TOWN COUNCIL
Regular Meeting

December 9, 2010
St. Charles Parish Hall
Immediately Following Public Hearing

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

2. Invocation and Pledge of Allegiance

3. Public Comments (3 minutes per speaker)

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

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

6. Old Business
   *A. Proration of Personal Property Tax – Town Code Revision
   *B. Personnel Policy Manual Update
   *C. Zoning Ordinance Revisions – Planning
      i. Group Homes (§ 4.0.C)
      ii. Temporary Family Health Care Structures (§ 4.2.E.8)
      iii. Chesapeake Bay Preservation Act (§ 4.4.B & Appendix B-Site Plan Ordinance)
   *D. Conditional Use Permit Applications
      i. 207 Mason Avenue – Residential Over Commercial
      ii. 546 Madison Avenue – Home Occupation
   *E. PNC Bank Credit Line

7. New Business
   A. Commendation for Officer James Pruitt
   B. Cape Charles Memorial Library Study / Plans
   *C. TEA-21 Trail Contract
   *D. Billboard Promoting Cape Charles & Businesses

8. Announcements
   - December 15, 2010 – Town Council Executive Session @ 6PM
   - December 16, 2010 – Town Council Work Session @ 6PM
   - 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 17, 2011 – Town Offices Closed for Martin Luther King, Jr. Day
   - January 28, 2011 – Town Council Retreat – location to be determined

9. Adjourn at 8:00 P.M.

DRAFT
TOWN COUNCIL
Work Session
Town Hall
October 28, 2010
6:00 PM

At 6:00 p.m. at the Town Hall, Mayor Dora Sullivan, having established a quorum, called to order the Work Session of Town Council. In addition to Mayor Sullivan, present were Councilmen Bannon, Bennett, Evans, Sullivan and Veber and Councilwoman Natali. Also present were Town Manager Heather Arcos, Treasurer JoAnna Leatherwood and Consultant Bob Panek. There were no members of the public in attendance.

Mayor Sullivan announced the business for the evening would be to hear an update on the Cape Charles-Cheriton Regional Wastewater System South Node and to review and discuss the proposed modifications to the Town Code, Chapter 70 – Water, Sewers and Sewage Disposal, specifically water.

Town Manager Heather Arcos added that the Code modifications pertaining to water would be discussed this evening and the Code modifications pertaining to the sewer system would be reviewed next month.

Cape Charles-Cheriton Regional Wastewater System South Node Update
Consultant Bob Panek explained that the reason this update was being given was because decisions needed to be made regarding whether to pursue additional funding and to bring all the parties up to date on where the project stood with the focus on the South Node. Similar briefings were held for the County Board of Supervisors on Tuesday, October 26th, and for the Cheriton Town Council on Wednesday, October 27th.

Bob Panek went on to explain that the South Node consisted of Cape Charles, Cheriton and surrounding areas and the cost for the collection system and pipeline to the Cape Charles wastewater treatment plant was estimated at $11M. The Department of Environmental Quality (DEQ) had approved the project for funding but the DEQ grant / loan ratio had not been determined. The application to DEQ had been submitted and the DEQ has earmarked approximately 34 projects statewide for funding and this project was ranked somewhere in the middle of the list. At this time, the DEQ has stated that by their estimation, the best the DEQ could provide would be approximately $1.5M in grant funding with the balance being funded by a 20 to 30 year zero interest loan. Applications still need to be made to the Department of Housing and Community Development (DHCD) and the US Department of Agriculture – Rural Development (USDA RD). There was some discussion regarding the possible grant / loan ratios and Bob Panek stated that currently the typical USDA RD funding is approximately 30-40% grant and 60-70% loan. This process would take a lot of work to obtain as much grant funding as possible and to try to convince the governmental agencies to alter their formulas to enhance the ratio of grant / loan funding. Heather Arcos added that the USDA would not know until January 2011 the amount of money available for these projects. Bob Panek added that January 2011 would be optimistic and it depended on the outcome of the upcoming election. Unfortunately, the decision to move forward needed to be made now. Councilman Evans asked whether the decision could be made to move forward subject to grant funding being available.

Bob Panek went on to explain that the North Node consisted of Exmore, Nassawadox and surrounding areas and the cost for the collection system, pipelines, treatment plants, septage receiving and composting facilities were currently estimated at $30M. The septage receiving facilities would be able to accept septic system pump-outs which used to be hauled to Pocomoke, MD but now was hauled to DE. Councilman Bennett noted that the septage receiving and composting facilities were included in the North Node but was not shown in the South Node and asked whether the new Cape Charles wastewater treatment plant would be able to handle this. Bob Panek stated that the design currently did not include septage receiving and composting facilities but could be altered to do so but would require the building of additional tanks. Bob Panek went on to explain that the septage was high in nitrogen and it would be difficult to meet the nitrogen requirements for discharge and it was more conducive to add to the North Node since there would be no surface water discharge of effluent. Septage receiving could be done in the South Node but it would jeopardize our ability to meet the nutrient removal requirement.

Bob Panek continued by stating that the service area was still being refined and that the initial service area could be focused around the medical complex in Nassawadox in that was a more compact area and the cost could be lowered to approximately $10M. The preliminary engineering report has not been completed and no funding applications have been submitted as yet. The application to USDA could be submitted at any time but the DHCD application could not be submitted until March 2011 and the DEQ application could not be submitted until next summer.

Bob Panek went on to review the grant / loan ratio and its effect on the monthly rate in the South Node. Councilman Bennett asked whether the grant / loan ratios shown were optimistic since the DEQ anticipated only about a 13% grant and could the PSA expect to obtain 37% or more grant funding from the DHCD and USDA RD. Councilman Evans asked whether the estimated payments, depending on the grant/loan ration, reflected the costs of just the South Node or was representative of both the South and North Nodes. Bob Panek stated that the estimated payments reflected costs for the South Node only. Councilman Evans expressed his concern and asked whether the payment amounts would be different for customers in the South Node vs. the North Node since the cost of construction for the North Node would be considerably higher than the cost of the South Node. Bob Panek stated rate decisions would need to be made by the PSA in coordination with the governing bodies of the localities, and that because funding agencies would not approve a $30M capital investment if the rates would be $80/month. The 80% voluntary hookups probably could not be achieved and he did not think the Town Councils of Exmore and Nassawadox and the County Board of Supervisors would force mandatory hookups with an $80/monthly rate.

Bob Panek went on to review results from a service area analysis which determined that the Fairview area needed to be included in the South Node in order to keep the costs per connection down. Bob Panek added that unfortunately, the shore suffers from a lack of density. Councilman Bannon asked about the Bayview area and whether it would remain a standalone system or be included in the South Node. Bob Panek stated that Bayview would remain as a standalone since it had an existing system that had recently been repaired. Their rates are estimated to be $37/month for water and $37/month for sewer. Bob Panek added that the effort was to try to drive the rates down as low as possible. The estimates were

based on 80% participation in the service area and if 100% were achieved, possibly due to mandatory hookups, the rates would drop.

Bob Panek continued by stating that Cape Charles' monthly rate was not directly affected by the grant/loan ratio but the reason the Town decided to join the PSA was to create an economic scale. By hooking up Cheriton and its surrounding areas, this would increase the number of users by approximately 600 which would spread the cost over a wider base of users. The increased number of users would utilize the majority of the capacity of the new wastewater treatment plant (WWTP) but the Town was positioned well for expansion of the plant's capacity. The Headworks and Distribution Boxes can handle a 500K GPD capacity and an upgrade in the membrane cassettes would allow 330K GPD. A third bio reactor was built as an emergency tank but could be outfitted to increase the capacity of the plant. The Town is positioned for a relatively modest cost of expanding the plant since all the piping and electrical components were also built for 500K GPD capacity.

Bob Panek went on to state that the PSA would pay Cape Charles for treatment and disposal service at a bulk rate of $176K/year which was based on the operating and maintenance cost of the WWTP and the debt service of the new plant. This figure could be increased or decreased within reason based on actual return costs. Even at $150K/year, it would be a benefit to Cape Charles since it would be a revenue source outside of the rate payers and the Town could possibly reduce the rate paid by Cape Charles' users. All figures were projections at this time.

Bob Panek also stated that the new collection and pumping systems would have to be maintained and billing services needed to be developed. It was possible that the PSA could buy these services from Cape Charles as well with an estimated rate of $50K/year. This would be an additional revenue stream. Councilman Bennett stated that this increase may require the Town to hire additional staff to accommodate the increase in numbers. Heather Arcos stated that this was discussed and the Town may be able to hire a part time employee to help with the increased work load. Bob Panek stated that the billing could be handled without any problems and the maintenance could also probably be handled without problems. With these estimates, the increased revenue could drive a 25% - 33% reduction in rates, but Bob Panek cautioned Council against a rate reduction initially until the actual operating and maintenance costs are determined. Some of the revenue could also be used as a reserve fund for expansion of the plant.

There was much discussion regarding affordability of hookups for the residents of Cheriton and surrounding areas, the majority of which are elderly. Mayor Sullivan stated that Cheriton Town Council needed to start dialogue with the citizens of the Town. Bob Panek stated that the Cheriton Town Council had decided to hold a community meeting to educate as many residents as possible. District 1 Supervisor Randall would also be holding a community meeting for his constituents. The issue was community engagement.

After further discussion, the Council expressed their agreement regarding the bulk rate concept.

Proposed Modifications to Town Code Chapter 70 – Water, Sewers and Sewage Disposal (Water)

Bob Panek explained that many parts of the Town Code needed to be updated. There were some sections in the Town Code pertaining to water and sewer that were outdated and not being enforced. There were also some areas within this chapter where water and sewer was interspersed. The main catalyst for updating the sections for water and sewer was a mandate by the State Water Control Board, as part of the approval process for the 0% loan, that the Town Code incorporate standards required by the Environmental Protection Agency (EPA) and the Department of Environmental Quality (DEQ) regarding sewer use. It was also determined that the ordinances regarding water and sewer be divided into separate chapters.

Councilman Evans stated that the new language was well written and better to understand.

There was some discussion regarding the residents' ability to turn off their water, in cases of leaks and when they were leaving Town for an extended period, etc., which was prohibited currently and in the proposed ordinance (§ 70-33.a). Councilmen Bennett and Veber felt that the resident should be permitted to turn off their water if they had a leak. Bob Panek stated that this issue would be reviewed with the Public Utilities Director Dave Fauber.

The Council then began a page-by-page review of proposed Chapter 70-Water Supply.

Councilwoman Natali suggested a section for definitions at the beginning of the chapter. Councilman Evans stated that the Zoning Ordinance had a Definition Section which covered the definitions for the entire Zoning Ordinance and recommended adding a Definition Section to cover the entire Town Code as well.

Councilman Evans expressed his concerns regarding § 70-5.b. which stated that "The Director of Public Utilities or the Town Manager would be permitted to enter all private property through which the Town holds an easement…" and suggested that the language be clarified regarding "property" vs. "dwelling." There was some discussion regarding this language and Councilman Bennett suggested that the word "enter" be replaced with "access."

Councilwoman Natali questioned language in § 70-21 which stated that "Not more than one dwelling unit or premises shall be supplied from one connection, except by written permission of the Director" stating that she thought that the Fairways Condos only had one connection per building which was contradictory to this language. Bob Panek explained that each building had one connection but also had six meters, one for each unit.

Councilman Evans questioned, in the same section (§ 70-21) regarding the two classes of permits as "residential" and "industrial" and asked whether commercial was grouped under industrial which in his mind would be a heavier user vs. a commercial establishment. Bob Panek stated that for permit classification purposes, industrial and commercial were the same.

Regarding § 70-24, there was some discussion regarding the 100' limitation to connect to the Town's water supply. Councilman Bennett asked whether there were any properties in the historic district that could be over 100' from a water main. There was some discussion regarding removing this limitation, but it was agreed to leave it as proposed since most properties were within 100' from the water mains.

Councilman Veber asked whether § 70-23.c was necessary. This section stated that leaking water lines running to a designated property would be repaired or replaced by the property owner at their expense. It went on to state that if the property owner failed to repair or replace such lines after receipt of written notice, the Town may turn off the water. There was some discussion regarding this issue and Bob Panek suggested that all language after the first sentence be deleted to which Council was in agreement.

Mayor Sullivan suggested that, due to the time, the meeting be adjourned for the evening. Further discussion would be continued at the next work session.

Motion made by Councilman Bannon, seconded by Councilman Veber to adjourn the Town Council Work Session. The motion was approved by unanimous consent.

Mayor Sullivan

Town Clerk

DRAFT

DRAFT
TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
November 8, 2010
6:00 PM

At 6:02 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 Evans, Sullivan and Veber and Councilwoman Natali. Councilman Bennett arrived at 6:05 p.m. Also in attendance were Town Manager Heather Arcos, Town Consultant Bob Panek, Town Planner Tom Bonadeo, Harbor Master Smitty Dize and Town Clerk Libby Hume. The Department Heads were also in attendance along with four (4) members of the public.

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

PUBLIC COMMENTS:

Mrs. Chris Michel & Mr. Steve Michel, 10 Peach Street:
Mr. and Mrs. Michel addressed the Council in support of the Town leasing a billboard along northbound Route 13 to advertise Cape Charles and the businesses in Town. Mrs. Michel stated that she had talked to several business owners regarding the monthly rental fees for the billboard and Mr. Malcolm Hayward offered to pay $350 towards the monthly rental fee which was estimated to be approximately $700 per month and five other business owners have expressed a willingness to contribute. Mrs. Michel stated that she hoped the other business owners would all chip in to help pay the monthly fee. Mr. Michel added that the billboard would be good to promote Cape Charles but needed to be simple but concise to appeal to everyone travelling along Route 13 in order to get them to stop to visit the Town. Mr. Michel concluded by stating that he would be willing to contribute towards the rental cost.

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

CONSENT AGENDA:

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

The Town Council reviewed the minutes of the October 14, 2010 Public Hearing, the October 14, 2010 Regular Meeting and the October 14, 2010 Executive Session.

Councilwoman Natali noted that under the Public Comments on the bottom of page 1 of the October 14, 2010 Regular Meeting should show that Ms. Coghill presented a copy of the first annual yearbook from the Cape Charles Christian School to Mayor Sullivan. The word "yearbook" was omitted.

Councilman Bennett noted that under the Industrial Access Road on page 5 of the October 14, 2010 Regular Meeting, it stated that he was opposed to spending staff time and money... before a written commitment had been received from South Port's attorneys, but he actually stated that he was opposed to spending staff and money... at any time. Libby Hume will listen to the recording of the meeting and make the appropriate corrections.

Motion made by Councilman Veber, seconded by Councilwoman Natali to approve the minutes for the October 14, 2010 Public Hearing, October 14, 2010 Regular Meeting and the October 14, 2010 Executive Session as amended. The motion was approved by unanimous consent.

REPORT PRESENTATIONS:

A. *Town Manager's Report:*
Town Manager Heather Arcos reported the following: i) The Town received some inquiries about a possible casino boat leasing dock space at the Harbor but there was no additional information at this time. The Town was researching the project but no contract or lease had been received. There was an announcement this past weekend at the Bay Creek Homeowners' Association Meeting, but no other details were available; ii) The Harbor Redevelopment Project was divided into two projects. The Invitation for Bids (IFB) for the floating slips has been advertised with a bid opening date of December 2, 2010. The Town has opted to wait until the bids for this portion of the project have been opened before advertising for the bath house to insure that the funding was available to complete the new slips since they would produce revenue for the Town. Harbor Master Smitty Dize would provide more details regarding the modifications made to the plans for the floating slips and the bath house during his report presentation; iii) The Boundary Adjustment Sub-Committee Meeting was scheduled for November 15, 2010 at 5:00PM at the Town Hall to continue discussions regarding a possible boundary adjustment request; iv) January 28, 2011 was the proposed date for the Town Council Retreat. Please get back to Libby Hume regarding your availability for that date and also let her know if you have any topics to be included in the agenda for discussion; and v) Jeb Brady attended a Fire Prevention Class last week and earned 20 hours towards his certification to become a Code Enforcement Officer. Jeb has to complete a two-part examination, which should be done by January, before achieving his certification.

B. *Treasurer's Report:*
The Treasurer's report dated October 14, 2010 showed $321,215 in the Bank of America checking account and $1,150,096 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of $1,471,311. The 2010 real estate and personal property tax bills have been mailed. $1,138,840 in real estate taxes and $162,738 in property taxes were billed.

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

C. *Recreation Report:*
Heather Arcos stated that Community Events/Recreational Coordinator Jen Lewis was not able to attend the meeting but praised her for doing a great job with the Trunk or Treating which was held on October 23rd. There were approximately 20 cars that participated as well as many businesses along Mason Avenue and 50-75 children attended.

D. *Library Report:*
The Council did not have any questions for Librarian Ann Rutledge. Councilwoman Natali stated that over 170 children came to the Cape Charles Memorial Library for Trick or Treat.

E. *Harbor Report:*
Harbor Master Smitty Dize informed the Council that he had an unforgettable moment last Monday. On the weekend of October 30th, a family with two little girls docked their sailboat

in the Cape Charles Harbor and asked about Trick or Treating in Cape Charles. Smitty Dize stated that he contacted Jen Lewis regarding left over candy from Trunk or Treat and she brought goody bags for the little girls. The family also stayed the weekend for the girls to enjoy trick or treating in Town. Smitty went on to state that he received a nice note from the little girls thanking him. Smitty Dize went on to report that staff, along with the engineer and architect, reviewed the revised plans for the Harbor Redevelopment Project. The original plans included three additional feet per boat slip, which was not standard practice, but the revised plans now show the slips with their exact lengths (45', 55' and 65'). The diameter of the anchor pilings have been reduced from 24" to 16" which should help reduce the project costs. This phase of the project has been put back out to bids with a deadline of December 2nd. The plans for the bath house have been revised as well. The buildings would have block foundations with wood structures. The cedar shakes have been reduced from 24" to 16" but no aesthetics have been lost. This portion of the project would be put out to bids after review of the bids for the boat slips.

F. *Public Works / Public Utilities Report:*
Heather Arcos informed Council that Dave Fauber was not able to attend the meeting this evening. Vice Mayor Bannon stated that the Public Works crew has been trimming the crape myrtles along Stone Road which has greatly improved the appearance coming into Town. Vice Mayor Bannon added that the Public Utilities report showed that Patrick Christman had attended a class and commended him for continuing his education for water plant operator.

G. *Code Enforcement / Central Park Trail Update:*
Combination Inspector Jeb Brady reported that as a result of last month's public comments regarding overgrown properties in Town, 31 notices have been sent to property owners giving them 45 days to comply with the notice. Jeb Brady added that after completion of the Central Park project, he would concentrate on sending notices to property owners regarding houses / buildings in disrepair.

Councilwoman Natali thanked Jeb Brady for modifying the Permit/Construction Fee Report showing the properties in order by property address as requested at the October meeting.

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. *Wastewater Treatment Plant Construction Update:*
Town Consultant Bob Panek informed Council that the concrete work at the wastewater treatment plant (WWTP) should be completed within the next two or three weeks. By early December, the work should be under roof and the crew would begin work on the interior regarding equipment installation, wiring, etc. The contractor has stated that the construction was back on schedule. The cost of the total project was now estimated at $19.2M, down from $19.4M, and the amount of the zero-interest loan had been reduced to $5.2M from $5.4M. The Town was scheduled to close on this loan on November 18th. A significant amount has been included in the estimate for contingencies and if the contingencies were not used, there was no need to borrow the entire $5.2M. Bob Panek added that if any Council members wanted another tour of the site, to please contact him.

Mayor Sullivan stated that she had heard that the Town was way over budget on the WWTP but did not see from these numbers that this was the case. Bob Panek explained that the

WWTP construction was not over budget, but the Mayor could be confusing it with the Mason Avenue Pump Station Project bids which have come in considerably over the budgeted amount. Mayor Sullivan stated that she had heard comments from citizens specifically about the WWTP. Bob Panek added that if Council hears comments of this nature from citizens, to please ask them to contact him. Bob Panek went on to state that he would be willing to take interested citizens on a tour of the site as well.

B. *Mason Avenue Pump Station Upgrade and Force Mains Project:*
Bob Panek informed Council that based on the information from Mid-East Builders (MEB) and discussion with another contractor negotiating with the next lowest bidder of this project would not yield significant cost savings and a better approach was to split the project into two phases, similar to what was done for the Harbor Redevelopment Project. Bob Panek explained that Phase 1 included: i) fixing the gravity sewer restriction going into the pump station using 16" pipes vs. 10" pipes; ii) demolition of the grit removal chamber to eliminate another flow restriction; iii) reconfiguration of the headworks structure to accept the larger diameter pipe; iv) the new Mason Avenue forcemain to accommodate larger volume (10" pipes vs. 6" pipes); v) extension of the Fig Street forcemain to divert flow; and vi) minor improvements to the wet well. This work would improve performance of the pump station by at least 50%, thereby achieving the objectives of the Environmental Protection Agency (EPA) and the Department of Environmental Quality (DEQ) to minimize the potential of sewage overflows. The cost of Phase 1 was estimated at approximately $1M.

Phase 2 would include new pumps, controls, channel grinder, generator and instrumentation, wet well reconditioning and a new building. Bob Panek recommended bidding this work based on the remaining project budget after receiving bids for Phase 1 and available financing.

Bob Panek added that it would take approximately one month to obtain EPA and DEQ approval of the revised plan and to advertise for Phase 1 bids. Contract award was anticipated for January 2011 with the work being completed in four to six months.

Motion made by Councilman Bennett, seconded by Councilman Sullivan, to restructure the bid package into two phases as presented. The motion was approved by unanimous consent.

NEW BUSINESS:

A. *Fuel Services Contract Award:*
Smitty Dize explained that the current contracts for Town fuel services would expire at midnight on November 30, 2010. An IFB was advertised with a closing date of October 26, 2010. Bids were received from Bagwell Oil Company, Floyd Energy and H.W. Drummond. Bagwell Oil Company was the low bidder on all but the non-ethanol plus (89 octane) fuel which was $0.0059 higher than H.W. Drummond. The new contract would be for one year with the option to extend for an additional three years.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to authorize the Town Manager to execute a contract with Bagwell Oil Company for fuel and propane services to the Town. The motion was approved by unanimous consent.

B.i. *Fishing Pier Repair Contract Award:*
Heather Arcos explained that during the November 2009 Nor'easter storm, the fishing pier sustained considerable damages to the supporting structure. An IFB was advertised with a

closing date of November 2, 2010. Bids were received from J.A. Habel Corporation and Annex General Contracting, Inc. The low bidder for the fishing pier repairs was J.A. Habel Corporation with a bid of $15,000. The cost of the repairs would be reimbursed by the Federal Emergency Management Agency (FEMA).

Motion made by Councilman Sullivan, seconded by Councilman Veber, to authorize the Town Manager to execute a contract with J.A. Habel Corporation in the amount of $15K for the fishing pier repair. The motion was approved by unanimous consent.

B.ii *Fishing Pier Mitigation Contract Award:*

Heather Arcos explained that FEMA strongly recommended mitigation of the pier to insure no further damage would be sustained during future storm events. The cost of the mitigation would be reimbursed by FEMA. An IFB was advertised with a closing date of November 2, 2010 and bids were received from J.A. Habel Corporation and Annex General Contracting, Inc. The low bidder for the fishing pier mitigation was Annex General Contracting, Inc. with a bid of $10,800.

Councilman Bennett asked for an explanation of what was meant by "mitigation." Tom Bonadeo explained that modifications would be made to the pier to prevent further damages in the future.

Councilman Bennett asked if staff was familiar with Annex General Contracting and their work. Heather Arcos stated that Public Utilities Director Dave Fauber had talked to the contractor and was comfortable with them doing the work.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to authorize the Town Manager to execute a contract with Annex General Contracting, Inc. in the amount of $10,800 for the fishing pier mitigation. The motion was approved by unanimous consent.

C. *Boardwalk Repairs Contract Award:*

Heather Arcos explained that during the November 2009 Nor'easter storm, the boardwalk also sustained considerable damages to the supporting structure. An IFB was advertised with a closing date of November 2, 2010 and bids were received from J.A. Habel Corporation and Annex General Contracting, Inc. The low bidder for the boardwalk repairs was Annex General Contracting, Inc. with a bid of $6,800. The cost of the repairs would be reimbursed by FEMA.

Councilman Bennett expressed his concern regarding the bid from Annex General Contracting being less than half of the other bid and asked what was involved with the repairs to the boardwalk. Dave Fauber, who had arrived at approximately 7:00 p.m., explained that approximately 40' of the existing concrete slab would have to be removed along with the sand underneath. Two to three pieces of vertical bulkhead would be installed, the sand filled back in and a new 4" concrete slab would be poured. Dave Fauber added that Annex General Contracting had attended the pre-bid meeting which included a site visit with explanation of the work involved.

Motion made by Councilman Veber, seconded by Councilman Evans, to authorize the Town Manager to execute a contract with Annex General Contracting, Inc. in the amount of $4,800 for the boardwalk repairs. The motion was approved by unanimous consent.

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

Tom Bonadeo explained that during the last General Assembly session, many new bills were adopted. Since the Commonwealth of Virginia closed some of its hospitals for mental illnesses, this bill allowed the establishment of homes to care for these people in single family zones and was a requirement to be adopted into local zoning ordinances. The Council reviewed the proposed modifications. A public hearing would need to be scheduled prior to the adoption of the proposed revisions. There was some discussion regarding regulation of these homes by the State.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to schedule a public hearing for December 9, 2010 preceding the Town Council regular meeting to hear public comment regarding the proposed revisions to the Cape Charles Zoning Ordinance to accommodate group homes as mandated by the State of Virginia. The motion was approved by unanimous consent.

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

Tom Bonadeo explained that the General Assembly adopted another bill requiring zoning ordinances to allow family health care structures in the single family zone. A family health structure was an accessory structure of 300 SQFT or less for no more than one occupant who must be a family member who was mentally or physically impaired. The Council reviewed the proposed modifications. A public hearing would need to be scheduled prior to the adoption of the proposed revisions. There was some discussion regarding the limitation of having only one person in the structure and whether the Town could add language allowing for the care of a couple so individuals could provide for the care of both parents. Tom Bonadeo stated that the requirements limited the structure to 300 square feet or less and that the Town's responsibility was to comply with the law.

Motion made by Councilman Veber, seconded by Councilman Sullivan, to schedule a public hearing for December 9, 2010 preceding the Town Council regular meeting to hear public comment regarding the proposed revisions to the Cape Charles Zoning Ordinance to accommodate temporary family health care structures as mandated by the State of Virginia. The motion was approved by unanimous consent.

D.iii. *Zoning Ordinance Revisions –Site Plan Ordinance (Appendix B)*

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. It was determined that some improvement could be made to the Cape Charles ordinance. Tom Bonadeo added that the recommended changes would not modify the intent of the ordinance but were text changes requiring additional information to be included on site plans. The Council reviewed the proposed modifications. A public hearing would need to be scheduled prior to the adoption of the proposed revisions.

Motion made by Councilman Evans, seconded by Vice Mayor Bannon, to schedule a public hearing for December 9, 2010 preceding the Town Council regular meeting to hear public comment regarding the proposed revisions to the Cape Charles Site Plan Ordinance which was incorporated as part of the Cape Charles Zoning Ordinance. The motion was approved by unanimous consent.

E.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. This CUP 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. There were extenuating circumstances surrounding the purchase of this building including a potential tax sale and/or foreclosure so time was of the essence. The Planning Commission reviewed the application and has scheduled a public hearing preceding their December 7, 2010 regular meeting. The Commission requested that this be a Joint Public Hearing with Town Council since time is of the essence for the procurement of this property. The Commission planned to make a recommendation to Council after its next meeting and Council would be in a position to render a decision at its December 9, 2010 regular meeting.

Motion made by Councilman Evans, seconded by Vice Mayor Bannon, to schedule a joint public hearing with the Planning Commission for December 7, 2010 preceding the Planning Commission's regular meeting to hear public comment regarding the Conditional Use Permit Application for 207 Mason Avenue. The motion was approved by unanimous consent.

E.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. The business was small volume and the applicant did not expect any change in traffic. The Zoning Ordinance permits home businesses of this type as long as certain criteria were met and this CUP application met those requirements. The Planning Commission reviewed the application and has scheduled a public hearing preceding their December 7, 2010 regular meeting. The Commission requested that this be a Joint Public Hearing with Town Council to save advertising costs and meeting expense since there were five hearings required in December.

Motion made by Councilman Evans, seconded by Vice Mayor Bannon, to schedule a joint public hearing with the Planning Commission for December 7, 2010 preceding the Planning Commission's regular meeting to hear public comment regarding the Conditional Use Permit Application for 546 Madison Avenue. The motion was approved by unanimous consent.

F. *Town Code Revision – Proration of Personal Property Tax*

Heather Arcos explained that the Town of Cape Charles currently did not prorate personal property taxes even though the majority of localities in the Commonwealth of Virginia prorated personal property taxes. 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 Town has received some requests to prorate personal property taxes. Heather Arcos stated that Northampton County prorated personal property and a copy of their ordinance was included in the agenda packet. Heather Arcos added that she talked to a representative of the County Commissioner of Revenue's office regarding implementation of a procedure relating to the

processing of any proration requests for taxable personal property housed in the Town and that the Town and County would work together to notify each other of proration requests to insure both entities have the same information. The proposed modification to Chapter 66 of the Cape Charles Town Code was reviewed. A public hearing would need to be scheduled prior to the adoption of the proposed ordinance.

Councilman Veber asked how much additional work would be created by adopting this ordinance. Jo Anna Leatherwood stated that the County would initiate a property tax proration and send their information to the Town. Upon receipt of this information, an entry would be made into the tax records requiring approximately 15 minutes staff time to complete.

Councilwoman Natali questioned the use of "garaged" in the Town's proposed ordinance vs. the County's use of "situs." Heather Arcos explained that this was to simplify the ordinance to make it easier for the citizens to understand. The Town's attorney was also reviewing this language and it would be revised to show "situs" if necessary.

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to schedule a public hearing for December 9, 2010 preceding the Town Council regular meeting to hear public comment regarding the proposed addition to the Cape Charles Town Code regarding proration of personal property tax. The motion was approved by unanimous consent.

G. *Eastern Shore of Virginia Tourism Infrastructure Grant*
Heather Arcos stated that each year, Northampton County funds the regional Eastern Shore of Virginia Tourism Grant Commission with proceeds of a supplemental 3% Transient Occupancy Tax. Of that 3%, the Northampton County Board of Supervisors specified that 25% must be spent on tourism infrastructure projects within the county. Heather Arcos went on to state that the Town had been fortunate in that in 2009, $2K was awarded to the Town for a webcam and in 2010, $9K was awarded for an a ADA access to the boardwalk and fishing pier along with three dune crossings to the beach and a kayak access on the north end of the beach. No match was required for this grant. The deadline for submitting an application for consideration for the 2011 grant was November 19, 2010. Heather Arcos went on to review several projects suggested by staff to include in this year's grant application as follows: i) Billboard on Route 13. The grant would pay for the design and printing of the billboard but not the $10K annual rental fee; ii) Printing of the Cape Charles brochures for the Welcome Center. This project would not likely be funded since it was not infrastructure but staff was advised to include this project in the application since it was tourism related; iii) Installation of ADA access to the restrooms at the beach; iv) Installation of roll-out mats for ADA access from the pier to the beach; and v) construction of a picnic shelter at the beach by the restrooms. Councilman Veber suggested building a kiosk at the Cape Charles Museum to provide brochures to visitors. Tom Bonadeo stated that the Cape Charles Museum was submitting a separate application and he would contact them regarding adding this item to their request. Councilman Evans suggested the possibility of including plans for a bike trail from Route 13 into Cape Charles and into Bay Creek. Councilman Evans also stated that some localities have nice, one-page maps for businesses to distribute to visitors. Bob Panek suggested including the cost of crusher run for a golf cart path to Bay Creek stating that a 10' strip had already been cleared for this path along Old Cape Charles Road. Council agreed that this would be a worthwhile project for this grant. There was much discussion regarding the billboard. Mayor Sullivan asked Council to forward any other suggestions to Heather Arcos.

H. *Personnel Policy Manual Update*

Heather Arcos stated that the Town of Cape Charles established a Personnel Policies, Rules and Regulations in order to provide a uniform system of personnel administration for the staff of the Town and a copy was given to each employee upon hire. In an ongoing effort to update the current Personnel Policy Manual, policies from other localities and various Human Resource sites were researched. Since this endeavor is a time consuming process, individual sections would be presented to Council for approval as they were completed. Four sections were provided for Council's review as follows: i) Section 1 – Introduction; ii) Section 2 – Personnel Recruitment and Selection; iii) Section 3 – Employee Compensation; and iv) Section 8 – Employee Ethics, Conduct and Responsibilities.

Council reviewed the sections by page. Several grammatical and typographical corrections were noted as well as several issues regarding consistency with terminology between sections.

Councilwoman Natali questioned that part-time employees were defined as working less than forty hours per week, but were only entitled to one half of full-time leave benefits whether they worked 20 hours or 39 hours. Heather Arcos stated that this accrual was pretty standard in business to which Councilman Sullivan agreed.

There was some discussion regarding the new "Employment At Will" language. Councilman Bennett asked why this paragraph referred to all employees. Councilman Veber explained that Virginia was an "At Will" State and that it was very important to have this language included in the manual. Heather Arcos stated that after approval by the Council, these sections would be forwarded to Ms. Arlene Klinedinst of Vandeventer Black LLP for her review.

There was some discussion regarding Section 2.6 – Medical Examination and whether it was necessary to keep in the manual since the Town does not required medical examinations for most positions.

Councilwoman Natali noted that in Section 2.9 – Probationary Period, it stated that after an employee had worked three months, they would be credited with 24 hours of annual and sick leave and asked whether this applied to full-time and/or part-time employees. Jo Anna Leatherwood stated that this applied to both full-time and part-time employees. It was noted that this should be clarified.

Vice Mayor Bannon noted that in Section 2.14 – Exclusion of Employees as Mayor or Members of Council, the last sentence should be deleted since there were no longer any employees serving on the Town Council.

Councilman Bennett stated that in Section 3.2 – Hours of Work, the second paragraph should be moved to the beginning of the section. Councilman Evans commented regarding the allowance of a 15-minute break for each 4-hour work period and suggested the language be changed to state that the employee must work four hours before taking a break.

Councilwoman Natali noted that Section 3.3 refers to "non-exempt employees" which were not defined in Section 1.5 – Definitions. The term "non-exempt" would be added to Section 1.5. There was also much discussion about whether exempt/salaried employees should be required to use the time clock and it was determined that many exempt/salaried employees were often out of the office attending to business or off-site meetings as well as taking work home so it would not be feasible for them to punch in and out on a time clock.

There was some discussion regarding Section 8.1 – Gifts and Gratuities which has been in the manual since it was adopted. The discussion focused on the possibility of a Harbor employee being offered a tip by a customer. Mayor Sullivan also mentioned that people tend to give gifts over the holidays. There was discussion regarding possibility placing a value limit on the gift or gratuity. A resolution was not determined.

Vice Mayor Bannon suggested the Town consider developing Facebook pages for certain department such as the Cape Charles Memorial Library and the Cape Charles Harbor. Councilman Sullivan stated that the risks of downloading a virus were extremely high when using Facebook and other social media sites. Libby Hume added she learned at the Virginia Municipal Clerk Institute that she attended last week, that many municipalities within the State of Virginia were now using social media sites but most were larger municipalities which had entire departments to monitor and update the various sites. These sites were beneficial in getting information out to the public, but required a lot of staff time devoted strictly to maintaining the sites.

Councilwoman Natali asked whether any employees had the ability to remotely access the Town's network. Councilman Sullivan stated that currently two people had remote access. Heather Arcos could access her work computer from a laptop and he could access the network from his office to fix problems or to perform maintenance on the system. Councilwoman Natali suggested that language regarding remote access be added to Section 8.11.2 – Computer Use and Monitoring of E-mail and Internet Access.

Heather Arcos advised Council that the suggested changes would be incorporated and these sections of the Personnel, Policies, Rules and Regulations would be revisited possibly at the next meeting.

ANNOUNCEMENTS:

- November 11, 2010 – Town Offices Closed in Observance of Veterans' Day
- November 11, 2010 – American Legion Memorial Service at the Cape Charles Veterans' Memorial on Mason Avenue
- November 18, 2010 – Town Council Special Meeting @ 6PM
- November 18, 2010 – Town Council Work Session @ 6PM
- November 24, 2010 – Town Offices Close at Noon for Thanksgiving Holiday
- November 25-26, 2010 – Town Offices Closed for Thanksgiving Holiday
- December 9, 2010 – Town Council Regular Meeting @ 6PM
- December 16, 2010 – Town Council Work Session @ 6PM
- December 17, 2010 – Town Employee Christmas Party

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

Mayor Sullivan

Town Clerk

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TOWN COUNCIL
Special Meeting
Town Hall
November 18, 2010
6:00 p.m.

At 6:06 p.m. at the Town Hall, Vice Mayor Chris Bannon, having established a quorum, called to order the Special Meeting of Town Council. In addition to Vice Mayor Bannon, present were Councilmen Evans and Sullivan and Councilwoman Natali. Mayor Dora Sullivan and Councilmen Bennett and Veber were 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 were no members of the public in attendance.

Vice Mayor Bannon announced the business for the evening would be to review the TEA-21 Application for the next phase of the Cape Charles Multi-Use Trail.

Town Manager Heather Arcos stated that construction of Phase 1 of the Cape Charles Multi-Use Trail – Central Park was substantially complete. To date, the Town has received approximately $1.5M in enhancement funding which went toward the development of the trail master plan, environmental documentation for the entire trail project, and design and construction of Phase 1A – Central Park. The balance of the Town's available grant funding to date was $688K and the current budget allocated a $78,625 match to continue the planning, designing and partial construction of the next phases. Additional lights and bollards were being planned for Central Park.

This application was for the construction of Phase 1B – North Peach Street Improvements and Phase 2 – Washington Avenue, which were both important phases that would help continue the revitalization of the Town and provide safe pedestrian connections between key destinations within the Town. Phase 1B would make improvements to north Peach Street that would link Central Park to Phase 2 – Washington Avenue and eventually to the walkway to Bay Creek and to the Cape Charles Beach.

The application deadline was December 1, 2010 and notification of the grant award would be May 2011. At this time, VDOT was only funding existing projects. The total being requested in this application was $384,253 with $76,850 being the Town's match, $10K of which would be in-kind. The match would be included in the Town's FY 2011-2012 budget.

Resolution #20101118 stated that the Town of Cape Charles agreed to pay a minimum 20% of the total cost of the construction of this project not to exceed $66,850 in cash and $10K in-kind. If the Town subsequently elects to cancel this project, the Town would reimburse the Virginia Department of Transportation (VDOT) the total amount of costs expended.

A meeting had been scheduled with VDOT regarding the possibility of making the median on North Peach Street similar to that on South Peach Street and whether a portion of this could be included in the grant or whether it could count towards the Town match.

There was some discussion regarding this application and various portions of the project.

Vice Mayor Bannon moved for adoption of Resolution #20101118 – Virginia Transportation Enhancement Program Project Endorsement Resolution – Town of Cape Charles. Resolution #20101118 was adopted by unanimous vote. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes.

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

Vice Mayor Bannon

Town Clerk

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TOWN COUNCIL
Work Session
Town Hall
November 18, 2010
Immediately Following Special Meeting

At 6:15 p.m. at the Town Hall, Vice Mayor Bannon, having established a quorum, called to order the Work Session of Town Council. In addition to Vice Mayor Bannon, present were Councilmen Evans and Sullivan and Councilwoman Natali. Mayor Dora Sullivan and Councilmen Bennett and Veber were 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 were no members 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.

Bob Panek stated that Mayor Sullivan asked him to update the Council regarding an issue with the Regional Wastewater System project. Bob Panek began by stating that the Department of Environmental Quality (DEQ) had previously approved the project for submission to the State Water Control Board for up to $11M in funding. The DEQ Public Comment period ended on Tuesday, November 16th, and only one comment was received, which was submitted by Mr. Robert Meyers who was the chairman of the PSA as well as a member of the Northampton County Planning Commission and several other committees. Mr. Meyers' comments were quite negative. Bob Panek distributed copies of Mr. Meyers' email to the DEQ and a letter from Chairman Larry Trala of the Northampton County Board of Supervisors to the DEQ in response to the email. Bob Panek added that he had also sent an email to Mr. Gills of the DEQ regarding Mr. Meyers' email informing them that the email was not sanctioned by the PSA Board and should be considered as Mr. Meyers' personal opinion. The Council members asked Bob Panek to forward a copy of his email to them. Bob Panek went on to state that he had spoken to Mr. Gills who admitted that the email was very damaging and may affect DEQ's recommendation to the State Water Control Board in December. Bob Panek concluded this discussion stating that this issue would be discussed at the December PSA meeting.

Proposed Modifications to Town Code Chapter 70 – Water, Sewers and Sewage Disposal
Bob Panek stated that at the last work session, there was some concern that customers were not permitted to turn off the water to their properties themselves. Dave Fauber informed the Council that the Town did not want the citizens doing it themselves because the equipment belongs to the Town. In the past, individuals have turned the water off and on themselves and valves have been damaged. Dave Fauber showed the Council two valves that were damaged by citizens and stated that in order to fix a valve, the Town had to shut off the water to the entire street. Dave Fauber added that property owners should have main shut offs installed on their properties so they would be able to shut off the water to their house in case of emergency. It was suggested that this issue should be addressed in a future edition of the Gazette and also to inform property owners who may live out of town that for $25 each, the Town could turn off their water if they planned to be away for any length of time and turn it back on when they planned to return.

Council reviewed the modifications to Chapter 70 and additional changes were made as follows:

Section 70-5 – Inspections: Councilwoman Natali pointed out a typographical correction in (c) in reference to "Section 70-5(a)."

Section 70-21 – Specific Definitions: Councilwoman Natali questioned the definition for "Director." After some discussion, the language was changed to "... who is responsible for managing the Town of Cape Charles Waterworks ..."

Section 70-32 – Town Service Connection: Councilwoman Natali requested that the language be clarified regarding who would provide the meter if the customer wanted one that was larger than three-quarter-inch. After some discussion, the language was changed to "The town will furnish and maintain all water meters. A three-quarter-inch meter and curb stop are standard. The owner shall make the tap at the water main. An applicant needing a meter larger than three-quarter-inch shall pay the difference in the cost of the larger meter and any ancillary appurtenances as required."

Section 70-43 – Turning Water On or Off Without Authority, Item (a): Councilwoman Natali stated that she was not comfortable in making it unlawful for someone to turn off their own water, especially if there was a leak in the middle of the night. After some discussion, the language was changed to "Except under emergency situations, it shall be unlawful for any person ..."

Section 70-44 – Regular and Uninterrupted Supply Not Guaranteed: Councilwoman Natali pointed out a typographical error at the end of the third line where "of" should be "or."

Section 70-45 – Discontinuance of Service at Request of Consumer: Councilman Sullivan suggested that language stating that the consumer would continue to be billed the minimum amount even though the water service was discontinued be added to this section.

During the review of Article V – Shallow Wells, Councilwoman Natali asked whether wells to be used for geo-thermal heating systems were included in this article. Bob Panek responded that they were not. There was some discussion regarding several properties in Town that were still operating on deep wells but would have to hook up to the Town's water system upon failure of the existing well.

Bob Panek explained that Article VII – Water Conservation was new and was required by the DEQ for renewal of the Town's ground water withdrawal permit. Sections from the Code of Virginia were required and relevant to the Town's waterworks were included in these sections.

Section 70-76 – Penalties for Noncompliance, Item (b): Councilwoman Natali noted a typographical correction in the last line where "or" should be "of."

Section 70-81 – Water Shortage Emergencies: Councilwoman Natali asked if there was a procedure in place to notify consumers of water shortage emergencies. Dave Fauber stated that in the past, the Town posted a banner at the entrance to Town. There was some discussion regarding the language in this section which stated that consumers would be notified in writing that a water shortage emergency had been declared by the Town. Dave Fauber stated that this may be required by State Code and suggested checking the Code before modifying the language. After further discussion, the language was changed to "Consumers will be notified in writing and other expeditious manners that a water ..." Vice Mayor Bannon asked whether the Town had an email database of Town residents. Councilman Sullivan stated that he had 773 email addresses for subscribers to the Gazette. Any emergency notifications could be done via the Gazette.

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The Council skipped review of Chapter 71 – Sewers and Sewer Use due to time constraints and moved on to review Chapter 72 – Water and Sewer Service Charges.

Section 72-4 – Testing Meters; Adjustment of Account for Error; Estimates for Meter Out of Order, Item (a): Bob Panek explained that the only change to this section was the deletion of the $5 fee which was required to be paid to the Treasurer to test a water meter.

Section 72-5 – Adjustment for Leaks: After much discussion regarding this section and the number of adjustments permitted within a three-year period and whether a cap should be placed on the water bill, Council agreed to leave the process as is for now, since many municipalities do not make any adjustments in water bills.

Section 72-6 – When Due and Payable; Penalty for Delinquency; Discontinuance of Service for Delinquency: There was much discussion regarding moving the due date back several days to allow citizens more time to pay their bill. JoAnna Leatherwood stated that it was the same people each month that waited until the last day to pay and that even if the due date was moved back, it would still be a problem. There was also some discussion regarding the timeframe for reading the meters, inputting the water usage and getting out the billing. It was suggested that staff could begin to read the meters earlier in the month to move up the billing process. Heather Arcos stated that staff would look into this possible change.

Section 72-7 – Collection of Fees, Rents and Charges: Bob Panek informed the Council that this section was taken directly from the Code of Virginia and expressed his concern regarding changing any of the language in this section to which Council agreed.

Section 72-8 – Liability for Minimum Charges: Bob Panek stated that the existing Code indicates that the owner of any dwelling or structure available for habitation shall be liable for the minimum water and sewer charges, but that was not what was practiced in Town. There was much discussion regarding the language in this section. Councilwoman Natali suggested a change to the last sentence for clarification to show "… connection charges shall not apply when a structure is rebuilt on the vacant lot." After further discussion, Council requested that Bob Panek revisit the language to further clarify the process adding that the language was still confusing.

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

Vice Mayor Bannon

Town Clerk

DRAFT

Recreation Department
December Council Report

1. The recreation department and library held teen movie night and a tween matinee. For teen movie night we showed Eagle Eye and had 25 teens. For the tween matinee we showed How To Train Your Dragon and had 15 children. We hope to continue these activities.

2. December 4 the recreation department will be making gingerbread houses. There will be other activities for smaller children. After the grand illumination ceremony in Central Park Jen will be taking pictures of children with Santa.

3. December 20, 21 and 22 the recreation department will have activities for children since school will be out. Children are invited to come out between 10 and 11:30 to do crafts and decorate cookies. The recreation department is looking for donations of undecorated holiday cookies and/or cupcakes.

4. The recreation department and library are planning a St. Patrick's Dance. This will tie in with the Christian Schools Scholastic Book Fair.

5. The Birding Festival met for a wrap up meeting and are excited to get started planning next years event.

6. Arts and crafts continue every Wednesday and we are joined by the Christian School after school program from time to time.

7. Students from Northampton High School visited Town to plant sea grass. They planted 1,000 plants. Tom Bonadeo gave a very informative talk about the importance of sea grass. The students worked very hard and we hope to have them back again for future projects.

8. Jen will be working on getting the BINGO up and going for all citizens of Cape Charles starting in January 2011.

9. BINGO at Heritage Acres is on hold due to the activities and the scheduling of the event. This will resume in January 2011.

Cape Charles Memorial Library
November 2010
Monthly Report Presented by Ann Rutledge

1. **Toddler/Preschool Storytime** was held on Thursday at 10:30 and a total of 38 children and caregivers attended this month.

2. The **Friends of the Library** met on November 8 at 5:00 in the Library and the **Cape Charles Library Board met** on November 9.

3. The library **displays** for this month featured Thanksgiving books for children and cookbooks for adults.

4. The **Friends of the Cape Charles Memorial Library** sponsored a bus trip to the **Harrington Casino** on November 10 and 37 people attended.

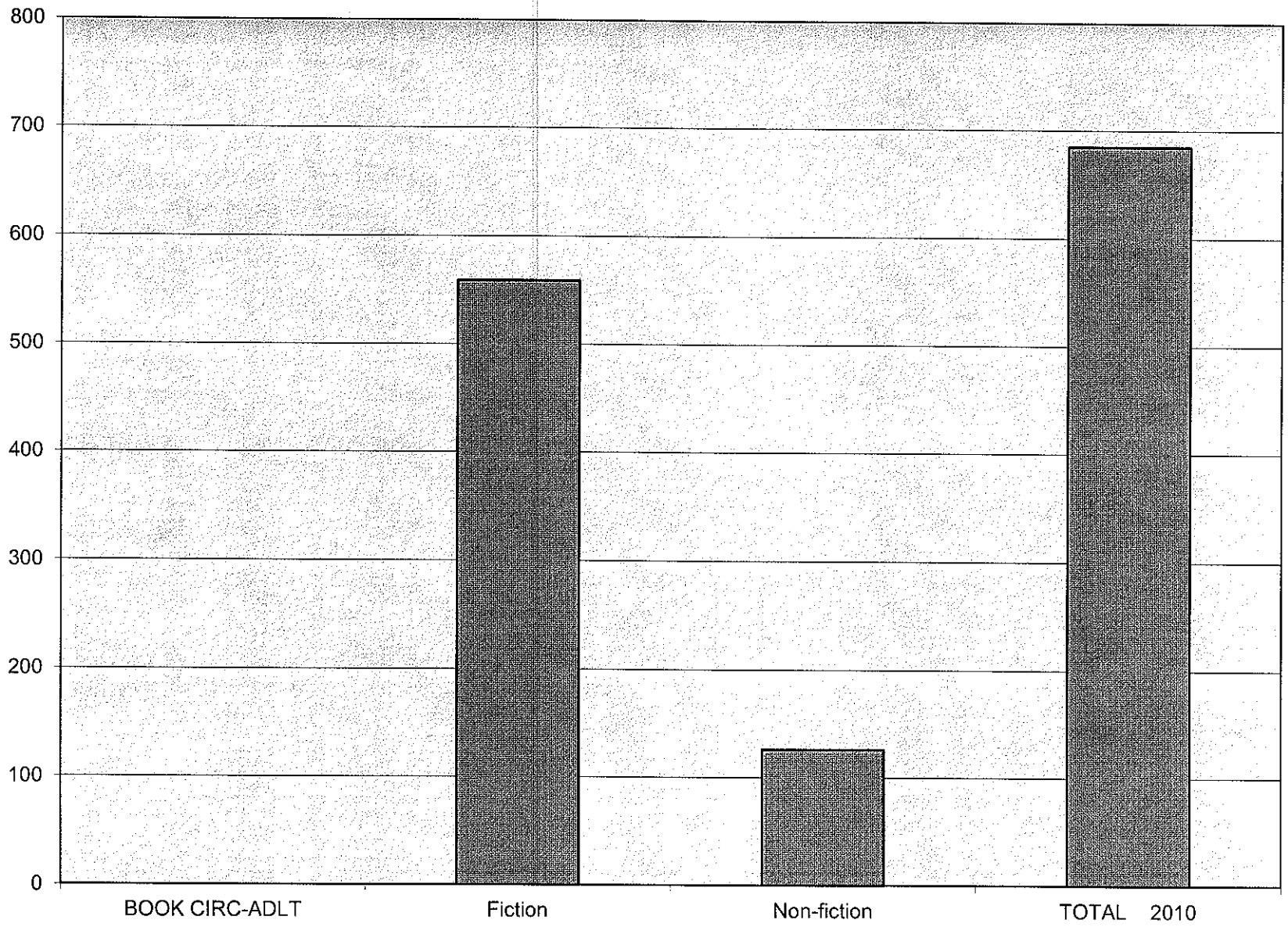
5. On November 17-18 the Cape Charles Memorial Library sponsored an **AARP Drivers Safety Class** held at Saint Charles Church fellowship Hall. We had 28 people to attend this two day class

6. On Friday, November 19, the Library and the Town of Cape Charles Parks & Recreation held Teen **Movie Night** from 7:00 to 9:00 at the Library. We had 20 teens ages 3 – 18 to this free program. Refreshments were provided.

7. On Sunday, November 21, the Library and the Town of Cape Charles Parks & Recreation will held a **Kids Matinee** from 2:00 to 4:00 at the Library. We had c15 children ages 8 to 12 to attend this free event. Refreshments were provided.

Cape Charles Memorial Library

							2010					
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV.	DEC
INCOME:												
Donations	$7.00	$2.00	$2.00	$5.40	$6.00	$2.00	$24.00	$2.00	$1.00	$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	
TOTAL	$42.40	$37.95	$55.00	$111.18	$84.30	$78.00	$101.50	$86.35	$63.30	$47.50	$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	
BOOK CIRC-ADLT												
Fiction	559	540	497	488	494	685	809	800	668	611	585	
Non-fiction	126	168	136	170	116	172	153	159	157	163	137	
TOTAL 2010	685	708	633	658	610	857	962	959	825	774	722	
Books Circ. 2009	459	648	525	703	685	720	654	979	692	711	610	
BOOKS CIRC-JUV												
Fiction	345	351	426	423	406	694	707	737	527	506	539	
Non-Fiction	118	101	105	156	80	82	101	94	104	105	146	
TOTAL 2010	463	452	531	579	486	776	808	831	631	611	685	
BOOKS CIRC. 2009	211	225	362	343	248	422	431	555	481	555	425	
TOTAL BOOK 2010	1148	1160	1164	1,237	1096	1,633	1,770	1,790	1,456	1,385	1,407	
TOTAL BOOK 2009	975	873	887	1,046	933	1,142	1,085	1,266	1,173	1,266	1,010	
Attendance 2010	742	732	995	1,060	1,535	1,392	1,833	1,805	1,324	1,252	1,151	
Attendance 2009	927	968	937	951	994	422	1,085	1,555	1,134	1,110	718	
Programs 2010	4	7	7	5	4	9	16	12	8	6	7	
Programs 2009	7	8	11	7	8	6	11	16	8	11	4	
Prog. Attend 2010	8	60	41	22	29	155	904	244	123	67	110	
Prog. Attend 2009	39	72	56	45	40	131	155	197	85	83	6	
Internet use 2010	428	385	375	713	941	746	708	853	632	572	478	
Internet use 2009	876	598	490	660	487	731	731	700	369	495	305	
Library Cards 2010	8	9	15	15	17	45	30	36	17	13	14	
Library Cards 2009	20	14	13	10	18	23	23	34	59	30	12	


800
700
600
500
400
300
200
100
0
BOOK CIRC-ADLT
Fiction
Non-fiction
TOTAL 2010

Harbor Report
November, 2010.

Maintenance

1. Scaled and Painted fuel pumps 1 & 2
2. Re-nailed dock boards
3. Re-screwed dock bumpers
4. Relocated Oil Spill Response Kit.
5. replaced fuel hoses on pump # 4,6 and 7

Upcoming, Scheduled Maintenance

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

Capitol Projects:

1. The marina bid opening will be on December 2, 2010,
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. Follow the harbor on "Face Book" and get daily fishing updates, weather, and much more. Go to the Harbor's web page and click on the Face Book Icon, and click the Like button. Or just simply type in the Face Book Search, Cape Charles Town Harbor and click like. We had 354 visits last week to the Harbor Face Book Page.
2. Rehired Kathleen Stevens for two hours a day until December 31, to help with cleaning the restrooms and office.
3. Reviewing old files and returning to the Clerk's office for destruction.

Harbor Report
November, 2010.

Business:

Average Boats in the Harbor per night by category:

Rentals	November	October	10/11	9/10
1. Nightly:	0.4	2.3	1.8	1.3
2. Weekly:	7.1	6.2	6.5	7.6
3. Monthly:	16.2	13.0	13.0	11.8
4. Seasonal:	13.0	12.1	10.3	8.6
5. Annual:	23.0	23.0	26.7	25.7
6. Total Rentals,	59.7	56.6	58.3	55.1

Wharf Fees by Pounds:

	November	October	10/11	9/10
1. Crabs:	44,415	21,500	206,820	1,429,920
2. Fish:	23,220	138,600	463,396	501,141
3. Conchs:	23,075	390	23,465	73,580
4. Horse Shoes:	0	0	0	63,280
5. Gravel:	0	1,000,000	1,000,000	0
6. Total Pounds:	90,710	1,160,490	1,693,681	2,067,921

Waiting List:	10/31	Registered	Removed	11/30
1. 60ft Slips:	3	0	0	3
2. 50ft Slips:	3	0	0	3
3. 45ft Slips:	11	0	0	11
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	0	0	77

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.

Make Your Reservation Now: For the fall Trophy Rockfish season. Some of the largest Rockfish on the bay are caught around the Cape Charles area.

William Smith Dize Jr.
Harbor Master
December 1, 2010

PUBLIC WORKS
November 2010

Dump Fees

- **Oyster Landfill** – 16 Trips
- **Sludge**- 0 Tons

Work Orders Open: 16
Work Orders Completed: 84

Staff Report

- The Erosion & Sediment Control Administrator attended recertification classes in Va. Beach Tues., Wed., Thurs.

Completed Projects

- Installed Christmas lights around town.
- Library doors and hardware are installed.

In Progress

- Alley maintenance.
- Vacuuming leaves out of the streets.
- Repairs to Fun Pier and Boardwalk. (FEMA)

Upcoming Projects

- Repairs to exterior of Municipal Building.

Special Events

- Christmas Holidays.

PUBLIC UTILITIES
November 2010

Work Orders Completed

- Miss Utility Tickets: 14
- Responded To Fire and Rescue Calls, Total Man Hours: 3

Staff Report

- Dan Dabinet, Freddie Meditz and Gerald Elliott attend class on "basic electricity" sponsored Va. Rural Water Association.

Completed Projects

- Working with DEQ to finalize Keck Well Aquifer Plan.
- Painted fire hydrants in town.

New WWTP

- Update will be delivered/presented at council meeting.

In Progress

- Awaiting response from DEQ for our Ground Water withdrawal permit. Must be revised to delete East Well II and add Keck Wells I & II. (Month 33)
- Repainting pipes and valves in water plant.

Upcoming Projects

- Mason Ave Pump Station force main rerouting (Bidding Process December and January)
- Fig Street Force Main rerouting.
- Install of new metering system for chemical feed pumps at the water plant.
- PER for connection to Keck Wells. (May not get VDH grant money)
- PER for chlorination byproducts. (May not get VDH grant money)
- Painting of interior of water tower tank (Spring).

Code Enforcement

Month of November FY 2011

Building Permits Issued/Permit Fees Collected:

Permits this month: 15

Permits this year: 73 Total permits last year: 200

Total construction this month: $127,434

Total construction this year: $1,665,769 Total construction last fiscal year: $3,967,519

Permit fees this month: $1,703.93

Total permit fees this fiscal year: $58,387.63 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: $143.74

Total Fire Dept. levies this year: $1,397.53 Total Fire Dept. levies last fiscal year: $3,282.54

State levy this month: $28.75

Total state levies this year: $280.50 Total state levies last fiscal year: $664.67

Miscellaneous Revenue:$0

Existing Structures Code Enforcement Cases:

Total Cases: 26

New this month: 0

Closed this month: 1

Rental Inspections:1

Rental C.O's Issued: 1

Rental Inspection fees collected: $50

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: $41.96

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)

Total Cases: 59

Received this month: 19

Closed:47

Unresolved: 12

Month of November FY11

Central Park Trail (T-21 Grant) (updated)
Hours spent working on project this month: 20

Key Notes:

- Substantial Construction is complete
- Town has provided final punch list to contractor – **About 60% Complete**
    - Punch list work has stalled planned meeting on Friday December 10 on site to discuss issues still outstanding.
- The 60+ new trees were planted the week of November 8. The trees look great.

Other items of note:

1. Completed 41 inspections
2. Conducted 1 zoning clearances
3. Completed 5 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 0 Public Utilities Shallow Well permits
9. Made site inspections throughout the month on the New Waste Water Treatment Plant Project.
10. Continued work on a nuisance ordinance update to incorporate piling of trash, garbage, materials, etc of an unnecessary quantity as a violation.
11. **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.**
12. Jeb Brady attended the VFPA (Virginia Fire Prevention Association) Conference in Roanoke the week of November 1, 2010. The training was for recertification hours for my Fire Inspector certification through the Department of Fire Programs.
13. **Jeb Brady took and passed the Building Official Legal & Management Module Examination on November 23, 2010. This examination is one half of the Certification that Jeb needs to become a Certified Building Official. Jeb hopes to take the other portion in the middle of December.**

Permit/Construction Fee Report Nov-10

Address	Type	Permit #	Date	Work Description	Permit Fee	Value
204 Bay Avenue	Building	PB100076	11/30/2010	Abandoning 1,000 Gal. UST	$100.00	$4,000
521 Bayside Avenue	Electrical	PE100040	11/19/2010	Permanent Temp. Pole	$84.00	$300
4 Bay Vistas Way	Mechanical	PM100021	11/17/2010	New Mech. For Res.	$140.00	$10,000
4 Bay Vistas Way	Plumbing	PP100022	11/17/2010	New Plumb. For Res.	$151.20	$12,000
4 Bay Vistas Way	Gas	PG100015	11/17/2010	Gas Piping for Res.	$56.00	$995
115 Heron Point Drive	Building	PB100075	11/29/2010	Alt. to weather in exterior of bld.	$229.60	$26,000
19 Kings Bay Drive	Building	PB100071	11/4/2010	Permit to Finish SF Dwelling	$249.69	$29,589
19 Kings Bay Drive	Gas	PG100013	11/4/2010	Permit to finish	$56.00	$100
19 Kings Bay Drive	Mechanical	PM100019	11/4/2010	Permit to finish	$75.60	$4,250
19 Kings Bay Drive	Plumbing	PP100020	11/4/2010	Permit to finish	$56.00	$2,200
27 Kings Bay Drive	Building	PB100072	11/4/2010	Permit to Finish SF Dwelling	$224.00	$25,000
27 Kings Bay Drive	Gas	PG100014	11/4/2010	Permit to finish	$56.00	$100
27 Kings Bay Drive	Mechanical	PM100020	11/4/2010	Permit to finish	$69.44	$3,700
27 Kings Bay Drive	Plumbing	PP100021	11/4/2010	Permit to finish	$56.00	$2,200
234 Tazewell Avenue	Building	PB100074	11/10/2010	Tear off / reroof	$106.40	$7,000
				Totals	$1,709.93	$127,434

Printed: 12/01/2010

Revenue Totals by Category/Items

From: 11/01/2010 to: 11/30/2010

Miscellaneous		
Fire Dept Fee	14	$143.74
Miscellaneous totals	**14**	**$143.74**

Rental Fee		
RENTAL INSPECTION	1	$50.00
Rental Fee totals	**1**	**$50.00**

State Tax		
STATE TAX.	14	$28.75
State Tax totals	**14**	**$28.75**

Valuation		
Com $0 - $2.5K	1	$75.00
UST Removal	1	$100.00
Valuation Res $0 - $2.5K	2	$100.00
Valuation Res $0-$2.5K	3	$150.00
Valuation Res $2.5K - 10K	4	$349.50
Valuation Res > $10K	4	$762.94
Valuation totals	**15**	**$1,537.44**

Grand Totals	**44**	**$1,759.93**

MONTHLY INSPECTION TOTALS

	Jeb Brady		
		Initial	11/10/2010
		Sheathing	11/01/2010
		Framing	11/10/2010
		Insulation	11/30/2010
Total		4	
	David Fauber		
		Footing	11/05/2010
Total		1	
	Jeb Brady		
		Final	11/30/2010
		Final	11/08/2010
		Final	11/10/2010
Total		3	
	David Fauber		
		Insulation	11/05/2010
Total		1	
	Jeb Brady		
		Final	11/18/2010
		Final	11/30/2010
		Sheathing	11/04/2010
		COURTESY	11/30/2010
		Final	11/30/2010
		Final	11/10/2010
		Final	11/18/2010
		Final	11/30/2010
		CUT-IN	11/15/2010
		CUT-IN	11/17/2010
		CUT-IN	11/10/2010
		COURTESY	11/30/2010
		CUT-IN	11/23/2010
		Rough-In	11/10/2010
		Final	11/30/2010
		Final	11/04/2010
		COURTESY	11/30/2010
		Final	11/04/2010
Total		18	
	David Fauber		
		Rough-In	11/10/2010

MONTHLY INSPECTION TOTALS

Total		1	
	Jeb Brady		
		Final	11/30/2010
		Final	11/10/2010
		Final	11/18/2010
Total		3	
	David Fauber		
		Final	11/30/2010
Total		1	
	Jeb Brady		
		COURTESY	11/30/2010
		Rough-In	11/10/2010
		Final	11/08/2010
		Final	11/30/2010
		Final	11/18/2010
		Final	11/04/2010
		COURTESY	11/30/2010
		Final	11/04/2010
		Final	11/30/2010
Total		9	
Grand Total		41	

InsDateCompleted Range from 11/01/2010 to 11/30/2010

Planning Commission Report for Town Council

From: Tom Bonadeo

To: Town Council

Date: December 7, 2010

Subject: Report for Planning Department

Planning Commission Meeting–December 7

1. The Planning Commissions meeting was held on Tuesday of this week.

2. The Planners held public hearings and discussed the following items:

    a. CUP for 207 Mason Avenue – 2nd and 3rd floor
    b. CUP for 546 Madison - Proto – Home Occupation

Both of these items were discussed at the December 7th meeting and results were not available as of this writing.

3. The planner has been working on the following projects
    a. Central park – final checklist items.
    b. Beach plan for the winter.
    c. Student/Town Project – Planting Beach Grass
    d. Re-zoning Application
    e. Historic District Guideline review and update
    f. Boundary Adjustment
4. Numerous setback informational issues for new and prospective property owners.
5. Shore Erosion issues for some Cape Charles residents.

Historic District Review Board Meeting – November 16

The Historic Review Board continued work on the revisions to the Guidelines. The Board had the opportunity to test some of the changes using a charrette based on possible future renovation. New language should be ready for Planning Commission review by January.

TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Police Department		AGENDA DATE December 09-2010
	SUBJECT/PROPOSAL/REQUEST: NOVEMBER 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: 51

Calls for Service Outside of Cape Charles: 11
10-13 Calls
(A) By Dispatch: 54
(B) By Phone via Officer/Trooper: 05
(C) In Person 03

Felony Arrests: 00

Misdemeanor Arrests: 01

DUI Arrests:00

Traffic Summons Issued: 38

Traffic Warnings Issued: 02

Parking Tickets Issued: 03

Assisted Northampton County Sheriff's Office: 09
Assisted Virginia State Police: 01
Assisted Other Local Police:
Assisted Other Federal Agencies

Assisted Fire & Rescue: 08
Assisted VDOT:

Hours of Training Received & What Type? NONE

TOWN OF CAPE CHARLES	**AGENDA TITLE:** Town Code Revision – Proration of Personal Property Tax		**AGENDA DATE:** December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Review the possibility of prorating personal property taxes		**ITEM NUMBER:** 6A
	ATTACHMENTS: Proposed Section 66-5 – Proration of Personal Property Tax, Ordinance 20101209		**FOR COUNCIL:** Action (X) Information ( )
	STAFF CONTACT (s): Heather Arcos	**REVIEWED BY:** Heather Arcos, Town Manager	

BACKGROUND:

The majority of localities in the Commonwealth of Virginia prorate personal property taxes assessed to the residents in the locality.

If a resident moves in or out of the Town or buys or sells their vehicle or other taxable personal property, they are billed for the full year regardless of the amount of time such property was housed in Town. The Town has received some requests to pro-rate personal property taxes.

DISCUSSION:

Copies of the Northampton County Ordinance regarding Proration of Personal Property Tax is included for Council's review as well as the proposed language to be added to Article 1, Chapter 66 of the Cape Charles Town Code. Staff talked to a representative of the County Commissioner of Revenue's office regarding implementation of a procedure relating to the processing of any proration requests for taxable personal property housed in the Town of Cape Charles. The County and the Town will work together to notify each other of proration requests received to insure both entities have the same information.

A public hearing is scheduled for December 9, 2010 beginning at 6:00 PM, immediately preceding the Town Council Regular Meeting.

RECOMMENDATION:

Staff recommends a roll call vote to adopt Ordinance #20101209 To Add Section 66-5 – Proration of Personal Property Tax to the Cape Charles Town Code, to be effective for Tax Year 2011.

Proposed Addition to the Cape Charles Town Code

§ 66-5 PRORATION OF PERSONAL PROPERTY TAX.

(A) There shall be a personal property tax at a rate established each year by the Town Council on motor vehicles and trailers, (hereafter referred to in this section as "taxable property") which have a situs within the Town on January 1 of each year and which acquire a situs within the Town on or after January 2 of each year. When taxable property is acquires a situs within the Town on or after January 2, the personal property tax for that year shall be assessed to the property owner prorated on a monthly basis for that portion of the tax year during which the taxable property has situs within the Town. When taxable property with a situs in the Town is transferred to a new owner within the Town, the personal property tax shall be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period less than one-half of a month shall not be counted. All taxable property shall be assessed as of January 1 of each year or if it acquires situs or has its title transferred. The owner of taxable property acquiring situs within the Town or to whom taxable property is transferred shall file a declaration of property ownership with the Treasurer within 30 days of the date on which such property acquires a situs within the Town or has its title transferred to such owner.

(B) When any taxable property loses its situs within the Town or its title is transferred to a new owner, the taxpayer shall from that time be relieved from personal property tax on such property and receive a refund of personal property tax already paid, or a credit against personal property taxes outstanding against the taxpayer, at the option of the Treasurer, on a monthly prorated basis, upon application to the Treasurer, provided, that application is made within one year from the last day of the tax year which the taxable property lost situs or had its title transferred.

(C) Any person who fails to pay personal property taxes on or before the date due shall incur a penalty of 10% of the tax due. The sum shall become part of the taxes due. Interest at the rate of 10% per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

(D) The Treasurer may, on or after December 15 of each year, bill all personal property taxes assessed for a portion of the tax year less than the full year which have not been otherwise billed. Taxes so billed shall be due no later than 30 days after the date of the tax bill.

ORDINANCE NO. 20101209

TO ADD SECTION 66-5 – PRORATION OF PERSONAL PROPERTY TAX TO THE CAPE CHARLES TOWN CODE

WHEREAS, the Town of Cape Charles has not been prorating personal property taxes; and

WHEREAS, if a resident moves in or out of the Town of Cape Charles or buys or sells their vehicle or other taxable personal property, they are billed for the full year regardless of the amount of time such property was housed in Town; and

WHEREAS, the majority of localities in the Commonwealth of Virginia prorate personal property taxes; and

THEREFORE, BE IT ORDAINED by the Town Council of the Town of Cape Charles this 9th day of December, 2010 that Section 66-5 of the Cape Charles Town Code be added as follows to be effective for Tax Year 2011:

(A) There shall be a personal property tax at a rate established each year by the Town Council on motor vehicles and trailers, (hereafter referred to in this section as "taxable property") which have a situs within the Town on January 1 of each year and which acquire a situs within the Town on or after January 2 of each year. When taxable property is acquires a situs within the Town on or after January 2, the personal property tax for that year shall be assessed to the property owner prorated on a monthly basis for that portion of the tax year during which the taxable property has situs within the Town. When taxable property with a situs in the Town is transferred to a new owner within the Town, the personal property tax shall be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period less than one-half of a month shall not be counted. All taxable property shall be assessed as of January 1 of each year or if it acquires situs or has its title transferred. The owner of taxable property acquiring situs within the Town or to whom taxable property is transferred shall file a declaration of property ownership with the Treasurer within 30 days of the date on which such property acquires a situs within the Town or has its title transferred to such owner.

(B) When any taxable property loses its situs within the Town or its title is transferred to a new owner, the taxpayer shall from that time be relieved from personal property tax on such property and receive a refund of personal property tax already paid, or a credit against personal property taxes outstanding against the taxpayer, at the option of the Treasurer, on a monthly prorated basis, upon application to the Treasurer, provided, that application is made within one year from the last day of the tax year which the taxable property lost situs or had its title transferred.

(C) Any person who fails to pay personal property taxes on or before the date due shall incur a penalty of 10% of the tax due. The sum shall become part of the taxes due. Interest at the rate of 10% per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

(D) The Treasurer may, on or after December 15 of each year, bill all personal property taxes assessed for a portion of the tax year less than the full year which have not been otherwise billed. Taxes so billed shall be due no later than 30 days after the date of the tax bill.

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Adopted by the Town Council of Cape Charles on this 9th day of December, 2010.

_____
Mayor Dora Sullivan

ATTEST:

_____
Town Clerk

TOWN OF CAPE CHARLES	AGENDA TITLE: Personnel Policy Manual Update		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Updates of Sections 1, 2, 3 and 8 of the Cape Charles Personnel Policy Manual		ITEM NUMBER: 6B
	ATTACHMENTS: Section 1 – Introduction, Section 2 – Personnel Recruitment and Selection, Section 3 – Compensation, and Section 8 – Employee Ethics, Conduct and Responsibilities		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, four sections were reviewed by Council at the November 8th meeting. The recommended changes have been incorporated and are presented for final review at this evening's meeting.

DISCUSSION:

Section 1 – Introduction:

- § 1.5 – Statements were added to the full-time and part-time employee definitions referring to "non-exempt" status.

Section 2 – Personnel Recruitment and Selection:

- § 2.2 – "Employment At Will" language was clarified deleting the last sentence which conflicted with language in § 1.1 regarding written contracts.
- § 2.6 – This language was clarified adding that medical examinations may be required of applicants for certain positions.
- § 2.9 – In the second paragraph, clarified that both full-time and part-time employees are credited with 24 hours of annual and sick leave after three months of employment.
- § 2.14 – This section was revised to state that no employee of the Town may run for elected office for the Town of Cape Charles.

Section 3 – Employee Compensation:

- § 3.2 – Revised language to state that employees are entitled to two 15-minute breaks in an 8-hour work period and that the breaks cannot be used to extend a lunch break.

Section 8 – Employee Ethics, Conduct, and Responsibilities:

- § 8.11.2.D.5 – Added that remote access to the Town's computer network requires written approval from the Dept. Head and Town Manager.

RECOMMENDATION:

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

TOWN OF CAPE CHARLES

Personnel Policies, Rules, and Regulations

Section 1 Introduction

Section 1.1 Purpose

The objective of these Personnel Policies, Rules and Regulations ~~("Policies")~~ is to provide a uniform system of personnel administration for the staff of the Town of Cape Charles ("Town"), based on merit principles, equitable compensation, open competition in hiring and advancement, and equal employment opportunities.

It is the policy of the Town to establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of the Town and its employees. This manual is not and shall not be construed as an explicit or implied contract, shall not modify any existing At-Will status of any Town employee and shall not create any due process requirement in excess of State or Federal constitutional or statutory requirements. The term At-Will means employees can terminate or be terminated at will. Exceptions are employees having written contracts signed by the Town Manager or Town Council.

Additionally, it is the policy of the Town to strive for safety in all activities and operations, and to carry out the commitment of compliance with health and safety laws applicable to the Town by enlisting the help of all employees to ensure that public and work areas are free of hazardous conditions.

Section 1.2 Establishment of Rules and Organization of the Personnel Function

When you entered employment with the Town of Cape Charles, you began working for the citizens of the Town. A spirit of understanding and courtesy is essential to those in the public service. These personnel policies, rules, and regulations are intended to provide you with information and guidance so that all employees of the Town are afforded equal and consistent treatment.

The Town Manager is designated as the personnel officer and is responsible for personnel administration within the Town government. The Town Manager may assign the responsibility of administering these policies, rules, and regulations to an administrative official under his or her supervision.

The Town Manager, or designee, ~~and~~ shall maintain all official personnel files, including but not limited to the following: employment applications, letters of appointment, reference checks, performance evaluations, notices of commendations and disciplinary actions. All employee files are confidential and copies of information contained therein may be released only upon written authorization of the employee or by requirement of State and Federal law.

The policies, provisions, rules, and regulations contained herein may be modified, changed, deleted, or supplemented at any time by formal action taken by the Town Council. Neither the Town Council nor the Town Manager is limited by the strict terms of this policy because it is not

possible to include every conceivable circumstance in this document. This policy is intended to serve as a basic framework upon which equal and fair treatment of all employees may be predicated.

In addition to these rules, each department may regulate employee conduct by separate rules and procedures that are approved by the Town Manager and disseminated to all affected employees so long as they are not in conflict with these rules and regulations.

All personnel matters, including disciplinary actions, are considered to be of a confidential nature by the Town.

Section 1.3 Applicability of Rules

The Town of Cape Charles Personnel Policies, Rules and Regulations apply to all Town employees except any employee specifically exempted by action of the Town Council.

Section 1.4 Dissemination of Rules

The Town Manager will make public complete copies of the Town of Cape Charles Personnel Policies, Rules and Regulations. Department heads shall be responsible for maintaining a complete, current set of rules and regulations and for bringing these items to the attention of all employees under their supervision. Each new employee of the Town will be given a complete copy of this policy, and a receipt signed by the employee shall be maintained in the individual's personnel file to document the distribution. Official changes to this document will also be disseminated to all Town employees by memoranda from the Town Manager. The Town Manager may issue memoranda interpreting situations not covered by this document to be disseminated to all employees for future application and guidance.

Section 1.5 Definitions

Where used in these Personnel Policies, Rules, and Regulations, the following words and forms shall have the meaning indicated below:

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.

D. **Probationary Employee** – a full-time or part-time employee who has worked for the Town for less than six months or as specified in his/her offer of employment letter.

E. **Seasonal or Temporary Employee** – an individual hired on a term basis, e.g., day, week, period of months (less than a twelve-month period), or on a project basis. When employment is varying in scheduled hours and is limited in duration to a project or an exceptional need for service, such employment, whether 40 hours per week or less, is regarded as casual or temporary and such employee receives no Town fringe benefits.

F. **Contract workers** – Individuals hired as contract ~~hourly~~ ~~wage~~workers are not eligible for Town-paid fringe benefits, or for participation in the Virginia Supplemental Retirement System and are not eligible to accrue sick leave or vacation days nor do they qualify for holiday pay. Contract ~~hourly~~ ~~wage~~workers may be hired for short-term special projects or for long-term or recurring tasks.

Section 1.6 Maintenance of Personnel Policy Manual

It is the responsibility of each employee to maintain his/her personnel manual. Any amendments to the policy made by the Town Council become effective on the date of the amendment unless otherwise specified.

Section 2 Personnel Recruitment and Selection

Section 2.1 Equal Employment Opportunity Statement

Equal employment opportunity laws are intended to protect the employment rights of all persons. In keeping with Federal law, it is the policy of the Town of Cape Charles that all employees of the Town and applicants for employment shall be afforded equal opportunity in all aspects of personnel management without regard to race, color, sex, age, or ethnicity. The Town Manager is responsible for implementing and continually supervising this policy to ensure that all phases of personnel management within the Town are in fact free from discrimination in all respects.

The Town of Cape Charles does not discriminate on the basis of handicapped status in admission or access to, or treatment or employment in, its programs and activities.

Section 2.2 Employment At Will

Every employee of the Town of Cape Charles has the status of "employee-at-will," meaning that no one has a contractual right, express or implied, to remain in the Town's employ. The Town may terminate an employee's employment, or an employee may terminate his/her employment, without cause, and with or without notice, at any time for any reason. ~~No supervisor or other representative of the Town has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above.~~

Section 2.3 Vacancies

In the event of a job vacancy in the Town service, the Town Manager may publicize such vacancy in appropriate newspapers or other sources. Vacancies in appointed officer positions must be publicized at least once a week for two consecutive weeks. The Town Manager shall have the discretion to select the newspapers to be used and/or to use any other forms of solicitation he/she deems necessary or appropriate for the position involved.

Section 2.4 Standards for Employment

All applicants for Town employment shall be required to meet established standards specified in the job description for the particular position as a condition of employment.

Section 2.5 Application

All applicants for Town employment must fill out and furnish complete information on an official application form provided for the position for which they apply. The provision of false information on an application may be grounds for dismissal from Town employment.

Any applicant who is to be recommended for employment with the Town will be subject to a background check before he or she is offered the job. This background check could include a check of driving record with the State Division of Motor Vehicles, a check with references, an investigation of criminal history record, if any, and an investigation into any prior abuse or potential abuse of alcohol and narcotic substances which would impair performance and pose a threat to the public welfare and safety.

Applicants are expected to have a high school diploma or its equivalent. Those persons applying for positions which require the operation of a motor vehicle must present a valid driver's license at the time of employment.

Section 2.6 Medical Examination

Prior to Town employment, ~~any~~ applicants may be required to complete a medical examination for the purpose of determining fitness for ~~the~~ certain positions. The Town also reserves the right to require such an examination at any time during employment. In addition, all applicants who are tentatively offered positions with the Town will be required to pass a drug analysis test prior to employment. All employees will be subject to random drug testing at any time. (See Section 10.)

Section 2.7 Identification

Each applicant must complete a U.S. Department of Justice Employment Eligibility Verification form (Form I-9) and provide the appropriate identification. Additional release of information agreements may be required for certain positions.

Section 2.8 Appointment

Department heads shall examine applications and interview applicants for employment upon request of the Town Manager and recommend applicants for appointment to vacancies existing within their departments. The Town Manager shall appoint all employees of the Town covered by these Personnel Policies, Rules, and Regulations.

Each employee must sign a Declaration of Employment, which will also be signed by the Town Manager and will be placed in the employee's personnel file. This document will include the conditions of employment; whether job status will be classified as exempt or non-exempt, full-time, permanent part-time, seasonal or temporary, or contractual; dates of probationary period; beginning inclusion dates of benefit programs; a brief job description, and any other information that is relevant.

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.

~~The applicant~~ 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 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. **(JoAnna said**

that both full-time & part-time employees get 24 hours of annual & sick leave. Is this really the case since part-time employees only get ½ of what full-time employees get?????)

Section 2.10 Special Programs

The Town Manager may make use of summer interns, Job Training Partnership Act employees, or similar programs as deemed in the best interest of the Town. The provisions of Section 2.3 and 2.8 shall not apply in these situations.

Section 2.11 Substitutes in Emergency Situations

In order to prevent disruptions to Town services or operations, the Town Manager or his designee may hire a substitute to fill the necessary position on a temporary basis. The Town Manager or his designee may hire individuals from those applications currently on file with the Town or experienced individuals known to the Town Manager or department head who can handle the type of work involved or may make use of commercial employment services providing temporary help. It is the intent of this provision to allow the hiring of individuals on a short-term basis where an individual employee is sick, where an emergency situation has arisen, or where there is insufficient time to properly advertise in accordance with Section 2.3 of this policy. Where a long-term vacancy exceeding sixty days is anticipated, the position shall be advertised.

Section 2.12 Maintaining Applications on File

Applications filed with the Town shall be maintained in a current file status for six months. These applications shall be considered in the event appropriate positions become available or in the event the Town needs substitutes or part-time employees. In the event that a position had been advertised and the individual who was hired fails to complete the probationary period or in the event that a similar vacancy occurs, the Town Manager shall have the discretion to fill the position from current applications on file or to readvertise the position. It is the intention of this provision that all qualified applicants be considered and that the Town not be required to readvertise a position where there are numerous qualified applications on file and where sufficient publication has recently been completed.

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. 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.

Section 2.14 Exclusion of Employees as Mayor or Members of Council

~~No Mayor or member of Council shall be an employee of the Town and upon the qualification of any such person for such position, his or her employment shall cease. Provided that those employees who currently serve on Council may complete the current individual terms to which each one was elected (as of July 10, 2007).~~ No employee of the Town shall be permitted to run for elected office for the Town of Cape Charles. If any employee shall run for elected office for the Town, his or her employment shall cease upon submittal of the Certificate for Candidate Qualification.

Section 3 Employee Compensation

Section 3.1 Pay and Classifications – Compensation Plan

The compensation plan for employees of the Town shall consist of:

1. A classification system for all classified jobs.
2. A paygrade that sets a salary range for each classified position.

The rates of pay for each employee within a paygrade shall be set by the Town Council. The normal entrance rate of pay for new employees shall be at the lower end of the pay grade for the position.

Employees shall be paid following the end of each pay period on a bi-weekly schedule. Currently, the Town's work week runs from Tuesday through Monday.

The compensation plan may be amended by motion of the Town Council.

Section 3.2 Hours of Work

The standard scheduled workweek for all full-time employees consists of 40 hours. This does not preclude the establishment of specified schedules other than 40 hours in a given workweek if approved by the Town Manager. Part-time employee schedules shall be pre-arranged and approved by the Department Head and Town Manager.

The Chief of Police shall establish the hours of work for all Police Officers. These positions are established so that a work period is consistent with 160 hours of work for a 28-day work cycle. Additional hours earned during a cycle between 160 and 171 are paid hour for hour. Any hours over 160 require prior approval by the Chief of Police and the Town Manager. Please refer to the *Cape Charles Police Department Policy of Personnel Procedures* for more detailed information.

Both full-time and part-time employees are entitled to ~~one~~ two 15-minute breaks for each ~~4-hour~~ 8-hour work period. Such breaks may not accumulate from one day to another nor can they be used to extend a lunch break. Work times and pay are inclusive of break time(s).

The work week begins on Tuesday and ends on the following Monday. Flexible work scheduling may be considered within the standard workweek so long as the standard hours in a workweek, normally 40 hours, are not altered. Any variation is subject to prior approval by the Department Head and Town Manager. Some examples are:

1. Arrive earlier in the morning and leave earlier in the afternoon.
2. Arrive later in the morning and leave later in the afternoon.
3. Other temporary or occasional flexible work scheduled may include some combination of altered work start and stop times to allow employees to have medical appointments or take care of personal business during work hours without being charged leave.
4. If flexible work schedules are instituted on an ongoing basis, the Department Head may approve such only after consultation with the Town Manager. An example of when an ongoing flexible work schedule may be requested could be for the employee to attend a class at the Eastern Shore Community College.

Section 8 Employee Ethics, Conduct, and Responsibilities

§ 8.11.2.D.5

5) **Uses Subject to Approval.** The following uses require the written approval of the employee's supervisor or department head and Town Manager:

- Using hardware, related computer equipment, and software not owned or purchased by the Town for e-mail or internet access related to Town business.
- Reading electronic mail of another employee without prior written approval. However, an employee's supervisor may inspect the contents of e-mail pursuant to the section entitled "Ownership" in this policy.
- Encrypting any e-mail message unless specifically authorized to do so and without depositing the encryption key with the computer administrator or your immediate supervisor prior to encrypting any messages. If an employee is allowed to encrypt e-mail, this does not mean that e-mail is intended for personal communication nor does it suggest that encrypted e-mail messages are the private property of the employee.
- The downloading of any software or programs.
- Remote access to the Town's computer network.

TOWN OF CAPE CHARLES	AGENDA TITLE: Zoning Ordinance Revision – Group Homes		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Required Zoning Ordinance Change for Group Homes		ITEM NUMBER: 6.C.i
	ATTACHMENTS: Proposed Zoning Ordinance modifications		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Tom Bonadeo	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

During the last General Assembly session, many new bills were adopted. Since the Commonwealth of Virginia closed some of its hospitals for mental illnesses, Code of Virginia § 15.2-2291 allows the establishment of homes to care for these people in single family zones and mandates adoption by local governments.

DISCUSSION:

The new code section states that group homes of eight or less individuals and one or more resident advisors is equal to a single family residence. No conditions or restrictions can be greater than those on a single family.

There are several very important points to understand about this ordinance:

1. The current Cape Charles Zoning Ordinance has group homes specifically not allowed under home occupations in the R-1 zone.
2. The occupants of these group homes, as required by the State, have very specific requirements.
   a. Ages, infirmed, mental illness, mental retardation or developmental disabilities.
   b. The home must be licensed by the Department of Behavioral Health and Developmental Services or the Department of Social Services depending on the type of residents.
   c. This group does not include persons with addictions to a controlled substance as defined in the Code of Virginia § 54.1-3401.

The Cape Charles Zoning Ordinance would be changed to allow group homes only within the definition required by the Code of Virginia and with the required advisors as licensed by the specific state agencies. No other group homes would be allowed. This change is a requirement of state code, not an option for Cape Charles.

A public hearing is being held immediately preceding the regular Town Council meeting.

RECOMMENDATION:

Staff recommends adoption of the proposed modifications to Sections 2.9, 3.2.B.6, and 4.0.C.1 as presented.

Zoning Ordinance Modifications – Group Homes

During the last General Assembly session, many new bills were adopted. Since the Commonwealth of Virginia closed some of its hospitals for mental illnesses, this bill allows the establishment of homes to care for these people in single family zones. Adoption of this bill by local governments is mandated by the Code of Virginia § 15.2-2291.

§ 15.2-2291. Assisted living facilities and group homes of eight or fewer single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

Group Home Modifications to the Cape Charles Zoning Ordinance

- Definition being added to § 2.9:

  Group Home – A residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more residential counselors or other staff persons and licensed by the Department of Behavioral Health and Developmental Services. For the purposes of this ordinance, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Va. Code 54.1-3401.

- Add use in § 3.2.B.6:

  B. Permitted Uses. The following uses are permitted by right:
     1. Single-Family dwellings
     2. Churches and places of worship
     3. Parks and playgrounds
     4. Accessory Buildings
     5. Schools and Municipal Community Center
     6. Group Home per Va. Code 15.2-2291

- Remove "group home" from § 4.0.C.1:

  C. The following are specifically excluded:
     1. Family care homes, group homes except as allowed under Va. Code 15.2-2291, nursing homes ...

TOWN OF CAPE CHARLES	**AGENDA TITLE:** Zoning Ordinance Revision – Temporary Family Health Care Structures		**AGENDA DATE:** December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Required Zoning Ordinance Change for Temporary Family Health Care Structures		**ITEM NUMBER:** 6.C.ii
	ATTACHMENTS: Proposed Zoning Ordinance modifications		**FOR COUNCIL:** Action (X) Information ( )
	STAFF CONTACT (s): Tom Bonadeo	**REVIEWED BY:** Heather Arcos, Town Manager	

BACKGROUND:

During the last General Assembly session, many new bills were adopted. Code of Virginia § 15.2-2292.1 requires local zoning ordinances to allow Family Health Care Structures in the single family zone. A family health care structure is an accessory structure of 300 square feet or less for no more than one occupant who shall be mentally or physically impaired.

DISCUSSION:

The new code section states that our Zoning Ordinance allow these structures in the R-1 zone. These structures have several conditions attached:

1. 300 square feet or less
2. Must be removed from the property within 30 days of the person no longer needing the structure.
3. Occupant must meet the definition of "impaired" person.
4. Must meet our existing setback requirements.
5. No special permits but a fee of no more than $100.
6. Special caregiver relationship.
7. Shall not be on a permanent foundation. Must meet the USBC and 110 MPH wind load.
8. May be required to connect to the "existing" water and sewer.

These structures have been named "granny pods" and if you Google search you'll find lots of information but not much real material about them actually being installed. They resemble our accessory apartment but with a temporary twist. This code change is a requirement state code and the modifications are meant to meet the requirement.

A public hearing is being held immediately preceding the regular Town Council meeting.

RECOMMENDATION:

Staff recommends adoption of the proposed modifications to Sections 2.9 and 4.2.E as presented.

Zoning Ordinance Modifications – Temporary Family Health Care Structures

During the last General Assembly session, many new bills were adopted. § 15.2-2292.1 requires local zoning ordinances to allow Family Health Care Structures in the single family zone. A family health care structure is an accessory structure of 300 square feet or less for no more than one occupant who shall be mentally or physically impaired.

§ 15.2-2292.1. Zoning provisions for temporary family health care structures.

A. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.

B. For purposes of this section:

"Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

"Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

"Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

C. Any person proposing to install a temporary family health care structure shall first obtain a permit from the local governing body, for which the locality may charge a fee of up to $100. The locality may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The locality may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

D. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

E. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

F. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

G. The local governing body, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to ensure compliance with this section.

Temporary Family Health Care Structures Modification to the Cape Charles Zoning Ordinance

- Definitions being added to § 2.9:

  Caregiver – An adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

  Mentally or Physically Impaired Person – A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Va. Code 63.2-2200, as certified in writing by a physician licensed in the Commonwealth of Virginia.

- Add #11 to § 4.2.E:

  11. Temporary Family Health Care Structures are only allowed per the Va. Code 15.2-2292.1.

TOWN OF CAPE CHARLES	AGENDA TITLE: Zoning Ordinance Revision – Chesapeake Bay Preservation Act Requirements		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Text Changes to strengthen the Chesapeake Bay Preservation Act		ITEM NUMBER: 6.C.iii
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Tom Bonadeo	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

More than 10 years ago, the Town of Cape Charles became one of the first localities to adopt the Chesapeake Bay Preservation Act. The Chesapeake Bay Local Assistance Group is auditing localities to see if the ordinances have done their job or need to be strengthened.

DISCUSSION:

During the review of the Cape Charles ordinances, it was found that some improvement could be made. The following modifications are text changes that do not modify the intent of the ordinance but require additional information to be included on site plans.

Section 4.B of the Site Plan Ordinance has 18 points required for a proper site plan. Article 4 also discusses landscaping. The following changes will require additional notation of the Resource Protection Area (RPA) and Buffer areas on these plans.

1. Add #7 to § 4.4.B:

    7. The comprehensive plan for each parcel shall include the requirement to retain the 100 foot Resource Protection Area (RPA) and associated buffer area.

2. Revised Appendix B – Site Plan Ordinance, § 4.A.1.h:

    h. location of Resource Protection Area (RPA) boundary, as specified in Subsection 7.4.A of the Chesapeake Bay Preservation Ordinance, including any additional buffer areas <u>and RPA maintenance and use restrictions</u>.

A public hearing is being held immediately preceding the regular Town Council meeting.

RECOMMENDATION:

Staff recommends adoption of the proposed modifications to Section 4.4.B of the Zoning Ordinance and Appendix B, Section 4.A.1.h as presented.

TOWN OF CAPE CHARLES	AGENDA TITLE: 207 Mason Avenue – CUP Residential 2nd floor		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: 207 Mason Avenue – Schedule a joint public hearing with Planning Commission		ITEM NUMBER: 6D.i
	ATTACHMENTS: Planning Commission Package		FOR COUNCIL: Action (x) Information ( )
	STAFF CONTACT (s): Tom Bonadeo - Heather	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

An application has been received by Planning Commission for a conditional use permit (CUP) for residential use over commercial at 207 Mason. This is the former Delisheries building that has only one floor. The applicant proposes 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 a loft. The CUP was extended in 2004 and 2005 due to the applicant being deployed for military service. The CUP was never acted on.

The 2003 plan had the second floor stepped back 10' from the existing building front. The new plan follows the same plan but steps the third floor back another 10'. There are extenuating circumstances surrounding the purchase of this building including potential tax sale and/or foreclosure so "time is of the essence".

DISCUSSION:

The Planning Commission has reviewed the application and scheduled a public hearing for their next meeting December 7. They have requested a Joint Public Hearing with Town Council as time is of the essence for the procurement of this property.

Planning Commission plans to make recommendation to Council after its next meeting and Council would be in a position to render a decision at its December 9th meeting.

RECOMMENDATION:

Recommend reviewing the Planning Commission's recommendation and public comments. Staff recommends approval of the CUP with the conditions as recommended by the Planning Commission.

Planning Commission Staff Report

From: Tom Bonadeo

Date: December 7, 2010

Item: 8A – 207 Mason CUP – Residential use in C-1

Attachments: Drawings and Application

Item Specifics

A complete application has been received for a Conditional Use Permit for 207 Mason Avenue. This building has also been known as the "Delisheries" building. The CUP is required for residential use in the C-1 zone.

This building is currently a one story building with a one and one half story front. In the commercial zone residential use is only allowed on floors above the first floor and not at ground level. Several other requirements must also be met:

1. The Residential use is not allowed on the ground floor.
2. The Residential use must exit at the street level.
3. The Residential use shall not exit or enter through a commercial space.
4. If the residential use is a reuse of existing space parking regulations would be reviewed on a case by case basis.

Discussion

This building is a single floor building with a tall first floor a storefront. This CUP would require an additional floor or floors to be added. This addition would require the approval of the Historical District Review Board as the building is both in the Historic District Overlay and a Contributing Structure to the National Historic District.

History – In March of 2003 a CUP was approved for second level residential use. This did require the addition of a full second floor which was to be stepped back 10' from the existing front. The height of the addition with a proposed loft was about 33'. This CUP was approved by the Planning Commission and Historic Review Board. The CUP only has a one year life if not acted on and this CUP was extended in 2004 and 2005 because the owner/applicant had been deployed by the military and was unable to start construction. Eventually the building was sold.

Current – The current application is similar to the original. The applicant is asking for a conditional use permit for residential use over commercial space in the C-1 zone. The current application is asking for 2 residential spaces rather than the original one apartment. This plan shows the addition of 2 floors rather than one floor with a loft.

There are several considerations for this CUP;

1. The architectural design requires approval by the Historic District Review Board. This approval has been granted pending the recommendation of the Planning Commission and approval by Town Council.
2. The plans were done by the same architect as the original approved design with only slight changes. The new plan show a third floor built to the legal height of 40' rather than the 33' of the old plan.

3. The new plan also steps back the second floor the same ten feet and also steps back the third floor an additional ten feet. This is to help reduce the perceived height of the additions.
4. The residential use requires new construction and therefore must conform to the table of parking standards. The applicant has proposed four parking spaces in the rear of the building to meet this requirement. No additional spaces are required for the commercial space.
5. This building is relatively unique on Mason Avenue in that there is a deeded easement to the rear of the building. Space will be allocated on site to meet the parking requirement.
6. The front of the building will be modified to meet the architectural design requirements of the Historic Guidelines. The applicant plans to restore as much of the storefront as is possible.
7. The first floor commercial space is not contracted for at this time. No use is specified in the application

There is a major change from the original application. There is a second bidder for the building. This new person has a contract on the building pending pricing and the approval of this application. This "use" belongs to the building not the applicant.

1. The original applicant did not have a valid contract but did have the authority from the owner of the property to submit an application.
2. The second bidder is negotiating with the bank as this has become a "short sale". At the time of the original application it was noted that time is of the essence due to financial reasons.

These facts, while interesting should not be factors in the approval or denial of the application. The following considerations are important:

1. The approval should be conditional with the current sale of the property. If the property is not sold within 30 or 60 days the CUP is null and void.
2. The residential use for two floors over the commercial space should be conditional upon the applicant providing 4 parking spaces on site in accordance with the zoning ordinance.
3. The CUP only provides for residential use on the property in accordance with the zoning ordinance. Any civil issues and/or building code issues are to be resolved by the owner.
4. The property will require additional floor(s) to be added and the CUP should be conditional upon final review and approval of the Historic District Review Board once a CUP is approved.

Recommendation

Review and discuss the application and consider public comment. Staff recommends approval of the approval of the CUP with the four conditions listed above.

Historic District Review Board Staff Report

From: Tom Bonadeo

Date: October 19, 2010

Item: 4B – 207 Mason Avenue – Add second and third floor

Attachments: Photos and drawings

Application Specifics

An application has been received for the addition of a second and third floor to the Delisheries Building. The building is currently an extra tall, one story structure between a two story and a three story building. The buyer is interested in adding the two residential units above the existing structure.

The current photo is included as well as the Architect's Drawings of the addition. In 2005 this board approved the architectural review of a second floor addition to this structure. That addition never was completed due to military service required by the applicant.

Discussion

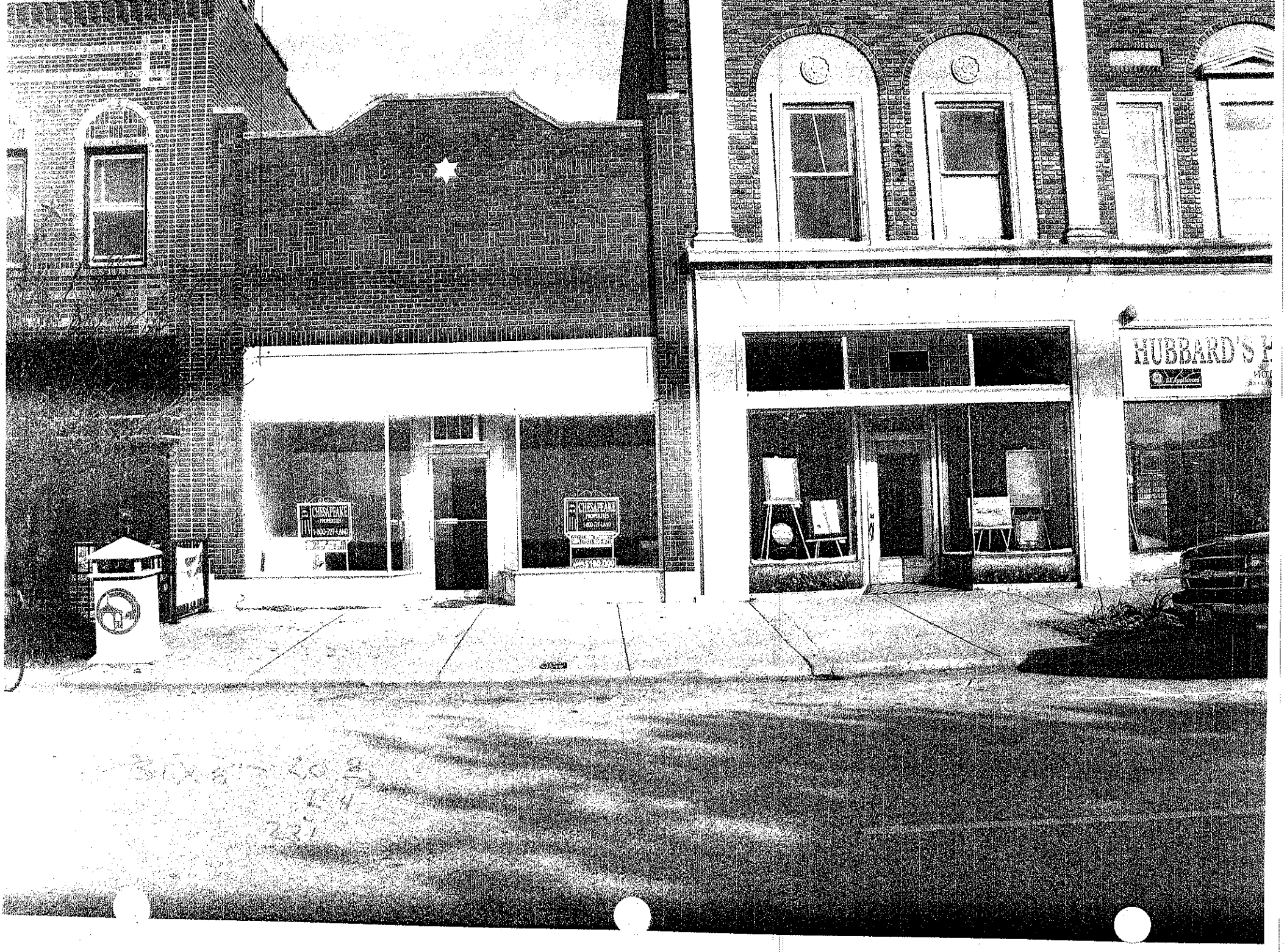
The Architect and Applicant expect to be in attendance to explain the application. The application was received very late in the monthly process.

The current application is very similar to the original second story approved request only slightly taller. The second and third stories are each set back from the front of the building. The second floor is set back 10' and the third floor and additional 10'.

Recommendation

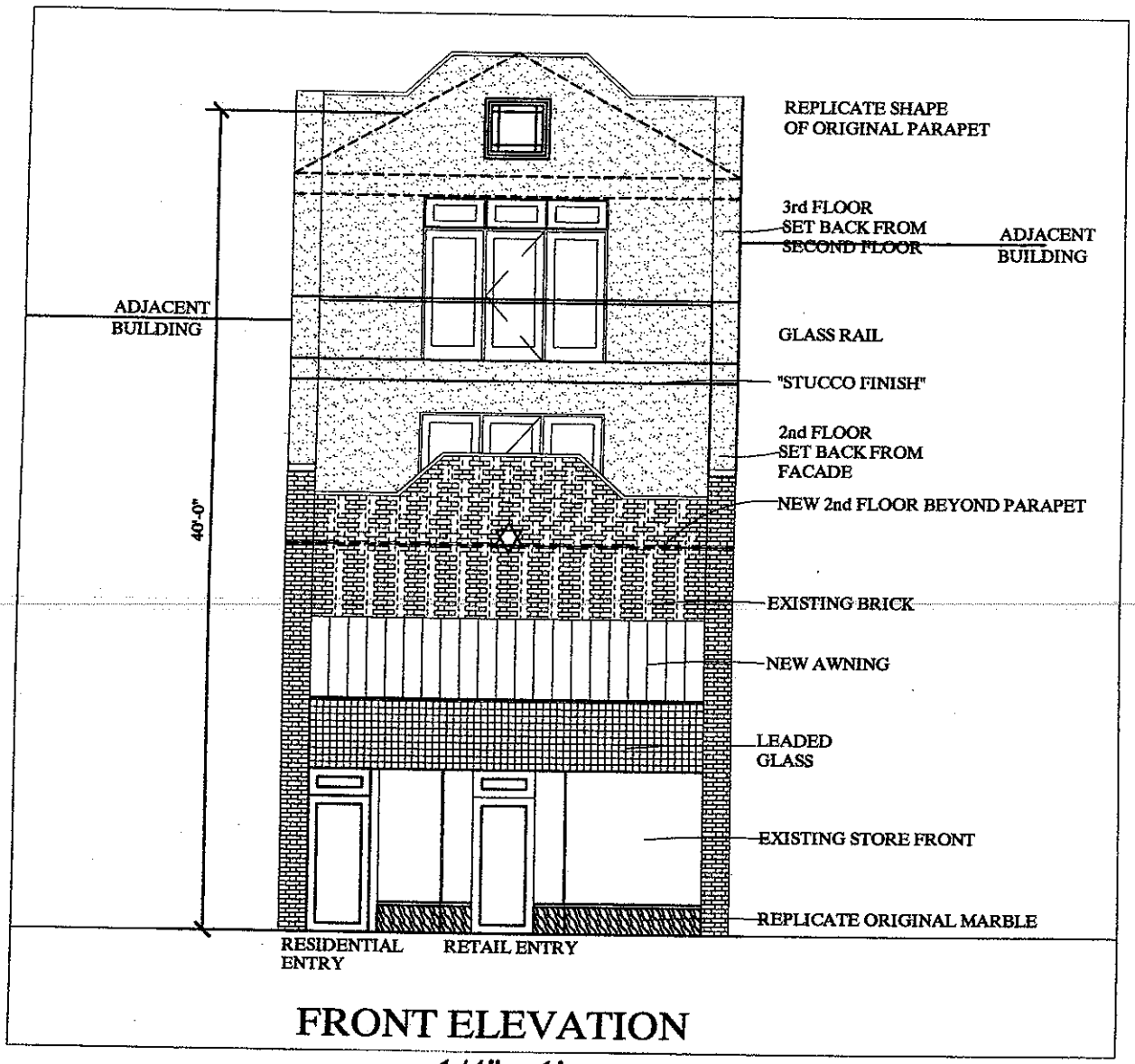
Staff recommends the following:

1. Review the plan and approve if so inclined or table the plan pending additional review and schedule another meeting to render a decision. Planning Commission will not meet until November 2 to review the Conditional Use Permit for Residential on second floor.


CHESAPEAKE
CHESAPEAKE
HUBBARD'S

CODE & ZONING NOTES
CAPE CHARLES ZONING DISTRICT C1

EXISTING USE- M- COMMERCIAL 1 STORY
PROPOSED USE MIXED- 1ST FLOOR -M COMMERCIAL
2ND AND 3RD FLOORS- R3- 1&2 FAMILY RESIDENTIAL



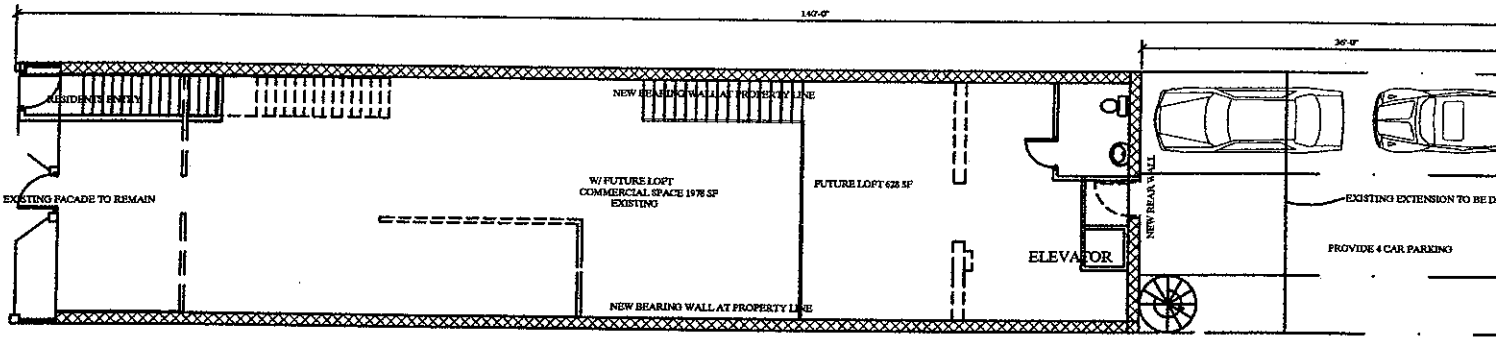
FRONT ELEVATION

1/4"=1'

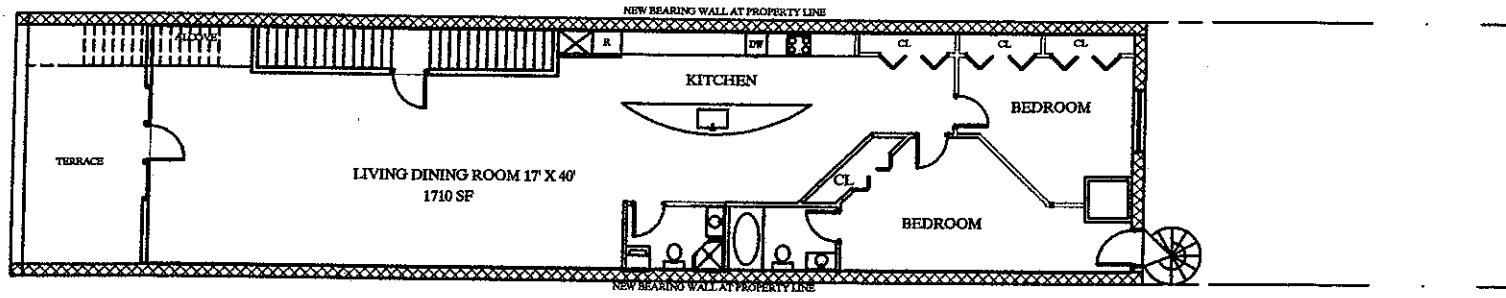
venue

AND SECTION

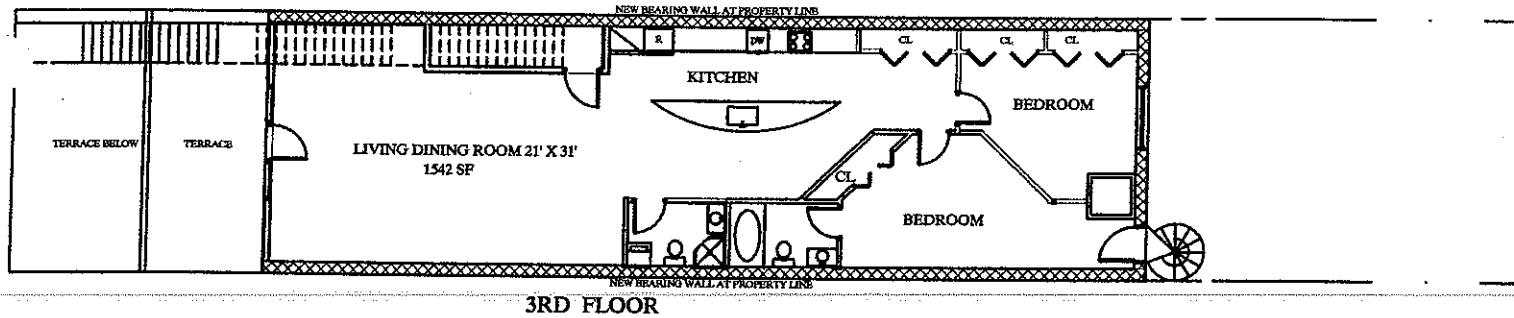
LP	10/19/10		SK-1
20105	1/8"=1'		



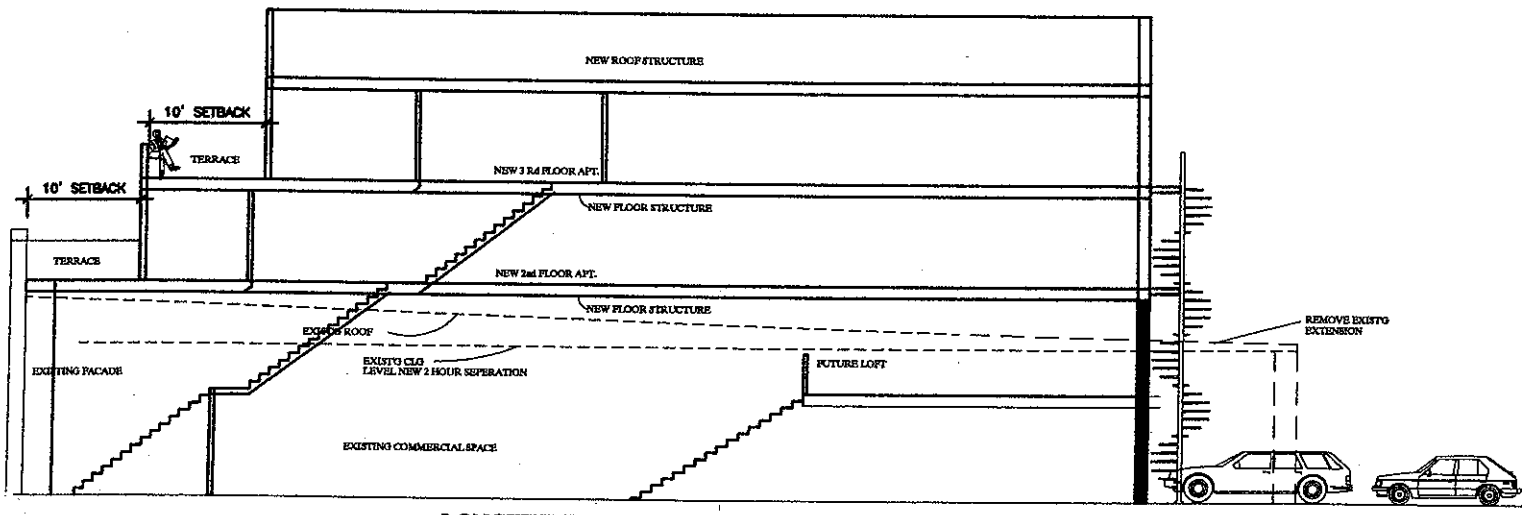
1ST FLOOR



2ND FLOOR



3RD FLOOR



LONGITUDINAL SECTION

PARHAM
403 TAZEWELL . CAPE CHARLES VIRGINIA 23310-3217
757.331.8133 ... rktek@verizon.net
LEON FULLER PARHAM . ARCHITECT, R A, NCARB

207 Mas

PLANS, ELEVAT

TOWN OF CAPE CHARLES	**AGENDA TITLE:** 546 Madison Avenue – CUP Home Occupation		**AGENDA DATE:** December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: 546 Madison Avenue – Schedule a joint public hearing with Planning Commission		**ITEM NUMBER:** 6D.ii
	ATTACHMENTS: Planning Commission Package		**FOR COUNCIL:** Action (x) Information ( )
	STAFF CONTACT (s): Tom Bonadeo - Heather	**REVIEWED BY:** Heather Arcos, Town Manager	

BACKGROUND:

An application has been received by Planning Commission for a conditional use permit (CUP) for a Home Occupation at 546 Madison Avenue. The applicant plans to operate a small chocolate candy operation there. While time is not of the essence for this application, adding it to the Joint Public Hearing will save significant advertising fees along with Council and Commission time.

The zoning ordinance allows home businesses of this type as long as certain criteria are met. The application meets those requirements and will be reviewed by Planning Commission at its December 7th meeting and plans to make a recommendation to Council at that time.

The applicant will have only one small chocolate tempering machine in addition to the normal kitchen appliances. The product will not be sold at the home but will be sold through retail outlets. The business is small volume and the applicant does not expect any change in traffic. Further details will come to Council with the final Planning Commission recommendation next month.

DISCUSSION:

The Planning Commission has reviewed the application and scheduled a public hearing for their next meeting December 7. They have requested a Joint Public Hearing with Town Council to save advertising costs and meeting expense since there are five hearings required this next month.

Planning Commission plans to make recommendation to Council after its next meeting and Council would be in a position to render a decision at its December 9th meeting.

RECOMMENDATION:

Recommend reviewing the Planning Commission's recommendation and public comment. Staff recommend approval of the CUP.

Planning Commission Staff Report

From: Tom Bonadeo

Date: December 7, 2010

Item: 8B – 546 Madison CUP Home Occupations

Attachments: Application and letter

Item Specifics

A complete application for a home occupation has been received to operate a home business in the R-1 zone at 546 Madison Avenue. The R-1 zone allows home occupations by conditional use permit.

Mr. and Mrs. Proto have requested a CUP to operate a business producing chocolate confections. The required request letter and application is attached.

Discussion

Article 4 of the zoning ordinance has 9 criteria for operating home businesses. This application meets all nine criteria.

1. The use is clearly incidental to single family residence.
2. No change to the exterior is proposed.
3. No storage of goods is proposed outside the house.
4. Less than 50% of the space will be used for the business.
5. No accessory building will be used.
6. None of the hazards listed will be produced by the business.
7. The business will not increase traffic.
8. The applicant is meeting the CUP requirement.
9. The applicant has made application with other agencies as required.

Recommendation

Review the application and public comment. Staff recommends approval of the CUP.

MUNICIPAL CORPORATION OF CAPE CHARLES, VIRGINIA
Application for Conditional Use Permit

Date: 10/13/10

Permit No. _____
Fee $300

Proposed Use HOME BASED CHOCOLATE BUSINESS (WHOLESALE)
Present Zoning R1 Location 546 MADISON AVE
Acreage _____ Tax Map 83A3-1-260 Parcel/Lot No.(s) 260

I (We) hereby petition the Cape Charles Town Council for a Conditional Use Permit to locate the above-mentioned use on the property listed above.

I (We) acknowledge the fact that all pertinent information required by the Planning and Zoning Office must be submitted in a timely manner so that required public hearings can be scheduled and advertised. Applicant or representative must be present in the public hearing.

Land Owner's Signature [signature]
Address 16 SPOOR AVE. POUGHKEEPSIE, NY 12603
Phone Number 845 702 2768

Planning Commission Public Hearing:
Date _____ Time _____ Place _____
Action _____
Conditions _____

Town Council Public Hearing:
Date _____ Time _____ Place _____
Action _____
Conditions _____

****

Conditional Use Permit Checklist
(Applicant must attach items 1 – 7)

1. ✓ completed application
2. ✓ payment of fees ($300.00 + $25.00 per acre)
3. ✓ letter of application stating in general terms: (a) the proposed use of the property, (b) the effect of the changes on the surrounding area, and (c) the reason for the request
4. NA concept plan (see attached information for recommended contents)
5. NA plot plan of property
6. NA disclosure statement signed and notarized verifying ownership
7. ✓ names and addresses of adjacent property owners
8. _____ Zoning Administrator's review of documentation

****

Application for Certificate of Occupancy

al until the following

proval
s (List)

of occupancy, or license to

NANCY N PROTO
GEORGE R PROTO
16 SPOOR AVE
POUGHKEEPSIE, NY 12603

187

DATE 10/14/10

50-7936/2213

PAY TO THE ORDER OF TOWN OF CAPE CHARLES $300.00

THREE HUNDRED AND 00/100 DOLLARS

Hudson Valley Federal Credit Union

MEMO 1986 - APPLICATION FOR CONDITIONAL USE PERMIT

⑆221979363⑈000003209760191⑈0187

16 Spoor Ave
Poughkeepsie, NY 12603

845 702 2768
gproto@hvc.rr.com

October 14, 2010

Tom Bonadeo
Planning Department
Town of Cape Charles
2 Plum St.
Cape Charles, VA 23310

Subject: Conditional Use Permit Letter of Application

Dear Mr. Bonadeo,

This letter is written to request a Conditional Use Permit for our property located at

546 Madison Avenue
Cape Charles, VA 23310.

This request is being made because the zoning is residential (R1) in this area, so businesses are disallowed.

The intended use is for a home-based, wholesale chocolate business. The business involves the melting, tempering and mixing of chocolate and other ingredients using the existing kitchen facilities and one small (approximately 18"x18") tempering machine which fits on existing counter space.

All activities for this business will be conducted in the kitchen, which is approximately 155 sq ft. This constitutes less than 8% of the total area of the residence and is far below the maximum 50% allowed by the Zoning Ordinance for conditional uses.

There will be no physical changes to the interior or exterior of the house. There will be no changes to property itself. There will be no detectable noise outside the house. Smells from the chocolate will be minimal and in general far less than the smells from normal residential cooking.

Since this is a wholesale business, there will be no customers on-site, nor traffic related to customer visits. Deliveries of raw materials will be occasional and done via UPS, Fed-Ex or equivalent as is commonly done for personal deliveries in residential areas, or by personal vehicle.
In summary this there will be no effect on the surrounding areas due to the establishment of this business.

Since there will be no physical changes to the property, per our discussion, a plot plan was not required. The application for a Conditional Use Permit, a list of adjacent property owners and a check for $300 for the application fee are attached.

Thanks for your kind attention.

Regards,

George Proto

ADJACENT PROPERTY OWNERS

Adjacent property owners are mailed a notice of the request. Please provide each owner's name and mailing address plus zip code for every property adjacent to the site and directly across from any public right-of-way adjoining the site. Names and addresses are available in the Town Clerk's office at 2 Plum Street.

NAME: ELTON, STEVE AND MIRIAM ADDRESS: 548 MADISON AVE
TAX MAP NUMBER: 83A3-1-257

NAME: GRILLI, JAMES E. & JOANNE L. ADDRESS: 544 MADISON AVE
TAX MAP NUMBER: 83A3-1-261

NAME: FIRST BAPTIST CHURCH PARSONAGE ADDRESS: 545 MADISON AVE
TAX MAP NUMBER: 83A1-1-146

NAME: BULLEY, STEPHEN A. ADDRESS: 543 MADISON AVE
TAX MAP NUMBER: 83A1-1-147

NAME: GALLOWAY, SHARLEY ADDRESS: 541 MADISON AVE
TAX MAP NUMBER: 83A1-5-E

NAME: MORTON, TITUS A ADDRESS: 545 MONROE AVE
TAX MAP NUMBER: 83A3-1-258

NAME: MORTON, TITUS A. ADDRESS: 543 MONROE AVE
TAX MAP NUMBER: 83A3-1-259A

NAME: LEE, DALE E & MARCIA K. ADDRESS: 541 MONEROE AVE
TAX MAP NUMBER: 83A3-1-259B

NAME: LEE, DALE E & MARCIA K. ADDRESS: 538 MONROE AVE
TAX MAP NUMBER: 83A3-1-262

NAME: ADDRESS:
TAX MAP NUMBER:

TOWN OF CAPE CHARLES	AGENDA TITLE: PNC Bank Credit Line		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Review and Adopt Tax Revenue Anticipation Note Resolution #20101209 for a credit line through PNC Bank		ITEM NUMBER: 6E
	ATTACHMENTS: Resolution #20101209		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT(s): Jo Anna Leatherwood	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

During the budget work sessions, former Councilman John Burdiss suggested the Town obtain a credit line through a local bank to be used as needed. The 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 allow the Town to take care of maintenance issues caused by years of neglect.

Town Manager Heather Arcos and Treasurer JoAnna Leatherwood met with representatives from PNC Bank, Shore Bank and BB&T regarding their offerings for credit lines.

PNC Bank offered the Town a $500K tax exempt loan at an attractive interest rate as well as other services which could benefit the Town and its employees.

DISCUSSION:

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. Councilman Bennett stated that the purpose of obtaining a credit line was to enable the Town to do things such as necessary maintenance to equipment and to cover any unforeseen expenditures and only budget a portion of the cost to make payments on the loan but if the total amount was not budgeted, the Town would not be able to pay off the note by the end of the fiscal year.

Since the loan is being offered as a tax exempt loan, in order to meet IRS regulations and requirements of the Commonwealth of Virginia for this status, a specified amount for a borrowing limit must be included. Pursuant to § 15.2-2634 of the Code of Virginia, the Commonwealth limits the amount that municipalities can borrow to 10% of the assessed valuation of real estate in the municipality subject to taxation, as shown by the last preceding assessment for taxes. § 15.2-2629 of the Code of VA states that the loans have to meet appropriations for the current year and that such notes shall mature and be paid within one year, which in this agreement is by fiscal year end. The interest rate detail in the resolution equates to 3.32% which is the stated amount in the financing agreement. Since we do not plan to borrow the full amount, the interest amount is good for the Town.

RECOMMENDATION:

Staff recommends review and adoption of Resolution #20101209.

TOWN OF CAPE CHARLES

TAX REVENUE ANTICIPATION NOTE 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

WHEREAS pursuant to the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia 1950, as amended (the "Act"), the Town of Cape Charles, Virginia (the "Town") is authorized to issue notes in anticipation of the collection of taxes and revenues for the current fiscal year in which the notes are issued,

WHEREAS the Town Treasurer has reported to the Town Council of the Town that the Town may need to borrow an amount not in excess of $500,000 in order to pay expenses expected to be incurred before the collection of taxes and revenues of the Town for the current fiscal year,

WHEREAS The Town Council desires to provide for the issuance of a tax and revenue anticipation note in the maximum amount of $500,000,

THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CAPE CHARLES, VIRGINIA:

ARTICLE I
GENERAL PROVISIONS

Section 1.1. Authorization of Note. It is hereby determined to be advisable, necessary and expedient for the Town in the current fiscal year to borrow up to $500,000 in anticipation of the collection of taxes and revenues for the year. Pursuant to the Constitution of Virginia and the Act, there is hereby authorized to be issued and sold a tax and revenue anticipation note of the Town in the maximum principal amount of $500,000 (the "Note").

To the extent permitted by Section 15.2-2601 of the Act, the Town Council of the Town (the "Town Council") hereby elects to issue the Note under the provisions of the Act without regard to the requirements, restrictions or other provisions contained in any charter or local or special act.

Section 1.2. Details of Note. The Note shall be issued as a fully registered note without coupons in a principal amount not to exceed $500,000. The Note shall be dated the date of its delivery to the purchaser of the Note. The Note shall bear interest from its dated date at a rate equal to 65% of Prime Rate plus 121 basis points. "Prime Rate" means the rate of interest publicly announced by PNC Bank,

National Association from time to time as the prime rate of the Bank, adjusted as of the date of an announcement of any change in such prime rate. The principal of and interest on the Note shall be due and payable on June 30, 2011. Each of the Mayor and the Vice-Mayor of the Town is hereby authorized to establish, before the closing date, the principal amount of the Note and the other final details of the Note, including but not limited to any provisions required by the purchaser of the Note for the maintenance of a certain yield if certain events occur relating to the taxation of the interest on the Note; provided, however, that the principal amount of the Note shall not exceed $500,000. The execution and delivery of the Note as described in Section 1.4 hereof shall conclusively evidence such amount and other final details as having been so established and authorized by this resolution.

Section 1.3. Pledge of Full Faith and Credit. The Note shall be payable from the collection of the taxes and revenues of the Town for the fiscal year in which such Note is issued. In addition, the Note shall be a general obligation of the Town for which the full faith and credit of the Town are irrevocably pledged for the payment of principal of and interest on the Note. Unless other funds are lawfully available and appropriated for timely payment of the Note, the Town Council shall levy and collect an ad valorem tax, over and above all other taxes authorized or limited by law, on all locally taxable property in the Town sufficient to pay when due the principal of and interest on the Note.

Section 1.4. Redemption. The Note shall be subject to prepayment in whole or in part at the option of the Town before its stated maturity at any time without penalty or premium.

Section 1.5. Execution of Note. The Note shall bear the manual signatures of the Mayor of the Town and shall bear a manually impressed or imprinted facsimile of the seal of the Town. In case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. The Note may be signed by such persons as at the actual time of the execution thereof shall be the proper officers to sign the Note although at the date of the Note such persons may not have been such officers.

Section 1.6. Form of Note. The Note shall be in substantially the following form with such appropriate variations, insertions and omissions as shall be consistent with this resolution:

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
TOWN OF CAPE CHARLES

General Obligation Tax and Revenue Anticipation Note

INTEREST RATE:	65% of Prime Rate plus 121 basis points
MATURITY DATE:	June 30, 2011
DATED DATE:	September ____, 2010
REGISTERED OWNER:	PNC Bank, National Association
PRINCIPAL AMOUNT:	$500,000.00

The Town of Cape Charles, Virginia (the "Town"), for value received, hereby acknowledges itself indebted and promises to pay to the registered owner hereof, or registered assigns, upon presentation and surrender hereof at the office of the Registrar, the principal sum set forth above together with interest at the per annum interest rate shown above from the date of this note on the unpaid principal on the maturity date set forth above. "Prime Rate" means the rate of interest publicly announced by PNC Bank, National Association from time to time as the prime rate of the Bank, adjusted as of the date of an announcement of any change in such prime rate. Interest on this note shall be calculated on the basis of a 30 day month/360 day year for the number of days elapsed.

Principal and interest shall be payable, upon presentation and surrender of this note, in lawful money of the United States of America to the registered owner, determined as of the fifteenth day preceding the Maturity Date, at its address as it appears on the registration books kept for that purpose at the office of the Town Treasurer, Cape Charles, Virginia, who has been appointed Registrar. If the maturity date is a date on which banking institutions are authorized or obligated by law to close at the place where the office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such Maturity Date. Upon final payment, this note shall be surrendered to the Registrar for cancellation.

This note has been authorized by a resolution duly adopted by the Town Council of the Town on _____ (the "Resolution"), and is issued pursuant to the Constitution and applicable statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991 (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended) in anticipation of the collection of taxes and revenues of the Town for the current fiscal year. A copy of the Resolution is on file at the office of the Registrar. Reference is hereby made to the Resolution and any amendments thereto for the provisions, among others, describing the terms and conditions upon which this note is issued, the rights and obligations of the Town and the rights of the holder of this note.

This note and the interest hereon are payable from the collection of taxes and

revenues of the Town for the current fiscal year. In addition, the full faith and credit of the Town are irrevocably pledged for the payment of the principal and interest of this Note in accordance with its terms. The Town Council is required to levy an annual ad valorem tax upon all property in the Town subject to local taxation sufficient to pay the principal of and interest on this Note as the same shall become due for payment unless other funds are lawfully available and appropriated for the timely payment hereof.

The Town Council of the Town has designated this note as a "Qualified Tax-Exempt Obligation" for purposes of Section 265 of the Internal Revenue Code of 1986, as amended.

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

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this note have happened, exist and have been performed, and this note, together with all other indebtedness of the Town, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Town Council of The Town of Cape Charles has caused this note to be issued in the name of the Town and to bear the manual signatures of its Mayor and Clerk, its seal to be imprinted or impressed hereon, and this note to be dated as of the dated date shown above.

SEAL

Attest: **SPECIMEN** **DO NOT SIGN**	**SPECIMEN** **DO NOT SIGN**
Clerk, Town Council of the Town of Cape Charles, Virginia	Mayor, Town Council of the Town of Cape Charles, Virginia

Section 1.7. Registrar. The Town Treasurer is hereby appointed Registrar for the Note.

Section 1.8. Registration and Transfer. The Registrar shall cause books for the registration and transfer of the Note to be kept at the office of the Registrar, and the Town hereby instructs the Registrar to keep such books and to make such registrations and transfers under such reasonable regulations as the Town Council or the Registrar may prescribe. Transfer of the Note may be registered upon books maintained for this purpose at the office of the Registrar. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the

person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Upon surrender for transfer of the Note at such office, the Mayor and the Clerk shall execute and the Registrar shall deliver in the name of the transferee a new Note, subject in each case to such reasonable regulations as the Town Council or the Registrar may prescribe. If presented for transfer, the Note (if so required by the Town Council or the Registrar) shall be accompanied by a written instrument or instruments of transfer in form and substance reasonably satisfactory to the Town Council and the Registrar, duly executed by the registered owner or by his duly authorized attorney-in-fact or legal representative. The Note may not be registered to bearer.

Neither the Town Council nor the Registrar shall be required to issue or transfer the Note for a period of fifteen days next preceding the maturity date of the Note.

The new Note delivered upon any transfer shall be a valid obligation of the Town, evidencing the same debt as the Note surrendered, shall be secured by this Resolution and entitled to all of the security and benefits hereof to the extent as the Note surrendered.

Section 1.9. Charges for Transfer. No service charge shall be made for any transfer of the Note, but the Town Council may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

Section 1.10. Sale and Award of Note.

(a) The proposal of PNC Bank, National Association to purchase the Note for an amount equal to the principal amount of the Note, is hereby determined, after mature consideration of the methods of sale of the Note and current conditions of the municipal bond market, to be in the best interest of the Town, and the Note is hereby awarded to such bank.

(b) The Mayor and Clerk of the Town Council are hereby authorized and directed to take all proper steps to have the Note prepared and executed in accordance with the terms of this resolution. Proceeds derived from the sale of the Note shall be paid to, or at the direction of, the Town Treasurer who shall promptly deposit the funds in a bank or other depository to the credit of the Town.

Section 1.11. Representation of the Town. The Town Council represents that the anticipated amount of taxes and revenues to be collected for the current fiscal year is in excess of $500,000, that no loans have been made in anticipation of the collection of the taxes and revenues of the Town for the current fiscal year, and

that, at the time of issuance of the Note, no such loans for preceding years will be outstanding and unpaid.

ARTICLE II
PARTICULAR COVENANTS

Section 2.1. Payment of Note. The Town shall pay promptly, as provided herein, the principal of and interest on the Note. To the extent allowed by law, the taxes and revenues of the Town for the current fiscal year are hereby pledged to the payment of the Note. Nothing in the Note or in this Resolution shall be deemed to create or constitute an indebtedness of the Commonwealth of Virginia or any political subdivision thereof other than the Town, or a pledge of the full faith and credit of the Commonwealth of Virginia or of any political subdivision thereof other than the Town.

Section 2.2. Maintenance of Tax-Exempt Status.

(a) No Adverse Action: The Town shall not take any action that would adversely affect the exemption of interest on the Note from Federal income taxation. The Town shall, to the extent permitted by Virginia law, take all actions necessary to maintain the tax-exempt status of interest on the Note under Federal and Virginia law, including all actions necessary to comply with Section 103 or Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code") or the regulations promulgated by the Treasury Department with respect thereto. Without limiting the generality of the foregoing, the Town shall comply with any provision of law which may require the Town at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Note, unless the Town receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Note from being includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law.

(b) Arbitrage/Investment: The Town shall not take or approve any action, investment or use of the proceeds of the Note that would cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations thereunder. The Town, barring unforeseen circumstances, shall not request or approve the use of the proceeds of the Note other than in accordance with the Town's "non-arbitrage" certificate delivered at the time of the issuance of the Note.

(c) Information Report: The Town shall file the information report with respect to the Note required by Section 149(e) of the Code within the time provided in such Section.

(d) Not Federally Guaranteed: The Town represents that the Note is

not and will not be "federally guaranteed," as such term is used in Section 149(b) of the Code.

(e) Designation as Qualified Tax-Exempt Obligation: The Note is not a private activity bond and is hereby designated by the Town Council as a Qualified Tax-Exempt Obligation, as defined in Section 265(b)(3) of the Code. The Town hereby represents and covenants as follows:

(i) The Town Council will in no event designate more than $30,000,000 of obligations as qualified tax-exempt obligations in the current calendar or fiscal year, including the Note, for the purpose of Section 265(b)(3) of the Code;

(ii) The Town, all its "subordinate entities," within the meaning of Section 265(b)(3) of the Code, and all entities which issue tax-exempt bonds on behalf of the Town and such subordinate entities have together not authorized to be issued more than $30,000,000 of tax-exempt obligations in the current calendar or fiscal year (not including "private activity bonds," as defined in Section 141 of the Code, other than "qualified 501(c)(3) bonds," as defined in Section 145 of the Code), including the Note;

(iii) Barring circumstances unforeseen as of the date of delivery of the Note, the Town will not issue tax-exempt obligations itself or approve the issuance of tax-exempt obligations of any of such other entities if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the Town and such other entities in the current calendar or fiscal year, result in the Town and such other entities having issued a total of more than $30,000,000 of tax-exempt obligations in such year (not including private activity bonds, other than qualified 501(c)(3) bonds), including the Note; and

(iv) The Town Council has no reason to believe that the Town and such other entities will issue in the current calendar or fiscal year tax-exempt obligations in an aggregate amount that will exceed such $30,000,000 limit;
provided however, that if the Town receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth in (i) to (iv) above is not required for the Note to be a qualified tax-exempt obligation, the Town need not comply with such restriction.

(f) Small Issuer Exception from Rebate Requirement: The Town Council hereby represents and covenants as follows:

(i) The Town, all its "subordinate entities," within the meaning of Section 148(f)(4)(iii) of the Code, and all entities which issue tax-exempt obligations on behalf of the Town and such subordinate entities have together not

authorized to be issued in the current calendar or fiscal year more than $5,000,000 of tax-exempt obligations (not including private activity bonds), including the Note;

(ii) Barring circumstances unforeseen as of the date of delivery of the Note, the Town will not issue tax-exempt obligations itself or approve the issuance of tax-exempt obligations of any of such other entities if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the Town and such other entities in the current calendar or fiscal year, result in the Town and such other entities having issued a total of more than $5,000,000 of tax-exempt obligations in such year (not including private activity bonds), including the Note;

(iii) The Town Council has no reason to believe that the Town and such other entities will issue tax-exempt obligations in the current calendar or fiscal year in an aggregate amount that will exceed such $5,000,000 limit; and

(iv) At least 95% of the proceeds of the Note shall be used for "local government activities" of the Town within the meaning of Section 148(f)(4)(i) of the Code; provided, however, that (A) each of the $5,000,000 amounts in the preceding provisions shall be increased by the lesser of $10,000,000 or so much of the tax-exempt obligations as are attributable to financing the construction of public school facilities, and (B) if the Town receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth in (i) to (iv) above will not prevent the Town from having to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Note, the Town need not comply with such restriction.

(g) Private Use and Loan Restrictions: The Town Council hereby covenants that it will not permit the proceeds of the Note to be used in any manner that would result in (a) 5% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water) within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit as provided ~~in Section 141(c) of the Code; provided, however~~, that if the Town receives an opinion of nationally recognized bond counsel that compliance with any such covenant is not required to prevent the interest on the Note from being includable in gross income for Federal income tax purposes of the registered owner thereof under existing law, the Note need not comply with such covenant.

ARTICLE III
MISCELLANEOUS

Section 3.1. Contract with Noteholder. The provisions of this resolution shall constitute a contract between the Town and the holder of the Note for so long as the Note is outstanding.

Section 3.2. Authority of Officers and Agents. The officers and agents of the Town shall do all acts and things required by them of this resolution and the Note for the complete and punctual performance of all the terms, covenants and agreements contained therein. The appropriate officers of the Town are further authorized and empowered to take such other action as they may consider necessary or desirable to carry out the intent and purpose of this resolution, and the issuance of the Note.

Section 3.3. Limitation of Liability of Officials of Town. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of an officer, employee or agent of the Town in his or her individual capacity, and no officer of the Town executing the Note shall be liable personally on the Note or be subject to any personal liability or accountability by reason of the issuance thereof. No officer, employee or agent of the Town shall incur any personal liability with respect to any other action taken by him or her pursuant to this resolution, provided he or she acts in good faith.

Section 3.4. Conditions Precedent. Upon the issuance of the Note all acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia or this resolution to have happened, exist and to have been performed precedent to or in the issuance of the Note shall have happened, exist and have been performed.

Section 3.5. Non-Arbitrage and Other Certificates. The Mayor, the Town Administrator and such other officers as may be requested are hereby authorized to sign appropriate certificates setting forth, among other things, the expected use and investment of the proceeds of the Note in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and regulations issued pursuant thereto, applicable to "arbitrage bonds." Such certificates may also contain certain elections with regard to Section 148 of the Code and such officers are hereby authorized to make such elections on behalf of the Town and the Town Council.

Section 3.6. Headings. Any headings in this resolution are solely for convenience of reference and shall not constitute a part of the resolution nor shall they affect its meaning, construction or effect.

Section 3.7. Severability. If any court of competent jurisdiction shall hold any provision of this resolution to be invalid and unenforceable, such holding shall not invalidate any other provision hereof.

Section 3.8. Effective Date. This resolution shall take effect immediately. All ordinances, resolutions or parts thereof in conflict herewith are hereby repealed.

Section 3.9. Filing of Resolution. The Clerk of the Town Council is hereby authorized and directed to see to the immediate filing of a certified copy of this resolution with the Clerk of the Circuit Court of the County of Northampton, Virginia, pursuant to Section 15.2-2607 of the Act.

Adopted: December 9, 2010

_____
Mayor of the Town of Cape Charles, Virginia

ATTEST:

_____
Clerk of the Town of Cape Charles, Virginia

TOWN OF CAPE CHARLES	AGENDA TITLE: Commendation for Officer James Pruitt		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Proclamation Commending Officer James Pruitt for heroic actions		ITEM NUMBER: 7A
	ATTACHMENTS: Proclamation #20101209 and Certificate of Commendation		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Heather Arcos	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

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, while a citizen called 911, 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.

DISCUSSION:

The Town would like to commend Officer James Pruitt for his heroic actions and going above and beyond the call of duty to help battle the fire at 6 Tazewell Avenue. The Town is fortunate to have employees such as Officer Pruitt on staff.

RECOMMENDATION:

Staff asks Council for a roll call vote to approve Proclamation #20101209 commending Officer James Pruitt for his actions on the night of November 12, 2010.

PROCLAMATION NO. 20101209

COMMENDING OFFICER JAMES PRUITT

WHEREAS, the Town of Cape Charles encourages the Town's staff to be involved and help the community; and

WHEREAS, a fire broke out in the house located at 6 Tazewell Avenue on the night of November 12, 2010; and

WHEREAS, Officer James Pruitt used a garden hose from his house to douse the flames until the fire department arrived; and

WHEREAS, if Officer James Pruitt had not acted so quickly, the house would have sustained more damage from the fire; and

THEREFORE, BE IT PROCLAIMED by the Town Council of the Town of Cape Charles this 9th day of December, 2010 that Officer James Pruitt is commended for his quick thinking and heroic actions above and beyond the call of duty

:

****

Adopted by the Town Council of Cape Charles on this 9th day of December, 2010.

_____

Mayor Dora Sullivan

ATTEST:

_____

Town Clerk

CERTIFICATE OF COMMENDATION

This commendation is awarded to

Officer James Pruitt

in recognition for his quick thinking and heroic actions above and beyond the call of duty in helping to battle the fire at 6 Tazewell Avenue on November 12, 2010.

Mayor _____ *Date* _____

TOWN OF CAPE CHARLES	**AGENDA TITLE:** Cape Charles Memorial Library Study / Plans		**AGENDA DATE:** December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Review the information prepared by the Library Board and Friends of the Library for the future of the Cape Charles Memorial Library		**ITEM NUMBER:** 7B
	ATTACHMENTS: "A Vision for the Cape Charles Memorial Library" and Executive Summary		**FOR COUNCIL:** Action ( ) Information (X)
	STAFF CONTACT (s): Heather Arcos	**REVIEWED BY:** Heather Arcos, Town Manager	

BACKGROUND:

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 adding that there were organizations with money available to help with this type of project. Council approved the Friends of the Library request for a joint partnership between the Council, the Library Board and the Friends of the Library to facilitate the process to expand the Cape Charles Memorial Library.

At the June 10, 2010 Town Council Regular Meeting, Town Manager Heather Arcos reported that over 800 surveys had been mailed and that the Friends of the Library were working on a statement for Council regarding their ideas for the future of the Library. Councilman Bannon mentioned that the Friends of the Library had also mailed over 1500 fund raising letters.

DISCUSSION:

The Library Board and the Friends of the Library have prepared *A Vision for the Cape Charles Memorial Library* and an Executive Summary which detail the various needs of the Library and include survey responses from patrons of the Library.

RECOMMENDATION:

Provided for information only for discussion at a future meeting or work session regarding the future plans of the Cape Charles Memorial Library.

A Vision
For the
Cape Charles Memorial Library

August 2010

Prepared by the Cape Charles Library Board and the Friends of the Cape Charles Memorial Library

History

The Cape Charles library was born in the home of Mrs. Robert McQuire in 1919. It moved to its current location on Tazewell Avenue in 1926. On May 27, 1927 the facility was dedicated and became the First War Memorial Library in Virginia and the first County Library on the Eastern Shore.

The Library became a station of the Eastern Shore Public Library (ESPL) in 1957 and a Branch Library of the Eastern Shore Public Library in 1979. Due to budget constraints, the Board of Trustees of the ESPL canceled the agreement in 1981. When that occurred, the Town of Cape Charles kept the Library open and to this day the Town of Cape Charles is the primary funding organization.

In recent years the Cape Charles Memorial Library (CCML) has maintained a working relationship with the ESPL. Through the dedication of the Library Board and the Friends, the Library continues to provide service to residents of the southern half of Northampton County (south of Eastville). Since 2001 patron visits have more than doubled which is the nexus of this effort to plan, design, and build a modern library facility.

Libraries of the future will need to do more than lend books. They will become the place where people meet to learn, to play, to enjoy music, to access the world beyond home, to exchange ideas, and check out books and publications in an ever increasing number of formats. This document will outline the facility requirements to carry the CCML from its humble home in an old church to a modern library facility and community focal point.

Creating a New Home for the CCML

Analysis of Need:

Over the last five years two studies and two surveys have been done to determine the appropriate way to provide library services in south Northampton County. Those studies include work done by Roy Lock in 2005, work done by Shriver and Holland Associates in 2006, a report prepared by John Moorman, Ph.D. in August 2008 and a survey by the Friends of the CCML 2010.

Each analysis has come to the conclusion that the CCML 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). The structure also has facilities related issues that would be expected in a 100 year old structure along with inadequate parking.

Past work indicates that patrons have a fondness for the current structure because of its significance to the community. Suggestions have been made to try to expand and modernize the Library on its existing site but in practical terms this is not the best

alternative. The current location is constrained by inadequate land for parking and to expand and modernize the facility. This study recommends that features, concepts and attributes of the current structure be incorporated into a new facility.

To meet the Virginia Library Standards, there are only two viable alternatives:

- Option One: reuse, renovate and expand an existing structure for a library. The community has multiple vacant buildings that can be considered prior to new construction. Any renovated structure must be able to meet the program needs of the library.

- Option Two: Construct a new state of the art facility.

In addition to meeting program needs a cost benefit analysis would need to be done to make a final determination on reuse vs. build.

What will the library look like?

This section of the report will describe the functions and activities that occur in the library and make a space allocation recommendation. Most importantly, it will outline the program needs to direct the work of a consulting firm to prepare designs, specifications and bidding documents for the project. The requirements outlined will be based primarily on the standards established by the Virginia Library Standards with modifications to ensure that the facility will be able to meet needs in the short and long term.

General Considerations:

The facility should meet the following conditions:

- Be no more than 30 minutes driving time from the residents of the service area.
- Be accessible via public transportation, bicyclists, pedestrians and even golf carts.
- Be able to accommodate a wide rage of media and activities from the traditional (books and magazines) to modern technology and uses including electronic books, media production, cultural uses, arts and crafts.
- Provide well lit off street parking for up to 20 vehicles of which four spaces would be for handicapped parking. Additionally, six parking spaces should be provided for staff and volunteers.
- Comply with building, fire, safety, sanitation and other pertinent state and local code requirements.
- Planners should assume that the facility will be located in an area where municipal services will be readily available and cost estimates should reflect that assumption.
- Special consideration should be given to flood plane issues when selecting a location for the facility.

- Incorporate way finding and identification signage into community signing plans to guide people to the facility.
- Provide interior signage that helps patrons effectively navigate inside the facility.
- Electrical wiring that meets National Electric Code (NEC) standards. Sufficient power and electrical outlets should be provided to allow for current and future use. A flexible, adaptable system is necessary to accommodate changing use patterns and changes in technology and equipment used within the facility.
- Heating, ventilating and air conditioning systems should be designed to maintain a relative humidity level of 50 to 60 percent year round.
- The facility should be technology ready and highly flexible.
- Cabling should follow NEC and Building Industry Consulting Services International (BiCSi) Telecommunication Association guidelines.
- To the extent possible the structure should use sustainable and ecologically sound materials.
- The building should promote energy efficacy, use of natural light, and Leadership in Energy and Environmental Design (LEED) standards should be considered.
- The structure and floors should be able to support both standard and condensed book shelves and filing systems.
- Provide a covered, 200 square foot entry way that is ADA compliant and weather resistant.
- The exterior design should be consistent with the architecture and culture of the region and reflect the history of the library. Special consideration should be given to relocating architecturally significant components of the current structure to a new facility.
- The design should lend itself to future expansion.
- The floors should be carpeted where ever feasible and other sound mitigation materials should be used to maintain a quiet environment. Entry ways and high traffic areas should be non-skid, durable materials, and windows in conference areas should have blinds.
- Cost estimates should be itemized in such a way that decision makers can easily make modifications. They need to be meaningful to a wide audience and provide alternatives in case cost reductions are necessary.
- The design budget should assume that all movable and fixed equipment will be new and an itemized cost estimate should be given for those items.

Specific functional areas:

Space for library operations can be determined in two ways, square footage by type of material and activity or the use of per capita square footage needs. The Virginia Library Standards recommend a range of square footage to accommodate what is considered traditional library activities: library book shelves for hard and paperback books, children's books, periodicals, pamphlets, maps and electronic media including: books on tape, electronic books, CD's, DVD's, VCR and music tapes.

This report assumes a service area population of 8,000 permanent and part time residents as did the Moorman report of August 2008. The standards range from .6 square feet per capita to 1.0 square feet for a Level A library. The primary difference in levels is the distance patrons travel to the facility. This study recommends a space allocation of .8 square feet per capita for a total of 6,400 square feet for library functions.

These specific areas should be added to the basic library model:

Staff areas: The circulation/reference/ material check in and out area should accommodate two staff members at 150 square feet each. Separate from that area the staff needs a locked storage space of 200 square feet to keep supplies and other valuable items. Traditional office space should be provided for two staff members and a "hotel" work station for volunteers. Each cubicle should be 80 square feet.

Computer workstations: Space should be available for 12 computer terminals. Each work station requires 40 square feet an additional 80 square feet should be provided for shared use computer printers, fax, scanner and copier. Wi-Fi service would be available through out the facility and private computers could be used in study and leisure areas.

Study, entertainment and leisure areas: Based on the Virginia Library Standards it is recommended that the following square footages be provided:

- A leisure seating area for eight people: 40 square feet per person.
- Work and study carrels for eight people: 35 square feet each.
- Table seating for ten people: 30 square feet each.
- Music and video stations for eight people: 25 square feet each.
- A teen casual reading area of 150 square feet should be separate from small children and adults.

Children's areas: space should be provided for children's computers and play activities. Space for children's computers for 8 seats at 25 square feet each and 150 square feet for children's play tables, chairs and educational toys.

Multipurpose room: A room of 600 square feet that can be divided into three rooms for small meetings. This area would provide a space for showing movies, putting on plays, children's story time, public meetings, library programs and special events. This should be a separate room from the general open space library area so the two activities do not conflict. The space should be wired for video and other media presentations and provided with flexible, comfortable furniture and tables to meet a variety of uses. The space should be equipped with storage closets for tables and chairs, cabinets for event materials, a small sink, counter space, microwave, refrigerator and a counter top.

Display and multicultural area: The facility should have adequate space for the sale of books donated to the Friends of the CCML, for displays of specific topics including multicultural and health information plus other topics of general interest. This function requires 150 square feet.

Background lighting levels should be a minimum of 50 to 70 foot candles at table top height in public areas. Task lighting should be used in office and work areas as necessary. Special lighting consideration should be given to areas where computers are used to insure that glare is not a problem.

Three separate rest room facilities should be provided. A family restroom that contains an adult commode, a child commode, a baby changing area, a sink and shelf. A women's restroom with three stalls, one of which is for handicapped use. The men's room should contain two urinals and one handicapped stall. Both restrooms should have adequate sinks and counter space for use by visitors. This plan estimates the need at 300 square feet but the exact footage will be determined in the design process.

Mechanical and telecommunication equipment rooms should be sized and located appropriately. For the purpose of the plan 200 square feet is allocated. Again the design process will determine exact size.

A separate 80 square foot space is needed for cleaning equipment, bathroom and cleaning supplies.

In prior studies the Town of Cape Charles has asked for environmentally controlled space to archive historical documents. Those studies recommended 400 sq. ft. for this purpose.

This plan recommends a total facility size of 11, 230 square feet.

Space Summary

Function:	Total Space Programmed in square feet:
Library Operations	6400
Staff Areas	740
Computers and equipment	560
Adult leisure seating	320
Work/study carrels	280
Table seating	300
Music/ video stations	200
Teen casual reading	150
Children's computers	200
Children's play	150
Multi-purpose/meeting	600
Display/ Multicultural	150

Restrooms	300
Mechanical room	200
Cleaning and storage	80
Vestibule	200
Town Archives	400

Revised: August 25, 2010

A Vision

For the

Cape Charles Memorial Library

Executive Summary

August 2010

Prepared by the Cape Charles Library Board and the Friends of the Cape Charles Memorial Library

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- Option Two: Construct a new state of the art facility.

In addition to meeting program needs a cost benefit analysis would need to be done to make a final determination on reuse vs. build.

What do the patrons think?

The Friends of the CCML conducted a survey during the summer of 2010. Eight hundred surveys were sent out to residents in the 23310 zip code in addition to surveys being given to patrons at the library. That effort yielded 33 responses.

In general terms the patrons and citizens provided this feedback:

- The majority of the respondents lived in the 23310, Cape Charles zip code, they were over the age of 45 and they used the library at least weekly or monthly.

- The top five reasons to use the CCML were: to check out books, check out CD's and DVD's, to use computers, read magazines and newspapers and to use the copier and fax machine.

- Only one respondent indicated the reason they were not regular users of the CCML was the absence of night hours.

- When asked what materials the respondents wished CCML had more of the top responses were: books on CD (audio books), printed books, DVD's and electronic books.

- When asked about technology and equipment they wished the CCML had more of the top five responses were: internet workstations, library catalog stations, computer classes, digital reading devices for circulation and self checkout stations.

- The survey asked what building features you would like added to the CCML. The top five responses included: a meeting room, teen space, children's space, a computer classroom and study rooms.

- Respondents were asked for general comments and overwhelmingly they complimented the staff for their professionalism and the service they provide.

What should a new library look like?

Based on the Virginia Library Standards, a review of past studies and the input from two surveys a new facility should be just over 11, 200 square feet. Using an estimate of $120 per square foot and assuming costs for design and contingencies during construction the proposed facility would cost approximately $2 million. This estimate does not include the cost of land acquisition.

Following is a listing of the functions and space needs in a new facility:

Function:	Total Space Programmed in square feet:
Library Operations	6400
Staff Areas	740
Computers and equipment	560
Adult leisure seating	320
Work/study carrels	280
Table seating	300
Music/ video stations	200
Teen casual reading	150
Children's computers	200
Children's play	150
Multi-purpose/meeting	600
Display/ Multicultural	150
Restrooms	300
Mechanical room	200
Cleaning and storage	80
Vestibule	200
Town Archives	400

Revised: August 25, 2010

TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Trail Project Agreement Amendment		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Amendment to Project Development and Administration Agreement (Appendix A) re: $364,000 K allocation by the Commonwealth Transportation Board		ITEM NUMBER: 7C
	ATTACHMENTS: Appendix A for the Project Development and Administration Agreement		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT (s): Heather Arcos	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The Cape Charles Master Trail Plan was adopted by the Town Council on September 11, 2007. In November 2009, as part of the Phase 1 construction and connecting the trail to alignments throughout Town per the Master Plan, the Town submitted an application for a Transportation Enhancement Program Grant in the amount of $364K.

DISCUSSION:

The Town was awarded the requested $364K and attached is the Amendment to the Project Development and Administration Agreement (Appendix A) which shows the $364K increase in grant funds to a total of $1,473,300. The 20% Town match will be allocated in the FY 2011/2012 budget. The completion deadline of this project has been extended to October 1, 2013.

In order to accept the additional funds, the agreement amendment must be signed and returned.

RECOMMENDATION:

Authorize the Town Manager to execute the Amendment to Project Development and Administration Agreement (Appendix A).

Appendix A

Project Number: EN02-182-123, P101, R201, C501 (UPC 63563) Project Name: Cape Charles Multi-Use Trail	Locality: Town of Cape Charles

Project Narrative

Scope:	Design and construction of the Cape Charles Community Trail which includes trail improvements connecting the town's central park with trail alignments throughout the town.

Locality Project Manager Contact Info: Heather Arcos, Cape Charles Town Manager, 2 Plum Street, Cape Charles, VA 23310, (757) 331-3259 (x12)

Department Project Coordinator Contact Info: Stephen A. Rowan, VDOT Hampton Roads District Enhancement Coordinator, 1700 North Main Street, Suffolk, VA 23434, (757) 925-2459

Project Costs and Reimbursement

Phase	Estimated Project Costs (All Phases)	Estimated Eligible Project Costs	Estimated Eligible VDOT Project Expenses	Estimated Reimbursement to Locality
Preliminary Engineering	$1,063,745			
Right-of-Way & Utilities				
Construction	$6,266,461			
Total Estimated Cost	$7,330,206	$1,841,625	$15,000	$1,458,300
Total Maximum Reimbursement by Locality to VDOT				N/A
Total Maximum Reimbursement by VDOT to Locality (may be reduced by eligible VDOT project expenses)				$1,473,300

A	B	C	D	E
Transportation Enhancement (80%)	Local Match (20%)	Local Funds (100%)		Aggregate Allocations (A+B+C)
$1,473,300	$368,325	$5,488,581		$7,330,206

Program and Project Specific Funding Requirements

This project will be administered in accordance with the "Enhancement Program Procedure Manual" and the "Guide for Local Administration of Virginia Department of Transportation Projects".

Any expenses above the combined federal (80%) and local (minimum 20% match) will be at 100% project sponsor cost.

100% of eligible VDOT project expenses will be recovered as follows:

- 20% will be deducted from reimbursement requests.
- 80% will be deducted from the Federal Enhancement allocation amount.

Roadway improvements, routine maintenance, and activities with no relation to surface transportation are not eligible for reimbursement with Enhancement funds, and any additional ineligible items identified throughout project development will not be reimbursable.

For multi-phased trail construction projects, each construction phase must provide connectivity, have logical termini, and stand on its own as an eligible Enhancement project.

For Transportation Enhancement projects, the LOCALITY shall maintain the Project, or have it maintained, in a manner satisfactory to the Department or its authorized representatives, and make ample provision each year for such maintenance unless otherwise agreed to by the Department.

In accordance with CTB policy, the project must be completed and the **$1,473,300** Enhancement allocation expended by **October 1, 2013** or the project may be subject to de-allocation.

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official and date		Enhancement Program Manager's Recommendation and date

TOWN OF CAPE CHARLES	AGENDA TITLE: Rental of Billboard		AGENDA DATE: December 9, 2010
	SUBJECT/PROPOSAL/REQUEST: Discuss the billboards available at this time.		ITEM NUMBER: 7D
	ATTACHMENTS: Billboard South Bound on Route 13		FOR COUNCIL: Action (X) Information ( )
	STAFF CONTACT(s): Heather Arcos	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Several citizens addressed the Council at the November Regular Town Council meeting to support a billboard rental on the north bound lane of Route 13. The discussion focused on the impact such a billboard could have on the businesses throughout the year and during the tourist season.

Councilman Veber informed the Council that he had spoken with the Cape Charles Business Association (CCBA) and they have agreed to pay 50% of the costs of the billboard advertising the Town and its businesses along Route 13. Councilman Veber added that he felt this would be beneficial for the Town and the representative for the billboard company informed him to make an offer.

DISCUSSION:

The blank billboard on the north bound lane is just before the T&T gifts (fireworks shop). The rental of this blank billboard is $880/Month with a onetime fee of $640 for design and printing. The Town Manager made an offer of $700/Month which was turned down.

A written commitment has not been received from the Cape Charles Business Association as of yet but we should have one by the Council meeting. The total cost for the blank billboard is $11,200. With 50% being paid by the CCBA, the cost to the Town for one year would be $5,600.

The Town Manager was notified this week of a smaller billboard becoming available in January 2011. This billboard is located on the south bound lane in Belle Haven. This billboard is 8' x 12' and currently is advertising Bail Bonds which will not be renewing in January. The cost is significantly lower but it may be too far away from Cape Charles. Inquiry was made of any future billboards coming up for rental on the south bound lane on Route 13 and the response received was that with the current zoning in Northampton County, there will not be any more nor are there many located in Northampton County to take advantage of to advertise for the Town.

Attached you will find the blank billboard information and in color is the billboard that currently has Bail Bonds. The cost of the Bail Bonds side is $250 a month which is negotiable with a onetime fee of $144 that would be waived for design and installation. The total cost of this billboard is $3K or less for a year.

RECOMMENDATION:

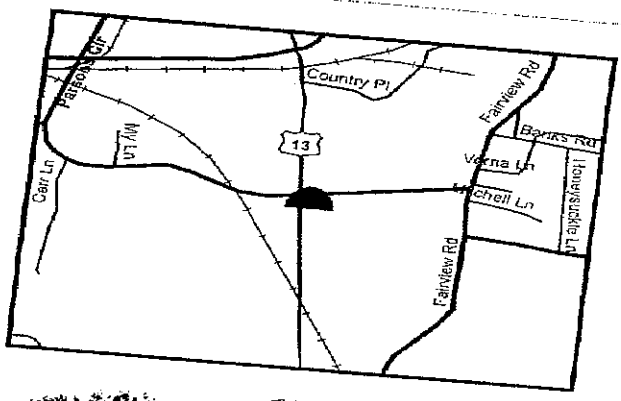
Staff recommends discussion and direction regarding pursuit of the billboard.

CLEARCHANNEL® OUTDOOR

Location # 966002 **Salisbury**

US 13 0.2 mi N/O Fairview Rd ES
South Facing
12' x 40'
DEC 6

Located south of Cape Charles, Virginia.
North-bound board hitting traffic going to Maryland, Delaware & points north.



Can printing change

"The Choice is Clear!"

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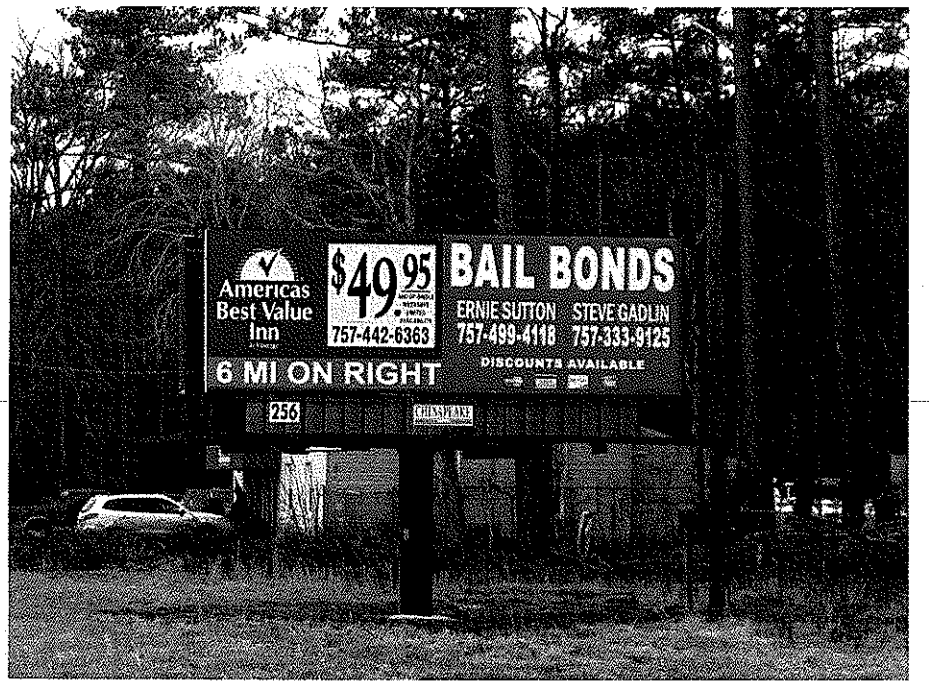
blandy@chesapeakeoutdoor.com



W/S Rt. 13 N/O Belle Haven

FACING: South Bound Traffic

Sign # 256 **Size** 8' x 24' **Illuminated** Yes **If yes, dusk to midnight**

Monthly Rate $250.00 **Length of Contract** 12 month contract

Current Advertiser Bail Bonds

Printing of the flex face - one time charge due at signing of the contract: $144.00