such property was housed in Town. The proposed ordinance would allow exoneration of up to eight months of property taxes. The Town would work with the County regarding the sharing of information for the property tax prorations. The new ordinance would be effective for Tax Year 2011.

Councilman Veber asked whether the County offered any kind of proration for property taxes for businesses. Jo Anna Leatherwood stated that the County currently did not offer any kind of proration for businesses.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to adopt Ordinance #20201209 To Add Section 66-5 - Proration of Personal Property Tax to the Cape Charles Town Code as proposed, to be effective for Tax Year 2011.

Mayor Sullivan moved for adoption of Ordinance #20101209 - To Add Section 66-5 - Proration of Personal Property Tax to the Cape Charles Town Code. Ordinance #20101209 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Natali, yes; Sullivan, yes; Veber, yes.

B. 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 November 8th meeting and the recommended changes were incorporated and were being presented for final review.

Heather Arcos presented the revisions to Section 1.5 referencing "non-exempt" status to both the full-time and part-time employee definitions. Councilman Veber stated that he did not believe that part-time employees could be designated as an Exempt Employee. Councilman Veber also added that since Exempt Employee was already being defined as a salaried employee, it was not necessary to include salaried employees under the Full-Time Employee definition.

Heather Arcos continued to present the revisions to Sections 2.2, 2.6, 2.9 and 2.14 and added that she had an additional change in Section 2.9 regarding annual and sick leaves. Since part-time employees receive half of the annual and sick leave accrual of full-time employees, last month's change stating that both full-time and part-time employees who have worked for three months would be credited with 24 hours of annual and sick leave was incorrect. Part-time employees would be credited with 12 hours each of annual and sick leave.

Councilman Veber commented regarding Section 2.13 which stated that the Town would promote existing employees to positions for which they were qualified when vacancies occur without the necessity to follow the procedures of Sections 2.3 and 2.8 which relate to advertisement of the position, the interview process and appointment by the Town Manager. Councilman Veber suggested that language be added stating that the Town would hire the best-qualified candidate for the position.

Heather Arcos continued to present the revisions to Sections 3.2 and 8.11.2.D.5. No additional changes were made.

Heather Arcos informed the Council that only the additional changes made at this meeting would be brought back for review by Council. Mayor Sullivan asked for a motion to adopt the revisions to Sections 3 and 8 since no further changes were made.

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to adopt the proposed revisions to Sections 3 and 8 of the Cape Charles Personnel Policies, Rules and Regulations as presented, contingent on legal review. The motion was approved by unanimous consent.

C.i. Zoning Ordinance Revisions – Group Homes (§ 4.0.C)

Tom Bonadeo explained that this Zoning Ordinance revision was required by the Code of Virginia and not an option for Cape Charles. A public hearing was held earlier this evening and no comments were received. The Cape Charles Zoning Ordinance currently did not permit group homes in the R-1 zone but the Code of Virginia mandates that local ordinances must consider group homes of eight or less individuals and one or more resident advisors as equivalent to a single family residence.

Motion made by Councilwoman Natali, seconded by Councilman Bennett, to adopt the proposed modifications to Sections 2.9, 3.2.B.6 and 4.0.C.1 of the Cape Charles Zoning Ordinance as presented. The motion was approved by unanimous consent.

C.ii. Zoning Ordinance Revisions – Temporary Family Health Care Structures (§ 4.2.E.8)

Tom Bonadeo explained that this Zoning Ordinance revision was also required by the Code of Virginia and not an option for Cape Charles. A public hearing was held earlier this evening and no comments were received. The proposed modification would allow family health care structures of 300 SQFT or less for no more than one occupant who must be a family member who was mentally or physically impaired to be placed in the R-1 zone. Mayor Sullivan noted that the majority of the lots in the Historic District were too small to accommodate these structures and still meet building and zoning codes. Tom Bonadeo added that it would be difficult to build ADA access between a temporary structure and the main house.

Motion made by Councilman Bennett, seconded by Councilman Sullivan, to adopt the proposed modifications to Section 2.9 and 4.2.E of the Cape Charles Zoning Ordinance as presented. The motion was approved by unanimous consent.

C.iii. Zoning Ordinance Revisions – Chesapeake Bay Preservation Act Requirements

Tom Bonadeo explained that more than ten years ago, the Town of Cape Charles became one of the first localities to adopt the Chesapeake Bay Preservation Act and that the Chesapeake Bay Local Assistance group was auditing localities to determine whether the ordinances were effective or needed to be strengthened. During the review of the Cape Charles ordinances, it was suggested that several ordinances could be strengthened. A public hearing was held earlier this evening and no comments were received.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adopt the proposed modifications to Section 4.4.B of the Cape Charles Zoning Ordinance and Appendix B, Section 4.A.1.h as presented. The motion was approved by unanimous consent.

D.i. Conditional Use Permit Application – 207 Mason Avenue – Residential Over Commercial

Tom Bonadeo stated that a Conditional Use Permit (CUP) application had been received by the Planning Commission requesting residential use over commercial at 207 Mason Avenue which was the former Delisheries building. The applicant proposed to add a second and third floor for two apartments, provide four parking spaces in the rear of the building and remodel the commercial space. This building had a CUP approved in 2003 for residential use with a second floor and loft which was extended in 2004 and 2005 due to the applicant being deployed for military service, but the CUP was never acted upon. The new plan was similar to the plan from 2003. A joint public hearing was held on December 7th with the Planning Commission and no comments were received. Tom Bonadeo added that the Planning Commission reviewed the CUP application after the joint public hearing and recommended approval of the CUP by the Town Council. Councilwoman Natali noted that there was a change in the Planning Commission recommendation as shown in the staff report and that the first condition, which stated that the approval should be conditional with the current sale of the property and if the property was not sold within 30 or 60 days, the CUP would become null and void, was deleted. The Planning Commission had discussed this issue and felt that the one-year expiration of a CUP, as currently provided in the Zoning Ordinance, should prevail. Tom Bonadeo stated that the recommended conditions were: i) The residential use for two floors over the commercial space should be conditional upon the applicant providing four parking spaces on site in accordance with the zoning ordinance; ii) The CUP only provides for residential use on the property in accordance with the zoning ordinance. Any civil issues and/or building code issues were to be resolved by

the owner; and iii) The property would require additional floors to be added and the CUP should be conditional upon final review and approval of the Historic District Review Board once a CUP was approved.

Motion made by Councilman Sullivan, seconded by Councilman Veber, to approve the Conditional Use Permit for 207 Mason Avenue with the three conditions as recommended by the Planning Commission.

D.ii. Conditional Use Permit Application – 546 Madison Avenue – Home Occupation

Tom Bonadeo stated that a CUP application had been received by the Planning Commission requesting permission for a small chocolate candy operation at 546 Madison Avenue. The applicant would have one small chocolate tempering machine in addition to the normal kitchen appliances and the product would not be sold at the home but through retail outlets. A joint public hearing was held on December 7th with the Planning Commission and no comments were received. The Planning Commission reviewed the application after the joint public hearing and recommended approval of the CUP as long as the owners utilize this location as their primary residence.

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to approve the Conditional Use Permit for 546 Madison Avenue as recommended by the Planning Commission.

E. PNC Bank Credit Line

Jo Anna Leatherwood explained that during the budget work sessions, former Councilman Burdiss suggested that the Town obtain a credit line through a local bank to be used as needed and Council agreed that such a credit line would be beneficial for Town operations in that the amounts could be repaid within several years vs. stretching repayment over 20 to 30 years. This would also allow the Town to take care of maintenance issues caused by years of neglect. PNC Bank offered the Town a \$500K tax exempt loan at an attractive interest rate, currently 3.32%, as well as other services which could benefit the Town and its employees. At the October 14, 2010 Council meeting, several concerns arose regarding the wording in the resolution for which we have received clarification. The main concern was the term limitation of one year, but pursuant to Section 15.2-2629 of the Code of Virginia, loans have to meet appropriations for the current year and such notes shall mature and be paid within one year. Jo Anna Leatherwood informed Council that since the loan was being offered as a tax exempt loan, in order to meet IRS regulations and the requirements of the Commonwealth of Virginia, a specified amount for a borrowing limit must be included. Pursuant to Section 15.2-2634 of the Code of Virginia, municipalities are limited to borrowing 10% of the assessed valuation of real estate in the municipality subject to taxation as shown by the last preceding assessment for taxes. Jo Anna Leatherwood added that the Town did not plan to borrow anything but the funds would be available if needed. There was much discussion regarding having to repay the funds by the end of the fiscal year in which it was borrowed. Jo Anna Leatherwood explained that the funds must be paid back by June 30th, but could be re-borrowed on July 1st if necessary.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to adopt the Tax Revenue Anticipation Note Resolution #20101209 so funds would be available if needed.

Mayor Sullivan moved for adoption of Resolution #20101209 – Resolution Authorizing the Issuance of a General Obligation Tax and Revenue Anticipation Note of the Town of Cape Charles, Virginia, and Providing for the Sale, Form, Details and Payment Thereof

and Authorizing Certain Related Actions. Tax Revenue Anticipation Note Resolution #20101209 was adopted by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Natali, yes; Sullivan, yes; Veber, yes.

NEW BUSINESS:

B. *Cape Charles Memorial Library Study / Plans*

Heather Arcos stated that at the April 8, 2010 Town Council Regular Meeting, Ms. Alice Morehouse, President of the Friends of the Cape Charles Memorial Library, addressed the Council offering the assistance of the Friends of the Library, in conjunction with the Library Board, in the planning and development of a new library facility. The Library Board and the Friends of the Library have prepared *A Vision for the Cape Charles Memorial Library* and an Executive Summary which were included in the Council agenda packet for Council's review. Heather Arcos stated that Ms. Morehouse was in attendance this evening to answer any questions that the Council may have. There were no questions for Ms. Morehouse. Heather Arcos suggested that this issue be discussed further at a future meeting or work session.

C. *Cape Charles Trail Project Agreement Amendment*

Heather Arcos explained that the Cape Charles Master Trail Plan was adopted by the Town Council on September 11, 2007 and in November 2009, as part of Phase 1, the Town submitted an application for a Transportation Enhancement Program Grant in the amount of \$364K. The Town was awarded the requested \$364K and in order to accept the additional funds, the Amendment to the Project Development and Administration Agreement (Appendix A) must be signed and returned. The grant funds for this project now totaled \$1,473,300 and the 20% Town match would be allocated in the Fiscal Year 2011/2012 budget. The completion deadline of this project has been extended to October 1, 2013.

There was some discussion regarding the next phase of the Trail Project and Councilman Bennett stated that he would like to see Mason Avenue and Bay Avenue addressed since these are the main areas where people come.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to authorize the Town Manager to execute the Amendment to Project Development and Administration Agreement (Appendix A). The motion was approved by unanimous consent.

D. *Rental of Billboard*

Heather Arcos stated that several citizens addressed the Council at the November meeting to express their support of a billboard rental on the north bound lane of Route 13. The blank billboard on the north bound lane was just before the T&T Gifts and would cost approximately \$11,200 per year (\$880/month and one-time design and printing fee of \$640). The Cape Charles Business Association (CCBA) stated previously that they would be willing to pay 50% of the cost but a written commitment has not been received as yet. With 50% being paid by the CCBA, the cost to the Town for one year would be \$5,600. Heather Arcos went on to state that earlier this week, she was notified of another smaller billboard becoming available in January 2011. This billboard was located on the south bound lane of Route 13 in Belle Haven and was 8' x 12' which would cost \$3K or less for one year (\$250/month with the \$144 design and printing cost being waived). There was much discussion regarding the distance of the smaller billboard from Cape Charles.

Councilman Bennett asked how the success rate of the billboard would be measured and added that he had difficulty in agreeing to pay for a billboard. Councilman Bennett went on to explain that Mr. Richard Foster had rented numerous billboards on the Eastern Shore advertising the Bay Creek Resort Community and not one sale or visitor stated that they came in as a result of a billboard. The debate continued regarding the feasibility of renting a billboard to promote the Town and its businesses.

Councilwoman Natali stated that she felt the money would be spent more effectively if the Town were to advertise in magazines and circulations in the Hampton Roads area and elsewhere.

Vice Mayor Bannon also stated that he was not really excited over a billboard.

Heather Arcos added that she was looking for direction from Council but further discussion could be tabled until the next budget cycle. Council agreed to table this issue until the budget discussions for next year.

E. Petition the Court on Behalf of Bruce Evans

Mayor Sullivan recommended that in light of the recent findings regarding Bruce Evans' status as Councilman, she would like to expedite the process of having the court appoint Bruce Evans as Councilman until a special election could be scheduled.

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to authorize legal counsel to petition the circuit court to appoint a council member to fill the unexpired term of the seat vacated by Councilman Bruce Evans until a special election can be held and that the petition further request the court to consider the appointment of Bruce Evans in the interest of continuity, economy and in consideration of the fact that he was previously elected to the position by popular vote. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Natali, yes; Sullivan, yes; Veber, yes.

Vice Mayor Bannon asked about the timeframe for such an election. Heather Arcos stated that the Circuit Court Judge would set the date for a special election.

F. Harbor Redevelopment Phase 1 - Slips

Heather Arcos explained that on October 4, 2010 one bid was received for the marina and bath house project at the Cape Charles Harbor in the amount of \$2.8M. The bid was subsequently rejected since it was over the estimated budget. It was decided to split this project into two separate bids. The marina would be a separate bid and the bath house would be a separate bid. On December 2, 2010, the Town Manager received 10 bids for the marina project and the lowest bid was from Somerset Paving and Marine from Crisfield, MD for \$1,055,165. Somerset Paving's references were excellent. Staff reviewed the total budget and felt that it was essential to include Bid Additive #1 - Pier "C" for \$219,733. The additional revenues generated would contribute to the overall project and include the construction of the bath houses. There was some discussion regarding the dollar amounts stated in the staff report. It was determined that the funding from the Virginia Port Authority could be used completely for this portion of the project but the funding from the Boating Infrastructure Grant would not be reimbursed until after completion of the entire project, including the bath houses.

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to authorize the Town Manager to award a contract and the Notice to Proceed to Somerset Paving for the base bid of \$1,055,165 and Additive #1 for \$219,733 for a total of \$1,247,898 utilizing the \$447K from the Virginia Port Authority and financing the balance. The motion was unanimously approved.

ANNOUNCEMENTS:

- December 15, 2010 – Town Council Executive Session @ 6PM
- December 16, 2010 – Town Council Work Session @ 6PM
- December 17, 2010 – Town Employee Christmas Party
- December 24, 2010 – Town Offices Closed for Christmas Holiday
- December 31, 2010 – Town Offices Closed for New Year's Holiday
- January 13, 2011 – Town Council Regular Meeting
- January 14, 2011 – Town Offices Closed for Lee-Jackson Day
- January 16, 2011 – Clamdigger's Daughter being shown at the Palace Theater. This was a movie which was filmed in Cape Charles in 1947.
- January 17, 2011 – Town Offices Closed for Martin Luther King, Jr. Day
- January 28, 2011 – Town Council Retreat – location to be determined
- February 9, 2011 – Trip to Harrington Casino sponsored by the Friends of the Cape Charles Memorial Library

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

Mayor Sullivan

Town Clerk



DRAFT
TOWN COUNCIL

Work Session

Town Hall

January 6, 2011

6:00 PM

At 6:00 p.m. at the Town Hall, Vice Mayor Chris Bannon, having established a quorum, called to order the Work Session of Town Council. In addition to Vice Mayor Bannon, present were Councilmen Sullivan and Veber and Councilwoman Natali. Councilman Bennett arrived at 6:04 p.m. and Councilman Evans arrived at 6:07 p.m. Mayor Dora Sullivan was not in attendance. Also present were Town Manager Heather Arcos, Treasurer JoAnna Leatherwood, Consultant Bob Panek, Public Utilities Director Dave Fauber and Town Clerk Libby Hume. There was one (1) member of the public in attendance.

Vice Mayor Bannon announced the business for the evening would be to continue the review of the proposed modifications to the Town Code, Chapter 70 – Water, Sewers and Sewage Disposal.

Town Manager Heather Arcos stated there were three reasons why Council was reviewing these ordinances: i) the ordinances were outdated; ii) to comply with requirement from the Environmental Protection Agency (EPA) as a condition to the 0% loan; and iii) for water conservation which was a requirement for obtaining the Ground Water Permit. Two previous work sessions were held in October and November. The changes made at those meetings will be reviewed again along with the language in new Chapter 71, the majority of which contained language required by the EPA.

The Council reviewed the ordinances by section and additional changes were made as follows:

§ 70-21 – Specific Definitions: Definitions for “Water Meter” and “Curb Stop” would be added.

§ 70-33 – Consumer’s Connection, paragraph (c): There was some discussion regarding the phrase “within a reasonable length of time” which appeared twice in the paragraph relating to the length of time permitted to repair or replace a water meter. The first instance was deleted and the second instance was changed to “expeditiously.” Also in this paragraph, the term “corporation cock” was replaced with “curb stop” for consistency in changes made previously.

§ 70-51 – Shallow Wells, paragraph (b): Councilman Bennett questioned the last sentence which required that all fixtures connected to shallow well be “clearly and permanently marked “Water Unsafe for Drinking” stating that the water from a shallow well may not be unsafe for drinking. Bob Panek thought this language was from the Code of Virginia and added that he would check into it.

Councilwoman Natali mentioned that she had a sprinkler system for watering her lawn which pulled water from a pond behind her house and that she had this system installed per her developer’s approval and asked whether her outlet would have to be labeled since it was not from a shallow well.

§ 70-63 – Protection of Potable Water: Bob Panek mentioned that this section also contained language requiring “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. Bob Panek added that this section would include Councilwoman Natali's system.

§ 70-81 – Water Shortage Emergencies: There was some discussion regarding the term "emergencies." Councilman Bennett stated that if the Town was experiencing drought conditions and the water was low, it would be a longer period and not considered an emergency and asked what would be considered an emergency. Dave Fauber explained that several years ago, there was a bad leak on Mason Avenue by the hump that drained the water tower and that would be considered an emergency. Bob Panek added that failure of one of the wells would also be considered a water shortage emergency.

Vice Mayor Bannon stated that it would be beneficial if the Town could collect the residents' email addresses so quick notices could be sent to them in cases of emergency. Currently, the Town really has no way to contact everyone in a quick, efficient manner. Treasurer JoAnna Leatherwood stated that there was space in the Edmunds software where email addresses could be input. Heather Arcos added that the Town would begin soliciting residents for their email addresses to keep on file for notice purposes. Dave Fauber also suggested an informational sign be purchased to be placed in front of the water plant for the Town to place important notices since it was the main route in and out of Town and the majority of residents would pass it.

Heather Arcos stated that in Chapter 71, the language printed in green was required by the EPA. Bob Panek added that much of the language pertained to industrial users, which the Town currently does not have, and cautioned the Council not to be alarmed by the language. It was required to be included and an industrial user(s) may come to the Town in the future.

§ 71-41 – Connection Permit, paragraph (b): There was some discussion regarding "Class I-residential" and Bob Panek explained that all residential dwellings were included in this class.

§ 71-42 – Connection Charges, paragraph (b): Councilwoman Natali noted that in the first line, a space was needed between "be" and "\$13,150."

§ 71-44 – Separate Connections Required: There was much discussion regarding this section which seems to permit accessory buildings/dwellings on a lot. Councilwoman Natali noted that in December, the Council approved family health care structures to be put on a lot for the care of a family member and asked whether this would refer to such a structure. The family health care structures were temporary structures for use only as long as needed by the family member and were not permitted to have its own water or sewer connection. It was also noted that a property owner could have a detached workshop with a shower and bathroom which could be hooked up with its own connection. Bob Panek stated that the majority of the language in this Chapter was the current language in the ordinance and that this section would be revised further.

§ 71-51 – Excavation Guards and Property Restoration: Councilman Bennett questioned the inclusion of this section stating that it was more of a building code issue. Council agreed and this section was deleted.

§ 71-52 – Protection of Capacity for Existing Users: Councilwoman Natali noted a discrepancy between the first and last sentences of this section where the first sentence stated that "The Director shall not issue a permit..." and the last sentence stated "The Director may permit such ..." and suggested that the second instance be changed to "shall."

There was much discussion regarding the language "legally committed" and whether or not the Town was committed to a connection when a sub-division was platted or only when a

connection fee had been received. The consensus was that the Town was not legally committed for a connection unless the connection fee had been paid to the Town. Currently, there are approximately 17 lots where the owners have pre-paid for their connections.

§ 71-65 – Special Agreements: Councilman Bennett expressed his concern regarding the language in this section in relation to septage. Bob Panek agreed that he would not want the Town to accept septage but this section referred to industrial users which the Town does not have at this time and could be dealt with if an industrial user approaches the Town in the future.

§ 71-67 – Excessing Discharge: Councilwoman Natali asked what “process water” was. Bob Panek thought it was defined in another section and stated that it would be added in § 71-21 – “Specific Definitions.”

§ 71-68 – Accidental Discharges, paragraph (c): Councilwoman Natali noted that in the second sentence, “insure” should be “ensure.”

§ 71-72 – User Permits, paragraph (b) (7): Councilwoman Natali asked what “all materials” meant and whether chemicals would be included. Councilwoman Natali went on to state that this issue was not covered in § 71-72, (d) (6) & (7). Bob Panek stated that the language in these sections should be interpreted broadly but felt that the issue was covered in § 71-72 (d) (7). Bob Panek again reminded the Council that this section referred to industrial use only and that the Town currently did not have any industrial users. After some discussion, it was agreed that § 71-72 (b) (7) would be changed from “all materials” to “wastewater constituents.”

§ 71-92 – Industrial Cost Recovery: There was some discussion regarding this language which stated that industrial cost recovery charges could be assessed to industrial users. Again, currently the Town did not have any users qualified under this section, but we could in the future.

§ 72-5 – Adjustment for Leaks: JoAnna Leatherwood asked for clarification of this section in cases where users fill their swimming pools. In the past, the Town had an unofficial policy giving the user an adjustment on the sewer bill. There was some discussion regarding this issue and Bob Panek stated that he would draft language for review by Council.

§ 72-6 – When Due and Payable; Penalty for Delinquency; Discontinuance of Service for Delinquency: There was much discussion regarding the utility bill due date which is currently 15 days from the date of mailing and whether this was enough time, especially for those property owners who live out of town. JoAnna Leatherwood mentioned that this month about 7 accounts were turned off for non-payment and typically the delinquent accounts were not for out of town property owners. JoAnna Leatherwood continued to explain that the Town uses a service to allow online payment by credit card for utility bills and taxes. A \$3.50 surcharge was charged to the user for utility payments. There was a suggestion to increase the due date to 21 days from the date of mailing as well as the possibility of offering electronic billing and payment options. JoAnna Leatherwood stated that ANEC allowed online payments from checking accounts with no charge to the user and added that she would contact ANEC for details regarding this program. After further discussion, Council agreed to extend the due date to 21 days from mailing and to contact Edmunds software regarding electronic billing and payment options. It was also noted that the beginning of the sixth line should be “a \$30.00...” vs. “an \$30.00 ...”

§ 72-8 – Liability for Minimum Charges: There was some discussion regarding an unauthorized program which was implemented in the past regarding uninhabitable houses. There was no

provision in the Town Code, so this section was added to addresses this issue. Dave Fauber added that the unauthorized procedures were no longer being used.

The Council went on to review a request from Mr. Francis J. Donohue, Jr. which was submitted to Council at the December 9th meeting. Mr. Donahue informed Council that his property located at 408 Jefferson Avenue which was built in 2006 using Chinese drywall and that the house was currently vacant and cannot be sold, rented or otherwise inhabited. The County Commissioner of Revenue had abated \$55,400 of the real estate tax assessment due to the situation. Mr. Donahue requested the Town disconnect the water and sewer and discontinue garbage collection for two years or until the rehabilitation work could be completed on the house and that the monthly utility fees be waived for the duration and no reconnection fee be charged upon completion of the work. There was much debate regarding making an exception regarding this case. Dave Fauber stated that the contractor would need water during the construction so the Town should not disconnect the water service. Council agreed that the Town should contact other municipalities that have dealt with Chinese drywall issues to see what concessions or procedures, if any, were implemented to handle the situation.

The Council reviewed a request from a developer asking that the Town defer the collection of connection fees for water and sewer until the utilities were required for the sale or occupancy of a house. There was much discussion regarding this request and the Council agreed that the request should not be granted.

Councilman Veber asked Bob Panek for more information regarding the recent PSA update email that he sent for Council review. Bob Panek stated that in his opinion there were several individuals who do not want a centralized sewer system in the County. Councilwoman Natali asked that if several of the members of the PSA Board were not sworn in, would the County have to reappoint other individuals for the positions. Bob Panek stated that the County Administrator and the Commonwealth's Attorney were aware of the situation and that the issue would be discussed further at the January 18th PSA meeting. Heather Arcos added that the County Administrator thought that the new individuals would be appointed to fill the positions.

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

Vice Mayor Bannon

Town Clerk

Town Manager Report
Highlights
December 10, 2010 – January 5, 2011

Councilman Bruce Evans

- Councilman Bruce Evans was appointed by Circuit Court Judge Tyler to fill the vacancy on the Town Council until a special election is scheduled. We are currently waiting for notification regarding the date of the special election.

Town Hall Meeting

- On 1/5, Senator Ralph Northam and Delegate Lynwood Lewis held a Town Hall meeting at the St. Charles Parish Hall. It was a good turnout. Some items discussed were:
 - The budget outlook
 - Economic development
 - Health care
 - Transportation
 - Education
- For more information on Virginia Legislative issues, go to <http://dls.virginia.gov>.

Harbor Development

- The revised plans for the bath house will be reviewed by the Harbor Architectural Review Board at the end of this month. The scheduled meeting for 1/12 has been cancelled and will be rescheduled.
- The installation of the floating slips and wave break will begin at the end of January.

Cape Charles Beach/Pier

- The work on the fishing pier repairs have been completed by J. A. Habel Corporation. The fishing pier mitigation work and boardwalk will begin as soon as the weather cooperates. This project will be paid for by FEMA funds from the November 2009 Nor'easter.

Boundary Adjustment Sub-Committee Update

- The Boundary Adjustment Committee meeting scheduled for Monday, 1/10, at 5PM has been cancelled. A date will be set for the end of the month.

Building Code Department

- Jeb Brady has taken Part II of his final exam to complete his certification as a Building Code Official. He passed with flying colors and please join me in congratulating Jeb Brady on a Job Well Done!

Central Park Trail

- The final punch list items are still about 90% complete for the Phase 1 Central Park Trail. The Town followed up with a letter to the contractor requesting a schedule for completion of the punch list items. The fountain, tennis court and sod will be finalized in the spring.
- Staff will begin planning for Phase 2-North Peach Street connection at the end of this month. An upcoming site visit will be scheduled with the Virginia Dept. of Transportation (VDOT) representative to discuss the next phase of the trail. The Town Council will be updated after the site visit and a final plan will be submitted to the Town Council.
- The signage for the Park is moving slowly. The golf cart labels for the bollards have been received along with a small sign for the gazebo. Both signs will be installed soon.

Northampton County Tourism Infrastructure Grant Application

- The Town will be making a presentation to the Tourism Commission on 1/20 regarding the two grant applications which were submitted on 11/19. The applications requested funding for the following projects:
 - Golf Cart and Bike Trail to be constructed to provide safe access for golf carts and bicyclists to travel between the Bay Creek Golf Community and the Historic District.
 - An ADA access to be constructed from the boardwalk to the bathroom at the south end of the beach to provide much-needed access to the bathroom for individuals with physical disabilities.

Request for School Crossings

- Town staff met with VDOT to request school crossing designations on Plum and Strawberry Streets for the safety of the children attending the Cape Charles Christian School. The meeting went well and we are organizing training to be given to Cape Charles Christian School volunteers through VDOT.

Mason Ave. Forcemains and Sewer Project

- The scope of work for this project consists of construction of a new Mason Avenue forcemain connection, extension of the existing Fig Street forcemain from its current downstream terminus to the new Mason Avenue connection, upgrade of the Mason Avenue pump station headworks structure, demolition of select existing sewer structures and grit chamber and misc. improvements to the Mason Avenue pump station. The pre-bid conference was held on 1/6/11 and the sealed bids are due by 2:00 p.m. on 1/27/11 and will be opened at that time.

Topics for Upcoming Work Sessions:

- Town Code Modifications:
 - Technology and Tourism Zone
 - Golf Cart Ordinance
 - Animal Ordinance
- Future plans for the Cape Charles Memorial Library
- Personnel Policy Review by Section
- Retreat scheduled for Friday, January 28, 2011.

MUNICIPAL CORPORATION OF CAPE CHARLES
CASH POSITION
DECEMBER 31, 2010

Cash on Hand	11/30/2010	12/31/2010
Bank of America Checking	2,192,625	2,719,954
Local Government Investment & Restricted Funds	<u>910,096</u>	<u>910,096</u>
Total Cash On Hand	<u><u>3,102,721</u></u>	<u><u>3,630,051</u></u>

TREASURER'S REPORT											
DECEMBER 31, 2010											
MONTHLY REPORT											
FUND	MONTHLY PRORATED ADOPTED BUDGET *	CURRENT MONTH REVENUES/ EXPENDITURES	% REALIZED/ EXPENDED	PRIOR PERIOD YTD	ANNUAL ADOPTED BUDGET	YEAR TO DATE	% REALIZED/ EXPENDED				
GENERAL											
REVENUES (Note 1)	242,232	710,173	293.18%	1,156,732	2,906,787	1,866,905	64.23%				
EXPENDED	242,232	164,828	68.05%	994,543	2,906,787	1,159,371	39.88%				
PUBLIC UTILITIES											
REVENUES (Note 2)	1,320,257	271,839	20.59%	1,755,410	15,843,085	2,027,249	12.80%				
EXPENDED	1,320,257	1,258,020	95.29%	2,334,937	15,843,085	3,592,957	22.68%				
HARBOR											
REVENUES	182,265	27,497	15.09%	431,002	2,187,185	458,499	20.96%				
EXPENDED	182,265	41,334	22.68%	377,900	2,187,185	419,234	19.17%				
SANITATION											
REVENUES (Note 2)	15,725	15,010	95.45%	76,760	188,702	91,770	48.63%				
EXPENDED	15,725	13,021	82.80%	65,051	188,702	78,072	41.37%				
Points of Information											
1. General Fund 2010 tax are coming in ahead of last year.											
The comparison amounts can be seen in the notes to these financial reports.											
2. Utility revenues are recorded as collected. Therefore December utility charges of \$130,076 and sanitation charges of \$15,524 are not included above.											
* Monthly budget amounts equal annual budget divided by 12.											

MUNICIPAL CORPORATION OF CAPE CHARLES
 CAPITAL PROJECTS UPDATE
 THROUGH MONTH END DECEMBER 31, 2010

PROJECT	BUDGET AMOUNT	SPENT YEAR TO DATE	BALANCE TO SPEND
GENERAL FUND			
Broadband Project	512,300	19,354	492,946
Public Works Yard Building	30,000	0	30,000
Public Works Pickup	20,000	0	20,000
Cape Charles Multi-Use Trail Orig Grant/Supplemental)	598,026	289,800	308,226
PUBLIC UTILITIES			
2 Wells including Pumps/Hookups	280,000	53,372	226,628
Water Production Expansion	20,000	0	20,000
Project Consultant/Management	4,613	2,127	2,486
Machinery/Equip - Replacement Generator	45,000	0	45,000
Inflow & Infiltration Project	1,200,000	98,176	1,101,824
New Wastewater Plant Construction	13,041,519	2,973,147	10,068,372
HARBOR			
Offshore Breakwater	0	123,673	(123,673)
Marina Inshore Breakwater, Slips/Bulkhead	1,643,977	39,223	1,604,754
Surveillance Cameras	5,000	0	5,000

MUNICIPAL CORPORATION OF CAPE CHARLES
 NOTES TO FINANCIAL REPORT
 DECEMBER, 2010

1. The expenditures for November include the following invoices that were not paid in December:

Bagwell Oil	20,915
Bank of America Business Card	2,375
Elliott's Automotive	663
J. A. Habel Corp	15,000
Land Studio	723
Onancock Building Supply	492
The Richmond Voice	736
Univar USA Inc.	1,533
VRS Retirement & Life	10,642
Various Small Invoices	1,731
	<u>54,810</u>

2. Real estate and personal property tax collections are under way. Below you will see the comparison of collections as a percentage of this budget year for collections from July 1 through December 31.

	Fiscal Year 2011 Budget Amount	December, 2010 Collections	% of Budget Collected
Real Estate Tax Collections			
2010 Tax Collected	1,019,603	1,011,029	99.16%
2009 Collections	9,000	28,863	320.70%
2008 Collections	4,000	6,558	163.95%
2007 Collections	2,000	791	39.57%
2005 & 2006 Collections	0	862	0.00%
	<u>1,034,603</u>	<u>1,048,103</u>	

	Fiscal Year 2011 Budget Amount	December, 2010 Collections	% of Budget Collected
Personal Property Tax Collections	140,000	90,709	64.79%
License Tax	18,000	16,916	93.98%
Machinery & Tools	20,000	17,090	85.45%
	<u>178,000</u>	<u>124,715</u>	

Recreation Department
January Council Report

1. December was a very busy month. The Recreation Department sponsored events for children on December 20, 21 and 22 while they were out of school for Christmas break. Monday the kids had a craft day. Children made ornaments, Christmas cards and decorations. Some students from the Christian School came by to joint in the activities. Over 50 children participated. Tuesday was spent decorating cupcakes and cookies. Parents and citizens donated the cookies and cupcakes and the town bought the decorations. There were close to 20 kids in attendance. Wednesday was gingerbread houses. There were close to 15 kids in attendance.
2. December 4 the Town sponsored a Gingerbread House workshop at the Parrish Hall. There were as many adults as kids having a good time. Later that evening the Recreation Department took pictures of the children with Santa. There were more kids then expected so parents were encouraged to call Jen the following Monday to have pictures printed of their children.
3. The town attempted to organize citizens to participate in Christmas caroling but the weather did not want to cooperate. Due to cold temperatures only one person showed. We will try again next year!
4. The birding festival is in full swing gearing up for next year. The focus is to have more advertising and more participation from local businesses. The committee is working hard to not only draw people into our local stores and restaurants but to track the number of visits in each business.
5. The recreation department is working on many events for 2011. There will be a football tournament in January and teen movie night will continue. The recreation department and library will also have a game afternoon for the younger children in town. Jen is in currently asking around for ideas to celebrate Valentine's Day. There will be a St. Patrick's Day Dance in March for teens.

Cape Charles Memorial Library
December 2010

1. **Toddler/Preschool Storytime** was held on Thursday at 10:30 and a total of 20 children and caregivers attended this month.
2. During the month of December the Library collected canned goods and canned pet food to benefit the **Food Bank and the SPCA**. For each can of food donated the library took \$1.00 off of overdue fines, with a \$10.00 maximum.
3. The **Friends of the Library** met on December 13 at 5:00 in the Library and the
4. **Cape Charles Library Board met** to decorate the library on December 7.
5. The library **displays** for this month featured Holiday books for children and adults.
6. 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 is sponsoring a showing of the **Clam Diggers Daughter (aka The Story of Mr. Hobbs)** at the Historic Palace Theatre. Free admission. For details, call 331-2787 or visit www.artsentercapecharles.org.

Cape Charles Memorial Library

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV.	DEC	to date
INCOME:													
Donations	\$7.00	\$2.00	\$2.00	\$5.40	\$6.00	\$2.00	\$24.00	\$2.00	\$1.00	\$2.00	\$2.00	\$2.00	
Copier/Prt	\$35.40	\$35.95	\$53.00	\$105.78	\$78.30	\$76.00	\$77.50	\$84.35	\$63.30	\$44.50	\$53.00	\$53.00	
TOTAL	\$42.40	\$37.95	\$55.00	\$111.18	\$84.30	\$78.00	\$101.50	\$86.35	\$63.30	\$47.50	\$55.00	\$55.00	
Deposit	\$42.40	\$37.95	\$55.00	\$111.18	\$84.30	\$78.00	\$101.50	\$86.35	\$64.30	\$47.50	\$55.00	\$55.00	
BOOK CIRC-ADLT													
Fiction	559	540	497	488	494	685	809	800	668	611	585	585	
Non-fiction	126	168	136	170	116	172	153	159	157	163	137	137	
TOTAL 2010	685	708	633	658	610	857	962	959	825	774	722	722	
Books Circ. 2009	459	648	525	703	685	720	654	979	692	711	610	610	
BOOKS CIRC-JUV													
Fiction	345	351	426	423	406	694	707	737	527	506	539	539	
Non-Fiction	118	101	105	156	80	82	101	94	104	105	146	146	
TOTAL 2010	463	452	531	579	486	776	808	831	631	611	685	685	
BOOKS CIRC. 2009	211	225	362	343	248	422	431	555	481	555	425	425	
TOTAL BOOK 2010	1148	1160	1164	1,237	1,096	1,633	1,770	1,790	1,456	1,385	1,407	1,407	
TOTAL BOOK 2009	975	873	887	1,046	933	1,142	1,085	1,266	1,173	1,266	1,010	1,010	
Attendance 2010	742	732	995	1,060	1,535	1,392	1,833	1,805	1,324	1,252	1,151	1,151	
Attendance 2009	927	968	937	951	994	422	1,085	1,555	1,134	1,110	718	718	
Programs 2010	4	7	7	5	4	9	16	12	8	6	7	7	
Programs 2009	7	8	11	7	8	6	11	16	8	11	4	4	
Prog. Attend 2010	8	60	41	22	29	155	904	244	123	67	110	110	
Prog. Attend 2009	39	72	56	45	40	131	155	197	85	83	6	6	
Internet use 2010	428	385	375	713	941	746	708	853	632	572	478	478	
Internet use 2009	876	598	490	660	487	731	731	700	369	495	305	305	
Library Cards 2010	8	9	15	15	17	45	30	36	17	13	14	14	
Library Cards 2009	20	14	13	10	18	23	23	34	59	30	12	12	

Harbor Report

December, 2010.

Maintenance

1. Continued Painting fuel pumps 1 & 2 – Project slowed do to bad weather.
2. Winterized Pump Out Station
3. Winterized water lines on Center Dock.
4. Winterized waterline under office.
5. Replaced Handles and plungers in restroom toilets.

Upcoming, Scheduled Maintenance

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

Capitol Projects:

1. Awarded Marina Bid To Somerset on December 6, 2010 construction to begin in January , 2011,
2. 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 would like to thank everyone for a great 2010, and we hope everyone has a safe and enjoyable 2011 boating year.
3. Follow us on Face Book (Cape Charles Town Harbor)

Harbor Report

December, 2010.

Business:

Average Boats in the Harbor per night by category:

<u>Rentals</u>	<u>December</u>	<u>November</u>	<u>10/11</u>	<u>9/10</u>
1. Nightly:	0.3	0.4	1.6	1.3
2. Weekly:	4.4	7.1	6.2	7.6
3. Monthly:	10.5	16.2	12.6	11.8
4. Seasonal:	3.0	13.0	9.1	8.6
5. Annual:	28.0	23.0	26.9	25.7
6. Total Rentals,	46.2	59.7	56.4	55.1

Wharf Fees by Pounds:

	<u>December</u>	<u>November</u>	<u>10/11</u>	<u>9/10</u>
1. Crabs:	0	44,415	206,820	1,429,920
2. Fish:	1,050	23,220	464,446	501,141
3. Conchs:	22,945	23,075	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:	23,995	90,710	1,717,676	2,067,921

<u>Waiting List:</u>	<u>11/30</u>	<u>Registered</u>	<u>Removed</u>	<u>12/31</u>
1. 60ft Slips:	3	0	0	3
2. 50ft Slips:	3	0	0	3
3. 45ft Slips:	11	2	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	77	2	0	79

Incidents: None.

Notes:

4th Annual Blessing of the Fleet, Begins on April 8th, 2011 @ 5:30 pm.

Buy Boat Reunion, August 5th, thru the 8th 2011.

William Smith Dize Jr.
Harbor Master
January 1, 2010

PUBLIC WORKS
December 2010

Dump Fees

- Oyster Landfill – 2 Trips Work Orders Open:
- Sludge- 0 Tons Work Orders Completed:

Staff Report

- Diego Upsher has left the Town, we are accepting applications to fill his spot.

Completed Projects

- Cleaned up from storm.
- Repairs to Peir.

In Progress

- Alley maintenance.
- Vacuuming leaves out of the streets.

Upcoming Projects

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

Special Events

PUBLIC UTILITIES

December 2010

Work Orders Completed

- Miss Utility Tickets: 12

Staff Report

- Dan, Bobby and Patrick went to a three day Rural Water Association sponsored class in Chincoteague on water plant operation.

Completed Projects

- Received final plans and specs for re-phased Mason Ave. pump station and force main improvements. Bid advertising went out on Dec. 29th. Packages are due in January 27th.

New WWTP

- The Operations Building has the metal roof trusses 90% erected.
- The Headworks Building final section of top slab was poured on 12-20-10. All form work to be stripped after the 14 day curing time has elapsed. Block work to begin the last week of December.
- 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 has been installed from the Distribution Box to the Scum Box along the entire south side of Reactor #1. All Blower pads have been installed in this area.
- The Membrane Tanks have begun to have Structural Steel erected. This work to continue through December.
- The Process Building block installation is 90% complete. The pre-cast concrete planks have been erected over the chemical room. Structural roof steel erection to begin early in January.
- The UV Structure currently has both plant water pumps installed, and ductile iron plant water piping is being installed to the pumps.
- 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 trusses to be erected the last week of December. Belt filter press is on site, to be installed in the building today. Large truck concrete pad has been poured.
- Electrical man holes and hand hold continue to be installed, along with concurrent electrical conduit and underground duct banks. Underground duct banks 75% complete.
- Bay Creek force main complete and leak tested.
- Re-use piping has been installed.
- Sanitary pump station has been installed.
- Recycle pump station and valve vault has been installed
- 75 % of yard piping has been installed to date.
- The Generator pad has been poured.
- Outfall piping was pushed back, and will begin in early January.
- Various pieces of equipment have arrived on site, including the UV Disinfection System, Grit Removal System, Mechanical Fine Screens and Course Screens, Sludge pumps, grit and scum pumps, Anoxic mixers, Fine and Course bubble diffusers, equipment hoists, stop logs, structural steel, joist, metal deck, and metal roof trusses for every building, transformers, carbon feed pumps, Alum pumps, dewatered solids conveyor, davit cranes, and partial shipment of walkway grating.

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.
- Working with DEQ to finalize Keck Well Aquifer Plan.

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 December FY 2011

Building Permits Issued/Permit Fees Collected:

Permits this month: 9	
Permits this year: 82	Total permits last year: 200
Total construction this month: \$225,001	
Total construction this year: \$1,890,770	Total construction last fiscal year: \$3,967,519
Permit fees this month: \$2,127.05	
Total permit fees this fiscal year: \$60,514.68	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: \$149.74	
Total Fire Dept. levies this year: \$1,547.27	Total Fire Dept. levies last fiscal year: \$3,282.54
State levy this month: \$29.95	
Total state levies this year: \$310.45	Total state levies last fiscal year: \$664.67
Miscellaneous Revenue:\$50 for Temporary C.O.	

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 December FY11

Central Park Trail (T-21 Grant) (updated)

Hours spent working on project this month: 15

Key Notes:

- Substantial Construction is complete
- Town has provided final punch list to contractor – **About 60% Complete**
 - Met with Contractor on site to give updated punch list. Contractor was supposed to provide letter addressing punch list.
- Town sent letter to Excel requesting punch list to be finished by January 7. No word back from contractor yet.
- Ordered signage for gazebo, fountain, and entrances.
- Ordered four more trash cans.

Other items of note:

1. Completed 22 inspections
2. Conducted 1 zoning clearances
3. Completed 2 courtesy residential inspections
4. Conducted 0 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 1 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. **Update:** Sent out thirty-one (31) Notices of Violation regarding some complaints of wooded areas within the residential portion of the neighborhood. The letter cited the violation and gave the owner forty-five (45) days to complete. **Have received good feedback on the letters however have not seen a whole lot of working being done yet. Plan to send out a Final Notice to Comply prior to the Town taking on any work. Will be sending out Final Notices within next week asking owners to comply.**
12. Assisted with Town Manager to write a letter to State Fire Marshalls Office regarding the upcoming regulations of permitting fireworks. If no exception would be given the Town would have to find additional funds to hire a professional company to perform the 4th of July fireworks display.
13. Jeb Brady will be taking the 2nd portion of the Certified Building Official exam the week of January 3, 2011.

Permit/Construction Fee Report

Dec-10

Address	Type	Permit #	Date	Work Description	Permit Fee	Value
1 American Court	Building	PB100077	12/1/2010	Adding 10x32 screen porch	\$144.88	\$10,870
204 Bay Avenue	Building	PB100078	12/22/2010	Restoration	\$1,064.00	\$175,000
1267 Bayshore Road	Demolition	PD100001	12/20/2010	Demolish two large warehouses	\$100.00	\$5,000
7 Carisa Court	Shallow Well	PU100003	12/6/2010	Shallow Well	\$100.00	\$600
109 Creekside Lane	E&S	PES10000	12/9/2010	Land Disturbance for work in RPA	\$250.00	\$1,885
407 Harbor Avenue	Mechanical	PM100023	12/7/2010	2 New heat pumps	\$140.00	\$10,000
210 Madison Avenue	Mechanical	PM100022	12/6/2010	1 New heat pump	\$128.32	\$8,957
108 Monroe Avenue	Mechanical	PM100024	12/29/2010	2 New heat pumps	\$143.85	\$10,689
233 Tazewell Avenue	Electrical	PE100041	12/16/2010	Upgrade to 200 amp service	\$56.00	\$2,000

Totals

\$2,127.05 \$225,001

Revenue Totals by Category/Items

From: 12/01/2010 to: 12/31/2010

C. of O.		
Temporary C. O.	1	\$50.00
C. of O. totals	1	\$50.00
demolition		
Comm Demo	1	\$100.00
demolition totals	1	\$100.00
Miscellaneous		
Fire Dept Fee	6	\$149.74
Miscellaneous totals	6	\$149.74
Shallow Well		
Well Inspection	1	\$100.00
Shallow Well totals	1	\$100.00
State Tax		
STATE TAX.	6	\$29.95
State Tax totals	6	\$29.95
Valuation		
E & S Plan Review Fee	1	\$250.00
Valuation Res \$0-\$2.5K	1	\$50.00
Valuation Res \$2.5K - 10K	2	\$239.57
Valuation Res > \$10K	3	\$1,207.79
Valuation totals	7	\$1,747.36
Grand Totals	22	\$2,177.05

MONTHLY INSPECTION TOTALS

Jeb Brady

COURTESY(Tub	12/30/2010
COURTESY	12/03/2010
Final	12/20/2010
Final	12/01/2010
Framing	12/17/2010
Final	12/02/2010
Rough-In	12/28/2010
Final	12/20/2010
Final	12/03/2010
Rough-In Porch	12/09/2010
Rough-In	12/17/2010
Final	12/03/2010
Final	12/29/2010
Pressure/R.I.	12/17/2010
Final	12/20/2010
Final	12/03/2010
Final	12/17/2010
S/W FINAL	12/01/2010
Final	12/20/2010
Final	12/03/2010
Final	12/01/2010
Rough-In	12/06/2010

Total 22

Grand Total 22

InsDateCompleted Range from
12/01/2010 to 12/31/2010

Planning Commission Report for Town Council

From: Tom Bonadeo
To: Town Council
Date: January 13, 2011
Subject: Report for Planning Department

Planning Commission Meeting—January 4

1. The Planning Commissions meeting was held on Tuesday January 4th.
2. The Planners held a public hearing and discussed the following items:
 - a. Conditional Rezoning for a portion of the Mack Building
 - i. The planners discussed the merits of the conditional rezoning as it involves proffers. The request is to change the zoning for the portion of the building that faces Randolph from C-1 to CR. The proffers would reopen the alley, create off street parking for the tenants of the building and create an evergreen buffer along Randolph while preserving the look of the building.
 - b. 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 have asked to schedule a joint public hearing with Council to finalize the project.
3. The planner has been working on the following projects
 - a. Central park – final trees have been replaced/planted.
 - b. Beach plan review. The winter snow fence appears to be working at this time.
 - c. Student/Town Project – Planning for a beach grass transplant project next spring. This project will clear better space for volleyball next summer while helping preserve the beach sand.
 - d. Re-zoning Application- an action item on your agenda
 - e. Historic District Guideline review and update
 - f. Boundary Adjustment-working with county planning on alternative action plan.
4. Numerous setback informational issues for new and prospective property owners.
5. Shore Erosion issues for some Cape Charles residents.
6. Economic development

Historic District Review Board Meeting – No meeting in December

The Board has one project scheduled for the January meeting. 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.

Melvin Dudley has tendered his resignation from the Historic Review Board.



TOWN OF
CAPE CHARLES

AGENDA TITLE: Cape Charles Police Department		AGENDA DATE January 13, 2011
SUBJECT/PROPOSAL/REQUEST: DECEMBER 2010 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: 27

Calls for Service Outside of Cape Charles: 12

10-13 Calls 00

(A) By Dispatch:30

(B) By Phone via Officer/Trooper: 01

(C) In Person 08

Felony Arrests: 00

Misdemeanor Arrests: 04

DUI Arrests: 02

Traffic Summons Issued: 24

Traffic Warnings Issued: 11

Parking Tickets Issued: 01

Assisted Northampton County Sheriff's Office: 05

Assisted Virginia State Police: 04

Assisted Other Local Police:

Assisted Other Federal Agencies

Assisted Fire & Rescue: 06

Assisted VDOT:

Hours of Training Received & What Type? NONE

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Personnel Policy Manual Update		AGENDA DATE: January 13, 2010
	SUBJECT/PROPOSAL/REQUEST: Updates of Sections 1 and 2 of the Cape Charles Personnel Policy Manual		ITEM NUMBER: 6A
	ATTACHMENTS: Sections 1.5, 2.9 and 2.13		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Heather Arcos	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The Town of Cape Charles established a Personnel Policies, Rules and Regulation in order to provide a uniform system of personnel administration for the staff of the Town. A copy of the policy is given to each employee upon hire. Sections are updated or added periodically and copies are distributed to all employees.

In an ongoing effort to update the current Personnel Policy Manual, the attached two sections were reviewed by Council at the December 9th meeting and additional changes were made. The recommended changes have been incorporated and are presented for final review at this evening's meeting. Once approved by the Council, the sections will be forwarded for review by legal counsel.

DISCUSSION:

Section 1 – Introduction, Sub-section 1.5 – Definitions:

- Item A. – Since part-time employees are not designated as Exempt Employees, reference to “part-time” was deleted from this paragraph.
- Items B. & C. – Since “Exempt Employee” was already defined as a salaried employee in Item A., references to salaried employees were deleted from these two paragraphs.

Section 2 – Personnel Recruitment and Selection:

- § 2.9 – In the second paragraph, a correction was made to show that part-time employees are credited with 12 hours of annual and sick leave after three months of employment.
- § 2.13 – Language was added to clarify that internal promotions can 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.

RECOMMENDATION:

Staff recommends discussion and adoption of the proposed revisions to the Cape Charles Personnel Policies, Rules and Regulations.

Personnel Policies, Rules, and Regulations

Changes from December 9, 2010 Meeting:

Section 1.5 Definitions:

- A. **Exempt Employee** – a salaried employee who performs executive, administrative or professional duties as defined under the Fair Labor Standards Act and its regulations. Full-time, ~~part-time~~ and temporary employees may be exempt.
- B. **Full-time Employee** – an individual hired on ~~either a salary or~~ wage basis for an established position for an indefinite term who is expected to work a minimum of forty (40) hours per week. Full-time employees hired on a wage basis are considered non-exempt employees and shall be compensated for all hours worked on an hourly basis.
- C. **Part-time Employee** – an individual hired on ~~either a salary or~~ wage basis for an established position for an indefinite term who is expected to work an established period of time that is less than forty (40) hours per week. Part-time employees are given one half of full-time leave benefits (and charged accordingly) consisting of sick leave, annual leave and holiday leave. At this time, the Town's health insurance provider does not offer provisions for part-time employees to participate in the health care plan. State law prohibits their participation in the retirement and life insurance plans. Part-time employees hired on a wage basis are considered non-exempt employees and shall be compensated for all hours worked on an hourly basis.

Section 2.9 Probationary Period

All appointments to positions shall be subject to a six-month probationary period of employment to be served by new employees. The probationary period shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for rejecting an employee whose performance does not meet the required standards. The Town Manager shall have the authority to extend this probationary period for any employee up to an additional three months in order to further evaluate the employee's ability to meet the required standards for a Town employee, provided the Town Manager shall (prior to the end of the six-month probationary period) notify the employee in writing of the extension of the probationary period, the reasons for the extension, and the length of the extended probationary period. There is no appeal available for an employee released during the probationary period or extended probationary period except where discrimination is claimed.

Employees will be eligible for participation in the Town's health insurance plans and the Virginia Retirement System on the first of the month that follows 90 days' employment. Additionally, after ~~an a~~ full-time employee, both full-time and part-time, has worked for three months, he/she will be credited with 24 hours of annual leave and 24 hours of sick leave. Part-time employees will be credited with 12 hours of annual leave and 12 hours of sick leave.

Section 2.13 Internal Promotions

It is the policy of the Town to promote existing employees to positions for which they are qualified when vacancies occur in positions other than appointed officer positions. Where an employee is qualified to be promoted to a vacancy, the Town Manager may fill the position from among current Town employees without the necessity for following the procedures of Sections 2.3 and 2.8 of this policy. A qualified Town employee, based upon merit and experience, who seeks the vacancy may be considered as a candidate for promotion by the Town Manager. It is the Town's objective to promote or hire the best-qualified candidate for the position.



TOWN OF
CAPE CHARLES

AGENDA TITLE: Wastewater Treatment Plant (WWTP) Status

AGENDA DATE:
January 13, 2011

SUBJECT/PROPOSAL/REQUEST: Update on construction.

ITEM NUMBER:
6B

ATTACHMENTS: Construction progress summary.

FOR COUNCIL:
Action ()
Information (X)

STAFF CONTACT (s):
Bob Panek

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

The Town awarded a \$14.7M contract for construction of the new WWTP to W.M. Schlosser Company in September 2009. Two change orders have been executed: \$164K for over-excavation of unsuitable material; \$177K for modifications to enable effluent reuse. These change orders bring the contract value to \$15M. The total project is now estimated at \$19.2M, including design, engineering, construction management and inspection. This includes the water reuse modification. We are funding the project as follows:

1. \$6.0M - Virginia Clean Water Revolving Loan Fund (VCWRLF) principal forgiveness loan (equivalent of a grant), underwritten by the American Recovery and Reinvestment Act (ARRA) of 2009 (Federal stimulus).
2. \$8.0M - Water Quality Improvement Fund (WQIF) grant.
3. \$5.2M - VCWRLF zero-interest loan.

DISCUSSION:

Please see the attached year-end summary of construction progress from our resident engineering representative. Construction is on schedule as of the December 2010 progress meeting.

We have had one introductory fraud prevention visit from the U.S. Environmental Protection Agency (EPA) Inspector General's office, and ARRA compliance inspections by both the Virginia Department of Environmental Quality (DEQ) and the EPA. Several minor ARRA administrative issues have been corrected. We have had four interim project evaluations by DEQ. No significant issues have been raised. Additional wage determinations have been requested from the U.S. Department of Labor under the Davis – Bacon Act and have been approved. Several additional wage classifications are being initiated by the contractor.

About \$4.4M has been billed to date, all of which has been reimbursed from WQIF and VCWRLF.

RECOMMENDATION:

Provided for information only.

Progress Update 12-23-10

- The Operations Building has the metal roof trusses 90% erected.
- The Headworks Building final section of top slab was poured on 12-20-10. All form work to be stripped after the 14 day curing time has elapsed. Block work to begin the last week of December.
- 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 has been installed from the Distribution Box to the Scum Box along the entire south side of Reactor #1. All Blower pads have been installed in this area.
- The Membrane Tanks have begun to have Structural Steel erected. This work to continue through December.
- The Process Building block installation is 90% complete. The pre-cast concrete planks have been erected over the chemical room. Structural roof steel erection to begin early in January.
- The UV Structure currently has both plant water pumps installed, and ductile iron plant water piping is being installed to the pumps.
- 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 trusses to be erected the last week of December. Belt filter press is on site, to be installed in the building today. Large truck concrete pad has been poured.
- Electrical man holes and hand hold continue to be installed, along with concurrent electrical conduit and underground duct banks. Underground duct banks 75% complete.
- Bay Creek force main complete and leak tested.
- Re-use piping has been installed.
- Sanitary pump station has been installed.
- Recycle pump station and valve vault has been installed
- 75 % of yard piping has been installed to date.
- The Generator pad has been poured.
- Outfall piping was pushed back, and will begin in early January.
- Various pieces of equipment have arrived on site, including the UV Disinfection System, Grit Removal System, Mechanical Fine Screens and Course Screens, Sludge pumps, grit and scum pumps, Anoxic mixers, Fine and Course bubble diffusers, equipment hoists, stop logs, structural steel, joist, metal deck, and metal roof trusses for every building, transformers, carbon feed pumps, Alum pumps, dewatered solids conveyor, davit cranes, and partial shipment of walkway grating.



TOWN OF
CAPE CHARLES

AGENDA TITLE: Town Code Updates – Water and Sewer Ordinances

AGENDA DATE:
January 13, 2011

SUBJECT/PROPOSAL/REQUEST: Set a Public Hearing for the Proposed Water and Sewer Ordinances

ITEM NUMBER:
7B

ATTACHMENTS: None

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
Bob Panek / Heather Arcos

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

It has been many years since the Town has updated the Water and Sewer Ordinance in the Town Code. Work Sessions were held on October 28, 2010, November 18, 2010 and January 6, 2011 to discuss the proposed revisions.

DISCUSSION:

Many of the revisions are incorporating the required standards of the Department of Environmental Quality and the Environmental Protection Agency.

The revised sections are Chapter 70 – Water Supply, Chapter 71 – Sewers and Sewer Use, and Chapter 72 – Water and Sewer Service Charges.

Before the revisions can be adopted by Council, a public hearing must be scheduled.

RECOMMENDATION:

Staff recommends scheduling 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.



TOWN OF
CAPE CHARLES

AGENDA TITLE: Wind Energy Ordinance – New Zoning Ordinance

AGENDA DATE:
January 13, 2011

SUBJECT/PROPOSAL/REQUEST: Create a new ordinance for the regulation of wind turbines in Cape Charles

ITEM NUMBER:
7C

ATTACHMENTS: 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. A copy of the State Code covering the DEQ permit process for small wind energy projects is also attached. This shows the extensive review by outside agencies in Virginia other than the Town of Cape Charles.

Staff Review

Dr. Miles of JMU also reviewed the ordinance and comments are included in the draft document. Staff attended the Virginia Economic Development Partnership's meeting on Offshore Wind Development and the supply chain required. The Commonwealth and the Port of Hampton Roads is well set to be the center of the development process. Cape Charles is also set to be a potential part of the supply chain as we have a deep water port nearby.

The attached draft has been modified in the following places:

1. In the Setback Matrix the anemometer maximum height has been changed to be nacelle height to correspond to the height for each type of system.
2. Occupied building waivers have been modified to allow waivers for all systems equally.
3. A definition for the word Nacelle has been added.
4. The Environmental Assessment section has been modified to allow more or less review as required by the Planning Commission and the size of the project.
5. The Decommissioning section was modified to allow for a planned maintenance and out of use decommissioning.
6. Section 2 of the decommissioning has been modified to better describe foundation removal.

The Cape Charles Historic District Review Board also reviewed the document and voted not to allow micro systems in the Historic District. This needs to be added to the ordinance in the section allowing solar panels if they cannot be seen from the front of the house. It should not be in Wind ordinance.

Recommendation

Review the attached draft ordinance and schedule a joint public hearing with Planning Commission for February 1, 2011.

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.
2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable town, state and national codes and ordinances.
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.

Project 2090 - Final

DEPARTMENT OF ENVIRONMENTAL QUALITY

Establishment of permit(s) by rule for the construction and operation of small wind energy projects

CHAPTER 40

SMALL RENEWABLE ENERGY PROJECTS (WIND) PERMIT BY RULE

Part I

Definitions and Applicability

9VAC15-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means the owner or operator who submits an application to the department for a permit by rule pursuant to this chapter.

* "Coastal Avian Protection Zones" or "CAPZ" means the areas designated on the map of "Coastal Avian Protection Zones" generated on the department's Coastal GEMS geospatial data system (9VAC15-40-120 C 1).

"Department" means the Department of Environmental Quality, its director, or the director's designee.

"DCR" means the Department of Conservation and Recreation.

"DGIF" means the Department of Game and Inland Fisheries.

"Disturbance zone" means the area within the site directly impacted by construction and operation of the wind energy project, and within 100 feet of the boundary of the directly impacted area.

"Ecological core" means an area of nonfragmented forest, marsh, dune, or beach of ecological importance that is at least 100 acres in size and identified in DCR's Natural Landscape Assessment web-based application (9VAC15-40-120 C 2).

* "Historic resource" means any prehistoric or historic district, site, building, structure, object, or cultural landscape that is included or meets the criteria necessary for inclusion in the Virginia Landmarks Register pursuant to the authorities of § 10.1-2205 of the Code of Virginia and in accordance with 17VAC5-30-40 through 17VAC5-30-70.

* "Important Bird Areas" means the designation of discrete sites by the National Audubon Society as having local, regional, continental or global importance for birds because they support significant numbers of one or more high priority avian species (e.g., T&E, SGCN) during the breeding, wintering, or migration seasons.

"Interconnection point" means the point or points where the wind energy project connects to a project substation for transmission to the electrical grid.

"Invasive plant species" means non-native plant species that cause, or are likely to cause, economic or ecological harm or harm to human health as established by Presidential Executive Order 13112 (64 FR 6183, February 3, 1999) and contained on DCR's Invasive Alien Plant Species of Virginia (9VAC15-40-120 B 3).

* "Migratory corridors" means major travel routes used by significant numbers of birds during biannual migrations between breeding and wintering grounds.

"Migratory staging areas" means those sites along migratory corridors where significant numbers of birds stop to feed and rest during biannual migrations between breeding and wintering grounds that are essential to successful migration.

"Natural heritage resource" means the habitat of rare, threatened, or endangered plant and animal species, rare or state significant natural communities or geologic sites, and similar features of scientific interest benefiting the welfare of the citizens of the Commonwealth.

"Nearshore waters" means all tidal waters within the Commonwealth of Virginia and seaward of the mean low-water shoreline to three nautical miles offshore in the Atlantic Ocean.

"Operator" means the person responsible for the overall operation and management of a wind energy project.

4 "Other avian mitigation factors" means Important Bird Areas, migratory corridors, migratory staging areas, and wintering areas within the Coastal Avian Protection Zones.

"Owner" means the person who owns all or a portion of a wind energy project.

"Permit by rule" means provisions of the regulations stating that a project or activity is deemed to have a permit if it meets the requirements of the provision.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

"Phase of a project" means one continuous period of construction, startup, and testing activity of the wind energy project. A phase is deemed complete when 90 calendar days have elapsed since the last previous wind turbine has been placed in service, except when a delay has been caused by a significant force majeure event, in which case a phase is deemed complete when 180 calendar days have elapsed since the last previous wind turbine has been placed in service.

"Post-construction" means any time after the last turbine on the wind energy project or phase of that project has been placed in service.

"Pre-construction" means any time prior to commencing land-clearing operations necessary for the installation of energy-generating structures at the small wind energy project.

"Rated capacity" means the maximum capacity of a wind energy project based on the sum total of each turbine's nameplate capacity.

"SGCN" or "species of greatest conservation need" means any vertebrate species so designated by DGIF as Tier 1 or Tier 2 in the Virginia Wildlife Action Plan (9VAC15-40-120 B 6).

"Site" means the area containing a wind energy project that is under common ownership or operating control. Electrical infrastructure and other appurtenant structures up to the interconnection point shall be considered to be within the site.

"Small renewable energy project" means (i) an electrical generation facility with a rated capacity not exceeding 100 megawatts that generates electricity only from sunlight, wind, falling water, wave motion, tides, or geothermal power, or (ii) an electrical generation facility with a rated capacity not exceeding 20 megawatts that generates electricity only from biomass, energy from waste, or municipal solid waste.

4 "Small wind energy project," "wind energy project," or "project" means a small renewable energy project that (i) generates electricity from wind, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, post-construction meteorological towers, electrical infrastructure, and other appurtenant structures and facilities within the

boundaries of the site; and (ii) is designed for, or capable of, operation at a rated capacity equal to or less than 100 megawatts. Two or more wind energy projects otherwise spatially separated but under common ownership or operational control, which are connected to the electrical grid under a single interconnection agreement, shall be considered a single wind energy project. Nothing in this definition shall imply that a permit by rule is required for the construction of meteorological towers to determine the appropriateness of a site for the development of a wind energy project.

"State-owned submerged lands" means lands that lie seaward of the mean low-water mark in tidal waters or that have an elevation below the ordinary mean high-water elevation in nontidal areas that are considered property of the Commonwealth pursuant to § 28.2-1200 of the Code of Virginia.

"T&E," "state threatened or endangered species," or "state-listed species" means any wildlife species designated as a Virginia endangered or threatened species by DGIF pursuant to the § 29.1-563-570 of the Code of Virginia and 4VAC15-20-130.

"VLR" means the Virginia Landmarks Register (9VAC15-40-120 B 1).

"VLR-eligible" means those historic resources that meet the criteria necessary for inclusion on the VLR pursuant to 17VAC5-30-40 through 17VAC5-30-70 but are not listed in VLR.

"VLR-listed" means those historic resources that have been listed in the VLR in accordance with the criteria of 17VAC5-30-40 through 17VAC5-30-70.

"VMRC" means the Virginia Marine Resources Commission.

"Wildlife" means wild animals; except, however, that T&E insect species shall only be addressed as part of natural heritage resources and shall not be considered T&E wildlife.

"Wintering areas" means those sites where a significant portion of the rangewide population of one or more avian species overwinter annually.

9VAC15-40-20. Authority and applicability.

This regulation is issued under authority of Article 5 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1 of the Code of Virginia. The regulation contains requirements for wind-powered electric generation projects consisting of wind turbines and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 100 megawatts. The department has determined that a permit by rule is required for small wind energy projects with a rated capacity greater than 5 megawatts and this regulation contains the permit by rule provisions for these projects in Part II (9VAC15-40-30 et seq.) of this chapter. The department has also determined that a permit by rule is not required for small wind energy projects with a rated capacity of 5 megawatts or less and this regulation contains notification and other provisions for these projects in Part III (9VAC15-40-130) of this chapter.

Part II

Permit by Rule Provisions

9VAC15-40-30. Application for permit by rule for wind energy projects.

 A. The owner or operator of a small wind energy project with a rated capacity greater than 5 megawatts shall submit to the department a complete application, in which he satisfactorily accomplishes all of the following:

1. In accordance with § 10.1-1197.6 B 1 of the Code of Virginia, and as early in the project development process as practicable, furnishes to the department a

notice of intent, to be published in the Virginia Register, that he intends to submit the necessary documentation for a permit by rule for a small renewable energy project;

2. In accordance with § 10.1-1197.6 B 2 of the Code of Virginia, furnishes to the department a certification by the governing body of the locality or localities wherein the small renewable energy project will be located that the project complies with all applicable land use ordinances;

3. In accordance with § 10.1-1197.6 B 3 of the Code of Virginia, furnishes to the department copies of all interconnection studies undertaken by the regional transmission organization or transmission owner, or both, on behalf of the small renewable energy project;

4. In accordance with § 10.1-1197.6 B 4 of the Code of Virginia, furnishes to the department a copy of the final interconnection agreement between the small renewable energy project and the regional transmission organization or transmission owner indicating that the connection of the small renewable energy project will not cause a reliability problem for the system. If the final agreement is not available, the most recent interconnection study shall be sufficient for the purposes of this section. When a final interconnection agreement is complete, it shall be provided to the department. The department shall forward a copy of the agreement or study to the State Corporation Commission;

5. In accordance with § 10.1-1197.6 B 5 of the Code of Virginia, furnishes to the department a certification signed by a professional engineer licensed in Virginia that the maximum generation capacity of the small wind energy project, as designed, does not exceed 100 megawatts;

6. In accordance with § 10.1-1197.6 B 6 of the Code of Virginia, furnishes to the department an analysis of potential environmental impacts of the small renewable energy project's operations on attainment of national ambient air quality standards;

7. In accordance with § 10.1-1197.6 B 7 of the Code of Virginia, furnishes to the department, where relevant, an analysis of the beneficial and adverse impacts of the proposed project on natural resources. The owner or operator shall perform the analyses prescribed in 9VAC15-40-40. For wildlife, that analysis shall be based on information on the presence, activity, and migratory behavior of wildlife to be collected at the site for a period of time dictated by the site conditions and biology of the wildlife being studied, not exceeding 12 months;

8. In accordance with § 10.1-1197.6 B 8 of the Code of Virginia, furnishes to the department a mitigation plan pursuant to 9VAC15-40-60 that details reasonable actions to be taken by the owner or operator to avoid, minimize, or otherwise mitigate such impacts, and to measure the efficacy of those actions; provided, however, that the provisions of 9VAC15-40-30 A 8 shall only be required if the department determines, pursuant to 9VAC15-40-50, that the information collected pursuant to § 10.1-1197.6 B 7 of the Code of Virginia and 9VAC15-40-40 indicates that significant adverse impacts to wildlife or historic resources are likely. The mitigation plan shall be an addendum to the operating plan of the wind energy project, and the owner or operator shall implement the mitigation plan as deemed complete and adequate by the department. The mitigation plan shall be an enforceable part of the permit by rule;

9. In accordance with § 10.1-1197.6 B 9 of the Code of Virginia, furnishes to the department a certification signed by a professional engineer licensed in Virginia that the project is designed in accordance with 9VAC15-40-80;

10. In accordance with § 10.1-1197.6 B 10 of the Code of Virginia, furnishes to the department an operating plan that includes a description of how the project will be operated in compliance with its mitigation plan, if such a mitigation plan is required pursuant to 9VAC15-40-50;

11. In accordance with § 10.1-1197.6 B 11 of the Code of Virginia, furnishes to the department a detailed site plan meeting the requirements of 9VAC15-40-70;

12. In accordance with § 10.1-1197.6 B 12 of the Code of Virginia, furnishes to the department a certification signed by the applicant that the small wind energy project has applied for or obtained all necessary environmental permits;

13. Prior to authorization of the project and in accordance with §§ 10.1-1197.6 B 13 and 10.1-1197.6 B 14 of the Code of Virginia, conducts a 30-day public review and comment period and holds a public meeting pursuant to 9VAC15-40-90. The public meeting shall be held in the locality or, if the project is located in more than one locality, in a place proximate to the location of the proposed project; however, for projects located in nearshore waters or on state-owned submerged lands, the meeting shall be held in the locality that is the closest distance from the approximate center of the project's disturbance zone. Following the public meeting and public comment period, the applicant shall prepare a report summarizing the issues raised by the public and include any written comments received and the applicant's response to those comments. The report shall be provided to the department as part of this application; and

14. In accordance with 9VAC15-40-110, furnishes to the department the appropriate fee.

B. Within 90 days of receiving all of the required documents and fees listed in subsection A of this section, the department shall determine, after consultation with other agencies in the Secretariat of Natural Resources, whether the application is complete and whether it adequately meets the requirements of this chapter, pursuant to § 10.1-1197.7 A of the Code of Virginia.

1. If the department determines that the application meets the requirements of this chapter, then the department shall notify the applicant in writing that he is authorized to construct and operate a small wind energy project pursuant to this chapter.

2. If the department determines that the application does not meet the requirements of this chapter, then the department shall notify the applicant in writing and specify the deficiencies.

3. If the applicant chooses to correct deficiencies in a previously submitted application, the department shall follow the procedures of this subsection and notify the applicant whether the revised application meets the requirements of this chapter within 60 days of receiving the revised application.

4. Any case decision by the department pursuant to this subsection shall be subject to the process and appeal provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

9VAC15-40-40. Analysis of the beneficial and adverse impacts on natural resources.

A. Analyses of wildlife. To fulfill the requirements of § 10.1-1197.6 B 7 of the Code of Virginia, the applicant shall conduct pre-construction wildlife analyses. The analyses of wildlife shall include the following:

1. Desktop surveys and maps. The applicant shall obtain a wildlife report and map generated from DGIF's Virginia Fish and Wildlife Information Service web-based application (9VAC15-40-120 C 3) or from a data and mapping system including the most recent data available from DGIF's subscriber-based Wildlife Environmental Review Map Service of the following: (i) known wildlife species and habitat features on the site or within two miles of the boundary of the site; (ii) known bat hibernacula on the site or within five miles of the boundary of the site; and (iii) known maternity and bachelor bat colonies on the site or within 12 miles of the boundary of the site and (iv) known or potential sea turtle nesting beaches located within one mile of the disturbance zone.

2. Breeding bird surveys. If the desktop analyses prescribed in subdivision 1 of this subsection indicate the presence of or habitat for a state-listed T&E bird species or a Tier 1 or Tier 2 bird SGCN within the disturbance zone, then the applicant shall conduct a breeding bird survey to identify state T&E bird species and Tier 1 and Tier 2 bird SGCN occurring within the disturbance zone during the species' annual breeding season.

3. Field survey of nonavian resources. If the desktop analyses prescribed in subdivision 1 of this subsection indicate the presence of or habitat for a Tier 1 or Tier 2 vertebrate SGCN, other than a bird, within the disturbance zone, then the applicant shall conduct field surveys of suitable habitats for that species within the disturbance zone to determine the species' occurrence and relative distribution within the disturbance zone.

4. Raptor migration surveys. The applicant shall conduct one year of raptor migration surveys, in both the spring and fall seasons, to determine the relative abundance of migrant raptors moving through the general vicinity of the disturbance zone.

5. Map and field studies for avian resources in Coastal Avian Protection Zones (CAPZ).

a. The applicant shall consult the "Coastal Avian Protection Zones" map generated on the department's Coastal GEMS geospatial data system (9VAC15-40-120 C 1) and determine whether the proposed wind energy project site will be located in part or in whole within one or more CAPZ.

b. When a proposed wind energy project site will be located in part or in whole within one or more Coastal Avian Protection Zones, then the applicant shall perform avian field studies, or shall rely on existing scientific analysis as reflected on the CAPZ map, for each zone where the project is located, as follows:

(1) Zone 1: Nearshore waters extending 1 - 4.83 km (0.62 - 3 mi) from Virginia's ocean-facing shoreline, excluding the mouth of the Chesapeake Bay. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (migratory Piping Plovers, Wilson's Plovers, Peregrine Falcons, Gull-billed Terns, and Roseate Terns); hemispherically important migratory corridor for shorebirds, seabirds and waterfowl; and hemispherically important migratory staging area and wintering area for

seabirds and waterfowl. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources, or rely on existing scientific analysis as reflected on the CAPZ map.

(2) Zone 2: Nearshore waters that extend from Virginia's ocean-facing shoreline out to 1 km (0.62 mi), excluding the mouth of the Chesapeake Bay. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (migratory and breeding Piping Plovers, Wilson's Plovers, Peregrine Falcons and Gull-billed Terns, and migratory Roseate Terns) and hemispherically important migratory corridor, migratory staging area, and wintering area for shorebirds, seabirds and waterfowl. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources or rely on existing scientific analysis as reflected on the CAPZ map.

(3) Zone 3: Barrier island/seaside lagoon system, including a 100 m (328 ft) offshore buffer. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (breeding and migratory Piping Plovers, Wilson's Plovers, Gull-billed Terns, Peregrine Falcons and Bald Eagles) and hemispherically important staging area and wintering area for shorebirds, seabirds, and waterfowl. The applicant shall either perform avian field studies regarding the actual or likely occurrences of these resources or rely on existing scientific analysis as reflected on the CAPZ map.



(4) Zone 4: Southern end of the Delmarva Peninsula (mainland only), including a 10 km long (6.21 mi) strip along the western (bayside) fringe of the peninsula that extends from Wise Point to (and including) Savage Neck. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (migratory Peregrine Falcons and breeding and migratory Bald Eagles), the designation as an Important Bird Area, and hemispherically important migratory staging area for passerines and other landbirds. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources or rely on existing scientific analysis as reflected on the CAPZ map.

(5) Zone 5: Delmarva Peninsula, excluding zones 3 and 4. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (breeding Bald Eagles) and regionally to hemispherically important fall migratory staging area for landbirds. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources or rely on existing scientific analysis as reflected on the CAPZ map.

(6) Zone 6: Southern end and mouth of the Chesapeake Bay, including the waters off of the western shore of the Delmarva Peninsula that extend from Wise Point north to the mouth of Craddock Creek. In this zone, the relevant avian species and other avian mitigation factors are: migratory staging area and wintering area for seabirds and waterfowl that may be of hemispheric importance. The applicant shall conduct aerial transect surveys for waterfowl and seabirds during the fall migration, spring migration, and wintering seasons to determine the distribution, density, and relative abundance of these species within this zone throughout the nonbreeding season.

(7) Zone 7: Lower portions of the James, York, and Rappahannock Rivers and small tributaries along the south side of the lower Potomac River. In this zone, relevant avian species and other avian mitigation factors are: T&E

species (breeding Bald Eagles), regionally important fall migratory staging areas and wintering areas for waterfowl, and spring migratory staging areas of unknown significance. The applicant shall conduct aerial transect surveys for waterfowl during the spring migration season to determine the distribution, density, and relative abundance of these species within this zone during the spring season. The applicant shall either perform avian field studies regarding the actual or likely occurrences of breeding Bald Eagles and waterfowl during the fall and winter seasons or rely on existing scientific analysis as reflected on the CAPZ map.

(8) Zone 8: Western portions of the Chesapeake Bay. In this zone, the relevant avian species and other avian mitigation factors are: migratory staging area and wintering area for seabirds and waterfowl of unknown significance. The applicant shall conduct aerial transect surveys for waterfowl and seabirds in the fall migration, spring migration, and wintering seasons to determine the distribution, density, and relative abundance of these species within this zone throughout the nonbreeding season.

(9) Zone 9: Virginia's northeast sector of the Chesapeake Bay, including all nearshore waters, marshes, and islands within Tangier and Pocomoke Sounds and all islands and marshes located along the western fringe of the Delmarva Peninsula from Craddock Creek north to the Virginia/Maryland border. This zone is recognized as a migratory staging area and wintering area for seabirds and waterfowl of unknown significance. The applicant shall conduct aerial transect surveys for waterfowl and seabirds during the fall migration, spring migration, and wintering seasons to determine the distribution, density, and relative abundance of these species within this zone throughout the nonbreeding season. In this zone, additional relevant avian species and other avian mitigation factors are: T&E species (breeding Bald Eagles and Peregrine Falcons) and the designation as an Important Bird Area. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these additional resources or rely on existing scientific analysis as reflected on the CAPZ map.

(10) Zone 10: Upper reaches of the James, Rappahannock, and Potomac Rivers. In this zone the relevant avian species and other avian mitigation factors are T&E species (breeding Bald Eagles and continentally important Bald Eagle concentration areas), the designation as Important Bird Areas, and locally to continentally important waterfowl wintering areas. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources or rely on existing scientific analysis as reflected on the CAPZ map.

(11) Zone 11: Lower reaches of the Mattaponi and Pamunkey tributaries. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (breeding Bald Eagles) and the designation as an Important Bird Area. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources or rely on existing scientific analysis as reflected on the CAPZ map.

(12) Zone 12: Outer fringes of the lower, middle, and northern peninsulas. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (breeding Bald Eagles). The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources or rely on existing scientific analysis as reflected on the CAPZ map.

(13) Zone 13: Interior portions of the lower, middle, and northern peninsulas. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (breeding Bald Eagles, for which little information currently exists in this zone). The applicant shall perform ground surveys for breeding Bald Eagles to determine distribution and abundance of Bald Eagle nests within the disturbance zone and within .25 mile of the perimeter of the disturbance zone.

(14) Zone 14: Back Bay and surrounding private lands. In this zone, the relevant avian species and other avian mitigation factors are: T&E species (breeding Bald Eagles), the designation as Important Bird Area, and locally to continentally important migratory staging area and wintering area for waterfowl. The applicant shall either perform avian field studies regarding the actual or likely occurrence of these resources, or rely on existing scientific analysis as reflected on the CAPZ map.

6. Bat acoustic surveys. The applicant shall conduct bat acoustic surveys to determine the presence of and level of bat activity and use within the disturbance zone.

7. Mist-netting or harp-trapping surveys. If the applicant identifies potential for T&E bat species to occur within the disturbance zone, the applicant shall conduct a season-appropriate mist-netting survey or harp-trapping survey or both.

8. Wildlife report. The applicant shall provide to the department a report summarizing the relevant findings of the desktop and field surveys conducted pursuant to subdivisions 1 through 7 of this subsection, along with all data and supporting documents. The applicant shall assess and describe the expected beneficial and adverse impacts, if any, of the proposed project on wildlife resources identified in subdivisions 1 through 7 of this subsection.

B. Analyses of historic resources. To fulfill the requirements of § 10.1-1197.6 B 7 of the Code of Virginia, the applicant shall also conduct a pre-construction historic resources analysis. The analysis shall be conducted by a qualified professional meeting the professional qualification standards of the Secretary of the Interior's Standards for Archeology and Historic Preservation (9VAC15-40-120 B 2) in the appropriate discipline. The analysis shall include each of the following:

1. Compilation of known historic resources. The applicant shall gather information on known historic resources within the disturbance zone and within five miles of the disturbance zone boundary and present this information on the context map referenced in 9VAC15-40-70 B, or as an overlay to this context map, as well as in tabular format.

2. Architectural survey. The applicant shall conduct a field survey of all architectural resources, including cultural landscapes, 50 years of age or older within the disturbance zone and within 1.5 miles of the disturbance zone boundary and evaluate the eligibility of any identified resource for listing in the VLR; however, for wind energy projects located in nearshore waters, this field study shall include all architectural resources 50 years of age or older within five miles of the disturbance zone boundary, but shall not extend more than 1.5 miles inland from the mean low water mark.

3. Archaeological survey. The applicant shall conduct an archaeological field survey of the disturbance zone and evaluate the eligibility of any identified archaeological site for listing in the VLR; however, the requirements of this subdivision shall not apply to any portion of the disturbance zone located on

state-owned submerged lands that are subject to VMRC permitting pursuant to Title 28.2 of the Code of Virginia.

4. Historic resources report. The applicant shall provide to the department a report presenting the findings of the studies and analyses conducted pursuant to subdivisions 1 through 3 of this subsection along with all data and supporting documents. The applicant shall assess and describe the expected beneficial and adverse impacts, if any, of the proposed project on historic resources identified in subdivisions 1, 2, and 3 of this subsection.

C. Analyses of other natural resources. To fulfill the requirements of § 10.1-1197.6 B 7 of the Code of Virginia, the applicant shall also conduct pre-construction analyses of the impact of the proposed project on other natural resources, which have not been addressed pursuant to subsection A or B of this section, and as are specified in subdivisions 1 and 2 of this subsection. The analyses shall include:

1. Natural heritage resources. An analysis of the impact of the project on natural heritage resources, which shall include the following:

a. A desktop survey of natural heritage resources within the site and within two miles of the boundary of the site.

b. Field surveys within the disturbance zone mapping: (i) the ecological community groups as classified in accordance with DCR's The Natural Communities of Virginia, Classification of Ecological Community Groups (9VAC15-40-120 B 4); (ii) natural heritage resources to include species and community identification, location, age, size, spatial distribution, and evidence of reproduction; (iii) caves; (iv) mines; (v) rock outcrops; (vi) cliffs; (vii) wetlands; and (viii) invasive plant species.

2. Scenic resources. An analysis of the impact of the project on scenic resources, as follows:

a. Pursuant to 9VAC15-40-70, for the area within the site and within five miles of the boundary of the site, a viewshed analysis of the impact of the proposed project on existing federally designated or state-designated scenic resources, including national parks, national forest-designated scenic areas, state parks, state natural area preserves, national scenic trails, national or state-designated scenic roads, national or state-designated scenic rivers, and those resources identified as potential candidates for such designation in DCR's Virginia Outdoors Plan (9VAC15-40-120 B 5).

b. The applicant shall conduct these analyses and shall show the potential impact of the proposed project on the viewshed from such identified resources, where applicable.

3. Other natural resources report. The applicant shall provide to the department a report, including maps, documenting the results of the analyses conducted pursuant to subdivisions 1 and 2 of this subsection. The applicant shall assess and describe the expected beneficial and adverse impacts, if any, of the proposed project on natural resources identified in subdivisions 1 and 2 of this subsection.

9VAC15-40-50. Determination of likely significant adverse impacts.

A. The department shall find that significant adverse impacts to wildlife are likely whenever the wildlife analyses prescribed in 9VAC15-40-40 A document that either of the following conditions exists:

1. Bats have been detected, or a hibernaculum exists, within the disturbance zone.
2. State-listed T&E wildlife are found to occur within the disturbance zone; or the disturbance zone is located on or within one mile of a known or potential sea turtle nesting beach.
3. Within the Coastal Avian Protection Zones, the applicant's field studies indicate that significant adverse impacts to avian resources are likely, or the applicant stipulates that existing scientific analysis, as reflected on the CAPZ map, supports a conclusion that significant adverse impacts to avian resources are likely.

B. The department shall find that significant adverse impacts to historic resources are likely whenever the historic resources analyses prescribed by 9VAC15-40-40 B indicate that the proposed project is likely to diminish significantly any aspect of a historic resource's integrity.

9VAC15-40-60. Mitigation plan.

A. If the department determines that significant adverse impacts to wildlife or historic resources or both are likely, then the applicant shall prepare a mitigation plan. The mitigation plan shall include a description of the affected wildlife or historic resources, or both, and the impact to be mitigated; a description of actions that will be taken to avoid the stated impact; and a plan for implementation. If the impact cannot reasonably be avoided, the plan shall include a description of actions that will be taken to minimize the stated impact and a plan for implementation. If neither avoidance nor minimization is reasonably practicable, the plan shall include a description of other measures that may be taken to offset the stated impact; and a plan for implementation.

B. Mitigation measures for significant adverse impacts to wildlife shall include:

1. For state-listed T&E wildlife, the applicant shall take all reasonable measures to avoid significant adverse impacts, or shall demonstrate in the mitigation plan what significant adverse impacts cannot practicably be avoided and why additional proposed actions are reasonable. These additional proposed actions may include best practices to avoid, minimize, or offset adverse impacts to resources analyzed pursuant to 9VAC15-40-40 A or 9VAC15-40-40 C 1.

2. For proposed projects where the disturbance zone is located on or within one mile of a known or potential sea turtle nesting beach, the applicant shall take all reasonable measures to avoid significant adverse impacts, or shall demonstrate in the mitigation plan what significant adverse impacts cannot practicably be avoided and why additional proposed mitigation actions are reasonable.

Mitigation measures shall include the following:

- a. Avoiding construction within likely sea turtle crawl or nesting habitats during the turtle nesting and hatching season (May 20 - October 31). If avoiding construction during this period is not possible, then conducting daily crawl surveys of the disturbance zone (May 20 - August 31) and one mile beyond the northern and southern reaches of the disturbance zone (hereinafter "sea turtle nest survey zone") between sunrise and 9 a.m. by qualified individuals who have the ability to distinguish accurately between nesting and non-nesting emergencies.

- b. If construction is scheduled during the nesting season, then including measures to protect nests and hatchlings found within the sea turtle nest survey zone.

- c. Minimizing nighttime construction during the nesting season and designing project lighting during the construction and operational phases to minimize impacts on nesting sea turtles and hatchlings,
3. For avian resources within any of the Coastal Avian Protection Zones that are referenced in 9VAC15-40-40 A 5, the applicant shall take all reasonable measures to avoid significant adverse impacts, or shall demonstrate in the mitigation plan what significant adverse impacts cannot be practicably be avoided and why additional proposed mitigation actions are reasonable.
4. For bats, the mitigation plan shall include measures to curtail operation of wind turbines on low wind speed nights when bats are likely to be active within the disturbance zone and to monitor the efficacy of these measures; however, the combined cost of mitigation and post-construction monitoring, in each year after year one, shall not exceed 120 hours of curtailment per year per turbine, averaged. The combined cost of mitigation shall consist of lost revenue from curtailment of wind turbines, including lost production tax credits.
5. Post-construction monitoring shall be designed to achieve the following:
 - a. Estimate the level of avian and bat fatalities associated with the wind energy project, accounting for scavenger removal and searcher efficiency; however, estimates of avian and bat fatalities shall not be required for areas seaward of the mean low-water shoreline.
 - b. Investigate the correlation of bat fatalities with project operational protocols, weather-related variables, and the effectiveness of operational adjustments to reduce impacts.
6. Post-construction wildlife mitigation and management shall include the following:
 - a. Post-construction mitigation. After completing the initial one year of post-construction monitoring, the owner or operator shall submit the first year's monitoring data and a revised mitigation plan detailing the monitoring and mitigation actions expected to be implemented for the remainder of the project's operating life. Such mitigation actions shall be designed to address the impacts revealed by the initial year of post-construction monitoring. One year after the revised mitigation plan is submitted, and annually thereafter, the owner or operator shall submit a report consisting of the results of ongoing monitoring, including data and supporting documents, an explanation of how the mitigation measures reflect results indicated by the monitoring data, and documentation showing expenditures and lost revenues attributable to curtailment, other mitigation actions, and monitoring.
 - b. Amendment of mitigation plan. After three years of post-construction mitigation efforts, the owner or operator of the project may initiate a consultation with the department to propose amendments to the mitigation plan. The owner or operator shall submit any proposed amendments of the mitigation plan to the department. The department may approve the proposed amendments if the department determines that the proposed amendments will avoid or minimize adverse impacts to a demonstrably equal or greater extent as the mitigation measures being implemented at that time. Alternatively, the department may approve the proposed amendments to the mitigation plan if the owner or operator demonstrates that the mitigation measures being implemented at that time are not effectively avoiding or minimizing adverse impacts, in which case the owner or operator may

propose and the department may approve ways of offsetting ongoing adverse impacts, such as funding research or preserving habitats.

C. Mitigation measures for significant adverse impacts to historic resources shall include:

1. Significant adverse impacts to VLR-eligible or VLR-listed architectural resources shall be minimized, to the extent practicable, through design of the wind energy project or the installation of vegetative or other screening.
2. If significant adverse impacts to VLR-eligible or VLR-listed architectural resources cannot be avoided or minimized such that impacts are no longer significantly adverse, then the applicant shall develop a reasonable and proportionate mitigation plan that offsets the significantly adverse impacts and has a demonstrable public benefit and benefit for the affected or similar resource.
3. If any identified VLR-eligible or VLR-listed archaeological site can not be avoided or minimized to such a degree as to avoid a significant adverse impact, significant adverse impacts of the project will be mitigated through archaeological data recovery.

9VAC15-40-70. Site plan and context map requirements.

A. The applicant shall submit a site plan that includes maps showing the physical features, topography, and land cover of the area within the site, both before and after construction of the proposed project. The site plan shall be submitted at a scale sufficient to show, and shall include, the following: (i) the boundaries of the site; (ii) the location, height, and dimensions of all existing and proposed wind turbines, other structures, fencing, and other infrastructure; (iii) the location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road; and (iv) water bodies, waterways, wetlands, and drainage channels. For any part of a site that is located in nearshore waters, the site plan shall also include bathymetry; the location and depth of underground cables, transmission lines, and pipelines; navigational channels; and beaches, marshes, and other emergent terrestrial features.

B. The applicant shall submit a context map including the area encompassed by the site and within five miles of the site boundary. The context map shall show state and federal resource lands and other protected areas, Coastal Avian Protection Zones, historic resources, state roads, waterways, locality boundaries, forests, open spaces, and transmission and substation infrastructure. If any part of a site is located in nearshore waters, the context map shall also include bathymetry; navigational channels; commercially licensed fixed fishing devices; permitted aquaculture operations; shellfish leases; public shellfish grounds; artificial reefs; and submerged aquatic vegetation.

9VAC15-40-80. Small wind energy project design standards.

The design and installation of the small wind energy project shall incorporate any requirements of the mitigation plan that pertain to design and installation, if a mitigation plan is required pursuant to 9VAC15-40-50.

9VAC15-40-90. Public participation.

A. Before the initiation of any construction at the small wind energy project, the applicant shall comply with this section. The owner or operator shall first publish a notice once a week for two consecutive weeks in a major local newspaper of general circulation informing the public that he intends to construct and operate a project eligible for a permit by rule. No later than the date of newspaper publication of the initial notice, the owner or operator shall submit to the department a copy of the notice along with

electronic copies of all documents that the applicant plans to submit in support of the application. The notice shall include:

1. A brief description of the proposed project and its location, including the approximate dimensions of the site, approximate number of turbines, and approximate maximum blade-tip height;
2. A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the proposed project and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate communication, and to establish a dialogue between the owner or operator and persons who may be affected by the project;
3. Announcement of a 30-day comment period in accordance with subsection C of this section, and the name, telephone number, address, and email address of the applicant who can be contacted by the interested persons to answer questions or to whom comments shall be sent;
4. Announcement of the date, time, and place for a public meeting held in accordance with subsection D of this section; and
5. Location where copies of the documentation to be submitted to the department in support of the permit by rule application will be available for inspection.

B. The owner or operator shall place a copy of the documentation in a location accessible to the public during business hours for the duration of the 30-day comment period in the vicinity of the proposed project.

C. The public shall be provided at least 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period shall begin no sooner than 15 days after the applicant initially publishes the notice in the local newspaper.

D. The applicant shall hold a public meeting not earlier than 15 days after the beginning of the 30-day public comment period and no later than seven days before the close of the 30-day comment period. The meeting shall be held in the locality or, if the project is located in more than one locality, in a place proximate to the location of the proposed project; however, for projects located in nearshore waters or on state-owned submerged lands, the meeting shall be held in the locality that is the closest distance from the approximate center of the project's disturbance zone.

E. For purposes of this chapter, the applicant and any interested party who submits written comments on the proposal to the applicant during the public comment period or who signs in and provides oral comments at the public meeting shall be deemed to have participated in the proceeding for a permit by rule under this chapter and pursuant to § 10.1-1197.7 B of the Code of Virginia.

9VAC15-40-100. Change of ownership, project modifications, termination.

A. Change of ownership. A permit by rule may be transferred to a new owner or operator if:

1. The current owner or operator notifies the department at least 30 days in advance of the transfer date by submittal of a notice per subdivision 2 of this subsection;
2. The notice shall include a written agreement between the existing and new owner or operator containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The transfer of the permit by rule to the new owner or operator shall be effective on the date specified in the agreement described in subdivision 2 of this subsection.

B. Project modifications. Provided project modifications are in accordance with the requirements of this permit by rule and do not increase the rated capacity of the small wind energy project, the owner or operator of a project authorized under a permit by rule may modify its design or operation or both by furnishing to the department new certificates prepared by a professional engineer, new documentation required under 9VAC15-40-30, and the appropriate fee in accordance with 9VAC15-40-110. The department shall review the received modification submittal in accordance with the provisions of subsection B of 9VAC15-40-30.

C. Permit by rule termination. The department may terminate the permit by rule whenever the department finds that:

1. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in any report or certification required under this chapter; or
2. After the department has taken enforcement actions pursuant to 9VAC15-40-140, the owner or operator persistently operates the project in significant violation of the project's mitigation plan.

Prior to terminating a permit by rule pursuant to subdivision 1 or 2 of this subsection, the department shall hold an informal fact-finding proceeding pursuant to § 2.2-4019 of the Virginia Administrative Process Act in order to assess whether to continue with termination of the permit by rule or to issue any other appropriate order. If the department determines that it should continue with the termination of the permit by rule, the department shall hold a formal hearing pursuant to § 2.2-4020 of the Virginia Administrative Process Act. Notice of the formal hearing shall be delivered to the owner or operator. Any owner or operator whose permit by rule is terminated by the department shall cease operating his small wind energy project.

9VAC15-40-110. Fees.

A. Purpose. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit by rule or a modification to an existing permit by rule for a small wind energy project.

B. Permit fee payment and deposit. Fees for permit by rule applications or modifications shall be paid by the applicant as follows:

1. Due date. All permit application fees or modification fees are due on submittal day of the application or modification package.
2. Method of payment. Fees shall be paid by check, draft, or postal money order made payable to "Treasurer of Virginia/DEQ" and shall be sent to the Department of Environmental Quality, Receipts Control, P.O. Box 10150, Richmond, VA 23240.
3. Incomplete payments. All incomplete payments shall be deemed nonpayments.
4. Late payment. No application or modification submittal will be deemed complete until the department receives proper payment.

C. Fee schedules. Each application for a permit by rule and each application for a modification of a permit by rule is a separate action and shall be assessed a separate fee. The amount of the permit application fee is based on the costs associated with the permitting program required by this chapter. The fee schedules are shown in the following table:

Type of Action	Fee
Permit by rule application (including first three years of operation)	\$16,000
Permit by rule modification (after first three years of operation)	\$5,000

D. Use of fees. Fees are assessed for the purpose of defraying the department's costs of administering and enforcing the provisions of this chapter including, but not limited to, permit by rule processing, permit by rule modification processing, and inspection and monitoring of small wind energy projects to ensure compliance with this chapter. Fees collected pursuant to this section shall be used for the administrative and enforcement purposes specified in this section and in § 10.1-1197.6 E of the Code of Virginia.

E. Fund. The fees, received by the department in accordance with this chapter, shall be deposited in the Small Renewable Energy Project Fee Fund.

F. Periodic review of fees. Beginning July 1, 2012, and periodically thereafter, the department shall review the schedule of fees established pursuant to this section to ensure that the total fees collected are sufficient to cover 100% of the department's direct costs associated with use of the fees.

9VAC15-40-120. Internet accessible resources.

A. This chapter refers to resources to be used by applicants in gathering information to be submitted to the department. These resources are available through the Internet; therefore, in order to assist the applicants, the uniform resource locator or Internet address is provided for each of the references listed in this section.

B. Internet available resources.

1. The Virginia Landmarks Register, Virginia Department of Historic Resources, 2801 Kensington Avenue, Richmond, Virginia. Available at the following Internet address: <http://www.dhr.virginia.gov/registers/register.htm>.

2. Professional Qualifications Standards, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, as amended and annotated (48 FR 44716-740, September 29, 1983), National Parks Service, Washington, DC. Available at the following Internet address: http://www.nps.gov/history/local-law/arch_stnds_9.htm.

3. Invasive alien plant species of Virginia, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, Virginia. Available at the following Internet address: http://www.dcr.virginia.gov/natural_heritage/invspinfo.shtml.

4. The Natural Communities of Virginia, Classification of Ecological Community Groups, Second Approximation, Version 2.3, 2010, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, VA. Available at the following Internet address: http://www.dcr.virginia.gov/natural_heritage/ncintro.shtml.

5. Virginia Outdoors Plan, 2007, Virginia Department of Conservation and Recreation, Richmond, Virginia. Available at the following Internet address: http://www.dcr.virginia.gov/recreational_planning/vop.shtml.

6. Virginia's Comprehensive Wildlife Conservation Strategy, 2005 (referred to as the Virginia Wildlife Action Plan), Virginia Department of Game and Inland

Fisheries, 4010 West Broad Street, Richmond, Virginia. Available at the following Internet address: <http://www.bewildvirginia.org/wildlifeplan/>.

C. Internet applications.

1. Coastal GEMS application, 2010, Virginia Department of Environmental Quality. Available at the following Internet address: <http://www.deq.virginia.gov/coastal/coastalgems.html>.

NOTE: This website is maintained by the department. Assistance and information may be obtained by contacting Virginia Coastal Zone Management Program, Virginia Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia 23219, (804) 698-4000.

2. Natural Landscape Assessment, 2010, Virginia Department of Conservation and Recreation. Available at the following Internet address: for detailed information on ecological cores go to http://www.dcr.virginia.gov/natural_heritage/vclnavnla.shtm. Land maps may be viewed at DCR's Land Conservation Data Explorer Geographic Information System website at <http://www.vaconservedlands.org/gis.aspx>.

NOTE: The website is maintained by DCR. Actual shapefiles and metadata are available for free by contacting a DCR staff person at vaconslands@dcr.virginia.gov or DCR, Division of Natural Heritage, 217 Governor Street, Richmond, Virginia 23219, (804) 786-7951.

3. Virginia Fish and Wildlife Information Service, 2010, Virginia Department of Game and Inland Fisheries. Available at the following Internet address: <http://www.vafwis.org/fwis/>.

NOTE: This website is maintained by DGIF and is accessible to the public as "visitors" or to registered subscribers. Registration, however, is required for access to resource-specific or species-specific locational data and records. Assistance and information may be obtained by contacting DGIF, Fish and Wildlife Information Service, 4010 West Broad Street, Richmond, Virginia 23230, (804) 367-6913.

Part III

Notification and Other Provisions for Projects of 5 Megawatts or Less

9VAC15-40-130. Small wind energy projects of 5 megawatts or less.

A. The owner or operator of a small wind energy project with a rated capacity equal to or less than 500 kilowatts is not required to submit any notification or certification to the department.

B. The owner or operator of a small wind energy project with a rated capacity greater than 500 kilowatts and equal to or less than 5 megawatts shall :

1. Notify the department by submitting a certification by the governing body of the locality or localities wherein the project will be located that the project complies with all applicable land use ordinances and applicable local government requirements; and

2. For projects located in part or in whole within zones 1, 2, 3, 4, 5, 10, 11, 12, or 14 on the Coastal Avian Protection Zones (CAPZ) map, contribute \$1,000 per megawatt of rated capacity, or partial megawatt thereof, to a fund designated by the department in support of scientific research investigating the impacts of projects in CAPZ on avian resources.

Part IV
Enforcement

9VAC15-40-140. Enforcement.

The department may enforce the provisions of this chapter and any permits by rule authorized under this chapter in accordance with §§ 10.1-1197.9, 10.1-1197.10, and 10.1-1197.11 of the Code of Virginia. In so doing, the department may:

1. Issue directives in accordance with the law;
2. Issue special orders in accordance with the law;
3. Issue emergency special orders in accordance with the law;
4. Seek injunction, mandamus or other appropriate remedy as authorized by the law;
5. Seek civil penalties under the law; or
6. Seek remedies under the law, or under other laws including the common law.

DOCUMENTS INCORPORATED BY REFERENCE (9VAC15-40)

The Natural Communities of Virginia, Classification of Ecological Community Groups, Second Approximation (Version 2.3), 2010, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, Virginia.

Virginia Outdoors Plan, 2007, Virginia Department of Conservation and Recreation, Richmond, Virginia.

Virginia's Comprehensive Wildlife Conservation Strategy, 2005, Virginia Department of Game and Inland Fisheries, Richmond, Virginia.

Chapter 1: Introduction.

Chapter 2: Methods.

Chapter 3: Statewide Overview.

Chapter 4: Virginia's Mid-Atlantic Coastal Plain.

Chapter 5: Virginia's Southern Appalachian Piedmont.

Chapter 6: Virginia's Blue Ridge Mountains.

Chapter 7: Virginia's Northern Ridge and Valley.

Chapter 8: Virginia's Northern Cumberland Mountains.

Chapter 9: Virginia's Southern Cumberland Mountains.

Chapter 10: Conclusions.

Glossary.

Appendix A: The Species of Greatest Conservation Need.

Appendix B: Species of Greatest Conservation Need with No Known Ecoregional Associations.

Appendix C: Terrestrial Species with No Landcover Associations.

Appendix D: Potential Habitat Mapping for Terrestrial & Aquatic Tier I Species.

Appendix E: List of Tier I Species and Reviewers.

Appendix F: Complete list of Stress/Source Combinations Identified by the Taxonomic Advisory Committees.

Appendix G: Habitat Grouping Used by TACs in Assessment of Threats, Conservation Actions, and Research/Monitoring Needs.

Appendix H: Threats to Virginia's Species of Greatest Conservation Need.

Appendix I: Conservation Actions Identified by the Taxonomic Advisory Committees.

Appendix J: Research and Monitoring Needs Identified by the Taxonomic Advisory Committees.

Appendix K: Landcover Classes.

Appendix L: Summaries of Community Meetings Facilitated by VCU's Center for Public Policy.

Appendix M: Recommendations for Education and Outreach Actions.

Appendix N: DEQ Impaired Waters Map.

Appendix O: Reference Maps.

Appendix P: Public Comments.

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Conditional Rezoning of Randolph portion of the Mack Building		AGENDA DATE: January 13, 2011
	SUBJECT/PROPOSAL/REQUEST: 546 Madison Avenue – Schedule a joint public hearing with Planning Commission		ITEM NUMBER: 7D
	ATTACHMENTS: Drawing 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 recommends the approval of the Conditional Rezoning with proffers. Town Council should review the application and schedule a public hearing for the February 10, 2011 meeting.

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. 1/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 BLVD. - CORNER STRAW. & RANDOLPH

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

7. Proposed Use COMMERCIAL/RESIDENTIAL

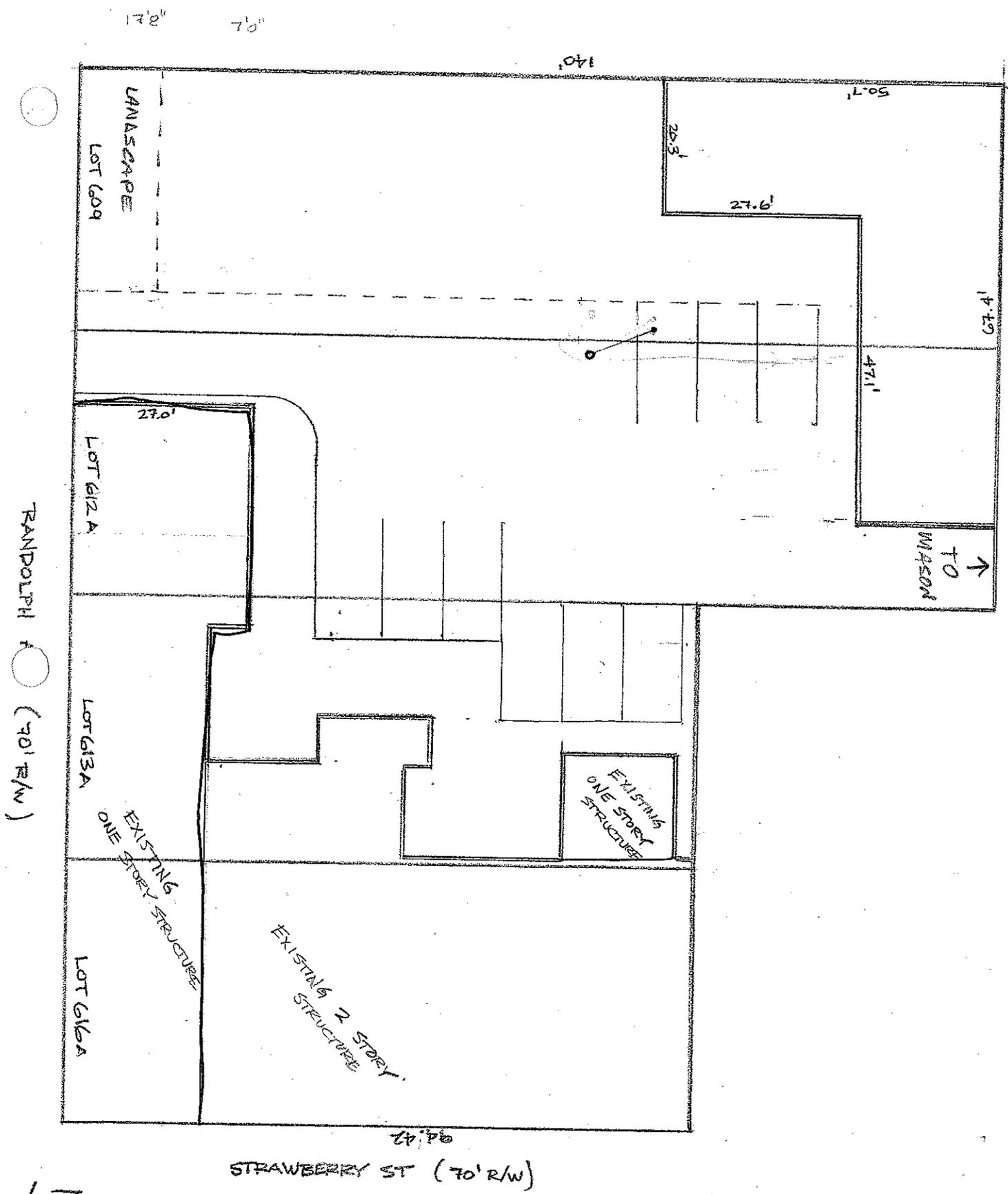
8. PATRICK HAND (Name of Owner of Record)
2242 ARLINGTON CHASE CAPE CHARLES VA 23310 (Address)

9. Signature of Owner(s) Patrick Hand

Signature of Contract Owner(s) N/A

By: N/A (Agent)
_____ (Address and phone)

4970
12/1/2010 Date
68-72547514 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
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: Historic District Review Board Member Reappointment

AGENDA DATE:
January 13, 2011

SUBJECT/PROPOSAL/REQUEST: Reappointment of a member to the Historic District Review Board

ITEM NUMBER:
7E

ATTACHMENTS: None

FOR COUNCIL:
Action
Information

STAFF CONTACT (s):
Tom Bonadeo, Town Planner

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

The Historic District Review Board oversees the Town's Historic District and is comprised of 5 members each serving 5-year terms.

DISCUSSION:

Mr. Jan Neville has been a valuable member of the Historic District Review Board for a number of years and his current term on the Board expires January 8, 2011. Mr. Neville has expressed his interest in continuing his service on the Historic District Review Board.

RECOMMENDATION:

Staff recommends Council reappoint Mr. Jan Neville to the Historic District Review Board for another term.



TOWN OF
CAPE CHARLES

AGENDA TITLE: 2012 Virginia Port Authority Grant Request

AGENDA DATE:
January 13, 2011

SUBJECT/PROPOSAL/REQUEST: Authorize Mayor Sullivan to Sign Letter of Request

ITEM NUMBER:
7F

ATTACHMENTS: Letter of request for VPA Grant FY2011/2012

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
Smitty Dize / Heather Arcos

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

Every year during the General Assembly, staff goes before the Virginia Port Authority (VPA) to ask informally for grant funds to be appropriated to continue to improve our Harbor as part of the Harbor Redevelopment Plan.

DISCUSSION:

The VPA requires a letter signed by the Mayor of the Town before February 22, 2011 to officially accept our request. By signing the letter, we are stating that if the VPA approves the Town's request, the Town will have the money budgeted for FY2011/2012. The funds for the Town match are 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 is \$900K. The remaining balance will be financed through the long-term loan for Capital Improvement Projects.

RECOMMENDATION:

Authorize the Mayor to sign the attached letter requesting grant funding from the Virginia Port Authority.

January 15, 2011

J.J. Keever
Deputy Executive Director
Virginia Port Authority
600 World Trade Center
Norfolk, Virginia 23510-1679

Subject: Virginia Port Authority Grants for Cape Charles Harbor Improvements

Dear Mr. Keever:

As always, we enjoy discussing the needs of the Cape Charles Harbor with you and we look forward to meeting with you at the General Assembly this year. I would like to take this opportunity to express our gratitude to the Virginia Port Authority for the funding allocated to Cape Charles Harbor over the past several years.

The Harbor Redevelopment Master Plan consists of four phases. An estimated project timeline for each phase is enclosed.

Phase 1 consists of an inshore wave break, 44 floating slips, and two 750 SQFT bath house facilities at an estimated project cost of \$2.2M to complete. Last year, the Town of Cape Charles requested \$500,000 (VPA Match) for Harbor Redevelopment Phase 1 and was allocated \$477,000.

The Town received the bids for Phase 1 in October of 2010 which came in substantially higher than anticipated, so this prompted the Town to re-bid the project as two separate bids. The first portion to be completed would be the marina slips. The Town Council awarded a contract of \$1,244,898 to Somerset Paving and Marine, Inc., for the 44 floating slips, wave break, and utilities at their December 2010 meeting. The construction will begin by the last week in January and should be completed by May of 2011.

We anticipate spending the entire \$477,000 allocated to the Town this year and do not expect to request to carry over any grant monies.

The Town plans to start construction on the bath houses and site work by April 1, 2011. The total estimated project cost for this is approximately \$900,000. At this time, we are requesting \$500,000 towards completion of the bath houses which will complete Phase 1 of the Master Plan. The Town is committed to financing the balance of the bath houses.

J.J. Keever
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January 15, 2011

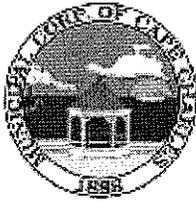
We respectfully ask the Virginia Port Authority to consider providing \$500,000 towards the completion of the bath houses and site work. Because these are critical projects for the future of Cape Charles Harbor, the commercial watermen and other businesses and schools in the Harbor, we respectfully ask that the Virginia Port Authority recognize these expenses as grant eligible local match.

Thank you for your consideration of our request.

Sincerely,

Dora Sullivan
Mayor, Town of Cape Charles

cc: The Honorable Ralph Northam
The Honorable Scott Rigell
The Honorable Lynwood Lewis
The Honorable Jim Webb
The Honorable Mark Warner
The Honorable Robert McDonnell
Heather Arcos, Town Manager
Cape Charles Town Council
Smitty Dize, Harbor Master



TOWN OF
CAPE CHARLES

AGENDA TITLE: Northampton County Funding Request

AGENDA DATE:
January 13, 2011

SUBJECT/PROPOSAL/REQUEST: Letter to Northampton County requesting funding for FY 2011/2012

ITEM NUMBER:
7G

ATTACHMENTS: Letter to Northampton County

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
Heather Arcos

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

Each year, the Town submits a letter to Northampton County for a contribution request for the next Fiscal Year budget. Typically, the Town requests funding assistance for the Cape Charles Memorial Library and the 4th of July celebration.

DISCUSSION:

Due to the current economy and known reductions in revenues from the State and other anticipated reductions, Northampton County plans to submit a budget equal to or less than the current year's approved budget.

The Town has received \$15,500 from the County over the last several years for the Cape Charles Memorial Library budget. Attached is a letter to the County requesting \$20K for the Library and \$5K for the 4th of July celebration.

RECOMMENDATION:

Staff recommends Council authorize the Mayor to sign the attached letter requesting funding assistance from Northampton County.

January 13, 2011

Glenda Miller
County of Northampton
P.O. Box 66
Eastville, VA 23347

Subject: Cape Charles Funding Requests for FY 2011/2012

Dear Glenda:

The Town of Cape Charles is requesting funding for operational expenses from the County of Northampton for the FY 2011/2012 for assistance with the Cape Charles Memorial Library and the July 4th Fireworks Celebration.

- 1. Library* – In FY 2011/2012, the Town of Cape Charles expects to budget \$84,000 to support Library operations. This includes salary and benefits for 1.5 staff members, books, computers and utilities. Last year, the County contributed \$15,500 toward these operating expenses. The Library continues to host events such as Kid's Night Out, Story Times for Toddlers and Migrant Children, Arts & Crafts, Movie Nights for Children & Youth, a Poetry Slam, summer reading programs, writing and computer classes are offered for a variety of age groups, and an AARP driving class. On several occasions last year, the Virginia Aquarium was brought in with their mobile aquarium. The Library continues to serve the citizens of Cape Charles and numerous Northampton County residents as the only public library on the lower Eastern Shore. Even though the Cape Charles Memorial Library serves the entire lower Northampton County, it is primarily supported by the taxpayers of Cape Charles. The Cape Charles Memorial Library has outgrown its current location and several analyses have been performed which all conclude that the Library does not meet the most minimum standards defined by "Virginia Library Standards, Planning for Library Excellence." Additionally, the current facility does not provide barrier free access required under the Americans with Disabilities Act (ADA) and has facilities related issues that would be expected in a 100 year old structure along with inadequate parking. The Town will be working with the Cape Charles Memorial Library Board and the Friends of the Library to review options for future growth. A copy of the Library Study is enclosed for your review. Based on the above facts, we respectfully request assistance in the amount of \$20,000 from the County for the estimated 2011/2012 Budget.

Glenda Miller
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January 13, 2011

2. *July 4th Celebration* – Every year, the Town of Cape Charles provides a 4th of July celebration. Over 4,000 people attended last year's 4th of July celebration which is open to all citizens and visitors at no cost and many citizens of Northampton County attend this yearly event. With the increasing cost of fireworks, the extra police officers on duty, public works staff and cleanup operations for this event, we respectfully request assistance in the amount of \$5,000 from the County for this year's event since it does benefit so many County citizens.

On behalf of the Town, I would like to thank you for your contribution to the Cape Charles Memorial Library over the past several years. In reviewing this request, we respectfully ask that the County take into consideration the revenues Cape Charles has generated over the years for the County.

Please do not hesitate to contact me or Heather Arcos, the Town Manager, should you need any additional information.

Sincerely,

Dora Sullivan
Mayor

Enclosure

cc: Town Council
Town Manager
Town Treasurer