



TOWN COUNCIL

Regular Meeting

February 20, 2014

St. Charles Parish Hall

6:00 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Invocation and Pledge of Allegiance
3. Recognition of Visitors / Presentations
 - A. New Roots Youth Garden
 - B. Presentation of Certificates of Commendation:
 - i. Neil Lessard
 - ii. Carol Habel
 - iii. Mike Mullner
4. Public Comments (3 minutes per speaker)
5. Consent Agenda
 - A. Approval of Agenda Format
 - B. Approval of Minutes
6. Department Reports
 - *A. Treasurer's Report
 - B. Planning Commission and Boards
 - C. Other Department Reports
7. Old Business – None
8. New Business
 - A. Planning Commission 2013 Annual Report
 - *B. Compensation and Classification Study
 - *C. Local Government Challenge Grant - Arts Enter
 - *D. Grinder for Mason Avenue Pump Station
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - March 6, 2014 – Town Council Work Session, 6PM, Town Hall
 - March 13, 2014 – Town Council Budget Work Session, 6PM, Town Hall
 - March 20, 2014 – Town Council Regular Meeting, 6PM, St. Charles Parish Hall
11. Adjourn at 8:00 P.M.



DRAFT
TOWN COUNCIL

Executive Session

Town Hall

January 16, 2014

5:15 p.m.

At 5:15 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Executive Session of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Godwin and Wendell and Councilwoman Natali. Councilman Sullivan was not in attendance. Town Manager Heather Arcos was also in attendance.

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

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

Specifically: Discussion of property leased by the Town and Town-owned property

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to return to Open Session. The motion was approved by unanimous consent.

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

Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to adjourn the Town Council Executive Session. The motion was approved by unanimous consent.

Mayor Sullivan

Town Clerk



DRAFT
TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
January 16, 2014

At approximately 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Godwin and Wendell, and Councilwoman Natali. Councilman Sullivan was not in attendance. Also in attendance were Town Manager Heather Arcos, Town Planner Rob Testerman, Assistant Town Manager Bob Panek, Code Official Jeb Brady, Director of Public Works/Utilities Dave Fauber, Harbor Master Smitty Dize and Assistant Town Clerk Amanda Hurley. Approximately 14 members of the public were in attendance.

Councilman Godwin gave the invocation which was followed by the recitation of the Pledge of Allegiance.

Mayor Sullivan announced that Chief Charles Brown had retired at the end of 2013 and presented him with a hand carved bird. Jim Pruitt was introduced as the Town's new Chief of Police.

Heather Arcos stated that it had been a pleasure to work with Sambo Brown over the last 12 years.

RECOGNITION OF VISITORS / PRESENTATIONS

George Proto – Cape Charles Business Association

Mr. Proto began by thanking the Town of Cape Charles, specifically Heather Arcos, Bob Panek, Jen Lewis and Smitty Dize, who had been involved in various activities. Mr. Proto also thanked the merchants for their cooperation in running specials and discounts to promote events in the Town, Aqua for the frequent use of their facility for Cape Charles Business Association (CCBA) meetings, the volunteers and contributors who helped make the Fall Festival a success and the Board members for their hard work.

Mr. Proto gave a brief overview of the past year including major activities supported, Fall Festival, economic development and major challenges to include building membership and finding volunteers.

Future goals included sponsoring a joint workshop with the Town and County on economic development, expanding membership, becoming self-sustaining financially, develop cadre of hands on volunteers, permanent installation of LOVE sign and expand and improve Fall Festival.

PUBLIC COMMENTS:

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

CONSENT AGENDA – APPROVAL OF AGENDA FORMAT:

Mayor Sullivan stated that item 8A would be removed. Mr. Spencer Murray was unable to attend this evening's meeting but would be on the agenda for the March meeting.

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

CONSENT AGENDA – APPROVAL OF MINUTES:

The Town Council reviewed the minutes of the December 16, 2013 Executive Session, the December 19, 2013 Public Hearing and Regular Meeting and the January 9, 2014 Work Session.

Councilwoman Natali noted two grammatical errors on page 3 of the December 19, 2013 Public Hearing minutes.

Motion made by Councilwoman Natali, seconded by Councilman Bennett, to approve the minutes from the December 16, 2013 Executive Session and the January 9, 2014 Work Session as presented and the December 19, 2013 Public Hearing as amended. The motion was approved by unanimous consent.

DEPARTMENT REPORTS:

A. *Treasurer's Report:*

Heather Arcos reviewed the Treasurer's report dated December 31, 2013 which showed \$1,099,159 in the Shore Bank checking account, \$95,216 in the Shore Bank checking account for reserved facility fees, \$68,504 in the Local Government Investment Pool (LGIP) account for the New Library and \$440,614 in the Local Government Investment & Restricted Funds with the Total Cash on Hand at \$1,703,493. The total cash held in reserve was \$356,114. Heather Arcos went on to review the Tax Collection Comparison for Fiscal Years (FY) 2013 and 2014, the revenues vs. expenditures, the capital improvement projects, the 2013 real estate tax collections, and the 2014 personal property tax and 2014 license tax collections.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to accept the Treasurer's Report as submitted. The motion was approved by unanimous consent.

B. *Planning Commission and Boards:*

Town Planner Rob Testerman reported the following: i) He received an email today from Elaine Meil of the ANPDC regarding scheduling a meeting for the Comprehensive Plan update; and ii) The HDRB would be reviewing applications next week for 500 Tazewell Avenue, the former library building and 207 Mason Avenue, the future yogurt bar.

C. *Other Departmental Reports:*

Heather Arcos reported the following: i) She apologized to the citizens for the short notice on street sweeping. The Town was not notified by VDOT until late Friday. Public Works was able to hand out door hangers on Monday with the street sweeping schedule; ii) the Town had a new website and it was currently being updated. The cost of the website was under the \$5K that was budgeted; iii) The auditors who were scheduled this week had to reschedule with a date to be determined. Mayor Sullivan added that the Town was audited annually; iv) Department Heads were working on FY14/15 budgets and the first budget meeting was scheduled for February 27, 2014; v) VML Day was February 6, 2014 and a few Councilmembers would be attending; and vi) Heather Arcos would not be attending the February 20, 2014 Town Council Meeting because she would be attending the Virginia Local Government Management Association from February 19-21.

OLD BUSINESS

A. *Public Service Authority/Regional Wastewater Update:*

Bob Panek stated that at the Board of Supervisor's (BOS) meeting on December 17, 2013, there were twelve potential properties to be removed and four added. The property evaluation for the proposed special tax district would be about the same as it was in the beginning. The BOS had not taken any action yet. The PSA board was reviewing the operational cost estimates that were provided by the Town of Cape Charles. Hurt & Proffitt had finished with the surveying

phase and confirmed that the previous cost estimate of \$1.8M was still reasonable and hoped to possibly reduce that cost as the engineering phase continued.

Councilman Wendell stated that in the CCBA presentation, concerns had been raised at one of the meetings and it was asked that the project be put on hold until the issues were appropriately addressed. Councilman Wendell asked if these issues had been addressed.

Heather Arcos stated that the letter was provided to Town Council in September and they would continue the discussion at the next work session and the Town was not moving forward with this project other than performing the necessary staff work.

B. *Arts Walk Update:*

Bob Panek stated that during the first year the focus was on development of the marketing campaign, tourism website and special events such as Harbor for the Arts festival to try to leverage the arts to create business opportunities. The Arts Walk planning was created to link community events venues with the Master Trail Plan. A steering committee was formed and they agreed on the following priorities: i) A way finding system with a signature arts piece and Town map at several locations, particularly downtown and the harbor; ii) Improvements at the Town gateway, particularly at the Museum/Welcome Center. A possible roundabout instead of the current intersection which would have a signature arts piece; iii) Improvements in the business district, particularly a convertible Strawberry Street event plaza. It would be a pedestrian plaza where vehicular traffic would be invited in. There would be a farmers market space on the south side of Mason Avenue; iv) Art displays around the trail in Central Park; trail along Peach Street to remain the primary connection between the Park and business district; and v) Development of a beach front performance venue near the entrance of the pier. Bob Panek stated that if Town Council approved continuation of the project, another public input session would be scheduled to focus on the priorities and then brought back to Town Council to adopt as an amendment to the Master Trail Plan. If it was done as part of the Community Trail, grants were available for up to 80% of the cost would be taken care of. There were also grants available for downtown beautification.

Councilman Bennett asked how many people were on the steering committee and who they were. He also asked how their meetings were advertised and suggested getting the word out more. Recommendation was made to utilize the Palace Theatre for the next public input meeting.

Councilman Wendell stated that he wanted to keep in mind the VDOT money for a County wide bicycle trail that would connect the State Park and campground to Town. Bob Panek stated that the gateway would be linked with the bike trail.

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to approve the scheduling of a public input session. The motion was unanimously approved.

C. *Former Library Building Renovations Update:*

Dave Fauber stated that he had received drawings from Architect Leon Parham and a report from the structural engineer. Capacity would be restricted. The ad proposal for a contractor would be in the paper tomorrow with bids due on January 29.

Councilwoman Natali pointed out that according to the plans, the building could accommodate 143 people. Jeb Brady stated that he was still working on that with Mr. Parham but, the maximum capacity would most likely be between 99 and 110.

D. *Cape Charles Harbor Conceptual Master Plan Update:*

Smitty Dize stated that at the October 3, 2013 Special Meeting, Town Council requested changes to be made to the Harbor Conceptual Master Plan. The following changes were made: i) The

“Peach Street Framework View Corridor” was removed; ii) The proposed inner basin bath house was downsized, but still in compliance with the Virginia Department of Health regulations; iii) The restaurant was labeled; iv) The proposed Virginia Waterman’s Memorial was labeled; v) The proposed bait and tackle shop was added; and vi) The Maritime Academy Training Davits were shown with one existing and one proposed.

Councilman Wendell asked what the size of the proposed bath house was in comparison with the existing. Smitty Dize stated that they wouldn’t know until the transient and seasonal slips were completed, but it was projected to be about half the size of the current bath house.

Vice Mayor Bannon stated that there had been much discussion about the \$343K bath house and asked how much money the Town actually had to pay. Smitty Dize stated that the Town paid \$30K-\$40K and the remainder was split between the Virginia Port Authority and the Boating Infrastructure Grants.

Motion made by Councilman Bennett, seconded by Councilman Godwin, to approve the Cape Charles Harbor Conceptual Master Plan as presented. The motion was unanimously approved.

E. *Harbor Area Review Board – Virginia Waterman’s Memorial Recommendation:*

Rob Testerman explained that the Harbor Area Review Board recommended approval of the memorial with the following conditions: i) There was concern that walls over three feet could go against the standards in the guidelines. However, after looking for this standard, it was found that walls over three and one half feet in height were allowed, but must be reviewed by the Board. Therefore, there was no conflict with the guidelines on this issue; ii) Pedestrian safety was another concern raised by the board, as the memorial would be located in the center of a circle drive adjacent to a restaurant. The Design Standards stated that mixed use areas should be connected by sidewalks and pedestrian use should be integrated with parking and businesses. An ingress/egress point was also suggested connecting the memorial to the front entrance of The Shanty, and that both crossings should be marked with pedestrian crossing signs. As for safety measures, a 6” VDOT curb would be in place, and a series of steel posts or bollards with a decorative chain around the memorial were discussed; iii) The benches were proposed to be black and grey granite, as depicted in the 3D model, which would be bought by donors to be placed in the memorial. The Board discussed these benches and determined that they would be satisfactory, and that if the need should arise, as a temporary measure, the concrete Bayshore Concrete benches would be allowed; iv) The lighting of the memorial was also of concern to the Board. The lighthouse replica would use a low voltage continuous burning light. It was discussed that there may be additional downward facing lighting attached to the lighthouse to illuminate the memorial area, lighting incorporating bollards were also discussed; and v) When specific plans for the above mentioned conditions were complete, they would be submitted to the Zoning Administrator for administrative review and approval prior to any installation.

Councilman Bennett asked what the timeframe was for construction of the memorial. Ed Lewis of the Friends of the Virginia Waterman’s Memorial on the Eastern Shore stated that they would begin as soon as they received approval and when Bayshore Concrete could pour the foundation.

Rob Testerman added that The Shanty would not lose parking spaces since the memorial was to be constructed in the existing circular area.

Councilman Bennett commented that a lot of effort had gone into the memorial and added that it was a fantastic addition to the Harbor, but recommended that they wait on the black and grey granite benches and not use the Bayshore Concrete benches because they might detract from the memorial.

Motion made by Councilman Bennett, seconded by Councilman Godwin, to approve the Harbor Development Certificate with the HARB's conditions as discussed with the exception that concrete benches would not be used. The motion was unanimously approved.

F. *Harbor Area Review Board – Shanty Recommendation:*

Rob Testerman stated that the Harbor Area Review Board reviewed proposals for modifications to The Shanty restaurant and recommended approval of the Harbor Development Certificate.

Jon Dempster of The Shanty stated that the goal was to complete all modifications during the off season before their target opening date of March 19.

The Harbor Development Certificate was valid for one year. If construction could not be completed in the current off season, building permits could be pulled before the end of the year to extend the time for construction.

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to approve the Harbor Development Certificate as presented. The motion was unanimously approved.

G. *Police Car Replacement:*

Heather Arcos stated that the Town Council had a work session on January 9 to discuss payment options for a new police vehicle. There was \$10K in savings in the police department budget from salaries and benefits, \$5,387 in insurance money from the 2008 Crown Victoria that was deemed a total loss, as well as \$20K from the Comprehensive Plan savings. The recommendation was to pay cash for the replacement vehicle instead of financing through USDA Rural Development at a 4.625% interest rate for four years. Staff recommended purchasing the Dodge for a state contract price of \$23,236.

Mayor Sullivan suggested sharing a vehicle between police officers. Chief Pruitt stated that there were no advantages in sharing a vehicle because fuel consumption was the same, mileage would be higher and there was more wear and tear and maintenance on a shared vehicle. Chief Pruitt had sent Council statistics after the work session.

Councilman Wendell voiced his concerns and suggested two of the newest officers share a vehicle. Chief Pruitt stated that FEMA had new requirements for encrypted radios and each radio had its own number associated with each Officer. Each radio also had an Officer Down button. There were safety issues when Officers shared a vehicle.

Chief Pruitt invited the Council to look inside the vehicles to understand what each was equipped with. Chief Pruitt pointed out that some cities could share vehicles because they were just patrol units.

Motion made by Councilman Godwin, seconded by Vice Mayor Bannon, to authorize the Town to purchase the police vehicle outright. The motion was approved by majority vote with Councilman Wendell opposed.

NEW BUSINESS:

B. *Utility Easement – 200 Block of Mason Ave*

Heather Arcos stated that the Town was working with property owners to obtain a utility easement connecting Randolph Avenue to the rear of four properties in the 200 block of Mason Avenue. Easements would be granted to the Town for utility purposes from the Cape Charles Hotel, Hotel Blue, The Cape Charles Coffeehouse and the Wendell property. All of the property owners had given verbal agreement.

Dave Fauber stated that storm water and sanitary sewer connections had been an ongoing issue for those properties. If a building had not been renovated, the front of the building and sidewalk would have to be torn up. An easement had been drafted to include a temporary 8' construction easement and a 4' permanent easement for the utility line. The Town would install a 6" sewer line at a cost of about \$1,200-\$1,500.

Councilwoman Natali questioned if the easement could accommodate fire and rescue vehicles or garbage trucks. Dave Fauber stated that it would not at this time, but it was a plan that merited discussion in the future.

Heather Arcos stated that she and Dave Fauber would be meeting with Chris Isdell of VDOT to discuss the needs of the Town such as storm water and manholes.

C. *Virginia Port Authority Aid to Local Ports Grant Request:*

Smitty Dize stated that every year the Harbor requested funding from the Virginia Port Authority (VPA). Last year the Town asked for a carryover and would be asking for a carryover again this year. Smitty Dize stated that the Town was unable to find additional funding to assist with the breakwater, but would continue to search. The Town would submit a letter from the Mayor by March 1 requesting the carryover.

Motion made by Councilwoman Natali, seconded by Councilman Bennett, to authorize the Mayor to send a letter to the VPA requesting a carry-over of the \$500K and \$75K grants for protection of the Harbor. The motion was unanimously approved.

MAYOR AND COUNCIL COMMENTS

Mayor Sullivan directed her comment to Dave Fauber, recognizing Pete Leontieff and his crew for being hard workers.

The Council members thanked Charles Brown for his service to the Town and congratulated Chief Jim Pruitt.

Councilman Bennett stated that he would like to see a five or ten year Capital Improvements Plan for the items the Town would like to do. There were a number of vacancies filled in the last six months and wage was an issue. Councilman Bennett stated that as a priority he would like to see a wage compensation study to update the wages for all positions and also produce position descriptions. Heather Arcos stated that it would be discussed at the February 8 Work Session.

Vice Mayor Bannon stated that the Town was supposed to have a rainy day fund at approximately \$125 per citizen. Vice Mayor Bannon also stated that the VPA had been really good to the Town and pointed out that VPA Senior Vice President Russell Held wanted to meet with Town Council.

Councilman Wendell commented by asking why the Town could not complete the wage compensation study in-house vs. paying \$10K to have it completed by a third party.

Councilwoman Natali stated that she would like to discuss at a future work session raising transient occupancy tax and reserving it for the Town use, specifically tourism related programs and projects within the Town and supporting Town businesses and non-profits.

Councilwoman Natali and Vice Mayor Bannon reported that the Epiphany Party collected a total of \$4,666, of which \$850 of those proceeds were dedicated to the Fire Department. After expenses, Arts Enter would receive \$3,332.27. The Fire Department also collected \$500-\$600 in their donation boot.

ANNOUNCEMENTS

- January 17, 2014 – Town Offices Closed in Observance of Lee-Jackson Day
- January 20, 2014 – Town Offices Closed in Observance of Martin Luther King Jr. Day
- January 22, 2014 – Town Council Special Meeting, 6:00 PM, Town Hall
- February 6, 2014 – VML Local Government Day in Richmond
- February 8, 2014 – Town Council Retreat/Work Session
- February 13, 2014 – Town Council Work Session, 6PM, Town Hall, tentative
- February 17, 2014 – Town Offices Closed in Observance of Presidents’ Day
- February 20, 2014 – Town Council Regular Meeting, 6PM, St. Charles Parish Hall

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

Mayor Sullivan

Asst. Town Clerk

DRAFT



DRAFT
TOWN COUNCIL
Special Meeting
Town Hall
January 22, 2014
4:30 PM

At 4:30 p.m., 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 Bennett and Wendell, and Councilwoman Natali. Councilman Godwin arrived at 4:32 p.m. Mayor Sullivan and Councilman Sullivan were not in attendance. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, and Cela Burge and Dan Brown representing South Port Investors, LLC. There were three members of the public in attendance.

Vice Mayor Sullivan announced the business for the evening would be to continue discussions regarding the request for waiver from South Port Investors, LLC (SPI).

PUBLIC COMMENTS

There were no public comments heard or any comments submitted in writing prior to the meeting.

A. Request from South Port Investors, LLC

Town Manager Heather Arcos began with a recap of the January 9, 2014 Town Council Work Session where SPI's request for waivers of one connection charge per parcel for Town-owned parcels 12, 14, 17, 19 and 20 which were leased by SPI. Parcels 12 and 17 had existing connections. There was lengthy discussion regarding the two existing tenants on Town-owned properties, the difference between the types of business, terms of the leases, and Town incentives currently in place. This special meeting was being held to continue discussions regarding SPI's request and possibly making a decision so a response could be provided to SPI.

There was much discussion regarding the following: i) SPI should be required to pay the outstanding charges for the minimum usage on parcel 12; ii) Deferral of the connection charges on parcels 14, 19 and 20 until such time that SPI exercised their right to purchase the properties; iii) Consistency with the concessions made for The Shanty until such time that the property was no longer owned by the Town; iii) The Shanty did not have an option to purchase, however, if they made an offer to the Town to purchase the property, they would be required to pay a portion, if not all, of the connection charges; iv) It was in the best interest of the Town to move forward with deferring the payment of connection charges until SPI exercised their right to purchase the property; v) At the time when SPI exercised their right to purchase the property, the deferred connection charges should be discussed and a reasonable charge be agreed upon at that time; vi) At the last meeting, Councilman Sullivan had some concerns regarding the future plans for the project being unknown and it was suggested that the deferred connection charges be limited to a certain amount comparable to the amount for The Shanty. Heather Arcos stated that she thought the connection charge for The Shanty was approximately \$60K; vii) The expiration of SPI's purchase option was February 27, 2018 and was specified in the lease. If the right to purchase was not exercised by written notice to the Town prior to February 27, 2018, the right to purchase would be forfeited; viii) The fact that connection charges were supposed to be set aside for future expansion; ix) Once operations began, SPI would be using water and would be paying for the usage; x) SPI would be responsible to pay the full costs for any additional connections on those parcels; and xi) If the connection fees were limited to \$60K, it would be equivalent to four residential connections or twelve connections for the three parcels, which was not a significant impact to the plant capacity.

Bob Panek summarized this evening's discussion as follows: i) One building connection would be deferred for parcels 14, 19 and 20 while the parcels were under lease to SPI; ii) The connection charges to be deferred would be calculated when specific building plans were approved by the Town, up to a maximum of \$60K to be deferred; iii) The deferred connection charge would be considered payable upon purchase of the property; iv) As a precondition, all delinquent water and wastewater minimum usage charges must be paid; and v) Normal connection charges would apply for additional buildings on all parcels.

There was more discussion regarding the consideration for payment vs. requiring the connection charges to be payable upon purchase of the property. Councilman Wendell expressed his concern that a precedent would be set for any future entities doing business with the Town which could be detrimental. The Town negotiated the leases and amendments in good faith with SPI, the last lease amendments were executed in 2013, and now aspects of the lease were being reconsidered. There would be nothing to stop The Shanty from asking for a renegotiation of aspects of their lease. Councilman Wendell added that he wanted to see the businesses succeed but did not want to set any additional precedents that could negatively affect the Town's utility bills.

There was also some discussion regarding business entities coming into Town asking for discounts, etc. from the Town when citizens could not get these concessions.

Heather Arcos stated that SPI was asking Council to consider a waiver of the charges. An option was to administratively defer the charges to allow SPI to continue to move forward with negotiations with businesses which would also be paying the monthly user rates. Every account added would impact the minimum rates for everyone and pay for the operations of the plants.

Councilman Wendell asked why a waiver was needed. Councilman Bennett stated that the waiver request was to open up additional opportunities for SPI to lure businesses, who might come if the fees were reduced. It was difficult to attract businesses to Cape Charles because it was expensive. Councilman Godwin stated that good businessmen knew of the costs to start a business. Councilman Bennett commented that people used to say that if people had the money to buy in Bay Creek, they had the money to pay the connection charges, etc., but all the various fees and charges added up. The deferral of the connection charges could bring a business to the Town that otherwise would not come if they had to pay the full connection fee. Councilman Bennett went on to state that he would be willing to consider incentives for any business that was willing to come to Town and invest in the Town and create jobs and create income for the Town. There were other incentives in place as well that SPI could take advantage of when the time came. Councilman Bennett added that the entire Council had agreed to these incentives to attract businesses to Town.

Councilman Wendell stated that a uniform incentive package was needed for all businesses.

Vice Mayor Bannon stated that one connection per parcel was acceptable and the Town would get paid when the property was sold. If SPI did not take the option to buy, it remained the Town's property with the associated connections. SPI would probably get two or three additional connections which would be paid for. Bob Panek stated that there was a possibility for multiple buildings on parcels 14 and 17. Unless SPI's conceptual plan was changed, he did not see any possibility of additional buildings on parcels 19 and 20.

Councilman Wendell expressed his concern regarding setting a precedent. Councilwoman Natali stated that the precedent was limited to leased Town property.

Heather Arcos noted that deferring payment of connection charges would allow the businesses to get off the ground. This could also be done for other businesses coming into Town.

Bob Panek summarized that three of the four Council members in attendance were in favor of the deferral; three of four were okay with “consider to be payable upon purchase” and one wanted “payable upon purchase.”

Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, that i) one building connection charge, not to exceed \$60K, would be deferred for parcels 14, 19 and 20 while the parcels were leased to South Port Investors, LLC; ii) the connection charge to be deferred would be calculated when specific building plans were approved by the Town; iii) a portion of the deferred connection charge would become payable upon purchase of the property, the amount of which would be negotiated at the time of purchase; iv) as a precondition, all the delinquent water and wastewater minimum usage charges must be paid; and v) normal connection charges would be applied for additional buildings on all parcels.

There was further discussion regarding the following: i) The Technology Zone incentives which could refund up to 50% of the connection charges if the investment qualified under the Technology Zone criteria; ii) Whether SPI or their tenants would be eligible to apply for the Technology Zone incentives; iii) The proposed Bistro could fall under the Tourism Zone once the details of the incentives were finalized and approved.

Vice Mayor Bannon called for a vote.

The motion was approved by majority vote of the Council members in attendance with Councilman Wendell opposed.

Heather Arcos stated that she would draft a response to SPI for Council review.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adjourn the Town Council Public Hearing & Special Meeting. The motion was approved by unanimous consent.

Vice Mayor Bannon

Town Clerk



DRAFT TOWN COUNCIL

Retreat

Town Hall

February 8, 2014

9:00 AM

At 9:10 a.m., Vice Mayor Chris Bannon, having established a quorum, called to order the Town Council Retreat. In addition to Vice Mayor Bannon, present were Councilmen Bennett, Sullivan and Wendell and Councilwoman Natali. Councilman Godwin arrived at 9:55 a.m. Mayor Sullivan was not in attendance. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, and Town Clerk Libby Hume. Building Code Official Jeb Brady was in attendance for a portion of the meeting. There were five members of the public in attendance.

Review of Strategic Goals and Policies in the Comprehensive Plan

Council reviewed goals, objectives and recommendations included in the current Comprehensive Plan, which was adopted in 2009, and discussed the Town's accomplishments, infrastructure, business incentives, partnerships and structural initiatives. It was noted that Northampton County was reinstated with its HUB Zone designation. Staff would check into this and, if so, would include information regarding the HUB Zone in the Town's Business Incentive Portfolio.

There was much discussion regarding parking in the business district along the narrower streets of the Town between Mason and Randolph Avenues and the safety issues. The Town owned a lot behind the Library which could be utilized for parking. Councilman Wendell suggested the Town contact the owner of the vacant building on the south side of Mason Avenue to possibly purchase the parking lot(s).

Councilman Wendell also suggested possible acquisition of three lots behind the former school building, adjacent to four lots owned by the Town, which could be used for parking for Central Park.

Councilman Bennett requested that Council re-evaluate the future phases of the Cape Charles Community Trail and redirect efforts to improving Mason Avenue.

Commercial Water & Wastewater Facility Fee Comparison:

Code Official Jeb Brady reviewed a comparison of commercial facility fees with towns ranging in population from 1,487 to 7,727. Other localities determined their facility fees by the size of the pipe coming into the building. The Town of Kilmarnock also included additional fees for high volume users. The facility fees charged by other localities ranged from \$9,000 to \$71,031 for single family residential. In comparison, Cape Charles' facility fee was \$12,350 for a single family residence. Fees for a variety of commercial uses were also reviewed.

Assistant Town Manager Bob Panek reviewed the Town's formula used to compute commercial facility fees which had been in place for years. The formula assumed that every business used at least the amount of water used by a residence which was not always the case. A number of alternative calculations were discussed.

More in depth study of this issue was needed and Council agreed that this study would be high priority. A work session would be scheduled for the beginning of March to further review this issue and staff recommendations.

Public Service Authority Update:

Town Manager Heather Arcos informed Council that Bob Panek resigned as Chair of the Public Service Authority (PSA) in January. There was much discussion regarding the manner in which this issue was handled by the Northampton County Board of Supervisors (BOS). Councilman Bennett stated that Bob Panek had done a great job with the PSA and his letter of resignation was well written. It was also noted that Bob Panek requested the Commonwealth Attorney's opinion regarding a conflict of interest and the opinion was that there was no conflict.

Heather Arcos stated that the purpose of including this topic on the agenda was for discussion regarding the status of the PSA and what the next step would be to continue to work towards a potential regional service agreement with the PSA. The goal today would be to determine whether Council wanted to continue to explore the options to partner with the PSA and whether a working committee should be formed with representation from the Town, PSA and BOS. A joint meeting of the BOS and PSA was scheduled for February 18.

There was some discussion regarding the purpose and necessity of the proposed working committee. Bob Panek was still a member of the PSA Board and provided regular updates to the Council. Heather Arcos stated that Northampton County Administrator Katie Nunez was planning to recommend the formation of the working committee at the February 18 joint meeting.

There was much discussion regarding the PSA and the proposed regional wastewater system. Heather Arcos stated that a legal opinion was obtained and the participation in a regional wastewater system would not impact the requirements included in the Annexation Agreement.

Bob Panek stated that there was a new member on the BOS and a new Chair and Vice Chair some of their opinions differed from the previous Board. Hopefully, a determination would be made at the February 18 meeting regarding the future direction of the PSA and regional wastewater system.

Councilman Wendell expressed his concern that a regional wastewater system would hasten commercial development along Route 13 to the detriment of the businesses in Cape Charles. Council's goal should be to make Cape Charles a more desirable place to live and open a business.

Vice Mayor Bannon stated that Councilman Wendell should not participate in discussions concerning the PSA since he owned property in the proposed Special Tax District. It was noted that Council had previously requested that Councilman Wendell obtain an opinion from the Commonwealth's Attorney regarding conflict of interest. Councilman Wendell responded that he had not requested an opinion and continued to participate in the discussion.

It was noted that regardless of whether the Town continued as a partner for the regional wastewater system, the County had other options and potential development along the highway could not be prevented. The Town did not have any control of the properties along the highway and a hotel was already approved for the area.

There was much discussion regarding one of the County's alternative options which was to expand the current facility at Bayview. Several of the Council members expressed their concern that the facility at Bayview was a septic tank system with a mass drainage field which could affect the aquifer.

Council agreed that the Town should not pull out of the PSA, but would wait to receive clear direction from the BOS.

Tourism / Transient Occupancy Tax:

Council reviewed the Town's focus on tourism, the investments in the fun pier, beach breakwaters and replenishment, Central Park, Community Trail, Harbor breakwaters, floating slips and bath

house, arts and recreation programs, special events, and marketing efforts through the Eastern Shore of Virginia Tourism Commission's (ESVTC) Welcome Center, websites, print and social media.

The tourism revenue and expense for fiscal years (FY) 2011 through 2014 were reviewed. The Harbor revenue had increased 174%, transient occupancy taxes (TOT) increased 83%, and meals tax increased 31%. The contribution to the ESVTC, which amounted to 1% of the TOT, had increased 83%. However, support of Town tourism related organizations were severely constrained in FY 2014 with only \$2,500 allocated for the Arts Enter Local Government Challenge Grant.

There was much discussion regarding the 1% of the TOT allocation to the ESVTC, which was currently defined in the Town Code, section 66-57. This was done years ago when the ESVTC was the only organization promoting tourism in the area, but now, there were other organizations in the Town needing assistance, including the new tourism website.

Council reviewed the possibility of increasing the Town's TOT rate by 1%, for a total of 4%, to generate revenue to support the Town's tourism related organizations and programs. A report from Weldon Cooper Center for Public Service showing the percentages of transient occupancy tax and meals tax assessed by localities across the Commonwealth was reviewed. The Towns shown in the report assessed between 2% - 9% in TOT. Other localities' rates were reviewed as follows: Virginia Beach – 14% plus \$1 per night; Norfolk – 14% plus \$2 per night; Williamsburg – 11% plus \$2 per night; Corolla, NC – 13.75%; Salisbury, MD – 12%; Pocomoke City, MD – 10.5%; and Ocean City, MD – 10.5%. Other localities on the Eastern Shore assessed a combination of sales and transient occupancy tax as follows: Chincoteague – 11.3% (5.3% sales tax, 4% TOT for the town, 2% TOT for the county); Exmore – 10.3% (5.3% sales tax, 5% TOT for the town); Northampton County – 10.3% (5.3% sales tax, 5% TOT); and Accomack County – 10.3% (5.3% sales tax, 5% TOT).

There was much discussion regarding the amount of money allocated by various localities on the Eastern Shore to the ESVTC. Councilwoman Natali stated that she received information from the ESVTC which showed the total amount of funding assistance of \$215,600 with a breakdown as follows: Accomack County – \$86,500; Northampton County – \$114,700; Onancock – \$2,750; and Cape Charles – \$11,300. Heather Arcos noted that in 2011, Chincoteague collected over \$600K from their TOT and the money went into their general fund. The Town had consistently paid ESVTC 1% of the TOT collected, which increased every year and equated to almost \$17,500 in FY 2014. An additional \$5K was paid to the ESVTC Welcome Center each year until FY 2014 and the Town was also charged for the placement of rack cards at the Welcome Center. Councilwoman Natali added that she would like to see more of the Town's TOT being kept in the Town and suggested that the Town request a formal, written annual report from the ESVTC showing how the Town's funding was spent to market Cape Charles.

There was some discussion regarding the possibility of increasing the TOT rate with the revenue being allocated for in-Town tourism related organizations and events. Heather Arcos stated that the B&B Association and Hotel Blue was supportive of the increase since it was a pass-through tax and stressed the importance of the Town's continued support of the ESVTC. The Welcome Center generated a lot of visitors to the Town. The ESVTC was working on the Eastern Shore Space Initiative which would also benefit Cape Charles. Mr. George Proto, president of the Cape Charles Business Association, would be serving on this committee. A Tourism Symposium was planned for April.

Councilwoman Natali stated that she would like Council to create a committee to assess the Town's needs and review requests from tourism-related organizations and allocate funding to the organizations. The Town needed to put a cap on the amount of funding going to the ESVTC and

provide more for the organizations and events in the Town. The Town Code should be modified to show a per capita or fixed amount to the ESVTC vs. 1% of the TOT. A fixed amount would be more beneficial to the ESVTC for their budgeting needs. A poll of Council was taken regarding an increase in TOT from .7% - 1%. Heather Arcos stated that an amended ordinance would be drafted for Council review.

Vice Mayor Bannon stated that there was currently an issue in the legislature regarding collection of TOT from State Parks and Campgrounds.

Wage Compensation Study:

Heather Arcos stated that Council had discussed a wage compensation study for the past several years. A proposal was obtained from Springsted Inc. last year in the amount of \$10,300 but was deferred. A compensation and position classification study would show the efficiencies and deficiencies in the departments and needs as the Town grew. Springsted would evaluate all the information and provide a staffing recommendation. Heather Arcos stated that she had requested an updated proposal, but had not yet received it. A portion of the savings from the Comprehensive Plan update could be allocated for the study.

Councilman Bennett stated that he would like to have the study performed as soon as possible, to which Councilwoman Natali agreed. Councilman Wendell expressed his opposition and stated that Town management should be able to conduct the study without the \$10K cost. Staff should evaluate a sample of 10 localities with similar populations. The results would show that the Town had more staff than the other localities. Heather Arcos stated that management had been doing this for a number of years, but most localities got a professional review every so often. As the Town continued to grow, several areas needed additional support and a professional study would evaluate all of the Town's services and determine which areas needed more staffing and which areas could do with less.

Bob Panek stated that in 2005, there were three employees in Code Enforcement and currently, there was one employee. The Town had a Director of Public Works and a Director of Public Utilities, but those positions had been combined. One position was also eliminated from Public Utilities, as well as the DMV franchise position that was losing \$20K per year.

Councilman Bennett reiterated his opinion that a professional study was essential. Councilman Sullivan added that it was similar to the annual financial audit, but the study would evaluate the Town's human assets.

Heather Arcos polled the Council. Vice Mayor Bannon, Councilmen Bennett, Godwin and Sullivan, and Councilwoman Natali were in favor of proceeding with a professional compensation and classification study. Councilman Wendell was opposed.

Capital Projects Review / Priority List:

Council reviewed and discussed the Capital Projects Priority list as determined at a meeting held on December 3, 2013. The list included the following: i) Sewage Collection System Manholes; ii) Grinder for the wastewater system; iii) Improvements to the Plum and Pine Street Pump Stations; iv) Cape Charles Multi-Use Trail Phase 2; v) Connection of the Keck Wells; vi) Offshore Breakwater; and vii) Existing A Dock Attenuator.

Councilman Bennett requested that staff develop one spreadsheet or list containing all current and future capital improvement projects going out five or ten years, including estimated costs so Council would be able to identify future projects needing to be funded. Councilwoman Natali agreed. Heather Arcos stated that staff did have such a list, but needed to consolidate the information into one report. Councilwoman Natali stated that the Capital Improvement Plan (CIP) would be beneficial for the Planning Commission during the Comprehensive Plan update process.

A copy of the CIP would be provided to the Planning Commission for their review to ensure that nothing was missed.

Heather Arcos updated Council on several current projects as follows: i) Public Works/Public Utilities Director Dave Fauber had reviewed the bids received for the former library building. The work should be completed by the end of April; ii) Dave Fauber obtained a permit from VDOT and pricing for the sidewalk project to Heritage Acres; and iii) Dave Fauber was still working with FEMA on the repairs to the fishing pier.

Recap:

Councilman Bennett stated that this was a good meeting with good dialogue. It was beneficial for the Council and Town and needed to be done more often.

Councilwoman Natali agreed but added that the time needed to be better managed. Too much time was spent on the background and history of what the Town had accomplished but Council needed to concentrate on the “meat” of the meeting.

Councilman Wendell agreed that the meeting was beneficial and staff did a good job, but added that he felt that the Town needed to be actively assessing the acquisition of parking lots and other key properties in the Town.

There were no other comments.

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

Vice Mayor Bannon

Town Clerk

MUNICIPAL CORPORATION OF CAPE CHARLES
CASH POSITION
JANUARY 31, 2014

Cash on Hand	12/31/2013	1/31/2014
Shore Bank Checking Account	1,099,159	1,031,382
Shore Bank Checking Account - Facility Fees Reserved	95,216	95,216
Local Government Investment Pool - New Library Funds from CD	68,504	68,509
Local Government Investment & Restricted Funds	440,614	440,650
Total Cash On Hand	\$ 1,703,493	\$ 1,635,757

Restricted Cash Balance	12/31/2013	1/31/2014
LGIP - Rural Development	97,301	97,309
Shore Bank Savings Account - Police Funds	1,231	1,231
US Bank - VRA Interest Free Loan	257,582	257,584
Total Cash Held in Reserve	\$ 356,114	\$ 356,124

Tax Collection Comparison - JANUARY 31, 2014:

Tax Category	FY 2013	FY 2014	Difference
Admission Taxes	13,479.88	14,390.53	910.65
Business License Tax	1,861.18	7,634.50	5,773.32
Consumer Utility Taxes	26,087.97	25,706.25	(381.72)
Electric, Gas & Telephone	28,614.94	27,482.95	(1,131.99)
Franchise License Taxes	-	-	-
Golf Cart Decals	1,333.00	558.00	(775.00)
License Tax **	9,943.25	17,227.55	7,284.30
Machinery & Tools	30,780.00	31,194.00	414.00
Meals Tax	143,167.10	176,824.68	33,657.58
Penalties & Interest - All Property Taxes	20,437.50	22,481.77	2,044.27
Penalty & Interest - Miscellaneous Taxes	-	-	-
Personal Property Taxes	86,557.86	73,255.11	(13,302.75)
Prior Year Real Estate & Personal Property Taxes	39,738.77	42,728.87	2,990.10
Real Estate Taxes	1,000,292.58	965,889.71	(34,402.87)
Short Term Rental Tax	3,414.31	3,334.96	(79.35)
Transient Occupancy Tax	36,142.90	43,017.34	6,874.44
Total	\$ 1,441,851.24	\$ 1,451,726.22	\$ 9,874.98

MUNICIPAL CORPORATION OF CAPE CHARLES
 TREASURER'S REPORT
 JANUARY 31, 2014
 REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>ANNUAL BUDGET</u>	<u>CURRENT MONTH</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>INCREASE/ DECREASE YTD</u>	<u>% REALIZED/ EXPENDED FY14</u>
GENERAL						
REVENUES	2,957,183	52,892	1,731,088	1,702,793	28,294	58.54%
EXPENDED	2,957,183	151,466	1,054,162	1,335,949	(281,787)	35.65%
PUBLIC UTILITIES						
REVENUES	1,496,082	125,406	1,156,325	1,179,301	(22,976)	77.29%
EXPENDED	1,496,082	59,703	738,346	970,340	(231,993)	49.35%
HARBOR						
REVENUES	2,566,869	11,968	583,167	588,378	(5,211)	22.72%
EXPENDED	2,566,869	69,214	617,046	599,195	17,851	24.04%
SANITATION						
REVENUES	160,452	14,992	102,099	106,166	(4,067)	63.63%
EXPENDED	160,452	610	68,152	77,462	(9,310)	42.47%

FY 2014 Capital Improvement Project (CIP) History

General Fund	FY11		FY12		FY13		FY14	
	actual	budgeted	actual unaudited	budgeted	actual unaudited	budgeted	actual unaudited	budgeted
Cape Charles Multi-Use Trail	\$ 351,814	\$ 165,000	\$ 55,486	\$ -	\$ -	\$ -	\$ -	\$ -
Cape Chas Multi-Use Trail Phase 2	\$ -	\$ 433,026	\$ -	\$ 96,000	\$ 57,752	\$ 96,000	\$ 17,525	\$ 750,000
CBDG Broadband	\$ 207,410	\$ 512,300	\$ 254,742	\$ 209,703	\$ -	\$ -	\$ -	\$ -
Fishing Pier Old Section Replacement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 310,000
Gator 4WD with Sides	\$ -	\$ -	\$ 12,000	\$ 12,000	\$ -	\$ -	\$ -	\$ -
Handicap Accessibility Old Library	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40,000
New Library Building	\$ -	\$ -	\$ -	\$ -	\$ 207,633	\$ 207,633	\$ -	\$ -
Pickup Truck - Public Works	\$ 20,437	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Public Works Building	\$ 28,293	\$ 30,000	\$ 36,277	\$ 24,795	\$ -	\$ -	\$ -	\$ -
Restrooms Central Park - Town Portion	\$ -	\$ -	\$ -	\$ -	\$ 15,000	\$ 15,000	\$ -	\$ -
Sidewalk - Connect from Heritage Acres	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 130	\$ 10,000
Street Sweeper	\$ -	\$ -	\$ -	\$ -	\$ 19,089	\$ 20,000	\$ -	\$ -
subtotal	\$ 607,954	\$ 1,160,326	\$ 358,504	\$ 342,498	\$ 299,474	\$ 338,633	\$ 17,655	\$ 1,110,000
Water Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000	\$ 1,200	\$ -
Asset Management System Software	\$ -	\$ -	\$ -	\$ 120,000	\$ 114,809	\$ 120,000	\$ 3,178	\$ -
Control Panel	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,000
Generator New Water Plant	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Infrastructure 2 Wells	\$ 120,906	\$ 280,000	\$ 26,650	\$ 325,000	\$ 5,083	\$ 117,367	\$ 400	\$ 60,000
Project Consultant/Management	\$ 3,060	\$ 4,613	\$ 2,576	\$ 3,339	\$ -	\$ -	\$ -	\$ -
Softener Media	\$ -	\$ -	\$ -	\$ -	\$ 24,750	\$ 50,000	\$ -	\$ -
Stainless Steel Racks	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000	\$ -	\$ -
Stainless Steel Walkway	\$ -	\$ -	\$ -	\$ -	\$ 9,950	\$ 10,000	\$ -	\$ -
Utility Trailer New (50% Cost)	\$ -	\$ -	\$ -	\$ -	\$ 1,433	\$ 2,500	\$ -	\$ -
Water Production Expansion	\$ 25,183	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
subtotal	\$ 149,149	\$ 304,613	\$ 29,226	\$ 448,339	\$ 156,025	\$ 324,867	\$ 4,778	\$ 105,000
Sewer Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000	\$ 1,200	\$ -
Asset Management Design/Population	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Generator New Mason Ave	\$ -	\$ -	\$ -	\$ 35,000	\$ -	\$ -	\$ -	\$ -
Generator Replacement Wastewater	\$ 45,000	\$ 45,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Inflow & Infiltration Project	\$ 779,889	\$ 1,200,000	\$ 722,664	\$ 325,000	\$ -	\$ -	\$ -	\$ -
Project Consultant/Management	\$ 36,081	\$ 41,519	\$ 24,047	\$ 30,049	\$ -	\$ -	\$ -	\$ -
Pump Stations - Engineering Plum St	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 30,000
Utility Trailer	\$ -	\$ -	\$ -	\$ -	\$ 1,433	\$ 2,500	\$ -	\$ -
Vehicle New for Department	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000	\$ -	\$ -
WWTP Plant Construction (1)	\$ 9,721,278	\$ 13,041,519	\$ 3,620,370	\$ 6,100,000	\$ 1,233,024	\$ 1,783,944	\$ 76,862	\$ -
subtotal	\$ 10,582,248	\$ 14,328,038	\$ 4,367,081	\$ 6,490,049	\$ 1,234,457	\$ 1,821,444	\$ 78,062	\$ 30,000
Harbor Fund	\$ -	\$ -	\$ 343,300	\$ 343,977	\$ -	\$ -	\$ -	\$ -
Bathhouses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Gator	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,000	\$ 12,000
Marina Inshore Floating Slips	\$ 1,540,370	\$ 1,643,977	\$ 75,378	\$ -	\$ -	\$ -	\$ 7,500	\$ 100,000
Offshore Breakwater Phase 1	\$ 122,485	\$ -	\$ -	\$ -	\$ -	\$ 500,000	\$ -	\$ -
Site Work *	\$ -	\$ -	\$ 60,368	\$ -	\$ 1,711	\$ -	\$ -	\$ -
Surveillance Cameras	\$ -	\$ 5,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Walkways West Dock *	\$ -	\$ -	\$ 62,043	\$ 20,000	\$ 720	\$ -	\$ -	\$ -
Wave Attenuators	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,000,000
subtotal	\$ 1,662,855	\$ 1,648,977	\$ 541,090	\$ 363,977	\$ 2,431	\$ 500,000	\$ 19,500	\$ 1,112,000
<i>* Site Work and Walkways are funded by VPA grant ** Capital Project Carryover</i>								
TOTAL	\$ 13,002,206	\$ 17,441,954	\$ 5,295,901	\$ 7,644,863	\$ 1,692,387	\$ 2,984,944	\$ 119,995	\$ 2,357,000

MUNICIPAL CORPORATION OF CAPE CHARLES
 TREASURER'S NOTES
 JANUARY 31, 2014

2013 Real Estate Tax Collections

Total Land Value	\$ 206,709,800.00	
Total Improvement Value	<u>\$ 203,219,700.00</u>	
Total Real Estate Value	\$ 409,929,500.00	
Total Budgeted	\$ 1,073,856.00	
Total Bills Mailed	\$ 1,140,275.63	
Total Collected as of 1/31/2014	<u>\$ 965,889.71</u>	85%
Amount Due	\$ 174,385.92	

2013 Personal Property Tax & 2014 License Tax Collections

Total Personal Property Value	\$ 13,783,200.00	
Total Budgeted	\$ 160,000.00	
Total Bills Mailed	\$ 162,207.51	
Total Adjustments (will increase)	\$ (1,916.17)	
Total Collected as of 1/31/2014	<u>\$ 121,676.66</u>	75%
Amount Due	\$ 38,614.68	

Credit Cards Processed in Office with Swipers purchased last year (since November 20, 2012)

	<u>Visa</u>	<u>Mastercard</u>	<u>Discover</u>	<u>Total</u>
In Office	\$ 107,128.94	\$ 46,003.28	\$ 8,834.36	\$ 161,966.58
By Phone	<u>\$ 37,546.26</u>	<u>\$ 9,949.20</u>	<u>\$ 2,077.56</u>	<u>\$ 49,573.02</u>
Total	\$ 144,675.20	\$ 55,952.48	\$ 10,911.92	\$ 211,539.60

Other Notes:

Planning Commission Report for Town Council

From: Rob Testerman
To: Town Council
Date: February 10, 2014
Subject: Report for Planning Department

1. The revised zoning map has been completed and will be presented to the Planning Commission
2. Staff anticipates that we will begin work with the Accomack-Northampton Planning District Commission shortly on the Comprehensive Plan Update. Currently, ANPDC staff is reviewing the Comprehensive Plan, after which, they will submit a recommendation on topics to be covered at each public meeting. If the Planning Commission approved of ANPDC's recommendations, we will then schedule the public meetings.
3. The Accomack Northampton Planning District Commission will hold a "Groundwater Summit", Wednesday February 12, 2014. Staff plans to attend.
4. Virginia Coastal Zone Management is holding a Virginia Working Waterfront Workshop, Wednesday, February 26. Staff is registered and will be attending the workshop.
5. Staff is enrolling in a free online course educating on Shoreline Best Management Practices, the course is provided by the Center for Coastal Resources Management. Information for the course is also being provided to members of the Wetlands Board.

Planning Commission Meeting – February 4

1. The Planning Commission held its regular meeting on February 4, 2014
 - a. The Commission continued its preliminary review of the Comprehensive Plan. At this time, we are not editing content of the plan; we are currently identifying items in need of updating. The content of the plan will be revised following public meetings, charettes and work with the Accomack-Northampton Planning District Commission, pending approval of their assistance in the update.
 - b. The Planning Commission began discussing specific pros and cons of backyard chicken keeping. Discussions will continue on the matter and findings, along with a recommendation will be presented to Town Council
 - c. The Planning Commission reviewed the draft Planning Commission Annual Report to Town Council, it was approved unanimously with 2 minor modifications.

Historic District Review Board Meeting – January 21

1. The Historic District Review Board met January 21 to hear and review two applications, 209 Mason Avenue and 500 Tazewell, both of which were approved.
2. The HDRB will hold its regular meeting on February 18 to hear and review one application that has been received.

Wetlands Board Meeting – No meeting held

Harbor Area Review Board – No meeting held

Code Enforcement
Month of January FY 2014

Building Permits Issued/Permit Fees Collected:

Permits this month: 21	
Permits this year: 129	Total permits last year: 257
Total construction this month: \$ 1,475,546	
Total construction this year: \$4,224,654	Total construction last fiscal year: \$7,411,540
Permit fees this month: \$5,266.26	
Total permit fees this fiscal year: \$57,257.48	Total permit fees last fiscal year: \$177,559.27
Bay Creek Water/Sewer Tap fees: \$0	
The Colony/Sewer Water Tap fees: \$0	
Marina Village/Marina Village East Sewer/Water Tap fees: \$0	
Bayside Village Sewer/Water Tap fees: \$24,700	
Old-Town Water/Sewer Tap fees: \$0	
Total Tap fees this year: \$24,700	Total Tap fees last fiscal year: \$105,756
Fire Dept. levy this month: \$372.01	
Total Fire Dept. levies this year: \$2,201.12	Total Fire Dept. levies last fiscal year: \$3,195.93
State levy this month: \$74.41	
Total state levies this year: \$510.92	Total state levies last fiscal year: \$638.20
Miscellaneous Revenue: \$0	

Existing Structures Code Enforcement Cases:

Total Cases: 27	
New this month: 0	
Closed this month: 0	
Rental Inspections: 0	
Rental C.O's Issued: 0	
Rental Inspection fees collected: \$0	
Grass cutting enforcement: 13	
Grass cutting: 7	
Enforcement fees charged this month: \$0	
Enforcement fees charged this year: \$2,750	Fees charged last fiscal year: \$10,050
Enforcement fees collected: \$1,272.70	
Enforcement fees collected this year: \$1,272.70	Fees collected last fiscal year: \$1,129.36

Annual Fire Inspections (updated) (Completed)

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

Annual Fire Reports (updated) (Completed)

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

Month of January FY14

Other items of note:

1. Completed **23** inspections
2. Conducted **0** zoning clearances
3. Completed 1 courtesy residential inspections
4. Conducted 2 courtesy commercial inspection
5. Conducted 28 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. Plan review letter has been sent out on Cape Charles Loft Project.
10. Working with Bob Panek on alternatives to Class II Connection Fees.

02/10/14

Permit/Construction Fee Report

Map Number	Permit #	Type	Date	Address	Work description	Permit Fee	Value
	PU140001	PU Shallow W	01/14/2014	202 Arnie's Loop	Shallow Well	\$100.00	\$3,500
	PEL 14000	Elevator	01/31/2014	202 Arnie's Loop	Residential Elevator	\$206.44	\$21,864
	PB140008	Building	01/21/2014	1134 Bayshore Lane	10 Temporary Structures for Project	\$1,000.00	\$1,200,000
	PM140002	Mechanical	01/03/2014	116 Fig Street	1 New Air to Air Heat Pump	\$58.80	\$3,000
	PB140003	Building	01/14/2014	505 Harbor Avenue	Kitchen Renovation	\$75.60	\$6,000
083A1-0100-10	PB140004	Building	01/14/2014	209 Jefferson Avenue	Kitchen Renovation	\$70.00	\$5,000
083A1-0100-19	PB140001	Building	01/14/2014	529 Madison Avenue	Floor joist repair in kitchen	\$168.00	\$15,000
	PB140007	Building	01/23/2014	33 Marina Road	Commercial Alteration	\$1,876.00	\$120,000
	PB140006	Building	01/14/2014	700 Marina Village Cir	Interior Demo	\$84.00	\$2,000
	PB140005	Building	01/14/2014	700 Marina Village Cir	Pile Foundation for Proposed Addition to S	\$168.00	\$10,000
	PM140004	Mechanical	01/31/2014	543 Mason Avenue	1 New Air to Air Heat Pump Mini Split	\$78.40	\$6,500
083A3-0100-26	PE140003	Electrical	01/21/2014	525 Monroe Avenue	Upgrading to 200 amp service and new wi	\$61.60	\$3,500
	PE140001	Electrical	01/06/2014	1 Pine Street	New Service for Hotel Room & Office	\$100.80	\$4,000
	PB140002	Building	01/14/2014	1 Pine Street	Permit for Shell of Building Alteration	\$420.00	\$30,000
	PE140002	Electrical	01/07/2014	712 Randolph Avenue	Electrical Alteration for Change of Use	\$95.20	\$3,500
	PP140001	Plumbing	01/14/2014	712 Randolph Avenue	New Plumbing for Alteration to Apartment	\$168.00	\$10,000
	PM130037	Mechanical	01/15/2014	2198 Stone Road	Paint Spray Booth	\$166.88	\$9,900
	PB130097	Building	01/15/2014	2198 Stone Road	Change of Use from M to S-1	\$84.00	\$2,500
	PM140003	Mechanical	01/16/2014	2 Tazewell Avenue	1 new air to air heat pump	\$74.50	\$5,974
083A3-0100-43	PP140002	Plumbing	01/15/2014	630 Tazewell Avenue	New On-Site Water Line	\$56.00	\$800
083A3-0100-32	PM140001	Mechanical	01/03/2014	649 Tazewell Avenue	2 New Air to Air Heat Pumps	\$154.04	\$12,508

Total Permits: 21

\$5,266.26

\$1,475,546

Per Date Issued Range from 01/01/2014 to
01/31/2014



Town Harbor Town Council Report January, 2014

February 1, 2014

Maintenance:

1. Men's Restroom is ready for spring:
 - a. Replaced wax seals in both toilets.
 - b. Cleaned ceilings, walls, floors, showers, etc....
 - c. Polished all stainless steel.
 - d. Re-caulked Showers, sinks, and toilets.
 - e. Touch up painted walls, ceilings, trim, and doors.
2. Started on women's restroom.
 - a. Replaced the other two wax seals that didn't get replaced earlier.
 - b. Cleaned Ceilings, walls, floors, showers, etc...
 - c. Re-Caulked showers, sinks, and Toilets.
 - d. Began to touch up paint.
3. Shoveled a lot of snow.

Upcoming Items that needs to be completed by spring:

1. Replace leaky water valves. (If any)
2. Repair Main Back flow preventer on the floating docks.
3. Replace waterline on Coastguard dock.
4. Finish painting the fuel tank.
5. Relocate fire & electric pedestals on T-Heads
6. Replace existing water hose with a quick connect water hose under the East Gangway.
7. Repair wire way under West Gangway.
8. Re-tighten all cleats on floating docks
9. Continue re-screwing boardwalk at the inner harbor
10. Replace all broken pile caps
11. Re-nail all rubber bumpers
12. Clean all electrical pedestal bus bars in the inner harbor.
13. Paint the boat ramp parking stripes
14. Add shells to Shanty Parking area

Capital Projects and Harbor improvements:

1. Waterman's Memorial is moving forward, easement still in progress.
2. The Shanty's improvements seem to be on schedule.
3. Nothing new on the Harbor Offshore breakwater Project.
4. Nothing new on the Harbor wave attenuator and new slips.
5. Cape Charles Yacht Facility construction is underway.
6. Bayshore Concrete has begun doing a little maintenance on their bulkhead.



Town Harbor Town Council Report January, 2014

Other Items:

1. Follow us on Face Book (**Cape Charles Town Harbor**) over 1500 likes!!!
2. Assistant Harbor Master, Andrew Spencer status changed from part-time year around to Full Time in January.
3. We are working with businesses to establish a Water Taxi service. The proposed stops would be The Harbor, North Side of the Beach, King's Creek Marina, and Cherrystone Camp Ground. This was tested during Clam Slam, and plans are in the works to establish for the upcoming summer season.
4. We had our first Clam Slam meeting, the event has been posted to our Face Book Page. Last year, we had over 2500 people for the weekend and are expecting a larger turnout this year.
5. Thanks to the D-Dock gang for keeping a clear path to their boats.
6. Current Office Hours – 8am to 4:30 pm Monday – Friday (Closed Weekends and Holidays)

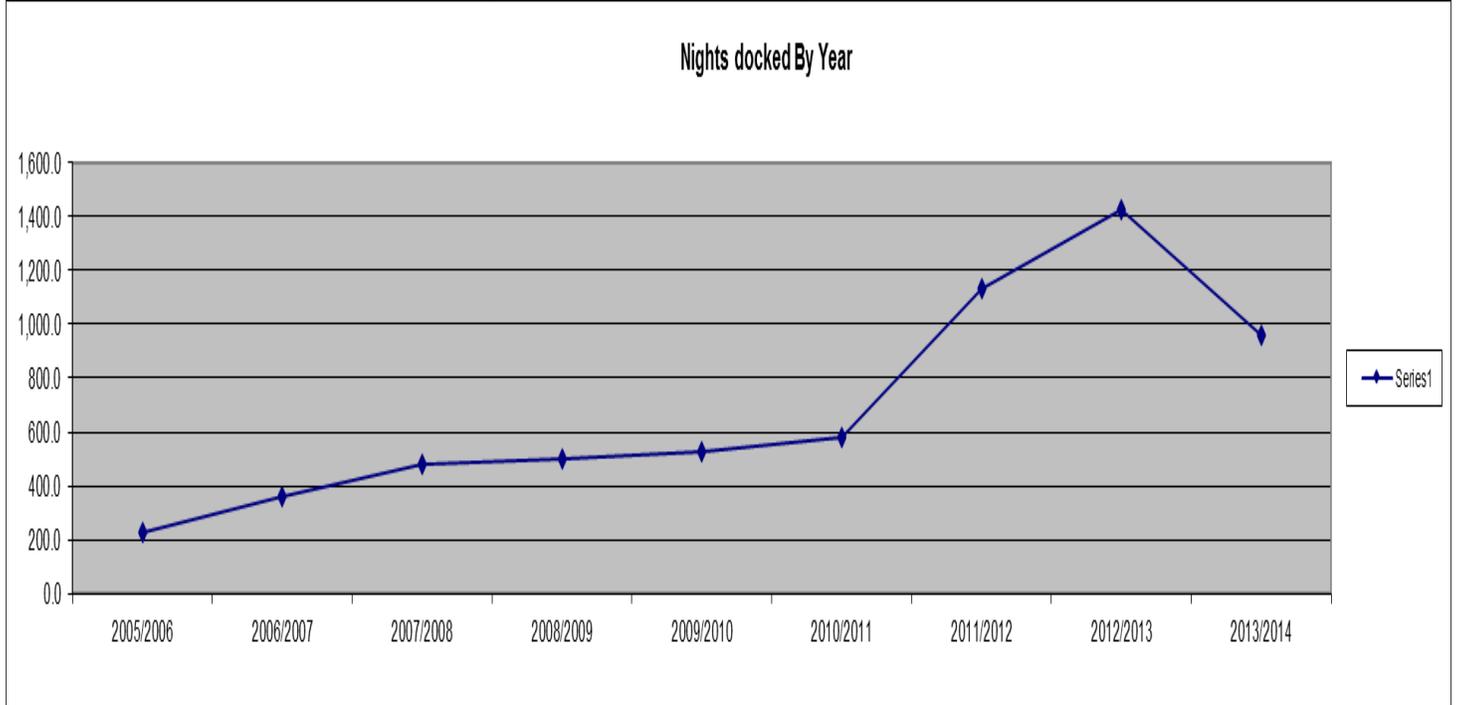
Important Dates:

1. **March 15th 2014** – Harbor Office open 7 days a week,
2. **March 17th 2014** – Crabbing season opens
3. **April 25th & 26th 2014** - 7th Annual Blessing of the Fleet
4. **May 1st 2014** - Summer Office hours begin
5. **May 22nd** – National Maritime Day
6. **June 7th** – CBF's 26th Annual Clean the Bay Day
7. **June 14th** – National Marina Day
8. **June 14th – 15th** – Tall Ships at Cape Charles
9. **July 4th** – Fireworks and celebration
10. **July 5th** – Annual Fire Departments seafood Festival
11. **August 1st – 3rd 2014** – Clam Slam 2014
12. **October 25th 2014** – Haunted Harbor
13. **December 6th** – Lighted boat Parade - tentative
14. **December 31st** – Dropping of the Crab Pot - tentative

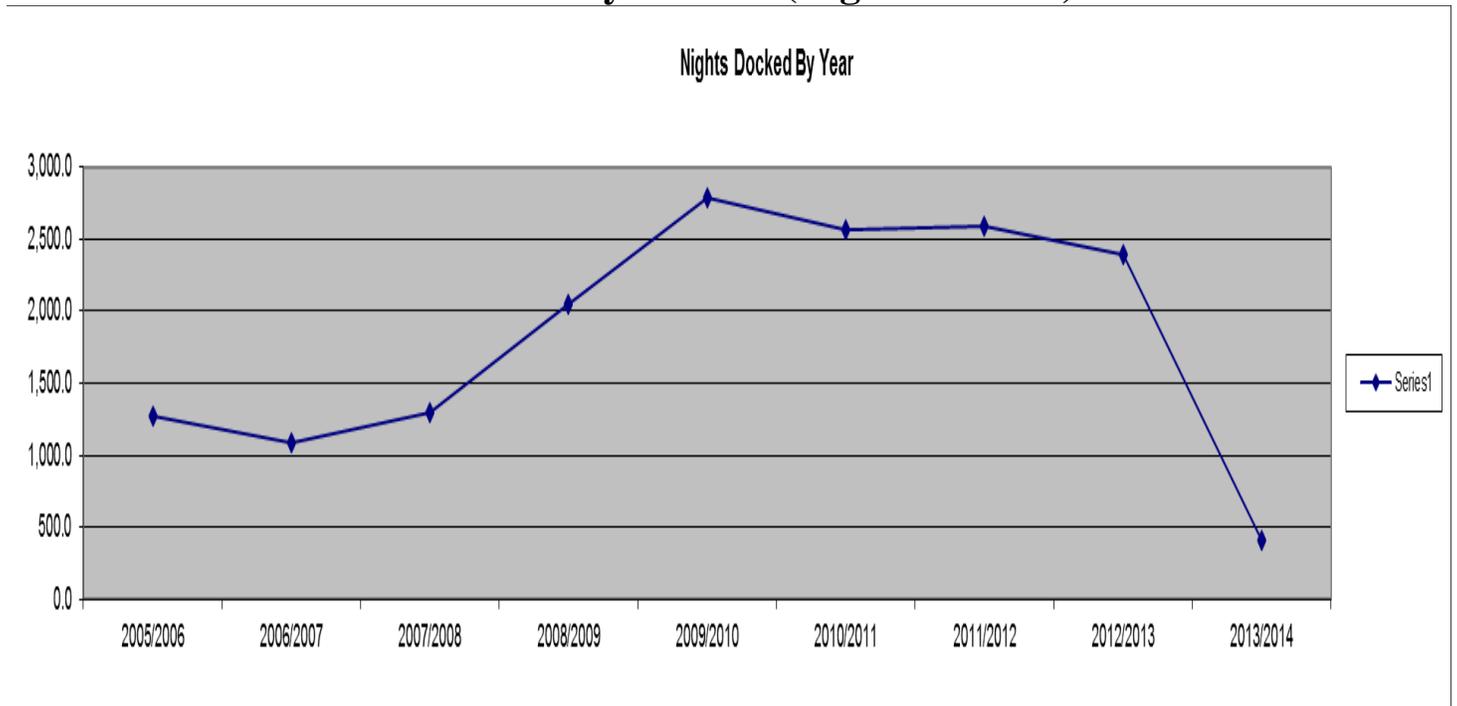


Town Harbor Town Council Report January, 2014

Nightly Rentals (Nights Docked)



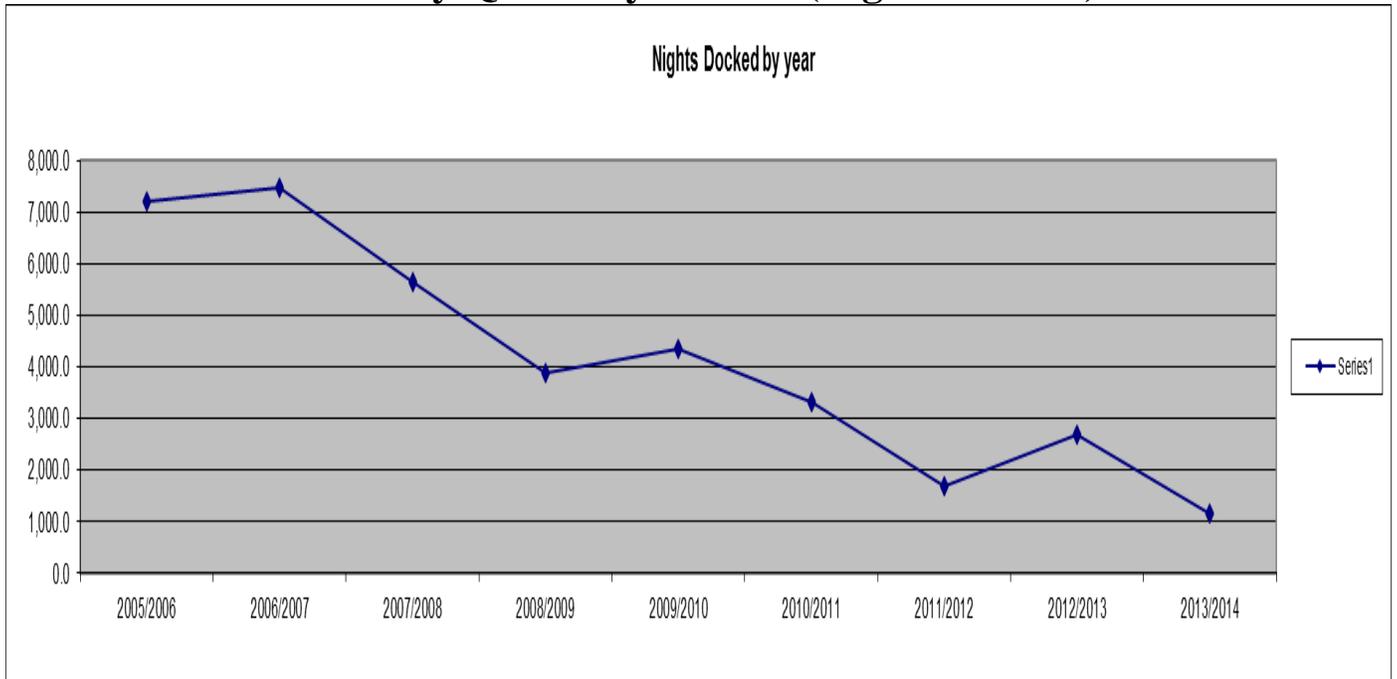
Weekly Rentals (Nights Docked)



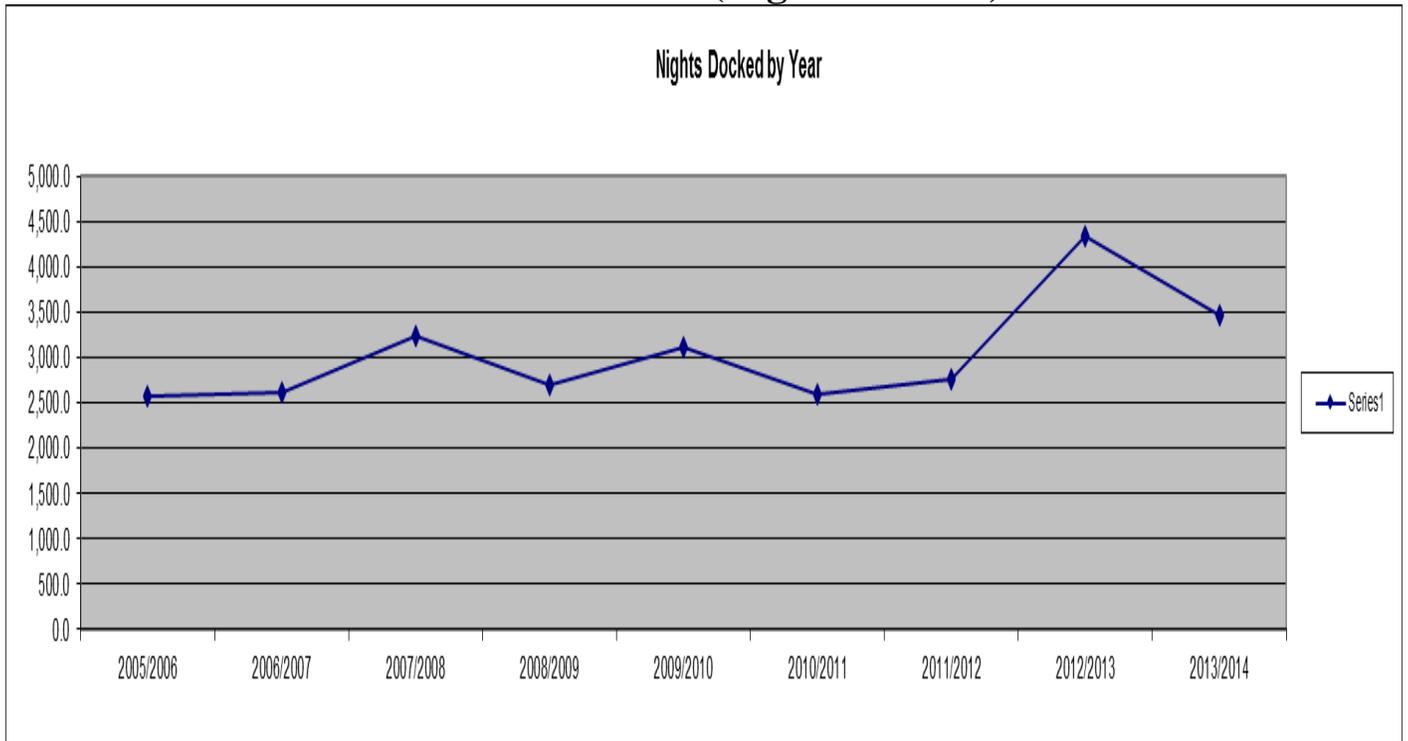


Town Harbor Town Council Report January, 2014

Monthly/Quarterly Rentals (Nights Docked)



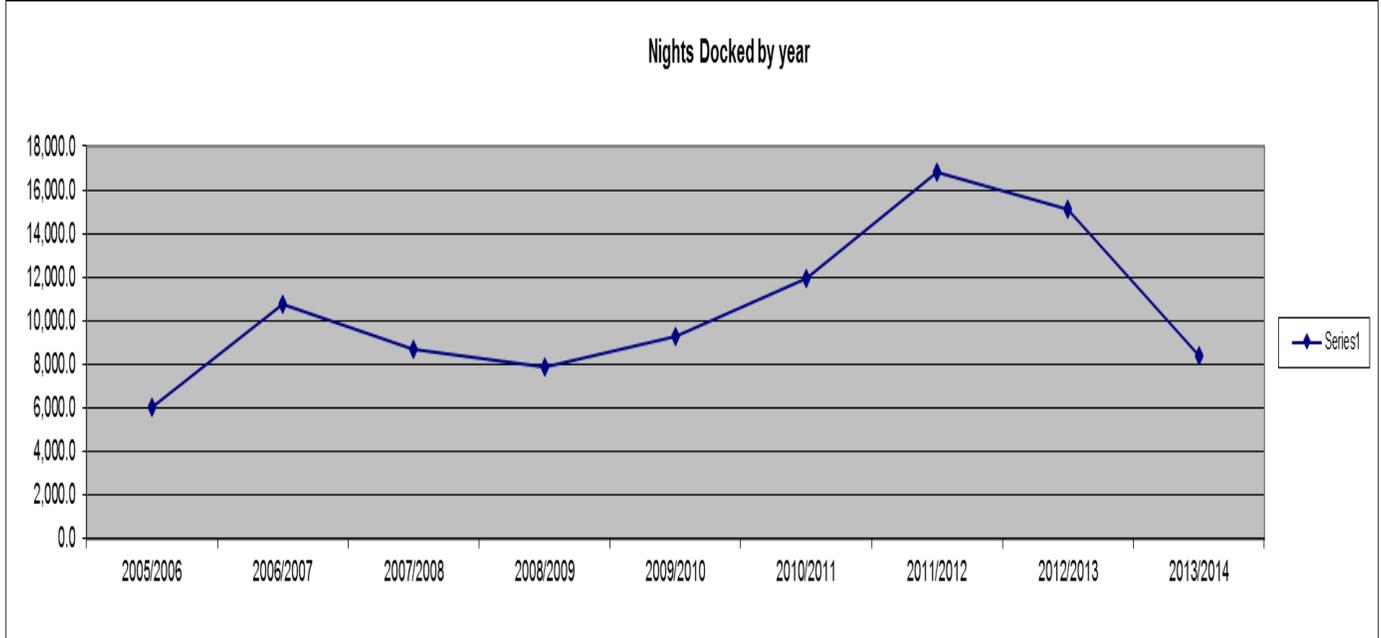
Seasonal Rentals (Nights Docked)



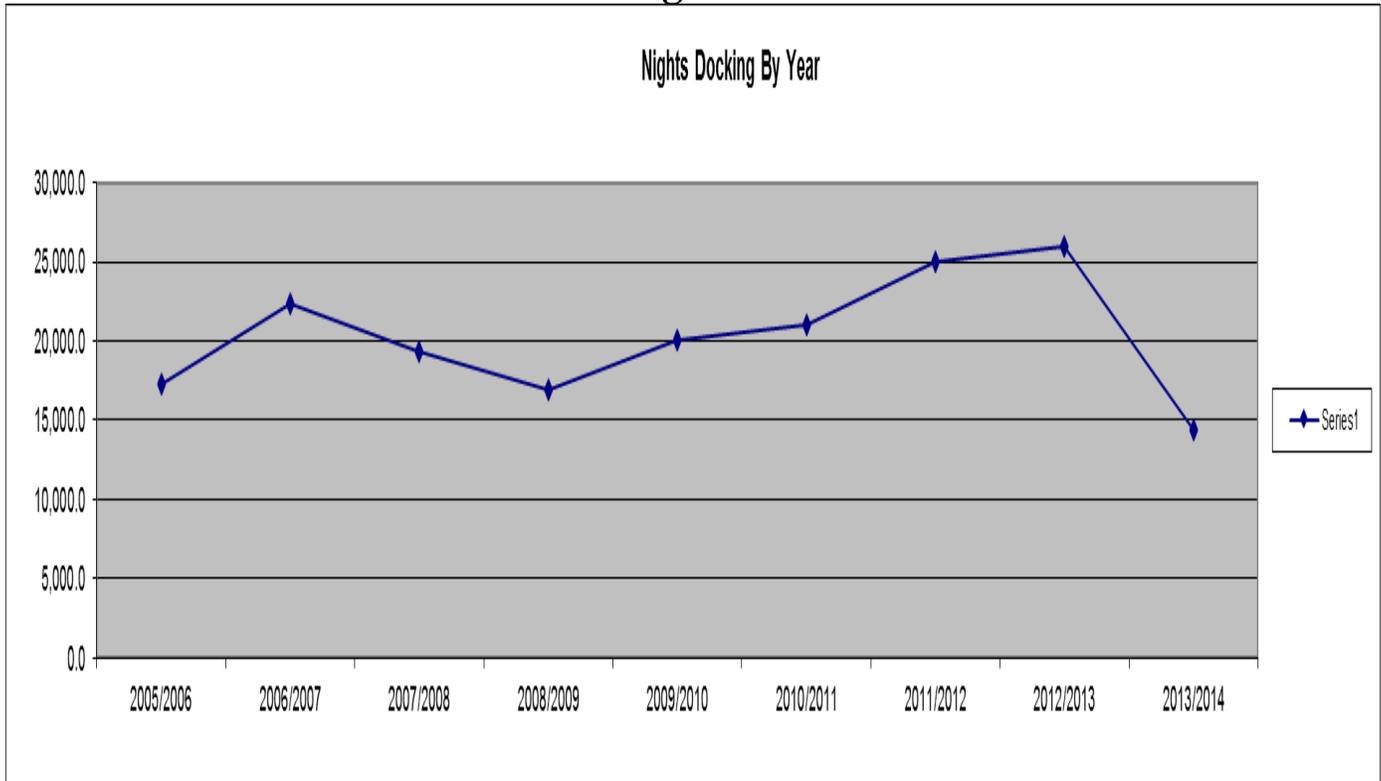


Town Harbor Town Council Report January, 2014

Annual Rentals (Nights Docked)



Total Nights Docked





Town Harbor Town Council Report January, 2014

Total Nights Docked

	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014
July	539.0	900.0	870.0	1090.0	1771.6	1991.9	2535.0	2256.0	2657.5
August	871.0	654.0	471.0	1300.0	1759.0	1757.1	2216.4	2356.2	2331.0
September	539.0	2578.0	2431.0	1123.0	1753.0	1647.9	1845.0	2217.1	1955.0
October	409.0	945.0	767.0	1311.0	1890.1	1752.9	2073.0	2257.5	2230.2
November	508.0	731.0	601.0	887.0	1333.7	1790.2	1808.8	2159.9	2048.0
December	900.0	2513.0	2322.0	1103.0	1587.2	1431.2	1395.9	1783.0	1887.1
January	972.0	1168.0	1021.0	776.0	1195.0	1287.8	1366.7	1436.0	1282.0
February	736.0	387.0	564.0	748.0	1008.0	1130.0	1372.5	1264.0	0.0
March	5722.0	6278.0	4685.0	2021.0	871.0	1342.1	2662.0	1451.1	0.0
April	2052.0	2410.0	2832.0	2827.0	3142.8	2645.6	2290.0	3285.0	0.0
May	671.0	798.0	1364.0	1718.0	2141.1	2089.8	2785.9	2531.1	0.0
June	3409.0	2960.0	1401.0	2069.0	1610.1	2124.9	2647.0	2985.6	0.0
Total	17,328.0	22,322.0	19,329.0	16,973.0	20,062.6	20,991.4	24,998.2	25,982.4	14,390.8
Avg. in Harbor	47.5	61.2	53.0	46.5	55.0	57.5	68.5	71.2	66.9
% of Capacity	69.81%	89.94%	77.88%	68.38%	80.83%	84.57%	55.68%	57.87%	54.42%

Note:

From July 1, 2005 – June 30, 2011 Numbers are based on 68 places to berth, we now have 123.
Avg. in Harbor, number of vessels we averaged on a nightly basis over the course of the fiscal year.

Library Report January 2014

1. Our attendance for January was 819, with 163 more customers than last year. This month also included 3 holidays and 3 snow days!

2. Monthly attendance for programs held during January 2014:

Children's Programs:

• Wednesday	10:30 Crafts	8 attended
• Thursday	3:30 Chess	24 attended
• Thursday	10:30 Storytime	46 attended
• Monday,	4:00 Book Club	5 attended
	Total	83 total

3. Our new **LEGO Club** was scheduled to begin on Tuesday, January 21 but we were forced to postpone it two weeks in a row due to snow. The first meeting will be on Tuesday, February 4 at 3:30 and in the future it will be meeting on the 4th Monday of each month. Thanks to generous monetary donations we have purchased new legos sets to combine with the used legos that were donated. It will be lego mania!
4. The displays during the month of January were books for children on snow and winter, books for both adults and children on "bullying", and a display entitled: *Don't Judge a Book by its Movie*.
5. Our Library assistants Greg and Sharon continue to come up with new ideas on obtaining informational and creative material for the Library. This month Sharon Silvey contacted the book publisher Abrams, and requested a display of the very popular Diary of a Wimpy Kid series. The publisher sent the library a free set of Wimpy Kid titles, posters, and a display rack.
6. As of today our Facebook page has 344 likes (8 new likes this month) and our postings reached 494 people in the past week. For additional information about library programs and library related information check out our **Facebook** page!

 TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Police Department		AGENDA DATE February 20 ,2014
	SUBJECT/PROPOSAL/REQUEST: Monthly Law Enforcement Statistic January 2014		ITEM NUMBER
	ATTACHMENTS: None		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Jim Pruitt, 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: 19

Calls for Service Outside of Cape Charles: 8

10-13 Calls

(A) By Dispatch: 22

(B) By Phone via Officer/Trooper: 1

(C) In Person 5

Felony Arrests: 0

Misdemeanor Arrests: 3

DUI Arrests: 0

Traffic Summons Issued: 02

Traffic Warnings Issued: 05

Parking Tickets Issued: 02

Assisted Northampton County Sheriff's Office: 04

Assisted Virginia State Police: 01

Assisted Other Local Police: 00

Assisted Other Federal Agencies: 00

Assisted Fire & Rescue: 08

Assisted VDOT: 00

Public Utilities

Monthly Report January 2014



Production Summary

- Miss Utility Tickets: 15
- Emergency Call Outs After Hours and Weekends:
 - Number of times called out: 14 (Mostly Leaks from Freeze)
 - Total Man Hours: 28
- Sludge: 5.5 Tons
- Water: Total Production: 3,977,762 gallons
 - High: 282,300 gallons on January 26
 - Low: 55,500 gallons on January 1

Average	Raw Water	Finished Water
Hardness	400.5	150.2
Iron	7.88	.015
Manganese	.491	.011

All Data in PPM

- Waste Water:
 - Average Flow 128,700
 - Maximum 168,000
 - Total for Month 3.98 Million Gallons

Personnel

- Water
 - Ron Bailey Operator Class 3 water
 - Scottie Neville Passed his Class 4 Water Exam
 - Gerald Elliott Maintenance
- Waste Water
 - Patrick Christman Operator in Charge,
 - Class 2 Waste Water
 - Class 3 Water Plant Operator.
 - Freddie Meditz Operator Class 3, Lab Manager
 - Dan Dabinett Operator Class 3, Maintenance
 - Billy Powell Maintenance Supervisor

Completed Projects

- We submitted the Aquifer Test Report for the Keck Wells to the DEQ for review. We have received comments and have responded.

PUBLIC WORKS

January 2014



Dump Fees

- Oyster Landfill: 8 Trips, 1.41 Tons @ cost of \$117.00

Personnel

- Note: Town residents we have free mulch available

Routine Monthly Responsibilities

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

Completed Projects

- Working hard on sand removal from streets, sidewalks, fishing pier and pathways.
- Cleared roadways during snow event.
- Plans complete for former library building. Contractor has been selected and work will start soon.
- Installed emergency pump hose brackets at Mason Ave Pump Station.
- Installed winter banners along Mason Ave.
- Street sweeping project with VDOT.

In Progress

- Sand fence maintenance along beach front.
- Holiday tree pickup for mulching.

Upcoming Projects

- Install Randolph Avenue Sidewalk. We have VDOT permit. Work to be completed soon.

Man Hours per Project/Task

Vehicle Maint.	Equipment Maint.	Building Maint.	Public Debris Areas	Street Cleaning	Beach Maint.	Public Sanitation	Public facilities cleaning	Admin. training	Property maint. & repair	Events	Meter Reads
41	55	92.5	57.5	70.5	34	38.5	48.5	26	41	0	11

Capital Projects

- Central Park Restrooms , 90% Complete
- Multi-Use Trail

Recreation Department February 2014 Council Report

Programs and Events:

1. Arts and Crafts continue to be an ongoing program through the recreation department. Numbers are always lower in the winter but normally pick up during the warmer months.
2. Heritage Acres has put BINGO on hold until further notice. The Recreation Department will try to start a BINGO at the new library building to include all seniors in Cape Charles.

Organizations:

The Recreation Coordinator has met with many organizations over the past month to help prepare for the summer months. Town employees are working on new policies and procedures to assist both the Town and the event holders in planning events. The Recreation Department would like to remind anyone wishing to hold events in Cape Charles to please contact Jen Lewis. It is important to remember that although an event may not be on Town property, at times Town resources are used. The Town also is eager to help in getting the word out on an event so that each and every event can be a success.

2014 Events:

Below is a list of events that have been provided to date:

April 25 – Blessing of the Fleet – Harbor
June 14-15 – Tall Ships – Harbor
June 21 – Great Bay Run – Town
July 4 – July 4th Street Fair
July 5 – Friends Book Sale
July 12 – Summer of Love Band Fundraiser
August 1-3 – Clam Slam
August 1-17 – Harbor the Arts
October 10-12 Birding Festival
October 11 – Cape Charles Fall Festival
December 6 – Grand Illumination

Grants:

Staff continues to work with Coastal Zone Management on the grant opportunity for a new kiosk at the entrance of the fishing pier. The kiosk will replace the current one and will have the capacity to provide more information to the residents and visitors to Cape Charles.

Upcoming Programming:

The Recreation Department is currently working on programming and activities for the spring, summer and fall months. Ideas are always welcome. With the addition of indoor space, the Recreation Department will have the resources available to work on additional programs recommended in the Citizens Needs Advisory Committee Final Report. Last summer proved to be a huge challenge with the lack of registrations for soccer and field hockey. Both sessions of tennis had a great turn out. Staff plans to focus on sports during the spring and fall months when there is a little less activity in the community. The Recreation Department has been working to gather all the information for programming through the Arts Enter, Barrier Islands Center and other organizations to try to avoid an overlap of programming. The Recreation Coordinator is also looking for any programming suggestions for adults.

The New Roots Youth Garden will be meeting shortly to get ready for their spring and summer programming. Updates will be made as plans unfold.

 TOWN OF CAPE CHARLES	AGENDA TITLE: 2013 Planning Commission Annual Report to Town Council		AGENDA DATE: February 20, 2014
	SUBJECT/PROPOSAL/REQUEST: Planning Commission's Annual Report to Council		ITEM NUMBER: 8A
	ATTACHMENTS: 2013 Annual Report		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Rob Testerman	REVIEWED BY: Heather Arcos, Town Manager	

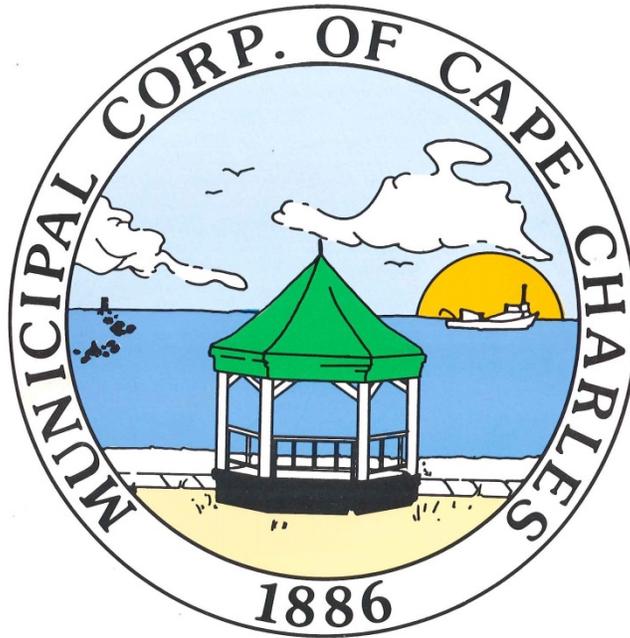
BACKGROUND:

Virginia State Code § 15.2-2221.5, under duties of commissions, states that the local planning commission shall “make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction.”

ITEM SPECIFICS:

Pursuant to § 15.2-2221.5, staff has prepared the attached annual report to Town Council. The report includes a quick recap of development that occurred within the town in 2013, and lists any planning commission and/or staff updates that occurred in 2013. The report also gives a breakdown of different applications received in 2013 by the Planning and Zoning Department, and also lists other work items that were reviewed or worked on during 2013 by the Planning Commission.

The Planning Commission reviewed the report at their February 4 meeting and voted unanimously by those in attendance to forward the report on to Town Council.



Town of Cape Charles
Planning Commission

2013 Annual Report
(January 2013-December 2013)

Dennis McCoy
Chairman

Rob Testerman, AICP
Town Planner

2013 Planning Commission Members

Dennis McCoy, Chairman

Michael Strub, Vice Chair

Andy Buchholz

Dan Burke

Joan Natali

Sandra Salopek

Bill Stramm

2013 Planning and Zoning Staff

Tom Bonadeo, Town Planner (retired, May 2013)

Rob Testerman, Town Planner (hired, May 2013)

Introduction

Section 15.2-221.5, of the Code of Virginia, as amended, prescribes the duties of the local planning commission. The duties include a requirement to provide an annual report to the local governing body concerning the operation of the commission and the status of planning in its jurisdiction.

Development in Cape Charles

2013 brought development and redevelopment to Cape Charles. Three commercial buildings are currently being renovated or are in the planning stages for renovation for new commercial uses in Cape Charles. South Port Investors has begun work on their development project in the Harbor Area. Seven new homes were built, and 24 homes have undergone renovations in excess of \$10,000. New businesses also opened in Cape Charles including Cape Charles Confectionary (a home-occupation), the Bay Creek Beach Club, Willows Artisans Gallery, La Mer Studio, and the new owners of Aqua Restaurant reopened. The Cape Charles Library transitioned from its prior location at 500 Tazewell Avenue to its current location at 201 Mason Avenue. VDOT was in town for much of the year repairing hazardous sidewalk conditions.

Planning Commission and Staff Updates

The Planning Commission elected Dennis McCoy as its Chairman and Mike Strub as its Vice Chair for 2013.

There were staff changes to the Planning and Zoning department in 2013. After the retirement of Town Planner Tom Bonadeo, the Town of Cape Charles hired Rob Testerman, AICP as the Town Planner.

2013 Summary of Permits and Projects Reviewed by Planning:

Home Occupations	1
Site Plan Reviews	1
Violations	3
Zoning Clearance	28
Historic District Review	17
Harbor Area Review	1
Wetlands Board Review	3
Board of Zoning Appeals Review	1
Rezoning	0
Conditional Use Permits	1

Code Amendments

Approved, the Planning Commission forwarded a code amendment to the Town Council for consideration regarding density in the Harbor District in section 3.9 of the Zoning Ordinance.

Approved, the Planning Commission forwarded a code amendment to the Town Council for consideration regarding the Sign Regulations in Section 4.1 of the Zoning Ordinance.

Pending, the Planning Commission forwarded a draft Historic Town Entrance Overlay district to the Northampton County Board of Supervisors for consideration of inclusion in the County Zoning Ordinance.

Comprehensive Plan

In 2013 the Planning Commission began reviewing the Town of Cape Charles Comprehensive Plan for its 2014 update. Public meetings and work sessions will continue into 2014.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Compensation and Classification Study		AGENDA DATE: February 20, 2014
	SUBJECT/PROPOSAL/REQUEST: Compensation and Classification Study Request		ITEM NUMBER: 8B
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT(s): Heather Arcos	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The Town of Cape Charles has not updated the employee wage scale in a number of years. Most localities obtain a professional compensation and classification study every so often, but there is no record of the Town having done so. During the budget discussions for FY 2013-2014, the Town Council had expressed their desire for a professional study and a proposal was obtained from Springsted, Inc., who had previously worked with a number of localities in the Commonwealth of Virginia, including Accomack County. Due to lack of funding, the project was deferred.

DISCUSSION:

At the February 8, 2014 Council Retreat, the study was revisited and the majority of Council were in favor of obtaining a professional study as soon as possible.

A compensation and classification study would evaluate the efficiencies and deficiencies of each department and help determine staffing needs.

A cost estimate of \$10,300 has been confirmed. The scope of work and cost estimate remain unchanged from the original proposal which was received in March 2013. A portion of the savings from the Comprehensive Plan update could be allocated for the study.

RECOMMENDATION:

Staff requests Council authorization for the Town Manager to execute the agreement with Springsted, Inc. to proceed with the compensation and classification study as presented.



TOWN OF
CAPE CHARLES

AGENDA TITLE: 2014/2015 Virginia Commission for Arts
Local Government Challenge Grant

AGENDA DATE:
February 20, 2014

SUBJECT/PROPOSAL/REQUEST: 2014-2015 Local Government
Challenge Grant Application

ITEM NUMBER:
8C

ATTACHMENTS: Letter from Arts Enter Cape Charles, Inc. &
Grant Information

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT(s):
Heather Arcos

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

The Town of Cape Charles has participated in the Virginia Commission for the Arts Local Government Challenge Grant since 1997. The Commission matches local government funds up to \$5K.

In Fiscal Year (FY) 2013/2014, the Town allocated \$2,500 as the local match. The Town provided \$5K for FYs 2009/2010 through 2012/2013.

DISCUSSION:

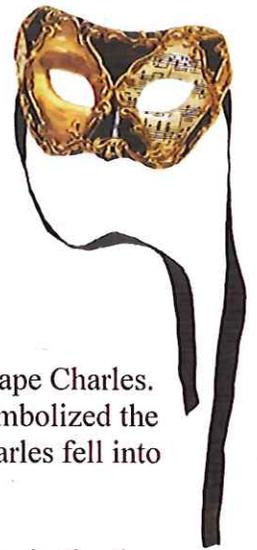
The grant application deadline is April 1, 2014. The grant application is typically drafted by the Arts Enter and signed by Town Staff. The Town must confirm in writing to the Commission the Council's decision to appropriate the matching funds by July 1, 2014. The local match in the amount of \$5K is included in the draft FY 2014/2015 budget and the amount will be reviewed by Council at a future budget work session. Submission of the application for \$5K does not bind the Town to that amount. Council may opt to reduce the amount to \$2,500 during the budget discussion.

RECOMMENDATION:

Staff requests approval to submit the Local Government Challenge Grant application by the April 1, 2014 deadline as discussed.

Arts Enter Cape Charles, Inc.

Historic Palace Theatre



BOARD OF DIRECTORS

CLELIA SHEPPARD
ARTISTIC DIRECTOR
EXECUTIVE DIRECTOR

MARY ANN ROEHM
ASSISTANT DIRECTOR

SHEILA CARDANO
ARTISTIC DIRECTOR
EMERITUS

PATRICIA BARNES
TOM BONADEO
CELA BURGE
VANESSA COX
KEITH FOX
LUISA GAZZOLI
ELAINE JONES
HENRY MAYER
ELLEN MOORE
JAN NEVILLE
SUSAN PANAK

HONORARY MEMBER:
BILL BURTON
DON CLARKE
EDYTHE OUTTEN
VIRGINIA SAVAGE
ARTHUR TROSS
JACK WHITE
JACK WOOLLEY

February 6, 2014

Dear Heather,

The story of the art deco Palace Theatre is very much the story of Cape Charles. At the Palace's opening in 1942, its impressive size and luxurious décor symbolized the confidence and aspirations of this thriving transportation hub. As Cape Charles fell into decline, so did the Palace. The audiences waned and the glory faded.

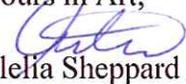
Today, the town is on the brink of becoming a viable and sustainable destination for new residents and tourists. The impetus of the Our Town grant and the renewed energy behind organizational partnerships is palpable. Organizations such as the CCBA, CCP, the B&B Association and other businesses are communicating and working together on the common goal of sustainability. The new tourism website, the expanded calendar of events that includes the innovative and successful Harbor for the Arts Festival in August along with the Crabby Blues Festival, Tall Ships, the Clam Slam, Birding festival and other events help identify Cape Charles as quaint and charming coastal town ripe for exploration.

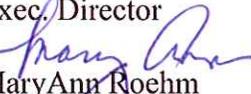
The theatre and the Stage Door Gallery as well as the Arts Enter sponsored programs, live shows, musical theatre and art shows sit at the heart of it. It is a tremendous burden for our small 501 (c) (3) to maintain the building and continue with necessary repairs and restoration as well as help contribute to the cultural heartbeat in the town.

We would implore the Council to maintain our Local Government Challenge Grant contribution at the 2013 level of \$5000.

In addition, we enthusiastically encourage Council to financially support the Capecharlesbythebay.com tourism website which encourages visitors to experience our quaint town, shop in our galleries and shops, dine in our restaurants and spend the night!

Yours in Art,


Clelia Sheppard
Exec. Director


Mary Ann Roehm
Co-Director



ARTS ENTER - OFFICE
P.O. Box 226
Cape Charles, Virginia 23310
Phone: (757) 331-ARTS (2787)
Fax: (757) 331-1999

STAGE DOOR GALLERY
301 Mason Avenue
Cape Charles, Virginia 23310
Phone: (757) 331-3669

HISTORIC PALACE THEATRE
305 Mason Avenue
Cape Charles, Virginia 23310

PURPOSE

Encourage local governments to support the arts.

DESCRIPTION

The Commission will match, up to \$5,000, subject to funds available, the tax monies given by independent town, city, and county governments to arts organizations. The money, which does not include school arts budgets or arts programming by parks and recreation departments, may be granted either by a local arts commission/council or directly by the governing board.

ELIGIBLE APPLICANTS

Independent city, town, or county governments in Virginia.

ELIGIBLE ACTIVITIES

Grants to independent arts organizations for arts activities in the locality. The Commission does not match payments paid to performers for specific performances. Local governments seeking such funding should apply in the Performing Arts Touring Assistance Program.

DEADLINE

April 1, 2014, for local government grants awarded in 2014-2015.

NOTE: A local government that has not approved its budget by the grant deadline may apply conditionally and confirm the application as soon as possible.

AMOUNT OF ASSISTANCE

Up to \$5,000, subject to funds available. The local government match must be from local government funds; federal funds may not be included.

CRITERIA FOR EVALUATING APPLICATIONS

- Artistic quality of the organizations supported by the city/county/town
- Clearly defined policies and procedures for awarding local funds to arts organizations
- Degree of involvement of artists and arts organizations in the local process of awarding grants
- Responsiveness to community needs
- Evidence of local government support of the arts

APPLICATION/REVIEW/PAYMENT PROCEDURES

1. Local governments submit complete application forms by the deadline (not a postmark deadline). The Commission does not accept application materials via facsimile transmission or other electronic means (e.g. e-mail).
2. The Commission staff reviews each application for completeness and eligibility.
3. The Commission staff makes recommendations on levels of funding for each application.
4. The Commission board reviews the staff recommendations and takes final action on the applications.
5. After confirmation of the grant award, each local government will confirm in writing to the Commission that its governing board has appropriated the matching funds and the funds from the Commission. This confirmation must take the form of the appropriate page of the local government's approved 2014-2015 budget or a copy of the check (s) to the subgrantee (s). The Commission will pay the grant in full after receiving this confirmation by February 1, 2015.



TOWN OF
CAPE CHARLES

AGENDA TITLE: Grinder for Mason Ave Pump Station

AGENDA DATE:
February 20, 2014

SUBJECT/PROPOSAL/REQUEST: Award contract for the Mason Avenue Pump Station Grinder

ITEM NUMBER:
8D

ATTACHMENTS: Proposal from JWC Environmental

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT(s):
Dave Fauber

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

On December 3, 2013, a Capital Projects Priority List was established. On December 5, 2013, the Town Council approved financing of Capital Projects using the funds from the 2013B financing. At the February 8 work session, the Town Council again discussed and reviewed the Capital Projects Priority List.

DISCUSSION:

The #2 Priority project is installation of the Comminutor (Grinder) – Mason Avenue Pump Station. As part of the Mason Avenue Pump Station upgrades, the old Comminutor (Grinder) was removed due to budget restraints with the intent to replace at a later time. The Comminutor grinds rags, handy-wipes and other debris before it enters the wet well.

The existing bar screen, which is cleaned daily, catches 60-80% of debris. The grinder will eliminate close to 100% of the debris and rarely requires maintenance. Without the grinder, the rags and other debris are pulled into the volute where they remain, decreasing the efficiency of the pump or in some cases clogging or stopping the pump completely.

Staff would like to have a new Grinder installed prior to the increase of flow that we experience in the spring/summer seasons.

The proposal from JWC Environmental is for \$42,701.00. The work would be completed in-house but electrical work is needed and is estimated to be about \$7K. The total project cost will be within the \$50K amount included in the FY 2013-2014 budget.

RECOMMENDATION:

Staff requests approval to finance the purchase and installation of the grinder through the 2013 B financing as presented.



JWC Environmental
 290 Paularino
 Costa Mesa, CA 92626, USA
 Phone: 949.833.3888
 Toll Free: 800.331.2277
 Fax: 714.242.0240
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Quote # 17684

Please address Purchase Orders to:
JWC Environmental
 290 Paularino
 Costa Mesa, CA 92626
 Fax: 714.242.0240

To	Dave Fauber Cape Charles, VA	Rep Phone	Watermark Environmental 610-363-6515
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We thank you for your inquiry and are pleased to quote pricing and delivery on the equipment listed below. This quotation is subject to terms and conditions listed on the JWC Environmental "Terms and Conditions" page, and any comments and exception listed below.

Exemption Certificates are required for all customers claiming tax exempt status in any state that has state sales tax.

Project	Mason Ave PS - Cape Charles, VA	Bid Date	
Quote Date	11/27/2013	FOB	Origin
Submittals	4 weeks after receipt of order	Expire Date	05/30/2014
Ship Equipment	8 weeks after approval/release	Terms	Net 30 Days
Consulting Engineer	Stearns and Wheler		
Spec. Section			

LINE ITEMS

Line No	Qty	Part/Description
1	1	CHANNEL MONSTER SINGLE DRUM Model CMD1810-XDS2.0 Channel Monster system suitable for up to 2.7 MGD (refer to JWC Environmental flow curves for additional performance data). Scope of supply to include: * Grinder with 18" cutter stack, 7-tooth cam cutters in 8620 alloy steel, 10" dia. 304 stainless steel rotating drum with 1/4" coil-wound rod with 1/4" spacing between coils, cartridge-style tungsten carbide mechanical seals with BUNA-N elastomers rated for 90 psi, green epoxy-coated ductile iron housings and siderails, 29:1 speed reducer and 5 hp XPNV immersible 230/460v/3ph/60Hz electric motor with 40' cable.
2	1	CONTROLLER ASSEMBLY PC2220 motor controller in a NEMA 4X FRP enclosure accepting 460v/3ph/60Hz input power, includes NEMA starter with over-current protection, jam-sensing current transformer and micro-PLC. With: 30mm push to test lights, lighting protection, surge suppression, motor branch circuit protection, emergency stop push button, and intrinsically safe relay for high water alarm circuit for float switch. (Float switch not included, provided by others)
3	1	CUSTOM FRAME ASSEMBLY Channel-mounting frame assembly fabricated in 304 stainless steel.
4	3	O&M MANUALS HARD COPY Bound in 3-ring binders
5	1	1 LOT SPARE PARTS (3) Cutters (3) Spacers
6	1	FREIGHT OUT

Price \$42,701.00



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Clarification

1. See attached standard JWC Terms and Conditions of Purchase.
2. Standard one year warranty is included.
3. One (1) day of start-up supervision by a factory-authorized representative is included.

Exclusions

Unless specifically stated above, this quotation does not include installation, bonds, sales taxes, use taxes, disconnect switches, anchor bolts, hydraulic fluid, mounting frames, guide rails, field wiring, spare parts, or special tools.

Authorized JWC Environmental Signature Dennis Birgen



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**JWC ENVIRONMENTAL
TERMS AND CONDITIONS OF SALE**

Unless otherwise specifically agreed to in writing by the buyer ("Buyer") of the products and or related services purchased hereunder (the "Products") and JWC Environmental (the "Seller"), the sale of the Products is made only upon the following terms and conditions. Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Buyer's assent to these terms. Seller rejects all additional, conditional and different terms in Buyer's form or documents.

PAYMENT TERMS

Subject to any contrary terms set forth in our price quotation, order acceptance or invoice the full net amount of each invoice is due and payable in cash within 30 days from the date of the invoice. If any payment is not received within such 30-day period, Buyer shall pay Seller the lesser of 1 1/4% per month or the maximum legal rate on all amounts not received by the due date of the invoice, from the 31st day after the date of invoice until said invoice and charges are paid in full. Unless Seller's documents provide otherwise, freight, storage, insurance and all taxes, duties or other governmental charges related to the Products shall be paid by the Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller for said charges. In all cases, regardless of partial payment, title to the Products shall remain the Seller's until payment for the Products has been made in full. All orders are subject to credit approval by Seller. All offers by Seller and/or acceptance of Buyer's order shall be nullified by any failure of Buyer to obtain credit approval. Furthermore, Buyer shall not assert any claim against Seller due to Buyer's inability to obtain credit approval. Irrevocable Letter of Credit from Buyer in form and term acceptable to Seller is required for Product orders delivered outside the United States of America

DELIVERY

Unless otherwise provided in our price quotation, delivery of the Products shall be made F.O.B. place of manufacture. Any shipment, delivery, installation or service dates quoted by the Seller are estimated and the Seller shall be obligated only to use reasonable efforts to meet such dates. The Seller shall in no event be liable for any delays in delivery or failure to give notice of delay or for any other failure to perform hereunder due to causes beyond the reasonable control of the Seller. Such causes shall include, but not be limited to, acts of God, the elements, acts or omissions of manufacturers or suppliers of the Products or parts thereof, acts or omissions of Buyer or civil and military authorities, fires, labor disputes or any other inability to obtain the Products, parts thereof, or necessary power, labor, materials or supplies. The Seller will be entitled to refuse to make, or to delay, any shipments of the Products if Buyer shall fail to pay when due any amount owed by it to the Seller, whether under this or any other contract between the Seller and Buyer. Any claims for shortages must be made to the Company in writing within five calendar days from the delivery date and disposition of the claim is solely subject to Seller's determination

PRICES

Prices of the Seller's Products are subject to change without notice. Quotations are conditioned upon acceptance within 30 days unless otherwise stated and are subject to correction for errors and/or omissions. Prices include charges for regular packaging but, unless expressly stated, do not include charges for special requirements of government or other purchaser. Prices are subject to adjustment should Buyer place an order past the validity period of the quotation or delay delivery of Products beyond the quoted lead time for any reason.

RETURNS

No Products may be returned for cash. No Product may be returned for credit after delivery to Buyer without Buyer first receiving written permission from the Seller. Buyer must make a request for return of Product in writing to Seller at its place of business in Costa Mesa, California. A return material authorization number must be issued by the Seller to the Buyer before a Product may be returned. Permission to return Product to Seller by Buyer is solely and exclusively the Seller's. Product must be returned to Seller at Buyer's expense, including packaging, insurance, transportation and any governmental fees. Any credit for Product returned to Seller shall be subject to the inspection of and acceptance of the Product by the Seller and is at the sole discretion of the Seller.

LIMITED WARRANTY

Subject to the terms and conditions hereof, the Seller warrants until one year after commissioning (written notification to Seller by Buyer required) of the Product or until 18 months after delivery of such Product to Buyer, whichever is earlier, that each Product will be free of defects in material and workmanship. If (a) the Seller receives written notification of such defect during the warranty period and the defective Products use is discontinued promptly upon discovery of alleged defect, and (b) if the owner ("Owner") forwards the Product to the Seller's nearest service/repair facility, transportation and related insurance charges prepaid. The Seller will cause any Products whose defect is covered under this warranty to either be replaced or be repaired at no cost to the Owner. The foregoing warranty does not cover repairs required due to repair or alteration other than by the Seller's personnel, accident, neglect, misuse, transportation or causes other than ordinary use and maintenance in accordance with the Seller's instructions and specifications. In addition, the foregoing warranty does not cover any Products, or components thereof, which are not directly manufactured by the Seller. To the extent a warranty for repair or replacement of such Products or components not manufactured directly by the Seller is available to Buyer under agreements of the Seller with its vendors; the Seller will make such warranties available to Buyer. Costs of transportation of any covered defective item to and from the nearest service/repair center and related insurance will be paid or reimbursed by Buyer. Any replaced Products will become the property of the Seller. Any replacement Products will be warranted only for any remaining term of the original limited warranty period and not beyond that term.

DISCLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITIES

THE SELLER'S FOREGOING LIMITED WARRANTY IS THE EXCLUSIVE AND ONLY WARRANTY WITH RESPECT TO THE PRODUCTS AND SHALL BE IN LIEU OF ALL OTHER WARRANTIES (OTHER THAN THE WARRANTY OF TITLE), EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY STATEMENTS MADE BY EMPLOYEES, AGENTS OF THE SELLER OR OTHERS REGARDING THE PRODUCTS. THE OBLIGATIONS OF THE SELLER UNDER THE FOREGOING WARRANTY SHALL BE FULLY SATISFIED BY THE REPAIR OR THE REPLACEMENT OF THE DEFECTIVE PRODUCT OR PART, AS PROVIDED ABOVE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF THE SELLER TO BUYER AND OTHERS ARISING FROM ANY CAUSE WHATSOEVER IN CONNECTION WITH BUYER'S PURCHASE, USE AND DISPOSITION OF ANY PRODUCT COVERED HEREBY SHALL, UNDER NO CIRCUMSTANCES, EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT BY BUYER. NO ACTION, REGARDLESS OF FORM, ARISING FROM THIS AGREEMENT OR BASED UPON BUYER'S PURCHASE, USE OR DISPOSITION OF THE PRODUCTS MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES, EXCEPT THAT ANY CAUSE OF ACTION FOR THE NONPAYMENT OF THE PURCHASE PRICE MAY BE BROUGHT AT ANY TIME

The remedies provided to Buyer pursuant to the limited warranty, disclaimer of warranties and limitations of liabilities, described herein are the sole and exclusive remedies.

Unless specifically agreed to in writing by the Seller, no charges may be made to the Seller by Buyer or any third party employed by buyer for removing, installing or modifying any Product.

The Seller and its representatives may furnish, at no additional expense, data and engineering services relating to the application, installation, maintenance or use of the Products by Buyer. The Seller will not be responsible for, and does not assume any liability whatsoever for, damages of any kind sustained either directly or indirectly by any person through the adoption or use of such data or engineering services in whole or in part.

CONFIDENTIAL INFORMATION

Except with the Seller's prior written consent, Buyer shall not use, duplicate or disclose any confidential proprietary information delivered or disclosed by the Seller to Buyer for any purpose other than for operation or maintenance of the Products.

CANCELLATION AND DEFAULT

Absolutely no credit will be allowed for any change or cancellation of an order for Products by Buyer after fabrication of the Products to fill Buyer's order has been commenced. If Buyer shall default in paying for any Products purchased hereunder, Buyer shall be responsible for all reasonable costs and expenses, including (without limitation) attorney's fees incurred by the Seller in collecting any sums owed by Buyer. All rights and remedies to the Seller hereunder or under applicable laws are cumulative and none of them shall be exclusive of any other right to remedy. No failure by the Seller to enforce any right or remedy hereunder shall be deemed to be a waiver of such right or remedy, unless a written waiver is signed by an authorized management employee of the Seller and the Seller's waiver of a breach of this agreement by Buyer shall not be deemed to be a waiver of any other breach of the same or any other provision.

CHANGES IN PRODUCTS

Changes may be made in materials, designs and specifications of the Products without notice. The Seller shall not incur any obligation to furnish or install any such changes or modifications on Products previously ordered by, or sold to, Buyer.

APPLICABLE LAW, RESOLUTION OF DISPUTES AND SEVERABILITY

This agreement is entered into in Costa Mesa, California. This agreement and performance by the parties hereunder shall be construed in accordance with, and governed by, the laws of the State of California. Any claim or dispute arising from or based upon this agreement or the Products which form its subject matter shall be resolved by binding arbitration before the American Arbitration Association in Los Angeles, California, pursuant to the Commercial Arbitration Rules, excepting only that each of the parties shall be entitled to take no more than two depositions, and serve no more than 30 interrogatories, 10 requests for admissions and 20 individual requests for production of documents, such discovery to be served pursuant to the California Code of Civil Procedure. Any award made by the arbitrator may be entered as a final judgment. In any court having jurisdiction to do so, if any provision of this agreement shall be held by a court of competent jurisdiction or an arbitrator to be unenforceable to any extent, that provision shall be enforced to the full extent permitted by law and the remaining provisions shall remain in full force and effect.

ASSIGNMENT

This agreement shall be binding upon the parties and their respective successors and assigns. However, except for rights expressly provided to subsequent Owners of the Products under "Limited Warranty" above, any assignment of this agreement or any rights hereunder by Buyer shall be void without the Company's written consent first obtained. Any exercise of rights by an Owner other than Buyer shall be subject to all of the limitations on liability and other related terms and conditions set forth in this agreement.



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EXCLUSIVE TERMS AND CONDITIONS

The terms and conditions of this agreement may be changed or modified only by an instrument in writing signed by an authorized management employee of the Seller. This instrument, together with any amendment or supplement hereto specifically agreed to in writing by an authorized management employee of the Seller, contains the entire and the only agreement between the parties with respect to the sale of the Products covered hereby and supersedes any alleged related representation, promise or condition not specifically incorporated herein.

SELLER'S PRODUCTS ARE OFFERED FOR SALE AND SOLD ONLY ON THE TERMS AND CONDITIONS CONTAINED HEREIN. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS CONTAINED IN BUYER'S SEPARATE PURCHASE ORDERS OR OTHER ORAL OR WRITTEN COMMUNICATION, BUYER'S ORDER IS OR SHALL BE ACCEPTED BY THE COMPANY ONLY ON THE CONDITION THAT BUYER ACCEPTS AND CONSENTS TO THE TERMS AND CONDITIONS CONTAINED HEREIN. IN THE ABSENCE OF BUYER'S ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED HEREIN THE SELLER'S COMMENCEMENT OF PERFORMANCE AND/OR DELIVERY OF THE PRODUCTS, OR THE SELLER'S STATEMENT OF ACKNOWLEDGMENT OF THE RECEIPT OF BUYER'S PURCHASE ORDER, SHALL BE FOR BUYER'S CONVENIENCE ONLY AND SHALL NOT BE DEEMED OR CONSTRUED TO BE ACCEPTANCE OF BUYER'S DIFFERING TERMS OR CONDITIONS, OR ANY OF THEM. ANY DIFFERENT OR ADDITIONAL TERMS ARE HEREBY REJECTED UNLESS SPECIFICALLY AGREED UPON IN WRITING BY AN AUTHORIZED MANAGEMENT EMPLOYEE OF THE SELLER. IF A CONTRACT IS NOT EARLIER FORMED BY MUTUAL AGREEMENT IN WRITING, BUYER'S ACCEPTANCE OF ANY PRODUCTS COVERED HEREBY SHALL BE DEEMED ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS STATED HEREIN. THE SELLER'S FAILURE TO OBJECT TO PROVISIONS INCONSISTENT HERewith CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE PROVISIONS CONTAINED HEREIN.

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