



TOWN COUNCIL Regular Meeting

July 17, 2014
Cape Charles Civic Center
6:00 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Invocation and Pledge of Allegiance
3. Election of Vice Mayor
4. Public Comments (3 minutes per speaker)
5. Consent Agenda
 - A. Approval of Agenda Format
 - B. Approval of Minutes
6. Department Reports
 - *A. Treasurer's Report
 - B. Planning Commission and Boards
 - C. Other Department Reports
7. Old Business
 - A. Cape Charles Multi-Use Trail Project Update
8. New Business
 - *A. Code 42-3 – Adoption of State Law
 - *B. Appointment of Council Representative to Harbor Area Review Board
 - *C. Reappointment of Library Board Representative
 - *D. Designation of Swimming Area at Cape Charles Beach
 - *E. Franchise Assignment
 - F. Cape Charles by the Bay Website
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - July 31, 2014 – Town Council Work Session, 5:30 PM
 - August 1-2, 2014 – Clam Slam
 - August 1-17, 2014 – Harbor for the Arts
 - August 7, 2014 – Town Council Work Session, 6:00 PM
 - August 21, 2014 – Town Council Regular Meeting
11. Adjourn at 8:00 P.M.



DRAFT
TOWN COUNCIL
Regular Meeting
St. Charles Parish Hall
June 19, 2014
6:00 PM

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 Godwin, Sullivan, and Councilwoman Natali. Councilmen Bennett and Wendell were not in attendance. Also in attendance were Mayor-elect George Proto, Town Manager Heather Arcos, Treasurer Debbie Pocock, Code Official Jeb Brady and Town Clerk Libby Hume. The majority of the Department Heads were in attendance as well as approximately 10 members of the public.

A moment of silence was observed followed by the recitation of the Pledge of Allegiance.

INSTALLATION OF NEW MAYOR AND COUNCIL MEMBERS/OATHS OF OFFICE

Northampton County Circuit Court Clerk Traci Johnson administered the oaths of office to Mayor-elect George Proto, Councilman-elect Chris Bannon and Councilwoman-elect Joan Natali. Councilman-elect Charles "Sambo" Brown was sworn in on May 30, 2014. Their terms would be effective July 1, 2014.

PUBLIC COMMENTS:

Dorie Southern, 104 Monroe Avenue

Ms. Southern addressed the Council regarding the request from Charon Ventures. (Please see attached.)

Heinz Sommer, 7 Kings Court

Mr. Sommer began by thanking Treasurer Deborah Pocock for providing answers to his questions from the June 12, 2014 Town Council Budget Public Hearing as well as guiding him on how to locate financial information on the Town's website.

Mr. Sommer went on to ask the following questions: i) Why did the Town purchase vehicles rather than lease them? Leasing would assist with the cash flow; and ii) What was the total amount of contingency in the budget line items? Mr. Sommer stated that he could only identify two which were the contingency fund in the amount of \$120K and the Town Manager budget which included approximately \$200K in contingency. The two items combined would reduce the budget by about \$300K. The revenues generated by real estate taxes were approximately \$1.1M. The real estate taxes could be reduced by about 25%-30% without cutting any budgeted expenditures. Mr. Sommer explained that this would make the Town more attractive to potential home buyers and investors. There were currently about 2K building lots and more than 100 homes under market value in town, mostly in Bay Creek. The tax base would broaden substantially if these lots were sold and built upon and would help the town attract new businesses and assist existing businesses increase revenue and taxes to the benefits of Cape Charles.

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

CONSENT AGENDA – APPROVAL OF AGENDA FORMAT:

Mayor Sullivan stated that a new item would be added under New Business Item 8E – Gale Matter-Request for Variance.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, 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 May 22, 2014 Regular Meeting, the June 5, 2014 Work Session, the June 5, 2014 Executive Session, and the June 12, 2014 Public Hearing.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to approve the minutes from the May 22, 2014 Regular Meeting, the June 5, 2014 Work Session, the June 5, 2014 Executive Session, and the June 12, 2014 Public Hearing as presented. The motion was approved by unanimous consent.

DEPARTMENT REPORTS:

C. *Treasurer's Report:*

Treasurer Deborah Pocock reviewed the Treasurer's report dated May 31, 2014 which showed \$357,211 in the Shore Bank checking account, \$97,342 in the Local Government Investment Pool (LGIP) Account 1 for utilities, \$509,288 in the LGIP Unrestricted Account 2. Deborah Pocock continued her review of the Cash Position report regarding restricted and reserved cash balances which showed \$96,585 in the Shore Bank checking account for reserved facility fees, \$1,231 in the Shore Bank Savings Account for Police Funds, and \$257,581 in the US Bank reserve account per the VRA interest free Loan requirements. The PNC Account-2013 Bond Proceeds-Principal showed \$959,629 and the PNC Account-2013 Bond Proceeds-Interest showed \$636. \$42,065 of the bond proceeds was used for the new grinder for the wastewater treatment plant. The Total Cash on Hand was \$963,882, the Total Cash Held in Reserve was \$1,315,663 and the total of all accounts was \$2,279,545. The decrease in the Shore Bank checking account reflected a capital project payment of \$129K. Deborah Pocock 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 2013 personal property tax, machinery and tools tax and 2014 license tax collections. A new item being reported this month was the percentage of fees for credit card payments which varied by .01% or .02% depending on the amount collected. Year-to-date the Town had paid \$6,099.96 in fees for \$202,076.27 in collections which amounted to 3%. The current total debt amounted to \$10.17M and all balances were scheduled to be paid off by 2034.

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

B. *Planning Commission and Boards:*

Town Manager Heather Arcos stated that there was a new addition to the Town's family – Dylan Testerman was born this morning weighing in at 9.2 lbs. and 21" long. Rob Testerman would be out of the office for two weeks. Heather Arcos informed Council to contact her if there were any questions regarding the Planning Department report.

C. *Other Departmental Reports:*

Code Official Jeb Brady reported the following: i) 18 permits were issued so far this month; ii) Construction on 4 new homes would be starting within the next month with a potential for 2 more; and iii) There was a major fire on Jefferson Avenue at 2:00 AM last Wednesday morning. The house was a total loss and he was working with the insurance company to demolish the structure. Fortunately, no one was injured and the Red Cross was assisting the residents. He found out that there was a Red Cross representative living in Bay Creek.

Town Manager Heather Arcos reported the following: i) She read a portion of a letter from Mr. Ron West of the US Coast Guard Auxiliary expressing his appreciation of Chief Pruitt and Officer Pfeiffer for their assistance in fingerprinting applicants for the auxiliary (Please see attached); ii) The wage, compensation study and staff analysis was ongoing. A representative from Springsted was in Town for two days interviewing the department heads and staff and touring the Town's facilities. The study results would be presented to the Town Council at a work

session the end of July; and iii) The Tall Ships weekend went well. There were a lot of people in the Town over the weekend and no incidents were reported. A follow-up meeting would be scheduled later to discuss the weekend and any issues.

OLD BUSINESS

A. *Eastern Shore of Virginia PSA – Appointment to PSA Subcommittee*

Heather Arcos stated that the Northampton County Board of Supervisors (BOS) formed an Eastern Shore of Virginia Public Service Authority (PSA) subcommittee to work with the Town regarding provision of wastewater service to the PSA. The BOS requested that two Council representatives be appointed to serve on the subcommittee. Council discussed this request at the May 22, 2014 meeting and Councilwoman Natali was appointed as one of the Cape Charles representatives. Councilman Wendell expressed his interest in serving on the subcommittee but Council was concerned regarding a possible conflict of interest since he owned property within the proposed regional wastewater service area and requested that Councilman Wendell obtain an opinion from the Commonwealth Attorney. Council decided to table the appointment of the second representative until the June meeting. Earlier this week, Councilman Wendell contacted the Clerk's office to inform the Council that he was no longer interested in serving on the PSA subcommittee. Councilman-elect Brown had also expressed an interest in serving on the subcommittee. The action tonight was to appoint the second Cape Charles representative to the PSA subcommittee.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, and unanimously approved to appoint Councilman-elect Brown as the second Cape Charles representative to serve on the PSA subcommittee.

B. *FY 2014-2015 Proposed Budget & Appropriation*

Heather Arcos stated that the public hearing on the proposed Fiscal Year (FY) 2014-2015 budget was held on June 12th pursuant to § 15.2-2506 of the Code of Virginia. There were seven members of the public in attendance and two citizens spoke. The two citizens were contacted after the public hearing and their questions were answered by staff. Heather Arcos went on to review the Summary of Capital Projects by Fund.

Deborah Pocock reviewed the questions asked by Mr. Heinz Sommer at the public hearing along with staff's responses to the questions as follows:

- i) Would the Town or County adjust property assessments for 2015?
No, the County was using 2014 assessments for 2015, with the exception of new construction or partial construction, which the county was still working on assessing. The Town's total property assessment for FY 2014 was \$409,929,500.
- ii) What were duplications of efforts between the Town and County (Planning, Code Enforcement and Police)?
There were no duplications. The County did not support the Town's zoning ordinances and code enforcement services. If they were asked to do so, they would charge for those services. The State of Virginia did fund one police officer position at about \$28K per year. The Town had its own zoning ordinances, and per the Annexation Agreement, we must have a Town Planner. If the Town were able to let it go, the County would bill us for planning services.
- iii) Were 2014 figures in the budget reports given at the Town Council meetings and online actual or budget?
They were budget figures. The actual year-to-date numbers were given each month on the Treasurer's Report and were available online.
- iv) What happened if funds were shifted from one budget line to another?
The Town Manager was given the authority to re-appropriate money from one fund to another with Council approval.
- v) Please explain the increases in Departmental Budgets for FY 2015 over FY 2014.
Note: All departments would have salary increases of 2% due to the COLA adjustment.

Legislative: Increase was due to capital expenditures which were for the purchasing furniture and equipment for the new Civic Center.

Town Clerk: New scanning system for archiving records and scanning system maintenance.

Finance: Anticipated increase in contracted services such as auditor, credit card fees, accounting software maintenance, etc.

Public Works: The trail project (capital expenditure) as well as increased maintenance and utilities to new park restrooms, civic center and public infrastructure.

Town Manager: Capital expenditure – the purchase of a new phone system. Addition of Tourism initiatives to Town Manager’s budget was also new this year, for a total of \$68,700, the details of which were as follows:

Arts Enter	\$5,000
Eastern Shore Eventacular, Inc. (Tall Ships/Birding Festivals)	\$5,000
Cape Charles Business Association (Includes LOVE Display)	\$2,500
Eastern Shore Tourism Commission (Welcome Center, Rack Display)	\$15,000
Fireworks	\$10,000
Historical Society Welcome Center	\$5,000
Print Marketing – Virginia Travel Guide, Eastern Shore Travel Guide, Printing of four Welcome Center rack cards	\$10,980
Social Media Marketing – Cape Charles by the Bay	\$3,600
Website Maintenance/Hosting – Cape Charles by the Bay	\$5,400
Tourism Contingency	\$6,220

In addition, the Cape Charles Volunteer Fire Company contribution increased by \$6,400 to \$25K in FY 2015 and Legal Fees increased by \$15K. Debt Service for General Fund reflected an increase of \$31,156 due to a scheduled principle payment of \$21,293 for the 2010 General Obligation Bond and a 2013 PNC Bond principle and interest payment of \$9,863.

A general contingency fund of \$120,150 was added to the Town Manager budget this year.

Heather Arcos added the following: i) Transient Occupancy Tax would increase from 3% to 3.7% effective January 1, 2015; and ii) The water rate was decreased to \$31.15 as a result of refinancing the loan for the water tower. The wastewater rate increased to \$63.27 due to increased costs for maintenance and debt service. The trash service was outsourced to Davis Disposal and their pickup rate increased to \$13.50 for the next two years. The net amount of the utility bill remained unchanged at \$107.92.

Motion made by Councilwoman Natali, seconded by Councilman Godwin, to adopt Resolution 20140619 Approving the Budget for Fiscal Year 2014-2015 and Making Appropriations for the Fiscal Year. Mayor Sullivan moved for adoption of Resolution 20140619 as noticed and forewent reading of the Resolution. The motion was approved by unanimous vote of the Council members in attendance. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes.

C. *USDA Grant/Loan Resolution for New Police Vehicle*

Heather Arcos stated that Council authorized the application requesting grant and loan funding to the US Department of Agriculture – Rural Development (USDA RD) to purchase a new police vehicle. At the May 22, 2014 meeting, staff informed Council that the Town had been awarded a grant in the amount of \$8,100 and loan approval for \$15,100 for the purchase of a new 2014 Dodge Charger. The police vehicles were on a five-year rotation schedule for replacement. The total cost of the 2014 Dodge Charger, including equipment, was \$25,857, which was the state contract price. The total of the grant and loan proceeds amounted to \$23,200 and the difference of \$2,657 was included in the FY 2014-2015 Police Dept. budget. The USDA RD’s current interest rate was 4.125% for five years with an annual payment of \$3,404. The first annual payment would be due in FY 2015-2016 and there was no prepayment penalty under the guidelines of this loan. The interest paid by the Town, if financed for the full five years, would be \$1,920. A resolution was required stating Council’s agreement to abide by the covenants and

to execute the forms required by the USDA RD. The loan resolution was part of Resolution 20140619A.

Motion made by Councilman Godwin, seconded by Councilman Sullivan, to adopt Resolution 20140619A to authorize the Town Manager to execute all applicable forms required by the USDA RD to purchase the new police vehicle. Mayor Sullivan moved for adoption of Resolution 20140619A as noticed and forewent reading of the Resolution. The motion was approved by unanimous vote of the Council members in attendance. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes.

NEW BUSINESS:

A. *Charon Ventures Extension Request*

Heather Arcos stated that Charon Ventures, LLC was requesting an extension for the Cape Charles Lofts Project until December 31, 2015 and reported the following: i) The Interior Demolition & Structural Stabilization Permit was issued on May 20, 2014 and demolition should begin by the end of June; ii) Approval had been received from VDOT. All permits and certificates had been approved; iii) The Northampton County Tax Assessment Rehabilitation Application was approved on May 28, 2014; iv) Mr. Dave McCormack was estimating that the construction would last through July 1, 2015 with an additional month for punch list items and final clearing. An extension until December 31, 2015 was being requested to cover any unforeseen delays in the construction schedule. Councilman Bennett was in DC and unable to attend this evening but provided his input regarding this request and stated that he would be agreeable to a 15-month extension to September 30, 2015. No input was received from Councilman Wendell.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to follow Councilman Bennett's recommendation to approve an extension for Charon Ventures, LLC until September 30, 2015. The motion was approved by unanimous vote.

B. *W. M. Schlosser Contract*

Heather Arcos stated that the attached Settlement Agreement and Release of Claims had been reviewed by legal counsel. The Town agreed to attempt to resolve the dispute through mediation to avoid the cost of a lengthy arbitration or other legal proceedings. W. M. Schlosser (WMS) had resolved the warranty items and a proposed settlement had been reached providing a revised final payment of \$114,500. With this final payment to WMS, the wastewater treatment project was completed about \$350K under budget.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to authorize the Town Manager to execute the Settlement Agreement and Release of Claims as discussed. The motion was approved by unanimous consent.

C. *Town Council Meeting Location*

Mayor Sullivan stated that the Cape Charles Town Council regular meetings had been held in the Saint Charles Parish Hall since April 2008 due to the conversion of the former Council Chambers located at 2 Plum Street into office space. The Town had been renting the facility for \$100 per month. With the relocation of the Cape Charles Memorial Library into the former Bank of America building at 201 Mason Avenue, the former location at 500 Tazewell Avenue was now available for Town use. In April 2014, the Town Council renamed the building the Cape Charles Civic Center. Pursuant to Code of Virginia § 15.2-1416, a resolution needed to be adopted in order to change the location of the regular Council meetings.

Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to adopt Resolution 20140619B Moving the Location of Cape Charles Town Council Regular Meetings. Mayor Sullivan moved for adoption of Resolution 20140619B as noticed and forewent reading of the Resolution. The motion was approved by unanimous vote of the Council members in attendance. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes.

D. *Town Council Representative to Library Board*

Mayor Sullivan stated that Vice Mayor Bannon had served as the Town Council representative to the Library Board for 14 years, but had announced his resignation from the Board effective June 30, 2014. The Library Board oversaw the Cape Charles Memorial Library and consisted of seven members, including the Town Council representative, and met on a monthly basis. The members served four-year terms.

Vice Mayor Bannon nominated Councilman Godwin to serve as the Council representative to the Library Board. Councilman Godwin agreed to serve on the Board.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to appoint Councilman Godwin as the Town Council representative to the Library Board. The motion was unanimously approved.

E. *Request for Variance to Town Code § 66-4*

Code Official Jeb Brady stated that the residence at 614 Plum Street had severe water damage due to a faulty pipe in the house. The house was inspected on June 12th and determined to be in an unsafe and uninhabitable condition. On June 13th, Jeb Brady met with a contractor and insurance adjuster onsite to discuss what action would be required to alleviate the problems. Jeb Brady distributed photographs of the first floor interior of the house which showed the amount of damage. The entire first floor would be required to be gutted at a minimum. The work required a permit, but per Town Code § 66-4, a permit could not be issued until all back taxes were paid. The owner, Mr. Thomas Gale, had not paid taxes for five years and owed a total of \$2,763.67 which included \$580.89 in penalties. Mr. Gale requested a payment agreement for the delinquent taxes. Staff suggestion was for the owner, at a minimum, to pay half of the outstanding amount up front with the remainder payable on a monthly schedule to allow a permit to be issued for the demolition work only to keep the damage from getting worse. This was the only way to stop the mold from getting worse. The permit to complete the restoration to make the structure habitable would not be issued until all the taxes were paid in full. The house was less than 10 years old and was not a contributing structure to the Historic District.

Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to follow Jeb Brady's recommendation requiring payment of half of the outstanding balance prior to the issuance of a demolition permit. Upon payment in full of the delinquent taxes and penalties, a permit would be issued for reconstruction of the structure. The motion was unanimously approved.

MAYOR AND COUNCIL COMMENTS

Mayor Sullivan began by stating that it was her hope that the new Mayor and Town Council would further discussion on the possibility of a standalone emergency facility because it would be a shame to let the three-year initiative dissolve. It was economic development and a plan needed to be put in place. Mayor Sullivan asked that it not be forgotten.

Vice Mayor Bannon stated that the Town Council had received a letter from a citizen regarding boats and jet skis on the beach. In 2006, Vice Mayor Bannon had discussed the issue with former Town Manager Tim Krawczel and Mr. Ron West had given advice at that time. The issue seemed to get worse every year and Vice Mayor Bannon agreed that something should be done.

Smitty Dize suggested designating an area with buoys for swimming.

Heather Arcos stated that something would be drafted for the next Town Council meeting.

Councilwoman Natali recommended getting started and not waiting for the next Town Council meeting since the summer season had already begun.

Smitty Dize stated that there had been discussion about designating an area on the north end of the beach to park boats.

Mayor Sullivan expressed her concern for the safety of swimmers around the boats and asked that something be done before an incident occurred.

Vice Mayor Bannon stated that it had been a pleasure to serve with Mayor Sullivan.

Councilman Sullivan stated that it had been an interesting four years and that it had been an honor to serve on the Town Council.

Councilman Godwin stated that Mayor Sullivan had done a great job and explained that she had good control of the Council, took care of business and was always on point. Councilman Godwin added that he felt that a very capable person was stepping in to take her place.

Councilwoman Natali stated that it had been a pleasure to work with Mayor Sullivan and Councilman Sullivan and went on to state that she appreciated the work sessions to be able to discuss issues before voting. Councilwoman Natali thanked Councilman Sullivan for his great memory and Mayor Sullivan for keeping the peace and added that they would be missed.

Mayor Sullivan explained the importance of working together and being open-minded. Mayor Sullivan wished the best of luck to Mayor-elect Proto.

Mayor-elect Proto stated that the Town had made much progress and felt that it should continue in a positive direction and concluded by wishing Mayor Sullivan much happiness.

ANNOUNCEMENTS

- July 3, 2014 – Town Council Work Session, 6:00 PM, Town Hall – tentative
- July 4, 2014 – Town Offices Closed in observance of Independence Day
- July 4, 2014 – Fireworks Display and Celebration
- July 5, 2014 – Cape Charles Volunteer Fire Company Seafood Festival
- July 17, 2014 – Town Council Regular Meeting in the Civic Center

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

Mayor Sullivan

Town Clerk

Public Comments and Information Provided in Writing
June 19, 2014

Dorie Southern, 104 Monroe Avenue

Dear Mayor and Town Council,

Your agenda tonight includes consideration of another time extension to Charon Ventures to convert Cape Charles School into apartment units. Please consider the following:

1. The Historic District Review Board did not grant a certificate of appropriateness for the parking lot as proposed by Charon Ventures. That matter is still supposed to be reviewed by the HDRB, but the memo from the Town Manager attached to tonight's agenda states that "final approval" was granted by the Review Board. In fact, the only approval granted by the Review Board was for five specific requests by the developer. The developer has never requested permission to build a parking lot outside the front door of the building. If permission is not requested, does that mean no approval is required? The Town Planner should not allow that.
2. The Conditional Use Permit to allow an apartment house in an R-1 residential zone expired more than a year ago. In addition, the CUP was never issued to Charon Ventures, but instead to Echelon Resources. A new Conditional Use Permit should be applied for in the name of Charon Ventures before Town Council issues any further time extensions. This includes a public hearing. This is a Town Code requirement that should not be ignored.
3. The town told VDOT when it applied for the grant for the Multi-Use Trail that the front of the school would be the trailhead. Now the town has sold the trailhead as part of the school. That could create problems for the trail grant.
4. There is no record of the Historic District Review Board approving the removal of the historic features in front of the school, which include the flagpole and stanchions. There is also no record of a change of address of the school from 23 Park Row to 423 Plum Street. These actions should also have been documented, and could be issues of concern to the Virginia Department of Historic Resources.
5. The town has never issued a water bill to the owners of the school during the 18 months it has been private property. That is a loss to ratepayers of \$2,000 to date. Meanwhile, owners of other vacant buildings in town are required to pay a monthly bill. Why does the town not enforce its own Code?

Town Council should research these questions before granting any further extension to Charon Ventures. In fact, it is not too late to rule that the developer has not fulfilled his commitment, and must return the building and receive a refund of the \$10 paid. Then the school can be returned to public service as it was supposed to be when it was returned to the town by Northampton County more than 20 years ago.



*District Staff Officer-Navigation Systems
United States Coast Guard Auxiliary
Fifth Coast Guard District Southern Region*

*5078 Lucas Trail
Machipongo, VA 23405
757- 678-0124 (H)
rwest@esva.net*

From: DSO-NS 5SR
To: Town Manager, Cape Charles
Subj: Support by Police Department of Cape Charles
Date: 18 June 2014

Heather,

I wanted to express my sincere appreciation for the support that Chief Jim Pruitt and Officer Chelsea Pfeiffer have provided to the Coast Guard Auxiliary, Flotilla 12-02 in recent weeks. One of my tasks is to insure that applicants for the organization complete a background check, including being fingerprinted. They have both gone out of their way to assist me in this endeavor. Chief Pruitt has assisted me in developing my skills in this area and both officers have assisted by fingerprinting some of my applicants on different occasions. He and Officer Pfeiffer have been extremely helpful and professional in every way. The Town of Cape Charles is very fortunate to have such fine officers on their Police Force.

Respectfully,

Ronald N. West
Ronald N. West
DSO-NS 5 SR

cc: Mayor, Town of Cape Charles
Commander, Flotilla 12-02



DRAFT
TOWN COUNCIL

Work Session

Town Hall

June 23, 2014

5:30 PM

At 5:30 p.m., Vice Mayor Chris Bannon, having established a quorum, called to order the Town Council Work Session. In addition to Vice Mayor Bannon, present were Councilmen Bennett and Godwin and Councilwoman Natali. Councilman Wendell arrived at 5:50 p.m. Mayor Sullivan and Councilman Sullivan were not in attendance. Also present were Mr. Michael Sterling of Vandeventer-Black, Mayor-Elect George Proto, Town Manager Heather Arcos and Town Clerk Libby Hume. There were no members of the public in attendance.

Vice Mayor Bannon announced the business for the evening would be to review parliamentary procedure and other procedural issues.

Mr. Sterling stated that there was very little information in the Constitution of Virginia, Code of Virginia, Town Code or Town Charter regarding running a meeting and added that tonight's session would be to discuss how to run a meeting to make it more productive and fair for everyone.

Mr. Sterling reviewed a PowerPoint presentation entitled "The Conduct of Meetings of the Town of Cape Charles." (Please see attached.)

There was some discussion regarding the difference between a majority vote and a super-majority vote. Most issues required a majority vote of the members in attendance. There were some issues, such as imposing taxes, which required a super-majority vote or two-thirds of the members of the governing body not just those in attendance.

There was much discussion regarding the "Rules of Order" which served as an informal guide used by the Town regarding the conduct of business. Mr. Sterling explained each item as reviewed and answered questions as they arose. Mr. Sterling stated that the "Rules of Order" were mostly used at the more formal regular meetings. The rules could be more relaxed for work sessions.

Councilwoman Natali asked Mr. Sterling to explain the requirements for executive sessions. Mr. Sterling stated that the Freedom of Information Act allowed for a number of exemptions for open meetings. To hold an executive session, the appropriate exemption must be noticed along with the subject of the meeting. In executive sessions, Council could take a straw vote, but the official vote had to be done in an open meeting. The current process used by the Town was proper procedure.

Mr. Sterling concluded by stating that the Town typically dealt with a number of big and complicated issues for such a small town. With the Harbor operations, the railroad in the Town and other factors, the Town's issues were more for a town with a population of 100K+. The Town had good processes in place but there was always an opportunity to increase efficiency.

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

Vice Mayor Bannon

Town Clerk

THE CONDUCT OF MEETINGS OF THE TOWN OF CAPE CHARLES

Presented by Michael L. Sterling
June 23, 2014

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ON YOUR SIDE



Our Firm

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We offer a broad range of legal service with a focus on providing practical solutions for our business clients. We have been doing so since 1883. Our guiding principle is to provide excellent legal services at a reasonable cost to our clients while maintaining the highest of standards.

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Michael L. Sterling

Mike serves as the Managing Partner of the law firm, and is located in the Firm's Norfolk office. Mike concentrates his practice on complex projects and disputes for international, national and local clients with particular focus on accounting, scheduling, contract terms, protests, insurance, safety, ethics, land use, environmental and other regulatory issues.

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VANDEVENTER BLACK LLP

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Constitution of Virginia, Art. VII, §7. Procedures.

No ordinance or resolution appropriating money exceeding the sum of five hundred dollars, imposing taxes, or authorizing the borrowing of money shall be passed except by a recorded affirmative vote of a majority of all members elected to the governing body. In case of the veto of such an ordinance or resolution, where the power of veto exists, it shall require for passage thereafter a recorded affirmative vote of two-thirds of all members elected to the governing body. See also § 15.2-1428

On final vote on any ordinance or resolution, the name of each member voting and how he voted shall be recorded. See also § 15.2-1427

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State Code Provisions Related to the Conduct of Meetings

- **Title 15.2 Counties, Cities and Towns**
 - Chapter 1 of Title 15.2. General Provisions
 - 15.2-107. Advertising & Enactment of Certain Fees & Levies.
 - Adopted by Ordinance after Advertisement
 - 15.2-107.1 Advertisement of legal notices by web sites
 - 15.2-107.2 Alternative method for local government to give notice by mail.
 - Chapter 2 of Title 15.2. Local Government Charters
 - 15.2-204. Uniform Charter Powers.
 - Powers set forth in 15.2-1100 et seq. are incorporated by reference
 - 15.2-1103. If a conflict with the uniform powers the Charter provisions take precedence.

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State Code Provisions Related to the Conduct of Meetings, continued

- Chapter 14 of Title 15.2. Governing Bodies of Localities.
 - §15.2-1400. Governing bodies.
 - 15.2-1400.C. Chairman, mayors & councilmen are subject to the prohibitions set forth in §§15.2-1534 & 15.2-1535.
 - 15.2-1400.D. A governing body may punish or fine a member of the governing body for disorderly behavior.
 - §15.2-1409. Investigations by governing bodies.
 - §15.2-1410. Chairman & mayors may administer oaths.

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ON YOUR SIDE

State Code Provisions Related to the Conduct of Meetings, continued

- Article 2 of Chapter 14. Meetings of Governing Bodies.
 - §15.2-1415. At what meetings governing bodies may act.
 - **Quorum:** “A majority of the governing body shall constitute a quorum except as may otherwise be provided in the State and Local Government Conflicts of Interest Act (§ 2.2-3100 et seq.)”
 - §15.2-1416. Regular Meetings.
 - **Section 15.2-1416:** Local governing bodies are required to convene in a public place in January for counties and in July for cities and towns to hold its annual or organizational meeting. During this meeting, the local governing body decides the days, times and places of regular meetings to be held during the ensuing months. The governing body shall hold at least 6 meetings a year. In the event the governing body shall change the schedule, it shall adopt a resolution and post it on the door of the courthouse or the initial meeting place and publish it in a newspaper of general circulation at least 7 days before the first changed meeting. Regular meetings may be continued from time to time without further public notice.

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State Code Provisions Related to the Conduct of Meetings, continued

- §15.2-1417 & -1418. Special meetings; how called.
 - **Sections 15.2-1418 & 15.2-1419:** Special meetings may be called by the mayor or chairman or upon the request of two or more of the members of the council or board of supervisors. A request for a special meeting is made to the clerk and must specify the matters to be considered. The clerk shall immediately notify each member of the governing body and the local government attorney of the time, place and purpose of the special meeting. Only such matters specified in the notice may be considered at the meeting unless all members are present.

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State Code Provisions Related to the Conduct of Meetings, continued

- §15.2-1420. How questions determined; tiebreaker.
 - **Majority Vote:** “All questions submitted to the governing body for decision shall be determined by a majority of the members voting on any such questions unless another method of determination is required by the Constitution of Virginia or general law.”
- §15.2-1421. Tiebreakers.
 - Government body may designate a tie breaker. Under Town Charter, the Mayor may cast a tie breaking vote. Charter section 3.5.
- §15.2-1421. Electing a chairman & vice-chairman; mayor & vice- mayor.
 - **Term:** Unless otherwise designated term is presumed to be one year, & officers serve until their successors have been elected.

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State Code Provisions Related to the Conduct of Meetings, continued

- **Section 15.2-1422** – Each governing body shall have a chairman or mayor, either elected by the voters or by the governing body. The chairman or mayor shall preside at the meetings. The governing body also shall elect a vice-chairman or vice-mayor. If neither officer is present to preside at a meeting, the members of the governing body shall choose one of its' members to serve as temporary presiding officer.
- §15.2-1423. Powers of chairman or mayor.
 - “Presiding Officer” is “Head of local government for all official functions & ceremonial purposes” See Charter , Chapter 3.

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State Code Provisions Related to the Conduct of Meetings, continued

- §15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances.
 - “Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance is adopted by a majority vote of those present and voting....”
 - “The name of each member of the governing body voting and how he voted shall be recorded....”
 - “The governing body may adopt an ordinance or resolution by recorded voice vote unless otherwise provided by law or a member calls for a roll call vote.”
 - “In towns, no tax shall be imposed except by a two-thirds vote of the council members.”

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The Role of the Clerk:

- **Section 15.2-1538** - Every locality shall appoint a qualified person to record the official actions of the governing body. Such person shall be called the “clerk.” Such person cannot be a member of the governing body.
- **Section 15.2-1539** - The clerk shall i.) record “in a book” the proceedings of the governing body; ii.) make entries of all ordinances, resolutions, and decisions concerning the raising of funds; iii.) within 5 days after any levy is made deliver a copy to the commissioner of the revenue or his equivalent; iv.) record the vote of the members of the governing body on any question submitted to the board or council; and v.) preserve and file all accounts acted upon by the governing body for a period of 5 years after audit, and thereafter until the governing body shall authorize their destruction in accordance with retention regulations established pursuant to the Virginia Public Records Act.
- **Section 15.2-1418** - The clerk shall immediately notify each member of the governing body and the attorney of special meetings. The notice shall specify the matters to be discussed at the special meeting.

Miscellaneous duties may include keeping local governing body’s calendar, posting notices required by law, producing documents in response to FOIA and record management.

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Standing Rules & Procedures

- **Public bodies, boards & commissions** may adopt standing rules or bylaws.
 - Schedule & time of meetings
 - Rules governing the conduct of meeting
 - Process for the establishment & amendment of agendas
 - Provisions governing “Citizens Time”
 - Rules governing citizen comments may invite criticism under the First Amendment. As a limited public forum, reasonable time, place and manner restrictions are permitted provided that the restrictions are viewpoint neutral. [Steinburg v. Chesterfield County Planning Commission](#), 527 F.3d 377 (4th Cir. 2008). Typical restrictions include time limits, subject matter restrictions, prohibited language and personal attacks.

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Standing Rules & Procedures, continued

- Procedure for approval of minutes
- Provisions governing “Consent Agenda”
- Rules for public hearings
- Procedures for election of officers
- Establishment & membership of board appointed committees
- Procedure for claims against the county (Not applicable to the Town.)
- Press releases

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Standing Rules & Procedures, continued

- **A public body could simply establish & adopt the rules it deems necessary to govern the conduct of its meetings in its Standing Rules.**
- **Public bodies, boards & commissions must operate by motion.**

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Town of Cape Charles Rules of Order

The following rules of order are to serve as a non-binding informal guide to the conduct of business. It is the duty of the Mayor or other presiding officer to conduct meetings in accordance with the Code of Virginia, the Town Charter, applicable Bylaws and in a manner intended to promote open, civil and fair discussion of all issues.

Unanimous Consent

Routine business should generally be conducted by unanimous consent. This is an informal process that allows business to be conducted expeditiously. The procedure is for the presiding officer to ask whether anyone objects to a particular action and then to state, "Hearing no objection the action will be taken by unanimous consent." Note that even when a member is not in favor of a particular action the member may choose not to object in the interest of moving the agenda forward. In other words, unanimous consent does not mean that everyone was actually in favor of the action. If anyone objects then the action must be addressed with a formal motion and vote.

Agenda

The presiding officer should make a reasonable effort to conduct business in accordance with a consent agenda. The agenda should be organized to promote the orderly conduct of business. If the members cannot agree on the agenda it should be presented by motion and subject to a vote. Keep in mind that even after an agenda is approved it can be amended. Often that is done by unanimous consent at the suggestion of the presiding officer to expedite the meeting. The procedure is for the presiding officer to state, "Is there any objection to amending the agenda [explain]. Hearing no objection the agenda is so amended by unanimous consent." In a special meeting no matter not specified in the notice can be considered unless all members are present and a majority agrees by vote to amend the agenda.

Main Motion

This is the motion that brings business before the council or other body. Such motions should be stated in a concise form, and should generally be in writing to avoid misunderstandings. It must be seconded and when voted upon will ordinarily require a simple majority vote. This means a majority of the council not only of those present and voting. There are circumstances where a super majority may be required, such as in the disposition of real estate. Before voting on the motion the presiding officer should call for discussion. The presiding officer should allow for discussion until it terminates by unanimous consent or is formally terminated by a subsidiary motion (discussed below). When the motion is ripe for a vote the presiding officer should call for "all in favor" and then "all opposed." The presiding officer should then clearly state either the "motion passes" or the "motion fails." Generally, in the event of a tie the presiding officer may cast the deciding vote. The Town Charter expressly allows the Mayor to vote in the event of a tie. Any member may request a roll call vote.

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Town of Cape Charles Rules of Order

Subsidiary Motions:

Motion to Postpone Indefinitely: (Sometimes incorrectly called a motion to table.) Normally used to put aside business that is not ripe for consideration, such as when further study is required. It requires a second, is debatable and is not amendable.

Motion to Amend: This is a motion to amend the wording and sometimes the meaning of the main motion. It requires a second and is debatable. It is also amendable *one time*. Note that a vote to adopt the amendment is not a vote on the main motion. Once the motion to amend is adopted the amended main motion must then be voted on as well. Often, simple motions to amend are adopted by unanimous consent. Also, note that whether the member that offered the original motion is willing to accept the proposed amendment or not is irrelevant. It must still be seconded and voted upon or adopted by unanimous consent.

Motion to Refer: This is a motion to refer a matter to a committee or other body for action. In effect, when the motion is to refer the matter to a "workshop" it is a motion to refer the matter to a committee comprised of the entire council or other body (a committee of the whole). It requires a second and is debatable.

Postpone to a Certain Time: Used when a matter is best considered at a different time to allow for the orderly conduct of business. It requires a second and is debatable.

Motion to Limit Debate: Used to put a limit on the time permitted for debate of a motion. It requires a second, is not debatable and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion to limit debate does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.

Motion of the Previous Question: (Often referred to as "a motion to call the question" or "motion to bring the matter to a vote".) Used to end debate and bring the pending motion to a vote. It requires a second, is not debatable, and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion of the previous question does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.

Motion to Lay on the Table: (Often confused with a motion to postpone indefinitely.) Used to temporarily interrupt pending business so that another matter can be considered first. It requires a second and is not debatable. This is often done by unanimous consent to move business forward.

Motion to Recess: This is a motion to take a short break in the proceeding. It requires a second and is not debatable.

Motion to Adjourn: This motion closes the meeting. It requires a second and is not debatable.

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Town of Cape Charles Rules of Order

Other Issues:

Mayor's Veto: The Town Charter provides the Mayor with "the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and voting." This is an exception to the general rule that votes are determined by council as a whole not just those present and voting. With a six member council the override requires a vote of four members if all are present and voting, or a vote of three if only four members are present and voting.

Quorum: The Town Charter provides that "four members of the town council shall constitute a quorum for the transaction of business at any meeting." The bylaws of other bodies establish the number of members required for a quorum. The Code of Virginia provides that if a member is disqualified due to a conflict of interest "the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members." 2.2-3112.C.

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Other Motions and Rules:

Motion to reconsider: Requires a second; debatable (unless the motion to which it applies was undebatable); majority vote; cannot apply to a motion to adjourn or motion to table. May add uncertainty, so should be rarely used.

Motion to suspend the rules: Requires a second; not debatable; requires two-thirds vote unless otherwise specified in bylaws. Adds uncertainty and should be very rarely used.

Withdrawal of motion: Does not require a second; not debatable; majority vote required.

Appeal from ruling of chair: Requires a second; not debatable; majority vote required.

Point of order or parliamentary inquiry: May interrupt a speaker or a vote, if necessary; the point of order or inquiry is answered by the chair, subject to appeal; chair may refer the issue to a vote of the body.

Nominations & elections: No second required; motion to close nominations requires a second and is not debatable; votes by members should be for the nominee of their choice and not "against" other nominees.

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Thank You!

Michael Sterling
Managing Partner

757.446.8626

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VanBlk.com

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Planning Department Report for Town Council

From: Rob Testerman
To: Town Council
Date: July 7, 2014
Subject: Report for Planning Department

1. The land reclamation and beach nourishment project at Bay has been completed. Vegetation is beginning to grow to stabilize the area. This project was approved by the local wetlands board, VMRC and the Army Corps of Engineers in 2012.
2. Cape Charles Lofts site plans have been resubmitted. The resubmission addresses review comments made by VDOT, and Town staff. Copies have been forwarded to VDOT for review, staff is also currently reviewing the plans.
3. The "urban chicken" Planning Commission public hearing has been postponed. The language is under legal review, a new hearing date will be scheduled upon receiving comments and making necessary changes.

Permits Issued

- Zoning Clearance - 2
- Resource Protection Area Delineation - 3

Planning Commission Meeting – July 8

1. The Planning Commission held its Comprehensive Plan meeting on June 30. All Comprehensive Plan review material can be found on the website.
2. The Planning Commission will held its regular meeting Tuesday, July 8.
 - a. The Commission will continue discussions on the Tourism Zone ordinance, which would create incentives for tourism based businesses. Specifically, the Commission discussed types of tourism businesses that would potentially qualify. Additionally, the Commission discussed requirements of those business that would make them eligible to receive incentives, as well as briefly discussing what types of incentives would be offered. Further discussion will resume at the August meeting.
 - b. The Planning Commission continued discussion on the floodplain ordinance revisions. The state has provided us with a model ordinance that gives the minimum requirements for the new floodplain ordinance. As a CRM community, we are expected to go above and beyond those minimum requirements, therefore the Commission discussed possible higher standards that could be inserted into the model ordinance. Upon completion, the draft will be forwarded to the Department of Conservation and Recreation for review.

Code Enforcement

Month of June FY 2014

Building Permits Issued/Permit Fees Collected:

Permits this month: 24	
Permits this year: 269	Total permits last year: 257
Total construction this month: \$371,672	
Total construction this year: \$6,874,978	Total construction last fiscal year: \$7,411,540
Permit fees this month: \$4,545.61	
Total permit fees this fiscal year: \$95,845.65	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: \$0	
Old-Town Water/Sewer Tap fees: \$0	
Total Tap fees this year: \$37,050	Total Tap fees last fiscal year: \$105,756
Fire Dept. levy this month: \$393.20	
Total Fire Dept. levies this year: \$3,343.33	Total Fire Dept. levies last fiscal year: \$3,195.93
State levy this month: \$78.64	
Total state levies this year: \$943.38	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: 12	
Rental C.O.'s Issued: 6	
Rental Inspection fees collected: \$500	
Grass cutting enforcement: 50	
Grass cutting: 10	
Enforcement fees charged this month: \$1,850	
Enforcement fees charged this year: \$4,600	Fees charged last fiscal year: \$10,050
Enforcement fees collected: \$2,910.48	
Enforcement fees collected this year: \$4,183.18	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 June FY14

Other items of note:

1. Completed **53** inspections
2. Conducted 1 zoning clearances
3. Completed 2courtesy residential inspections
4. Conducted 1 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. Continuing work with Bob Panek on alternatives to Class II Connection Fees.
10. Plans have been approved for the Cape Charles Loft Project. Anticipated to start very soon.
The interior demolition permit has been issued with mobilization to start any time.
11. Working with Dave to get new Civic Center work completed
12. Construction throughout Town is still increasing with several new homes on the table with start dates within next couple of months.
13. House that burned on Jefferson Avenue is scheduled to be razed within next week.

07/02/14

Permit/Construction Fee Report

Map Number	Permit#	Type	Date	Address	Work description	Permit Fee	Value
	PF140006	Fire Suppressio	06/10/2014	1134 Bayshore Lane	FIREWORKS DISPLAY ON JUNE 20, 2014	\$112.00	\$5,000
	PF140007	Fire Suppressio	06/27/2014	1134 Bayshore Lane	FIREWORKS DISPLAY JULY 4, 2014	\$0.00	\$15,000
	PE140029	Electrical	06/16/2014	600 Bayshore Road	6 New Circuits for Monopole	\$252.00	\$15,000
	PE140031	Electrical	06/19/2014	638 Carousel Place	Electrical Alteration	\$56.00	\$1,500
	PP140030	Plumbing	06/23/2014	638 Carousel Place	New Plumbing for Room over Garage	\$64.40	\$4,000
083A1-0100-10	PP140028	Plumbing	06/02/2014	209 Jefferson Avenue	New Plumbing for Addition	\$56.00	\$1,200
083A1-0100-10	PE140027	Electrical	06/05/2014	209 Jefferson Avenue	New Electrical for Addition	\$58.80	\$3,000
083A1-0100-10	PM140021	Mechanical	06/06/2014	209 Jefferson Avenue	Duct Work Change for Addition	\$56.00	\$2,500
083A1-0100-15	PE140030	Electrical	06/18/2014	518 Jefferson Avenue	Upgrading to 200 Amp Service	\$56.00	\$1,875
	PF140004	Fire Suppressio	06/10/2014	700 Marina Village Cir	Upgrading Fire Suppression System for ne	\$141.12	\$7,600
	PB140043	Building	06/06/2014	900 Marina Village Cir	40x60Tent Set Up for Wedding	\$50.00	\$500
083A3-0100-26	PB140046	Building	06/18/2014	525 Monroe Avenue	Porch Rebuild	\$92.40	\$9,000
083A3-0100-29	PB140049	Building	06/30/2014	7 Park Row	Porch Repair	\$142.80	\$10,500
	PB140048	Building	06/26/2014	423 Plum Street	2000 GALLON UST DEMOLITION	\$100.00	\$2,200
	PM140024	Mechanical	06/30/2014	7 Strawberry Street	New Mechanical Unit	\$88.45	\$2,897
	PP140029	Plumbing	06/05/2014	138 Sunset Blvd	New Plumbing for S/F Res	\$151.20	\$12,000
	PG140008	Gas	06/05/2014	138 Sunset Blvd	3 New Gas Outlets	\$58.80	\$3,000
	PE140028	Electrical	06/06/2014	138 Sunset Blvd	New Electrical for S/F Res	\$162.40	\$14,000
	PM140023	Mechanical	06/10/2014	138 Sunset Blvd	1 New Air to Air Heat Pump	\$61.04	\$3,400
	PM140022	Mechanical	06/10/2014	138 Sunset Blvd	2 New Geothermal Heat Pumps	\$263.20	\$32,000
	PB140044	Building	06/09/2014	237 Tazewell Avenue	Interior Demo in old Sanctuary	\$84.00	\$2,000
	PB140047	Building	06/19/2014	237 Tazewell Avenue	Change of Use of Old Sanctuary to E	\$1,988.00	\$170,000
	PP140031	Plumbing	06/30/2014	237 Tazewell Avenue	New Plumbing for Alteration	\$115.00	\$8,500
	PB140045	Building	06/10/2014	602 Tazewell Avenue	Alteration & Addition	\$336.00	\$45,000

Total Permits: 24

\$4,545.61

\$371,672

PerDateIssued Range from 06/01/2014 to
06/30/2014

**Code Enforcement
Totals for FY 2014**

Building Permits Issued/Permit Fees Collected:

Permits this year: 269

Total permits last year: 257

Total construction this year: \$6,874,978

Total construction last fiscal year: \$7,411,540

*Total permit fees this fiscal year: \$95,845.65

Total permit fees last fiscal year: \$177,559.27

Bay Creek Water/Sewer Tap fees: \$0

The Colony/Sewer Water Tap fees: \$12,350

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: \$37,050

Total Fire Dept. levies this year: \$5,240.61

Total state levies this year: \$1,048.11

*Permit Fees include paid connection and facility fees below.

Code Enforcement Performed a Total of 1,082 Inspections this Fiscal Year.



Town Harbor Town Council Report June, 2014

July 1, 2014

Maintenance:

1. We continued replacing the water line on CG-Dock.
2. We replaced water faucets along the bulkhead
3. We repaired the wire way under the west gangway.
4. Replaced a 50 amp breaker on C-Dock
5. Finished re-screwing dock boards around the inner harbor.
6. Replaced all air filters in the Office and Bath House

Upcoming Items that needs to be completed:

1. Finish painting the fuel tank (In Progress)
2. Re-tighten all cleats on floating docks (In Progress)
3. Replace all broken pile caps
4. Re-nail all rubber bumpers
5. Clean all electrical pedestal bus bars in the inner harbor. (In Progress)
6. Paint the boat ramp parking stripes
7. Begin replacing fuel hoses.

Capital Projects and Harbor improvements:

1. The Waterman’s Memorial: Plans are being made to have the base poured and set before Clam Slam 2014.
2. Maintenance has been slowed as we now concentrate on customer service.

Other Items:

1. Follow us on Face Book (Cape Charles Town Harbor) over 1800 likes!!!
2. Current Office Hours – 8 am to 6 pm Monday – Thursday, 8 am – 7 pm Friday, 7 am – 7 pm Saturday, 7 am – 6 pm Sunday.
3. Waiting list – We transferred 0 persons to a Slip assignment. Below is the number of people we have left on the waiting list June 30th,

<u>Length</u>	<u>Annual</u>	<u>Seasonal</u>	<u>Total</u>
20ft	2	4	7
24ft	7	4	11
30ft	9	6	15
36ft	5	2	7
45ft	9	2	11
50ft	1	1	2
60ft	2	0	2
Total	35	19	54

Important Dates:

1. July 4th – Fireworks and celebration
2. August 1st – 3rd 2014 – Clam Slam 2014
3. October 25th 2014 – Haunted Harbor
4. December 31st 2014 – Inaugural Dropping of the Crab Pot



Town Harbor Town Council Report June, 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	1238.6
March	5722.0	6278.0	4685.0	2021.0	871.0	1342.1	2662.0	1451.1	1185.9
April	2052.0	2410.0	2832.0	2827.0	3142.8	2645.6	2290.0	3285.0	2471.3
May	671.0	798.0	1364.0	1718.0	2141.1	2089.8	2785.9	2531.1	2861.1
June	3409.0	2960.0	1401.0	2069.0	1610.1	2124.9	2647.0	2985.6	2540.3
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	24,688.0
Avg. in Harbor	47.5	61.2	53.0	46.5	55.0	57.5	68.5	71.2	67.6
% of Capacity	69.81%	89.94%	77.88%	68.38%	80.83%	84.57%	55.68%	57.87%	54.99%

Note:

We had 16 hours of hourly docking for May.

From July 1, 2005 – June 30, 2011 Numbers are based on 68 places to berth, we now have 123.

Avg. is number of vessels we averaged on a nightly basis year to date.



Town Harbor Town Council Report June, 2014

Gallons of Fuel Sold

	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014
July	6,464.100	12,734.703	12,013.021	7,730.331	10,211.513	11,722.477	26,427.288	30,754.913	30,345.500
August	3,806.300	11,108.235	8,914.005	8,890.595	10,088.031	11,290.827	25,819.462	23,390.141	26,572.231
September	4,516.300	4,530.053	4,349.228	3,225.399	5,573.967	5,290.375	14,779.695	19,911.683	16,722.271
October	212.300	5,624.647	4,173.804	3,529.506	5,232.763	7,454.961	8,180.768	10,930.802	14,913.378
November	630.900	7,363.152	7,225.106	1,822.606	20,000.271	4,299.427	6,496.114	8,975.326	9,902.455
December	23,927.700	24,279.537	22,290.181	5,483.225	8,925.826	6,891.013	8,834.040	11,814.189	13,119.259
January	14,830.000	19,296.883	9,253.928	478.286	2,749.446	4,057.270	2,421.252	5,344.767	3,460.834
February	14,571.025	6,878.796	5,637.253	5,492.921	2,048.767	3,207.629	4,862.586	2,392.290	3,573.099
March	7,859.400	11,745.183	8,421.375	2,192.653	5,202.423	6,013.726	16,657.846	5,954.819	3,458.300
April	13,975.846	18,708.018	17,222.361	20,910.338	19,516.885	21,057.695	11,446.466	21,467.503	10,970.679
May	10,698.173	13,105.475	9,100.716	12,381.295	13,773.825	16,498.664	21,105.820	22,336.015	23,330.306
June	7,168.276	10,939.289	7,168.498	6,394.439	11,735.395	15,678.604	18,830.919	20,089.120	19,870.361
Total	108,660.320	146,313.971	115,769.476	78,531.594	115,059.112	113,462.668	165,862.256	183,361.568	176,238.673
YTD Total	108,660.320	146,313.971	115,769.476	78,531.594	115,059.112	113,462.668	165,862.256	183,361.568	176,238.673
YTD Month Avg	9,055.027	12,192.831	9,647.456	6,544.300	9,588.259	9,455.222	13,821.855	15,280.131	14,686.556
YTD Daily Avg.	297.700	400.860	317.177	215.155	315.230	310.857	454.417	502.360	482.846

NOTE: July 1, 2005 thru June 30, 2008 includes Crab Dredging.

Wharf Fees in Lbs.

	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014
July	179,426.5	47,206.0	7,769,560.0	21,478.0	143,590.0	94,956.0	179,508.0	266,770.0	217,139.0
August	162,482.0	363,024.0	3,988,148.3	121,800.0	159,935.0	181,640.0	143,970.0	13,808.0	137,467.0
September	42,210.0	67,543.0	133,280.0	170,055.0	133,355.0	166,235.0	124,700.0	155,440.0	96,350.0
October	60,175.0	69,610.0	3,708,765.0	69,935.0	108,596.0	1,160,140.0	3,020.0	93,610.0	584,550.0
November	238,375.0	87,695.0	2,339,445.0	5,200.0	73,455.0	90,710.0	100,744.0	8,685.0	3,569.0
December	933,105.0	588,147.5	8,646,542.5	31,099.0	124,880.0	23,995.0	4,745.0	31,425.0	14,260.0
January	492,087.5	438,502.5	7,591,883.0	13,749.0	104,030.0	15,720.0	0.0	313,730.0	0.0
February	157,557.0	256,042.5	3,978,997.5	247,500.0	0.0	28,000.0	45,522.0	0.0	0.0
March	281,980.5	121,470.0	262,094.0	30,691.3	296,430.0	62,267.5	423,350.0	22,275.0	13,000.0
April	671,460.0	482,142.5	1,005,028.0	764,278.5	869,185.0	758,760.0	147,185.0	367,871.0	151,773.5
May	137,341.3	4,045,130.0	109,336.0	177,528.0	340,480.0	307,810.0	355,825.0	322,534.0	281,082.5
June	103,233.8	108,003.0	89,104.0	79,885.0	143,805.0	267,645.0	94,457.0	30,249.0	265,910.0
Total	3,459,433.5	6,674,516.0	39,622,183.3	1,733,198.8	2,497,741.0	3,157,878.5	1,623,026.0	1,626,397.0	1,765,101.0
YTD Total	3,459,433.5	6,674,516.0	39,622,183.3	1,733,198.8	2,497,741.0	3,157,878.5	1,623,026.0	1,626,397.0	1,765,101.0
YTD Monthly Avg.	288,286.1	556,209.7	3,301,848.6	144,433.2	208,145.1	263,156.5	135,252.2	135,533.1	147,091.8
YTD Daily Avg.	9,477.9	18,286.3	108,553.9	4,748.5	6,843.1	8,651.7	4,446.6	4,455.9	4,835.9

Cape Charles Memorial Library Report June 2014

1. Paws to Read, the 2014 Summer Library Reading Program began on June 23 and as of today we have had 135 children sign up to read. This is the first year that we have included reading logs for teens.
2. Monthly attendance for programs held during June 2014. See below:

- Children's Programs:

Thursday	3:30	Chess	12 attended
Thursday	10:30	P Storytime	6 attended
Thursday	10:30	T Storytime	26 attended
Monday	4:00	Book Club	6 attended
Tuesday	3:30	Lego Club	18 attended
Tuesday	10:30	Lego Jr.	11 attended

- Special Summer Programs:

Thursday, 6/19	Paws to Paint	11 attended
Tuesday, 6/24	Paws to Paint	20 attended
Wednesday, 6/25,	Kids Movie Night - Lego Movie	23 attended
Thursday, 6/26,	E.S. Soil & Water Conservation	19 attended

TOTAL: 152

3. The book displays for this month featured books by author Eric Carle, who had a birthday in June; and books on ships celebrating Tall Ships Weekend.
4. The Cape Charles Library Board with Library Manager Ann Rutledge held a planning meeting on June 24 to discuss the role of the Library Board and to develop bylaws. New officers were also elected. Jackie Chatman was elected Library Board President; Linda Schultz is the new Vice President, and Kim Dunton Secretary.
5. As of today our Facebook page has 390 likes (18 new likes this month). For additional information about library programs and library related information check out our **Facebook** page!

CAPE CHARLES POLICE DEPARTMENT

MONTHLY STATISTICS

JUNE 2014

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

- Calls for service in Cape Charles: 106
- Calls for service outside of Cape Charles: 18
- Felony arrests: 0
- Misdemeanor Arrests: 2
- D.U.I. Arrests: 0
- Traffic Summons: 12
- Traffic Warnings (written& verbal): 20
- Parking tickets: 5
- Building Checks: 36
- Assisted Northampton County Sheriff's Office: 13
- Assisted Virginia State Police: 1
- Assisted Federal Agencies: 1
- Assisted Fire& Rescue: 14
- Foot Patrol Hours: 130

The following training took place in June:

- Officer Pfeiffer & Chief Pruitt participated in "ident-a-kid" with rec. dept.
- Officer Jake Leuer has started week 10 of police academy

Public Utilities

Monthly Report June 2014



Production Summary

- Miss Utility Tickets: 13
- Emergency Call Outs After Hours and Weekends:
 - Number of times called out: 0
 - Total Man Hours: 0
- Sludge: Not Available: 50 Tons
- Water: Total Production: 4,235,211
 - High: 188,800 On June 28th
 - Low: 88,100 On the 5th

Average	Raw Water	Finished Water
Hardness	397.9	131.1
Iron	8.00	.018
Manganese	.484	.006

All Data in PPM

- Waste Water:
 - Average Flow 113,200 gpd
 - Maximum 153,700 gpd
 - Total for Month 3,396,000 Gallons
 - Nutrients:
 - Phosphorus Average .089 mg/l Limit .3 mg/l annual average
 - Nitrogen Average 4.6 mg/l Limit 4 mg/l annual average

Personnel

- Water
 - Patrick Christman Operator Class 3 Water
 - Ron Bailey Operator Class 3 Water
 - Scottie Neville Operator Class 4 Water
 - 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

Public Utilities

- We have responded to DEQ comments on the Keck Well Aquifer Test and Ground Water Withdrawal Permit. Waiting for their Reply.

In Progress

- Replacement of aging water meters.
- Pumps sent in for repairs:
 - One 4" submersible sewage pump from Mason Ave
 - One 6" submersible sewage pump from Mason Ave
 - One sewage pump from Plum Street Pump Station

Upcoming Projects

- An automatic flush valve will be installed in Heron Point. FY 2015

Capital Projects

- Water:
 - Emergency Generator for Water Plant \$45k
 - Contract signed and waiting for equipment to be delivered.
 - Engineering for Keck Wells \$60k
 - Sign GDH Task Order No.2 Amendment November
 - Environmental study completed.
 - Kick Off meeting June 6th with GHD
- Waste Water
 - Channel Grinder for MAPS \$50k
 - Engineered as part of the MAPS improvements and Mason Avenue Force Main Project
 - The equipment has been ordered and we are waiting for delivery. Should be sometime in July.

PUBLIC WORKS

June 2014

Dump Fees

- Oyster Landfill: 11 Trips, 4.24 Tons @ cost of \$275.60

Staff Report

- Down 1 employee
- All very busy with day to day tasks also (Saturday & Sunday am tasks)

Completed Projects

- Monthly meter reads to assist the Public Utilities Dept.
- Mason Ave gutter clean
- Fishing Pier completed
- Civic Center 95% complete
- Central Park Bathrooms completed
- Town records destruction completed per Library of Virginia guidelines
- HVAC system on 2nd floor front of Library completed. This area is used for the Town archives.
- Route 13 flower beds weeded

Events

- D. Day (Friday 6-6)
 - Tall Ships (Saturday 6-14 & Sunday 6-15)
 - Great Bay 5K Run (Saturday 6-21)
 - Central Park Wedding (Saturday 6-21)
 - Party (Friday 6-27)

In Progress

- Alley crush and run maintenance
- Beach cleaning
- Manual street gutter clean
- Mowing of 9 Town properties
- Golf cart path maintenance
- Trash can maintenance
- LOVE design & transportation

Upcoming Projects

- Safety training
- Star Transit covered bus stop install (Heritage acres entrance)
- Re-paint no parking curbs (yellow) Town-wide & handicapped areas (blue) on Mason Ave
- Re-paint Municipal building 1st floor entrance & downstairs offices
- P.W. shop office space

Recreation Department July 2014 Council Report

Projects

1. LOVE Letters are here. I hope everyone has had a chance to visit the LOVE letters on Bay Avenue. The LOVE Installation has made its way to Town and will be revealed July 4th.

Programming and Events

1. Arts and Crafts
 - A. June 11 - Suncatchers – 8 children in attendance
 - B. June 18 - Popsicle stick flowers – 5 children in attendance
 - C. June 25 – Paper Plate Sand Dollars – 22 children in attendance
2. Scrapbooking
 - A. June 12 – 4 in attendance
 - B. June 26 – 5 in attendance
3. Tall Ships - Ran kids area. Provided materials for Saturday and worked the area on Sunday. Provided model ships, pirate maps and flags to decorate.
4. Adult Book Club
 - A. June 16 - Discussed *The Immortal Life of Henrietta Lacks*. Discussed options for next book. 5 in attendance.
5. BINGO - June 20 – 15 in attendance.
6. Ident-A-Kid – Recreation and Police Departments provided Ident-A-Kids to children and parents. 5 in attendance with one take home for a sibling that could not make it.
7. 4-H Clover Bud Camp – 3 in attendance. Worked on Civics and Personal Development.
8. Field Hockey – Pick-up games with 8 in attendance. Will continue to meet every Tuesday night.
9. Fun with Science – Learned about and busted open Geodes. 7 in attendance.
10. New Roots Youth Garden – Get Fit Portion – Children played Earth Ball. 24 in attendance.
11. Soccer Games – Pick-up soccer games with 16 in attendance. Some of those playing were vacationers out walking in the park that joined in to play!
12. First Tee- The first day of Golf camp was attended by 7 children from ages 5 to 14.

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Cape Charles Community Trail – Phase 2		AGENDA DATE: July 17, 2014
	SUBJECT/PROPOSAL/REQUEST: Update based on VDOT review of final design and specifications.		ITEM NUMBER: 7A
	ATTACHMENTS:		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Bob Panek	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Council adopted the Cape Charles Master Trail Plan on September 11, 2007. This multi-use trail is being constructed in phases as funding is available. Eighty percent of the cost is funded by Federal grants authorized under the Transportation Enhancement Act for the 21st Century (TEA-21), now succeeded by the Transportation Alternatives Program, and twenty percent by local funds. To date, the Town has been awarded \$2.3M in grant funding. Of that, about \$1M was utilized for the Master Plan and for design, engineering and construction of Phase 1 in Central Park. About \$1.4M remains available for Phase 2 – North Peach St. and Washington Ave.

DISCUSSION:

Our consulting firm, Land Studio, PC, submitted the 100% design documentation, including the bid package, to VDOT for review on May 1, 2014. The overall layout is as previously presented (available in the Town Hall). VDOT has completed their review and requested a few minor changes. Land Studio is incorporating the changes and updating the National Environmental Policy Act review documentation.

The project cost estimate is \$1.57M, including design, engineering, construction, administration & inspection. The Federal share is \$1.26M, and the Town share is \$0.31M. This is within the funding budgeted for FY 2013 thru FY 2015.

We have provided “before” and “after” drawings to property owners so they can be familiar with the planned improvements, and are in the process of obtaining construction easements from several property owners.

We hope to bid out the construction contract in July or August.

RECOMMENDATION:

Provided for information only.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Code 42.3 – Adoption of State Law		AGENDA DATE: July 17, 2014
	SUBJECT/PROPOSAL/REQUEST: Adopt Ordinance 20140717 To Adopt Amendments to the Code of Virginia §46.2 and Title 16.1, Chapter 11, Article 9 (§16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§18.2-266 Et Seq.), If Any, For Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic		ITEM NUMBER: 8A
	ATTACHMENTS: Ordinance 20140717		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Jim Pruitt, Police Chief	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Each year a new ordinance must be passed accepting any and all amendments to the provisions and requirements set by Code of Virginia in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations.

DISCUSSION:

From time to time, the Code of Virginia is amended to either delete or add new safety tactics to protect those traveling the highways, streets and roads. Changes to penalties and violations are also made. In order to have the authority to enforce these new laws, an amendment to the Town Code must be made that adopts any changes.

RECOMMENDATION:

Staff requests adoption of proposed Ordinance 20130718 To Adopt Amendments to the Code of Virginia §46.2 and Title 16.1, Chapter 11, Article 9 (§16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§18.2-266 Et Seq.), If Any, For Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic by roll call vote.

ORDINANCE NO: 20140717

**AN ORDINANCE TO ADOPT
AMENDMENTS TO THE CODE OF VIRGINIA §46.2 AND
TITLE 16.1, CHAPTER 11, ARTICLE 9 (§16.1-278 ET SEQ.) AND TITLE 18.2,
CHAPTER 7, ARTICLE 2 (§ 18.2-266 ET SEQ.), IF ANY, FOR INCORPORATION
INTO THE CAPE CHARLES TOWN CODE
CHAPTER 42-MOTOR VEHICLES AND TRAFFIC**

WHEREAS, it is necessary to follow the guide set by the Code of Virginia to protect the safety and welfare of residents and guests of the Town of Cape Charles;

WHEREAS, from time to time, the Code of Virginia is amended to protect those traveling the highways, streets and roads of the Commonwealth;

WHEREAS, in order to have the authority to enforce these new laws, the Town Council of the Town of Cape Charles must adopt any and all amendments made by the Commonwealth of Virginia; therefore

BE IT ORDAINED: That pursuant to the authority of the Code of Virginia, 1950, as amended, § 46.2-1313, all of the provisions and requirements of the laws of the State contained in Code of Virginia, Title 46.2 and Code of Virginia, Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1, and of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 into ordinances as in force and effect on the date of the adoption of this Code, and as amended in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated in this chapter by reference and made applicable within the Town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the Town. Such provisions and requirements are hereby adopted, *mutadis mutandis*, and made a part of this chapter as fully as though set forth at length herein. It shall be unlawful for any person within the Town to violate or fail, neglect or refuse to comply with any provision or requirement which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under the Code of Virginia.

Adopted by the Town Council of Cape Charles on July 17, 2014.

Mayor George Proto

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Town Council Representative to Harbor Area Review Board		AGENDA DATE: July 17, 2014
	SUBJECT/PROPOSAL/REQUEST: Appointment of Town Council Representative to Harbor Area Review Board		ITEM NUMBER: 8B
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Heather Arcos, Town Manager	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

On September 11, 2007, the Town Council approved new sections to the Cape Charles Zoning Ordinance establishing the Harbor Area Review Board. Section 9 outlines the purpose of the Harbor Area Review Board to “specifically preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas.”

Section 9.7 of the Cape Charles Zoning Ordinance outlines the membership of the Harbor Area Review Board as follows:

“The members of said Harbor Area Review Board will be appointed by the Town Council. The Membership shall consist of seven citizens. One member shall also be a member of the Town Council, two members shall also be members of the Planning Commission, and one member shall also be a member of the Historic District Review Board.”

Appointees also serving on the Town Council, Planning Commission or Historic District Review Board shall be appointed to a term coinciding with their term on their respective board.

DISCUSSION:

Former Councilman Sullivan was the Town Council representative to the Harbor Area Review Board until the expiration of his term on June 30, 2014. Another representative from Council needs to be appointed to serve on the Harbor Area Review Board.

RECOMMENDATION:

Staff recommends discussion and appointment of a representative from Council to the Harbor Area Review Board.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Library Board Member		AGENDA DATE: July 17, 2014
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Library Board member		ITEM NUMBER: 8C
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Heather Arcos, Town Manager	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The Library Board meets monthly and consists of seven members each serving four-year terms.

DISCUSSION:

Kim Dunton serves on the Library Board and her term expires August 8, 2014. Ms. Dunton has expressed her interest in continuing her service on the Library Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Ms. Kim Dunton to the Library Board for another four-year term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Designation of Swimming Area at Cape Charles Beach		AGENDA DATE: July 17, 2014
	SUBJECT/PROPOSAL/REQUEST: Designation of swimming only area at the beachfront		ITEM NUMBER: 8D
	ATTACHMENTS: Private Aids to Navigation Application		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Heather Arcos, Town Manager	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

Last month, a letter was submitted by Mr. Bill Prickett regarding motor boats and jet skis pulling in and anchoring at the Cape Charles beach inside the breakwaters alongside swimmers. Mr. Prickett expressed his concern regarding the safety of the swimmers, especially the children and pointed out potential injury from impact with watercraft, anchor lines, anchors and propellers as well as the possibility of motor fuel and motor oil spills.

The Town Council briefly discussed this issue at the June 19, 2014 meeting asking staff to research what was needed to designate a swimming only area at the beach.

This issue was also reviewed by the Town Council in 2006. Research was done but it does not appear that the application was ever completed.

DISCUSSION:

Code of Virginia § 29.1-734 authorizes placing of markers in waters used for public swimming areas and prohibiting motor boating and waterskiing in marked areas.

- A. Any owner of real estate which touches any of the waters of this Commonwealth or the agent of the owner may petition the Board to authorize the placing of markers approved by the Board around a public swimming or bathing area.
- B. The Department, upon receiving the petition and sufficient proof that the water adjacent to the real estate is used in whole or in part as a public swimming or bathing area, may authorize the placement of the markers to designate the area as a swimming or bathing area.
- C. The cost of the purchase and placement of the markers shall be borne by the party requesting the placement of the markers.
- D. No person shall operate a motorboat or manipulate skis within the area of the waters of the Commonwealth marked under this section. Persons violating this subsection shall be guilty of a Class 4 misdemeanor.

Cape Charles Town Code § 14-18 authorizes the mayor or police “to designate areas for public swimming or public bathing and to mark such areas with buoys which comply with state and federal laws or with the rules and regulations of the appropriate federal and state agencies and to place the same offshore, but not more than 100 yards from mean low water.”

Mr. Ron West has offered his assistance with the process and provided the Private Aids to Navigation Application and additional information regarding the process. If the Town Council desires to move forward to establish a public swimming area, the next step is to determine the area and depth for placement of the buoys. The latitude and longitude for the designated area would have to be obtained to complete the application. Mr. West can help with the determination of the latitude and longitude. An ordinance would have to be adopted, after a public hearing is held, and submitted along with the application. We will also need documentation from the Army Corps of Engineers (ACE) with their approval to place anything on the bottom to include with the application. There was no limit to the number of markers that can be placed.

Once final approval has been received, the Town can begin placing the markers. Mr. West spoke with Senior Chief Deuel at Chincoteague who suggested using 100 lbs. of weight (concrete) to anchor each marker. The markers at Kiptopeke are at least 100' apart. The buoys can be purchased for about \$200 - \$300 each and will need to be attached to the anchor block by chain. The Town should also decide whether the buoys will be located in the area year-round or seasonally. The buoys require an annual inspection by the Coast Guard Auxiliary.

Once the area is marked, the Virginia Marine Resources Commission (VMRC) may be able to assist the Town with enforcement of the swim only area. Staff has been in contact with the VMRC and is awaiting confirmation.

Timing may be a factor with the ACE's scheduled dredging and sand placement on the beach. Staff is awaiting a response from the ACE regarding this issue.

RECOMMENDATION:

Staff requests Town Council direction on whether to move forward to designate a public swimming area on a portion of the Cape Charles Beach. If Council so desires, staff will complete the application along with the other necessary information and present to Council at the August regular meeting in order to schedule a public hearing.

PRIVATE AIDS TO NAVIGATION APPLICATION
(See attached instructions and copy of Code of Fed. Reg., Title 33, Chap. 1, Part 66)

NO PRIVATE AID TO NAVIGATION MAY BE AUTHORIZED UNLESS A COMPLETED APPLICATION FORM HAS BEEN RECEIVED (14 U.S.C. 183; 33 C.F.R. 166.01-5)

1. ACTION REQUESTED FOR PRIVATE AIDS TO NAVIGATION: A. ESTABLISH AND MAINTAIN B. DISCONTINUE C. CHANGE D. TRANSFER OWNERSHIP

2. DATE ACTION TO START

3. AIDS WILL BE OPERATED: A. THROUGHOUT THE YEAR B. TEMPORARILY UNTIL _____ C. ANNUALLY _____ TO _____

4. NECESSITY FOR AID (Continue in Block 8)

5. GENERAL LOCALITY

6. CORPS OF ENGINEERS AUTHORIZED THIS STRUCTURE OR BUOY BY

PERMIT OR LETTER (file and date)

FOR DISTRICT COMMANDERS ONLY

7. APPLICANT WILL FILL IN APPLICABLE REMAINING COLUMNS

LIGHT LIST NUMBER OR PAGE	NAME OF AID	NO. OR LTR. (7a)	LIGHT			POSITION (7e)	DEPTH OF WATER (7f)	CAN-DLE POWER (7g)	HT. ABOVE WATER (7h)	STRUCTURE	REMARKS (See Instructions) (7i)
			PER. (7b)	FLASH LGTH. (7c)	COLOR (7d)					TYPE, COLOR, AND HEIGHT ABOVE GROUND (7i)	

8. ADDITIONAL COMMENTS

9a. NAME AND ADDRESS OF PERSON IN DIRECT CHARGE OF AID

10a. NAME AND ADDRESS OF PERSON OR CORPORATION AT WHOSE EXPENSE

10b. THE APPLICANT AGREES TO SAVE THE COAST GUARD HARMLESS WITH RESPECT TO ANY CLAIM OR CLAIMS THAT MAY RESULT ARISING FROM THE ALLEGED NEGLIGENCE OF THE MAINTENANCE OR OPERATION OF THE APPROVED AID(S).

9b. TELEPHONE NO.

10c. DATE

10d. SIGNATURE AND TITLE OF OFFICIAL SIGNING

FOR USE BY DISTRICT COMMANDER

SERIAL NO.

CLASSIFICATION OF AIDS

RECD.

CHART

L. N. M.

DATE APPROVED

SIGNATURE (By direction)

FEDERAL REGULATIONS CONCERNING PRIVATE AIDS TO NAVIGATION, 133 CFR 166

§ 66.01-1 Basic provisions.

(a) No person, public body or instrumentality not under the control of the Commandant, exclusive of the Armed Forces, shall establish and maintain, discontinue, change or transfer ownership of any aid to maritime navigation, without first obtaining permission to do so from the Commandant.

(b) For the purposes of this subpart, the term private aids to navigation includes all marine aids to navigation operated in the navigable waters of the United States other than those operated by the Federal Government (Part 62 of this subchapter) or those operated in State waters for private aids to navigation (Subpart 66.05).

(c) Coast Guard authorization of a private aid to navigation does not authorize any invasion of private rights, nor grant any exclusive privileges, nor does it obviate the necessity of complying with any other Federal, State or local laws or regulations.

(d) With the exception of shore based radar stations, operation of electronic aids to navigation as private aids will not be authorized.

§ 66.01-3 Delegation of authority to District Commanders.

(a) Pursuant to the authority in 49 CFR 1.4(g), the Commandant delegates to the District Commanders within the confines of their respective districts (see Part 3 of this Chapter for descriptions) the authority to grant permission to establish and maintain, discontinue, change or transfer ownership of private aids to maritime navigation, and otherwise administer the requirements of this subpart.

(b) The decisions of the District Commander may be appealed within 30 days from the date of decision. The decision of the Commandant in any case is final.

§ 66.01-5 Application procedure.

Application to establish and maintain, discontinue, change or transfer ownership of a private aid to navigation shall be made to the Commander of the Coast Guard District in which the private aid to navigation is or will be located. Application forms (CG-2554) will be provided upon request. The applicant shall complete all parts of the form applicable to the aid to navigation concerned, and shall forward the application in triplicate to the District Commander. The following information is required:

(a) The proposed position of the aid to navigation by two or more horizontal angles, or bearings and distance from charted landmarks. A section of chart or sketch showing the proposed location of the aid to navigation shall be included.

(b) The name and address of the person at whose expense the aid will be maintained.

(c) The name and address of the person who will maintain the aid to navigation.

(d) The time and dates during which it is proposed to operate the aid.

(e) The necessity for the aid.

(f) For lights: The color, characteristic, height above water, and descriptions of illuminating apparatus.

(g) For log signals: Type (whistle, horn, bell etc.) and characteristic.

(h) For buoys or daybeacons: Shape, color, number, or letter, depth of water in which located or height above water.

§ 66.01 - 10 Characteristics.

The characteristics of a private aid to navigation shall conform to the standard U.S. system to aids to navigation characteristics described in subpart 62.25 of Part 62 of this subchapter, except that only tungsten-incandescent light sources will be approved for electric lights.

§ 66.01 - 15 Action by Coast Guard.

(a) The District Commander receiving the application will review it for completeness and will assign the aid one of the following classifications:

Class I: Aids to navigation on marine structures of other works which the owners are legally obligated to establish, maintain and operate as prescribed by the Coast Guard.

Class II: Aids to navigation exclusive of Class I located in waters used by general navigation.

Class III: Aids to navigation exclusive of Class I located in waters not ordinarily used by general navigation.

(b) Upon approval by the District Commander, a signed copy of the application will be returned to the applicant.

§ 66.01 - 20 Inspection.

All classes of private aids to navigation shall be maintained in proper operating condition. They are subject to inspection by the Coast Guard at any time and without prior notice.

§ 66.01 - 25 Discontinuance and removal.

(a) No person, public body or instrumentality shall change, move or discontinue any authorized private aid to navigation required by statute or regulations (Class I § 66.01-15) without first obtaining permission to do so from the District Commander.

(b) Any authorized private aid to navigation not required by statute or regulation (Classes II and III, § 66.01-15) may be discontinued and removed by the owner after 30 days' notice to the District Commander to whom the original request for authorization for establishment of the aid was submitted.

(c) Private aids to navigation which have been authorized pursuant to this part shall be discontinued and removed without expense to the United States by the person, public body or instrumentality establishing or maintaining such aids when so directed by the District Commander.

§ 66.01-30 Corps of Engineers' approval.

(a) Before any private aid to navigation consisting of a fixed structure is placed in the navigable waters of the United States, authorization to erect such structure shall first be obtained from the District Engineer, U.S. Army Corps of Engineers in whose district the aid will be located.

(b) The application to establish any private aid to navigation consisting of a fixed structure shall show evidence of the required permit having been issued by the Corps of Engineers.

§ 66.01-35 Marking of structures and floating obstructions.

Any structure, mooring, mooring buoy, or dam, in or over the navigable waters of the United States shall display the lights and other signals for the protection of maritime navigation as may be prescribed by the Commandant. The prescribed lights and signals shall be installed, maintained and operated by and at the expense of the owner, or operator. After obtaining such approval or a statement of no objection from the Corps of Engineers as is required by law, the owner or operator shall apply in accordance with § 66.01-5 to the District Commander having jurisdiction over the waters in which the structure or floating obstruction will be located for a determination of the lights and other signals to be displayed. This requirement includes the temporary lights and signals to be displayed during the construction of a structure. If no regulation exists prescribing the lights or other signals required to mark any work or obstruction, each case shall be considered individually by the District Commander, who will prescribe such lights and signals as he considers necessary for the safety of navigation.

§ 66.01-40 Exemptions.

(a) Nothing in the preceding sections of this subpart shall be construed to interfere with or nullify the requirements of existing laws and regulations pertaining to the marking of vessels and other obstructions sunk in the navigable waters of the United States (Part 64 of this subchapter), the marking of artificial islands and structures which are erected on or over the seabed and subsoil of the outer Continental Shelf (Part 67 of this subchapter), or the lighting of bridges over navigable waters of the United States (Part 68 of this subchapter).

(b) Persons marking structures pursuant to Part 64 or Part 58 of this subchapter are exempted from the provisions of § 66.01-5 and 66.01-35.

§ 66.01-45 Penalties.

Any person, public body or instrumentality, excluding the Armed Forces, who shall establish, erect or maintain any aid to maritime navigation without first obtaining authority to do so from the Coast Guard or who shall violate the regulations relative thereto issued in this part, is subject to the provision of 14 U.S.C. 83. Any owner or operator of a fixed structure, excluding an agency of the United States, who violates any of the rules or regulations prescribed with respect to lights and other signals for fixed structures, is subject to the provision of 14 U.S.C. 85.

§ 66.01-50 Protection of private aids to navigation.

Private aids to navigation lawfully maintained under these regulations are entitled to same protection against interference or obstruction as is afforded by law to Coast Guard aids to navigation (Part 70 of this subchapter). If interference or obstruction occurs, a prompt report containing all the evidence available should be made to the Commander of the Coast Guard District in which the aids are located.

§ 66.01-55 Transfer of ownership.

(a) When any private aid to navigation authorized by the District Commander, or the essential real estate or facility with which the aid is associated, is sold or transferred, both parties to the transaction shall submit application (§ 66.01-5) to the Commander of the Coast Guard District in which the aid is located requesting authority to transfer responsibility for maintenance of the aid.

(b) The party relinquishing responsibility for maintenance of the private aid to navigation shall indicate on the application form (CG-2554) both the discontinuance and the change of ownership of the aid sold or transferred.

(c) The party accepting responsibility for maintenance of the private aid to navigation shall indicate on the application form (CG-2554) both the establishment and the change of ownership of the aid sold or transferred.

(d) In the event the new owner of the essential real estate or facility with which the aid is associated refuses to accept responsibility for maintenance of the aid, the former owner shall be required to remove the aid without expense to the United States. This requirement shall not apply in the case of any authorized private aid to navigation required by statute or regulation (Class I, § 66.01-15) which shall be maintained by the new owner until the conditions which made the aid necessary have been eliminated.

**U. S. COAST GUARD
PRIVATE AIDS TO NAVIGATION APPLICATION
INSTRUCTIONS**

1. The rules, regulations, and procedures pertaining to private aids to navigation are set forth in the copy of Code of Federal Regulations; Title 33, Chapter 1, Part 66, on the back of this page.

2. Three copies of the application for private aids shall be forwarded to the Commander of the Coast Guard District in which the aids will be located 30 days in advance of the proposed action. Sections of charts or sketches showing the work proposed shall accompany each application.

3. When making application for private aids to mark structures and mooring buoys in navigable waters or to mark the excavating or depositing of material therein, evidence is required of the authorization obtained from Corps of Engineers, Department of the Army, for such work. (Code of Federal Regulations; Title 33, Part 209.120.)

4. The applicant shall complete all of Blocks 1, 2, 3, 4, 5, 9 and 10 for all new applications. When an aid is being discontinued, Block 3 need not be completed. Block 6 shall be completed whenever authorization is required to be obtained from Corps of Engineers (See Instruction No. 3). Columns of Block 7 will be completed as follows:
a. Unlighted buoys - 7a, 7e, 7f, and 7j.
b. Lighted buoys - 7a, 7b, 7c, 7d, 7e, 7f, 7g, 7h, and 7j.
c. Daybeacons - 7a, 7e, 7f (if applicable), 7h, 7i, and 7j.
d. Light on a structure - 7a, 7b, 7c, 7d, 7e, 7f (if applicable), 7g, 7h, 7i, and 7j.

When an aid is being changed, Block 8 shall be used to describe the nature of the change.

5. The required information for each column includes the following:
(7a) Proposed number or letter to be assigned to the aid.
(7b) Period of light (time in seconds for one complete cycle).
(7c) Flash length in seconds. For complex or multiple flashes, explain in column (7j).
(7d) Color of light.
(7e) Position by two or more horizontal angles, or bearing and distance from a prominent charted landmark. If a prominent charted landmark is not available, show latitude and longitude as precisely as the chart permits.
(7f) Depth of water at buoy or structure (if marine site). All depths are measured from mean low water except on Great Lakes where depths are measured from low water datum.
(7g) Candlepower, if known; otherwise, include the following information in column (7j); lens size, lamp voltage and amperage if electric, or details of other illuminant to be used.
(7h) Height of light or unlighted structure above water. Height is measured from mean high water except in the Great Lakes where heights are measured from low water datum shown on U.S. Lake Survey Charts. The height of a light on a buoy is measured from the water line.
(7i) Include details of structure (type, color).
(7j) Used for the following specific information, plus any other useful details: a. buoys - size, shape, color, and reflective material used; b. structures - daymark shape and color; c. fog signal on a buoy or structure - type and model, audible range, and characteristic (number of strokes or blasts, period and blast length).

6. This form may be used to cover more than one aid in the same geographic area. Draw a line between each aid as indicated in example. Attach separate sheet if additional space is required.

7. Attach a section of chart showing the proposed location of the aid(s) to navigation.

8. a. After receipt of the approved form the applicant will advise the District Commander by telegram or other rapid means of communications when the work authorized is actually accomplished.
b. If the aids have not been installed within one year of the approval date, the approved application is automatically cancelled.
c. Any discrepancy in the operation of the aid(s) at any time shall be reported to the District Commander by telegram or other rapid means of communication in order that Notices to Mariners may be issued. A discrepancy exists whenever the aid is not as described in the approved application, i.e., lack of signal, incorrect light characteristic, or improper color, shape or position of shore structure or buoy. The correction of the discrepancy will also be reported by the same method.

9. All classes of private aids to navigation shall be maintained in proper condition. They are subject to inspection by the Coast Guard at any time and without prior notice to the maintainer.

7. APPLICANT WILL FILL IN APPLICABLE REMAINING COLUMNS

FOR DISTRICT COMMANDERS ONLY		EXAMPLE OF USE OF APPLICATION									
LIGHT LIST NUMBER OR PAGE	NAME OF AID	NO. OR LTR. (7a)	LIGHT			POSITION (7e)	DEPTH OF WATER (7f)	CANDLE POWER (7g)	HT. ABOVE WATER (7h)	STRUCTURE TYPE, COLOR, AND HEIGHT (7i)	REMARKS (See Instructions) (7j)
			PER. (7b)	FLASH LGTH. (7c)	COLOR (7d)						
		1	4s	0.4s	WHITE	205°T, 3540 yds from tank, Bayview, VA.	9 Ft.	20	6 Ft.		5' Lighted buoy - black
		2				200°T, 3425 yds from tank, Bayview, VA.	7 Ft.				Nun buoy - Red White reflector
		3				210°T, 2810 yds from tank, Bayview, VA.	2 Ft.		7 Ft.	Single pile	2' square daymark - black
		5	2.5s	0.5s	WHITE	218.5°T, 330 yds from tank, Bayview, VA.	8 Ft.	20	13 Ft.	5 - pile	3' square daymark - black

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

The Coast Guard estimates that the average burden for this report is 1hr. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-OPN) U.S. Coast Guard, Washington, DC 20593-0001 or office of Management and Budget, Paperwork Reduction Project (1625-0011), Washington, DC 20503

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Franchise Assignment		AGENDA DATE: July 17, 2014
	SUBJECT/PROPOSAL/REQUEST: Assignment of cable system franchise from Bay Creek Communications, LLC to Chesapeake Bay Communications, LLC		ITEM NUMBER: 8E
	ATTACHMENTS: Bay Creek Communications letter, May 30, 2014		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

By Ordinance 20040413, Council granted a non-exclusive franchise to Bay Creek Communications, LLC for the construction, operation and maintenance of a cable system for a term of 15 years. The franchise terminates in 2019. By letter of May 30, 2014, attached, Bay Creek Communications requested the Town's consent to assign the franchise to Chesapeake Bay Communications. The Ordinance contains the following provision concerning assignment:

8. Pledge, Assignment of Assets.

Grantee may not assign the Franchise without first obtaining the expressed written consent of the Grantor Council, which consent shall not be unreasonably withheld, provided, however, that Grantee may mortgage of pledge the Franchise for financing purposes.

DISCUSSION:

Bay Creek Communications was formed by interests controlled by Mr. Richard Foster and Mr. Paul Galloway. The cable system is being transferred to a new entity, Chesapeake Bay Communications, LLC, controlled by the owners of Bay Creek Resort and Club. Management and operation of the system will remain under the current staff. Town staff has reviewed the request and has worked with Bay Creek Communications to modify language in the letter to limit waiver of the right to terminate or modify the agreement only in connection with the assignment. Per mutual agreement, the letter has been marked up to indicate this.

RECOMMENDATION:

Review the requested franchise assignment and, if acceptable, authorize the Town Manager to execute.



107 Mason Avenue
Cape Charles, VA 23310
757.331.8700
Fax 757.331.8719
www.baycrk.com

May 30, 2014

Via Certified Mail

Town of Cape Charles
2 Plum St
Cape Charles, VA 23310

Re: Request for Consent to Assignment of Agreement

Dear: Town of Cape Charles

As you are aware, Town of Cape Charles (“you”) and Bay Creek Communications, LLC or its subsidiary or affiliate (“Bay Creek Communications”) are parties to a Franchise Ordinance dated April 13, 2004 (the “Agreement”).

This letter is to inform you that Bay Creek Communications intends to sell certain of its assets used in connection with the operation of its business to Chesapeake Bay Communications, LLC (“Buyer”). By this letter, Bay Creek Communications is providing you with notice of its intent to assign the Agreement to Buyer in connection with the closing of the transaction (the “Assignment”). Subject to required consents, the transaction is currently expected to close in the second quarter of 2014.

Bay Creek Communications hereby respectfully requests your consent to the Assignment. Please have the appropriate person with authority execute this consent by signing and dating this letter in the space provided below. By signing this letter, you consent to the Assignment as and if required under the Agreement, and agree that Buyer will assume the Agreement and that the Assignment will not result in any breach of the Agreement or permit you to seek any remedy against either Bay Creek Communications or Buyer. Effective upon the closing, Buyer will assume all obligations of Bay Creek Communications under the Agreement, arising out of, or attributable to, the period of time from and after the effective time of the Assignment and your signature below expressly releases Bay Creek Communications from all liabilities and obligations under the Agreement, from and after the effective time of the Assignment. Bay Creek Communications acknowledges its obligation to remain liable for all obligations that occurred prior to the closing (including the payment of fees due under the Agreement through the date of closing). Except as set forth herein, your consent shall not otherwise amend the provisions of the Agreement, which provisions shall continue in full force and effect. The transactions contemplated by this letter may not yet be public information, and thus Bay Creek Communications requests that you treat the contents of this letter as confidential information. If the transactions contemplated by this letter do not close for any reason, the Agreement will not be assigned to Buyer and this consent will be null and void.

Please return a copy of your signed consent by electronic mail to the attention of Brian Manley at bmanley@baycrk.com as well as send your original signed consent via overnight mail to the following address:

Brian Manley
Bay Creek Communications
107 Mason Ave.
Cape Charles, VA 23310

To the extent that you may have any right(s) to terminate or modify any of the Agreement, ~~whether~~ in connection with the Assignment ~~or otherwise~~, you hereby agree, by your signature below, to waive such right(s). To the extent that the Agreement is not assignable or transferable, by your signature below, you hereby agree that the Agreement is hereby amended to permit the Assignment.

Bay Creek Communications would greatly appreciate your prompt attention and response. Should you have any questions or concerns, please contact Brian Manley at (757) 331-8700.

Sincerely,



Brian Manley
General Manager
Bay Creek Communications

AGREED:

By this signature below, Town of Cape Charles consents to the above-referenced Assignment:

Town of Cape Charles

By: _____

Printed Name: _____

Title: _____

Date: _____

Bob Panek

From: Oral Lambert <OLambert@BayCreek.Net>
Sent: Tuesday, June 24, 2014 12:54 PM
To: bob.panek@capecharles.org
Subject: CBC Consent Letters - Town of Cape Charles Questions

Importance: High

Bob,
Here is Ethan's response to the troublesome question about the paragraph waiving rights, etc. Will this revision work for you?
Oral

From: Ethan M. Haire [mailto:emhaire@sbgvtv.com]
Sent: Tuesday, June 24, 2014 12:47 PM
To: Oral Lambert
Cc: Brian Manley; Brian Manley GMAIL; William Kinneary; David B. Gibber
Subject: RE: CBC Consent Letters - Town of Cape Charles Questions

Oral - Thanks for following up with Bob. With regard to your bullet point #3 below, the main purpose of that language waiving termination rights is to make sure the Town of Cape Charles won't terminate as a direct result of the assignment (if the underlying agreement gave them a right to do so). I understand Bob's issue with the language, so we could propose that he make the following clarifying edits to that sentence:

“To the extent that you may have any right(s) to terminate or modify any of the Agreement, ~~whether~~ in connection with the Assignment or otherwise, you hereby agree, by your signature below, to waive such right(s).”

Could you follow up with Bob and ask him if this would work for him?

It looks like we'll need Brian to provide the original document mentioned in #2 below as well as input regarding the "franchise fee" in #4.

Ethan Haire
Legal Counsel
Sinclair Broadcast Group
410-891-3444 | emhaire@sbgvtv.com



**TOWN OF
CAPE
CHARLES**

AGENDA TITLE: Cape Charles by the Bay Website

AGENDA DATE:
July 17, 2014

SUBJECT/PROPOSAL/REQUEST: Update on tourism website and marketing support.

ITEM NUMBER:
8F

ATTACHMENTS: None

FOR COUNCIL:
Action ()
Information (X)

STAFF CONTACT (s):
Bob Panek

REVIEWED BY:
Heather Arcos, Town Manager

BACKGROUND:

The capecharlesbythebay.com tourism website was developed and became operational as part of the Our Town Project. It was funded via Virginia Commission for the Arts (VCA) and Virginia Tourism Corporation (VTC) grants and matching contributions from town businesses, organizations and individuals. Establishment of a tourism focused website is a goal included in the Town's Comprehensive Plan as a tool for economic development. The major stakeholders in the Our Town Project are: Arts Enter Cape Charles, Town of Cape Charles, Citizens for Central Park, and Cape Charles Business Association. The Cape Charles Bed and Breakfast Association was the recipient of the VTC Leveraged Marketing Grant and matching funds, and as a result has functioned as the financial agent for the website and associated marketing efforts.

Council has included funds in the FY 2015 budget to continue support of the website and marketing effort.

DISCUSSION:

A Request for Quotes was published for contracted services, including hosting the site, updating event information and business listings, incorporating visual and technical improvements, managing an enhanced business listing service, and social media marketing on Facebook, Twitter, etc.

Two quotes were received for the requested services. A contract in the amount of \$9,250 was awarded to Flash of G Marketing. This includes \$400 for website hosting, \$3,850 for website maintenance and support, and \$5,000 for social media marketing. Their price was approximately 11.7% less than the competing quote. The contract allows assumption by another organization, such as the Business Association, a tourism commission, economic development corporation, etc.

Print marketing (visitor guides and rack cards) will be contracted with the appropriate vendors later in the year.

RECOMMENDATION:

Provided for information only.