



TOWN COUNCIL

Regular Meeting

January 15, 2015

Cape Charles Civic Center

6:00 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Invocation and Pledge of Allegiance
3. Recognition of Visitors / Presentations
 - A. Dixon Tucker, Virginia Dept. of Health
 - B. Kerry Allison, Eastern Shore of Virginia Tourism Commission
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. Public Service Authority/Regional Wastewater Update
8. New Business
 - *A. Grounds Maintenance Contract Award
 - *B. Flood Plain Ordinance – Set Public Hearing
 - *C. Virginia Port Authority Aid to Local Ports Grant Request
 - *D. Library HVAC Contract Award
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - January 16, 2015 – Town Offices Closed in Observance of Lee-Jackson Day
 - January 17, 2015 – Epiphany Party at Cape Charles Fire House
 - January 19, 2015 – Town Offices Closed in Observance of Martin Luther King Jr. Day
 - January 28, 2015 – VML Day at the Capital, Richmond
 - February 5, 2015 – Town Council Work Session, 6PM
 - February 16, 2015 – Town Offices Closed in Observance of Presidents' Day
 - February 19, 2015 – Town Council Regular Meeting, 6PM
11. Adjourn at 8:00 P.M.



DRAFT
TOWN COUNCIL
Regular Meeting
Civic Center
December 18, 2014
6:00 p.m.

At approximately 6:00 p.m. Mayor George Proto, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilmen Bennett, Brown, Godwin and Wendell, and Councilwoman Natali. Also in attendance were Interim Town Manager Bob Panek and Town Clerk Libby Hume. The Department Heads were in attendance as well as five members of the public.

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

PUBLIC COMMENTS:

Malcolm Hayward, 121 Strawberry Street

Mr. Hayward addressed Council regarding the December 11th public hearing held by VDOT regarding the industrial access road. He stated that the speed limit on the road was expected to be 40 MPH and golf carts were not permitted to travel on roads with speed limits above 25 MPH. He went on to state that VDOT's plans showed retention ponds over the area of the current golf cart path from the Bay Creek development to the hump. Mr. Hayward stated that with the Town being a golf cart-friendly community, residents and visitors travelled back and forth from the Bay Creek development into the historic district and requested assistance from Council in writing a letter to VDOT requesting either a reduced speed limit of 25 MPH for the distance between the Bay Creek entrance to the hump or some other accommodation for a golf cart path.

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

CONSENT AGENDA – APPROVAL OF AGENDA FORMAT:

Councilwoman Natali asked to add discussion and action regarding a possible letter to VDOT in regards to the industrial access road and golf cart access.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to add “Letter to VDOT” as a new business item. The motion was approved by unanimous vote.

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

CONSENT AGENDA – APPROVAL OF MINUTES:

The Town Council reviewed the minutes of the November 20, 2014 Regular Meeting, the December 4, 2014 Work Session, the December 4, 2014 Executive Session and the December 11, 2014 Executive Session.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to approve the minutes from the November 20, 2014 Regular Meeting, the December 4, 2014 Work Session, the December 4, 2014 Executive Session and the December 11, 2014 Executive Session as presented. The motion was approved by unanimous vote.

DEPARTMENT REPORTS:

A. *Treasurer's Report:*

Treasurer Deborah Pocock reviewed the Treasurer's report dated November 30, 2014 which showed the Total Cash on Hand of \$1,202,165 (an increase of \$449,162 due to tax payments coming in), the Total Cash Held in Reserve was \$1,365,567 and the Total Cash – All Accounts was \$2,567,732. Deborah Pocock went on to review the Debt Service, Revenue vs. Expenditures, the Capital Improvement Projects, the YTD 2014 Real Estate, Personal Property, Machinery and Tools Tax & 2015 License Tax Collections, the YTD Prior Year Real Estate Tax, Personal Property Tax, Interest and Penalty Collections, and the 3-Year Revenue Comparison Graph.

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:*

Interim Town Manager Bob Panek reported the following:

- i) On December 11th, the Town received notification from the US Army Corps of Engineers (USACE) that the Final Supplemental Environmental Assessment had been completed and a Finding of No Significant Impact had been signed for the Cape Charles Harbor dredging project. The Town should see some activity soon; ii) Two applicants for the Town Planner position were interviewed on December 17th, and a third applicant would be interviewed tomorrow. The interview panel would be meeting next week to make a decision; iii) The Planning Commission held two Comprehensive Plan Public Input Sessions and would be meeting on January 6, 2015 to review and discuss the feedback received from the public. Once the draft was finalized, the Planning Commission would propose a joint work session to review the changes and schedule a joint public hearing to hear citizen comments; iv) The Historic District Review Board met on December 16th. Code Official Jeb Brady staffed the meeting and the Board approved an application for renovations to the former Northampton Hotel located at 1 Mason Avenue; and v) A Board of Zoning Appeals public hearing and meeting was scheduled for January 7, 2015 to review an application for exception for holes 4 and 6 of the Bay Creek Nicklaus Golf Course which sustained substantial erosion from various storms and must be reinforced to prevent further loss.

Mayor Proto asked about the status of the Tourism Zone. Councilwoman Natali stated that the Commissioners had been spending a majority of their time working on the Comprehensive Plan update and would probably revisit the Tourism Zone in the first quarter of 2015.

C. *Code Enforcement:*

Code Official Jeb Brady reported the former doctors' office located at 700 Extended Tazewell had been demolished. The property owner was planning to build houses on the lots. The house behind Chesapeake Properties on Randolph Avenue had also been demolished. The owner followed the proper channels to have the building, which was in very bad shape, demolished.

Councilwoman Natali asked whether there were any other buildings in town in bad shape. Jeb Brady stated that there were a few and added that he hoped to be able to review the issue with Council at a work session in early 2015. There was some discussion regarding the Town's cost to demolish a building and how the town would recover the expense. This topic was added to the Work Session list.

Town Harbor:

Harbor Master Smitty Dize reported that the Dropping of the Crab Pot was scheduled for 10:00 p.m. (midnight Greenland Time) on Mason Avenue across from the Cape Charles Memorial Library immediately followed by fireworks. He was working to get live music and refreshments.

Mayor Proto stated that he received a nice letter from a citizen regarding the Harbor lights and also the great job being done by the Public Works staff in keeping the Town looking nice.

Cape Charles Memorial Library:

Librarian Ann Rutledge reported that the 4th Annual Cape Charles B&B Association Cookie Trail was held over the weekend. Approximately 30 people participated and brought some nice donations of cash, DVDs, books, puzzles and games. She thanked the Cape Charles B&B Association.

Vice Mayor Bannon noted that Ms. Tammy Holloway of the Bay Haven Inn counted 75 visitors.

Police Department:

Police Chief Jim Pruitt reported that Corporal Chelsea Pfeiffer was working on the Neighborhood Watch program and would be starting with the businesses in Town. A survey was distributed to the businesses to obtain contact information and other pertinent information.

Public Utilities/Public Works Departments:

Public Utilities/Public Works Director Dave Fauber reported the following: i) The spike in the nitrogen levels was an issue with the supplemental carbon which was obtained from a new supplier. The issue was rectified by adding glycerin and the system was now back to normal. The problem caused the circulation pump to burnout and it was being rebuilt for about \$1,500. The supplier had agreed to pay half of the cost of repairs. In the future, the Town would purchase a product with a higher percentage of glycerin or straight glycerin when available; ii) The Town advertised for bids for the heating and air conditioning on the second floor of the library. A non-mandatory pre-bid meeting was held and bids were due the beginning of January; and iii) One bid was received in response to the Town's advertisement for ground maintenance bids. The bidder was Eastern Shore Landscaping Management which was our current provider. The bid was comparable to what the Town was currently paying. The contract award would be on the January Council agenda.

Councilman Bennett requested that the chlorination project for the Town's drinking water, which was estimated to cost about \$33K, be added to the Capital Improvement Plan.

Recreation Department:

Bob Panek stated that Community Events/Recreation Coordinator Jen Lewis was working an event at the Cape Charles Volunteer Fire Company. Mayor Proto added that Council members could contract Jen Lewis directly if they had any questions regarding her monthly report.

OLD BUSINESS

A. *Cape Charles Community Trail – Phase 2:*

Bob Panek stated that staff and the consultants met with VDOT representatives on December 2, 2014 to review the enhanced construction administration and inspection (CA&I) requirements specified by VDOT and the Federal Highway Administration. The requirements were greater than previously planned and added about \$100K to the project cost estimate which was now \$1.7M. The Federal share was \$1.36M and the Town share was \$0.34M which was within the funding budgeted for FY 2013 through FY 2015. VDOT anticipated issuing the approval to bid the project before Christmas. The bidding process should occur in January with contract award in February. Construction duration was estimated to be about eight months. There would be some carryover into FY 2016 and would be discussed during the mid-year budget review work session.

B. *Leased Parking Lot:*

Bob Panek stated that Council initially reviewed this issue at the November meeting and requested two changes to the original lease as follows: i) Clarification of language concerning the change in the Consumer Price Index (CPI) – rent could either increase or decrease; and ii) Clarification of paragraphs 11 and 13 concerning tenant property at the end of the lease term – either remove or retain, at tenant’s option. Bay Coast Railroad agreed to the changes requested by Council. The lease terms were: i) 20-year, renewable term; ii) Commencement date of January 1, 2015; iii) Rent of \$1,300 per year, adjustable up or down by percentage change in CPI; and iv) Tenant responsible for improvements to be removed or retained, at tenant’s option, at lease end. A rough estimate to fill some low spots, installation of bollards around electrical cabinets, perimeter marking, signage installation, etc. was about \$10K. This cost was not included in the current budget but adjustments could be made during the mid-year budget review.

Motion made by Councilman Bennett, seconded by Councilwoman Natali, to authorize the Interim Town Manager to execute the lease with Bay Coast Railroad and proceed with preparation of the property for parking. The motion was approved by unanimous vote.

NEW BUSINESS:

A. *Phone System Contract Award:*

Town Clerk Libby Hume stated that the Town’s current phone system was over 20 years old. The system had been discontinued and could no longer be supported. The current land lines coming into the building were old, degraded and offered poor quality. Funding in the amount of \$11,213 was included in the FY 2015 budget for a new phone system. By using a voice over internet phone (VOIP) system, the Town could terminate all land lines to all Town offices for an additional cost savings of approximately \$1K per month. The wastewater pump stations would maintain land lines until they could be upgraded and new monitoring technology was installed. At that time, those land lines would also be terminated. Quotes were obtained from three vendors – Chesapeake Bay Communications, Eastern Shore Communications and Votacall with total pricing for a three-year period ranging from \$21,519 to \$36,544.

There was much discussion regarding the differences in the quotes, reliability of the internet, faxing capability, and the addition of a termination clause to the contract in the event the service and equipment were not adequate for the Town and issues could not be resolved.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to authorize the Interim Town Manager to execute a contract, after the addition of a termination clause, with Eastern Shore Communications, the lowest bidder, for new telephone equipment and service. The motion was approved by unanimous vote.

B. *Grand Illumination Sponsorship:*

Councilwoman Natali stated that the Citizens for Central Park (CCP) had sponsored the Grand Illumination for a number of years but all the work installing the lights was done by Town staff. The CCP was requesting that the Town assume the management of the event in the future with assistance from the CCP.

There was much discussion regarding the request, the various Town-sponsored events and the coordination of events.

Motion made by Councilwoman Natali, seconded by Councilman Brown, to have the Town take over the sponsorship of the Grand Illumination event starting in 2015. The motion was approved by unanimous vote.

C. *VDOT Industrial Access Road Letter:*

Mayor Proto stated that, per Mr. Hayward's request, the Town should submit a letter to VDOT regarding the accommodation of golf carts on the proposed industrial access road. Councilman Brown suggested a request to VDOT to designate the section of the access road from the Bay Creek development into the Historic District with a 25 MPH speed limit to allow golf carts to travel on the road.

Chief Pruitt expressed his concern regarding speeding traffic. The vehicles currently travelling on Route 642 routinely exceeded the 35 MPH speed limit, and by straightening the road, the speed would generally increase and he felt it would be a danger for golf carts.

There was much discussion regarding requesting VDOT to install speed bumps or an alternate golf cart path.

Bob Panek stated that the Town had lobbied in the past for the construction of the industrial access road and a request for a 25 MPH zone would possibly be at odds with the proposed road.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to submit a letter to VDOT requesting accommodations to allow golf carts to travel between Bay Creek and the historic part of town. The motion was approved by unanimous vote.

MAYOR AND COUNCIL COMMENTS

Councilmen Brown and Bennett wished everyone a Merry Christmas.

Councilman Wendell commented on the following: i) It was good seeing the Mayor and some of the Council at the Northampton County Board of Supervisors (BOS) Meeting and suggested discussion at the next Council meeting regarding the possibility of adopting a resolution conveying the Town's recommendations regarding the proposed zoning changes to the BOS; ii) In regards to the Council work session with the USACE, he expressed his concern that so much sand was being shipped across the bay and added that he felt that the Town should keep some of the sand at a location in Town for future beach replenishment; and iii) He wished everyone a Merry Christmas.

Vice Mayor Bannon asked about the status of the Town Manager interviews. Libby Hume stated that she had not yet heard back from all the Council members regarding the available dates in January. There was some discussion regarding scheduling the interviews over two or three days.

Councilman Godwin commented on the following: i) He stated that he was puzzled regarding the lack of service from Verizon regarding the Town's current phone service. Libby Hume stated that in other areas of the state and country, Verizon had been selling off their land line services. Councilman Brown agreed with Councilman Godwin; and ii) He wished everyone a safe Christmas and a prosperous New Year.

Councilwoman Natali commented as follows: i) She wished everyone a Merry Christmas and happy holidays; and ii) She announced that the Epiphany Party was scheduled for January 17, 2015.

Mayor Proto commented as follows: i) The proposed Northampton County zoning issue would be placed on a future agenda and added that the Town should provide their opinion to the BOS; and ii) He stated that his first six months in office had been very good and attributed it to an outstanding staff and Town Council. He thanked everyone for their assistance; and iii) He wished everyone a Merry Christmas and happy holidays.

ANNOUNCEMENTS

- December 24, 2014 – Town Offices closing at noon for the Christmas Holiday.
- December 25-26, 2014 – Town offices closed for the Christmas Holiday.
- January 1-2, 2015 – Town offices closed for the New Year’s Holiday.
- January 8, 2015 – Town Council Work Session.
- January 15, 2015 – Town Council Regular Meeting.
- January 17, 2015 – Epiphany Party

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

Mayor Proto

Town Clerk

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DRAFT
TOWN COUNCIL
Work Session
Cape Charles Civic Center
January 8, 2015
6:00 PM

At approximately 6:00 p.m., Mayor George Proto, having established a quorum, called to order the Town Council Work Session. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilmen Bennett, Brown and Wendell. Councilman Godwin and Councilwoman Natali were not in attendance. Interim Town Manager Bob Panek and Town Clerk Libby Hume were also in attendance. There was one member of the public in attendance.

Mayor Proto stated that the purpose of the meeting was to review and discuss the proposed Northampton County Zoning Ordinance and the Wage Compensation Study provided by Springsted, Inc.

A. *Northampton County Zoning Ordinance:*

Interim Town Manager Bob Panek began by reviewing the two resolutions adopted by the Town Council in May 2014:

- Resolution 20140522A-Supporting the Continuation of Planning Commission Involvement in the Special Use Permit Process in the Proposed 2014 Zoning Amendments Under Consideration by the Northampton County Board of Supervisors; and
- Resolution 20140522-Supporting the Inclusion of the Historic Town Entrance Overlay Corridor in the Proposed 2014 Zoning Amendments Under Consideration by the Northampton County Board of Supervisors, which included language drafted by the Cape Charles Planning Commission proposing a Historic Town Entrance Corridor Overlay District(HTE).

Copies of the three responses from the Northampton County Board of Supervisors (BOS) were also briefly reviewed.

Bob Panek went on to review the following: i) The current and proposed Northampton County Zoning Maps stating that the current Town Edge 1 (TE-1) and Town Edge-Commercial General (TE-CG) zones were being replaced with Agriculture and Commercial zones; ii) A summary of the current intent for the TE-1 and TE-CG Districts compared to the proposed Commercial District uses; and iii) The Proposed Districts document on the Northampton County website showing the changes made by the BOS regarding the proposed uses by right and by special use permit in the Commercial District compared to the current allowed uses in the TE-1 and TE-CG zones.

There was much discussion regarding this issue. Council acknowledged that the BOS had spent a lot of time and effort in developing the proposed ordinance. There were some concerns expressed regarding the fact that the BOS was moving forward with the zoning ordinance before the County's Comprehensive Plan had been updated. Councilman Wendell stated that the proposed zoning ordinance ignored everything that the Town had been asking for over the last 25-30 years, especially the most recent submittal of the language regarding the HTE, and the continuation of pushing all

commercial onto Route 13 which would have a negative impact on the Town's commercial district.

Bob Panek stated that County Administrator Katie Nunez offered to have a representative meet with the Council to give a presentation regarding the proposed changes. Vice Mayor Bannon stated that he felt it would be beneficial to ask for a meeting with the BOS before they finalized the proposed zoning ordinance. Mayor Proto stated that he would like to see the changes which were in line with the County's Comprehensive Plan.

Council agreed that another letter needed to be sent to the BOS restating the Town's request for the inclusion of the HTE as well as some of the other concerns of Council. Bob Panek would also contact the County Administrator to schedule a meeting with County representatives.

B. Wage Compensation Study:

Bob Panek distributed a copy of the Compensation and Classification Study Update from Springsted, Inc. The update included the addition of the two new positions identified as a need – permit assistant for the Building Department and an administrative assistant to provide assistance to multiple departments.

Bob Panek went on to review the following: i) The recommended pay scale which would achieve competitiveness with the labor market; ii) 38 pay grades with a 5% difference between grades, open range with 50% difference between the minimum and maximum of each grade; iii) Options to adjust Springsted's recommended pay scale to 95% or 90% which could address benchmarking concerns while maintaining competitiveness; iv) Comparison of Springsted's ranked positions. Bob Panek noted seven positions where he recommended changes to Springsted's rankings based on his observations of the positions over the last several years. Several of these positions were unique to the Town so Springsted did not have any information other than what was provided by the individuals in those positions. The rankings of three positions were increased, the rankings of three positions were decreased, and one position was added.

Bob Panek reviewed the three implementation options suggested by Springsted:

- Option 1: 54% of the employees were currently below the recommended minimum. Move these employees to the minimum at a cost of approximately \$46K or 3.87% of the total payroll.
- Option 2: Move all employees to the minimum and provide a 2% increase for all employees at a cost of approximately \$60K or 5.07% of the total payroll;
- Option 3: Increase the employees' wages by .5% for every year of service with the Town at a cost of approximately \$68K or 5.75% of the total payroll.

Bob Panek provided another option as follows: i) Decide on a pay scale; ii) Decide on the position rankings; iii) Determine where the employee should fall within the new pay scale based on performance, qualifications, years of service, etc.; iv) Calculate the difference in pay; and v) Phase the increases over the next two fiscal years with 50% - 75% in FY 2016 and the remainder in FY 2017. This option was similar to Springsted's Option 3 but included factors other than years of service.

There was some discussion regarding the recommended pay scale with 38 pay grades even though the first 14 were not used and some of the employee salaries were charged to Enterprise Funds vs. the General Fund.

Council would review the information and provide their written comments.

Council requested the following additional information: i) A spreadsheet of the employees, position titles and current salaries; ii) Job responsibilities for each position; and a report on the turnover rate over the last five years.

Motion made by Councilman Bennett, seconded by Councilman Brown, to adjourn the Town Council Work Session. The motion was approved by unanimous vote.

Mayor Proto

Town Clerk

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DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
January 8, 2015
Immediately Following Work Session

At approximately 7:40 p.m. Mayor George Proto, having established a quorum, called to order the Executive Session of the Town Council. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilmen Bennett, Brown and Wendell. Councilman Godwin and Councilwoman Natali were not in attendance. Interim Town Manager Bob Panek was also in attendance.

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

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

Specifically: Real Property Acquisition Opportunity

Motion made by Vice Mayor Bannon, seconded by Councilman Brown, to return to Open Session. The motion was unanimously approved.

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

Motion made by Councilman Brown, seconded by Councilman Bennett, to adjourn the Town Council Executive Session. The motion was unanimously approved.

Mayor Proto

Town Clerk

Planning Department Report for Town Council

From: Libby Hume
To: Town Council
Date: January 8, 2015
Subject: Report for Planning Department

1. Interviews for the Town Planner position were held on December 17 and 19, 2014. The new Planner, Larry DiRe, will be starting February 2, 2015. Mr. DiRe has a Masters in Public Administration and has been a Town Administrator/Manager for a number of localities and taught urban planning at the college level.

Planning Commission:

1. The Planning Commission met on January 6th to review the public input regarding the Comp Plan. They will be doing a final review so the draft can be finalized at their January 12th regular meeting. Dates will be discussed for a joint work session with the Council to review the proposed changes in preparation for a joint public hearing.

Historic District Review Board:

1. The HDRB met on December 16th and approved the application for 1 Mason Avenue – the former Northampton Hotel. The building is a contributing structure with a proposed use as a hotel/restaurant.

Board of Zoning Appeals:

1. A BZA public hearing and meeting was held on Wednesday, January 7th, to review an application for exception from the Chesapeake Bay Preservation Area Overlay District Resource Protection Area (RPA) requirements for holes 4 and 5 of the Bay Creek Nicklaus Golf Course which have sustained substantial erosion from various storms and must be reinforced to prevent further loss. This section of the golf course is now within the RPA governed by Article VII – Chesapeake Bay Preservation Area Overlay District of the Cape Charles Zoning Ordinance. The exception request was granted.

Code Enforcement
Month of December FY 2015

Building Permits Issued/Permit Fees Collected:

Permits this month: 19	
Permits this year: 159	Total permits last year: 269
Total construction this month: \$510,070	
Total construction this year: \$4,062,916	Total construction last fiscal year: \$6,874,978
Permit fees this month: \$31,219.05	
Total permit fees this fiscal year: \$130,971.92	Total permit fees last fiscal year: \$95,845.65
Bay Creek Water/Sewer Tap fees: \$0	
The Colony/Sewer Water Tap fees: \$0	
Marina Village/Marina Village East Sewer/Water Tap fees: \$18,525	
Bayside Village Sewer/Water Tap fees: \$0	
Old-Town Water/Sewer Tap fees: \$6,175	
Total Tap fees this year: \$86,450	Total Tap fees last fiscal year: \$37,050
Fire Dept. levy this month: \$332.07	
Total Fire Dept. levies this year: \$3,224.44	Total Fire Dept. levies last fiscal year: \$3,343.33
State levy this month: \$66.42	
Total state levies this year: \$644.97	Total state levies last fiscal year: \$943.38
Miscellaneous Revenue: \$0	

Existing Structures Code Enforcement Cases:

Total Cases: 27	
New this month: 0	
Closed this month: 0	
Rental Inspections: 0	
Rental C.O's Issued: 0	
Rental Inspection fees collected: \$0	
Grass cutting enforcement: 0	
Grass cutting: 0	
Enforcement fees charged this month: \$0	
Enforcement fees charged this year: \$6,700.00	Fees charged last fiscal year: \$10,050
Enforcement fees collected: \$0	
Enforcement fees collected this year: \$15,189.58	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 December FY 2015

Other items of note:

1. Completed 34 inspections
2. Conducted 5 zoning clearances
3. Completed 2 courtesy residential inspections
4. Conducted 3 courtesy commercial inspection
5. Conducted 28 E & S control inspections
6. Conducted 1 commercial plan reviews for Erosion and Sedimentation Control.
7. Completed 4 residential plan reviews
8. Issued 1 Public Utilities Shallow Well permits
9. Cape Charles Lofts is moving along. Inspections for rough-in/framing will be happening this week.
10. Old Dr.'s office on Tazewell extended has been razed.
11. Old Be-Lo building has a demolition permit and is currently addressing asbestos removal and will be razed within the next two weeks.
12. Have been busy answering a lot of zoning questions regarding setbacks and and uses of property. Seems a lot of property is changing hands and people are anxious to build.

01/05/15

Permit/Construction Fee Report

Map Number	Permit#	Type	Date	Address	Work description	Permit Fee	Value
083A1-0100-10	PB140105	Building	12/08/2014	209 Jefferson Avenue	Re-siding house & siding rear addition	\$98.00	\$10,000
083A1-010018	PB140100	Building	12/08/2014	404 Jefferson Avenue	New S/F Res	\$7,800.56	\$68,000
083A3-0207-00	PM140038	Mechanical	12/17/2014	8 Madison Avenue	Replacing Heat Pump	\$63.84	\$3,900
	PB140106	Building	12/23/2014	319 Marina Village Cir	New R-1 Villa	\$7,474.20	\$100,000
	PB140107	Building	12/23/2014	321 Marina Village Cir	New R-1 Villa	\$6,924.20	\$100,000
	PB140108	Building	12/23/2014	323 Marina Village Cir	New R-1 Villa	\$6,924.20	\$100,000
	PP140061	Plumbing	12/15/2014	109 Mason Avenue	Adding Mop & Kitchen Sink & Hose Bibb	\$84.00	\$1,875
083A3-0A00-0	PD140004	Demolition	12/12/2014	300 Mason Avenue	Demo Old Grocery Store	\$100.00	\$20,000
083A3-0100-61	PB140104	Building	12/04/2014	307 Mason Avenue	Adding roof drains	\$84.00	\$1,895
	PB140103	Building	12/02/2014	112 Peach Street	Porch Repair	\$56.00	\$1,400
	PF140013	Fire Suppressio	12/12/2014	423 Plum Street	Sprinkler System for Building	\$431.20	\$62,000
	PF140012	Fire Suppressio	12/17/2014	423 Plum Street	Monitored Fire Alarm System for Building	\$239.57	\$10,000
	PD140003	Demolition	12/10/2014	654 Randolph Avenue	Demo House	\$50.00	\$8,200
	PU140006	PU Shallow W	12/12/2014	156 Sunset Blvd	Shallow Well for irrigation	\$100.00	\$750
	PES14000	Erosion & Sed	12/10/2014	157 Sunset Blvd.	Install Breakwaters	\$500.00	\$10,000
	PG140016	Gas	12/10/2014	171 Sunset Blvd.	5 New Gas Outlets	\$56.00	\$2,500
	PU140007	PU Shallow W	12/12/2014	171 Sunset Blvd.	Shallow Well	\$100.00	\$750
	PM140037	Mechanical	12/17/2014	221 Tazewell Avenue	1 New air to air heat pump	\$69.44	\$4,900
083A3-0100-48	PB140109	Building	12/23/2014	408 Tazewell Avenue	Re-siding 400 square feet	\$63.84	\$3,900
Total Permits: 19						\$31,219.05	\$510,070

PerDateIssued Range from 12/01/2014 to
12/31/2014



Town Harbor Town Council Report December, 2014

January 1, 2015

Maintenance:

1. Staff continued winterizing the Harbor.

Upcoming Items that need to be completed:

1. Re-tighten all cleats on floating docks (In Progress).
2. Re-nail all rubber bumpers (In Progress).
3. Paint the boat ramp parking stripes. (In Progress)
4. Re screw all boards on the board walk in the inner harbor with stainless screws.(In Progress)
5. Re-tighten all bolts on the floating docks
6. Scale, prime & paint dirty oil tank.
7. Repair drywall in men's shower and females' restroom.
8. Replace light censor on boardwalk lights.
9. Replace misc. light censors on pedestals.
10. Measure piles, order new caps to cover the piles that do not have caps.
11. Continue to clean all electric pedestal bus bars.

Capital Projects and Harbor improvements:

1. Offshore Breakwaters – Nothing new to report
2. Dredging – Contractors has been probing the harbor area preparing to bid.

Other Items:

1. Follow us on Face Book (**Cape Charles Town Harbor**) over 2100 likes!!!
2. Current Office Hours – 9:00 am to 4:30 pm Monday – Friday thru mid-march.
3. Staff decorated for the holiday season.
4. Waiting list – No change from October

<u>Length</u>	<u>Annual</u>	<u>Seasonal</u>	<u>Total</u>
20ft	2	6	8
24ft	7	4	11
30ft	9	7	15
36ft	5	2	7
45ft	9	4	11
50ft	1	1	2
60ft	2	0	2
Total	35	24	59



Town Harbor Town Council Report December, 2014

Harbor Events:

3rd Annual Lighted Boat Parade: Was cancelled due to weather. There was some negative feedback that it was cancelled. Next year we will coordinate it better.

Inaugural Dropping of the Crab Pot: Went better than expected with an estimated 400 to 600 people attending. The video on the Harbor Facebook page as of today was seen by almost 11,000 people shared 90 times and there is a ton of excitement for it to expand next year.

8th Annual Blessing of the Fleet: This will be held April 24th, 2015 6 pm to 10 pm. and we are going to change things up a bit to try and get more people involved. Details will be forthcoming.

Clam Slam 2015 & 5th Annual Boat Docking contest: Will be July 31, 2015 through August 2nd, 2015. More details will follow.

3rd Annual Trick or Treat with Pirate Pete: October 24, 2015

Business:

Transient vessels are vessels that stay in a particular place ten or less nights. Below is a comparison for the last three years for transient vessels nights docked and the dollar amount year to date. Please note that our transient docking increased 17.4% from 2012 to 2013 and 62.9% from 2012 to 2014.

	2012	2013	2014
Nightly	854 = \$40,905	951 = \$49,698	1066 = \$66,070
Weekly	129 = \$ 5,354	57 = \$ 4,597	129 = \$ 8,838
Hourly	3 = \$ 15	3 = \$ 15	90 = \$ 450
Total	\$46,274	\$54,310	\$75,358

Cape Charles Memorial Library Report
December 2014

1. We provide weekly storytimes for children and a weekly Chess Club. Lego Club is every other week. Below is the monthly attendance for programs held during November 2014.

Preschool Story time - weekly	38
Toddler Storytime - weekly	16
Chess Club – weekly	25
Special programs –crafts, Andrew Barbour	36
Cookie Tour -	50
TOTAL	165

2. On December 9 at 11:00 author **Andrew Barbour** read his children's book *The Hog Island Sheep in a Twisted Christmas Tale*.
3. On December 14 from 2:00 to 4:00 the **4th Annual B & B Cookie Trail** was held in Cape Charles. The event began at the library and continued through all of the B & B's in town. Participant's donated 165.00, 6 puzzles, 1 game, 1 book, and 25 children's DVDs.
4. During the month of December the Library collected canned goods to benefit the Cape Charles Food bank. For each can of food donated, \$1.00 of overdue fines was waived. A special thank you
5. As of today our Facebook page has 459 likes, with 5 new likes this month. For additional information about library programs and library related information check out our **Facebook** page.

	CAPE CHARLES MEMORIAL LIBRARY 2014												
	January	February	March	April	May	June	July	August	September	October	November	December	YTD
INCOME:													
Copier/Prt	\$40.90	\$71.20	\$68.10	\$126.90	\$72.70	\$52.00	\$45.00	\$71.70	\$69.30	\$80.10	\$72.80	\$34.35	\$805.05
Faxes	\$16.50	\$17.50	\$25.50	\$39.30	\$34.60	\$47.00	\$29.00	\$43.50	\$40.80	\$42.50	\$59.00	\$58.10	\$453.30
TOTAL	\$57.40	\$88.70	\$93.60	\$166.20	\$107.30	\$99.00	\$74.00	\$115.20	\$110.10	\$122.60	\$131.80	\$92.45	\$1,258.35
Deposit													
BOOK CIRC-ADLT													
Fiction	378	388	393	434	422	495	611	517	500	539	465	593	5735
Non-fiction	135	150	114	110	135	166	143	191	132	156	141	172	1745
DVDs	184	162	202	169	171	167	314	246	189	134	85	73	2096
TOTAL 2014	697	700	709	713	728	828	1068	954	821	829	691	838	9576
Books Circ. 2013	844	0	0	576	538	777	1014	1020	841	804	650	711	7775
BOOKS CIRC-JUV													
Fiction	293	340	338	351	332	680	981	795	530	526	399	351	5916
Non-Fiction	73	111	88	47	53	73	112	109	140	123	88	45	1062
DVDs	77	67	112	76	41	114	193	213	121	99	59	106	1278
TOTAL 2014	443	518	538	474	426	867	1286	1117	791	748	546	502	8256
Books Circ 2013	541	0	0	336	400	808	978	822	735	762	597	549	6528
TOTAL 2014	1140	1218	1247	1187	1154	1695	2354	2071	1612	1577	1237	1340	17832
Total Circ. 2013	1385	0	0	912	938	1585	1992	1842	1576	1566	1247	1260	14303
ATTENDANCE 2014	819	912	1019	951	1062	1323	2005	2234	1154	1355	951	1012	14797
Attendance 2013	656	575	675	718	756	1418	2160	1586	1131	1180	936	919	12710
PROGRAMS 2014	9	13	17	16	20	15	26	20	9	15	10	12	182
Programs 2013	8	6	9	10	8	14	20	13	13	14	12	14	141
PROG. ATTEND 2014	83	156	143	195	189	152	525	500	66	168	91	131	2399
Prog. Attend 2013	65	74	95	112	67	21	582	199	134	149	199	575	2272
Computer Classes	0	0	0	0	0	0	0	0	0	0	0	0	0
Class Attendance	0	0	0	0	0	0	0	0	0	0	0	0	0
INTERNET USE 2014	237	217	214	283	280	256	293	411	239	273	286	190	3179
Internet use 2013	200	162	207	201	172	333	510	414	335	306	221	252	3313
LIBRARY CARDS 2014	19	14	9	9	13	14	27	25	25	13	11	12	191
Library cards 2013	6	9	8	7	7	26	52	32	24	14	15	22	222
Voulnteer Hours 2014	31.50	29.50	38.49	47.00	76.00	62.50	40.15	44.75	99.50	109.25	35.50	10.50	624.64

CAPE CHARLES POLICE DEPARTMENT

MONTHLY STATISTICS

December 2014

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

- Calls for service in Cape Charles: 48
- Calls for service outside of Cape Charles: 14
- Felony arrests: 6
- Misdemeanor Arrests: 14
- D.U.I. Arrests: 2
- Traffic Summons: 7 (see below)
- Traffic Warnings (written& verbal): 9
- Parking tickets: 14
- Building Checks: 17
- Assisted Northampton County Sheriff's Office: 14
- Assisted Virginia State Police: 0
- Assisted Federal Agencies: 0
- Assisted Fire& Rescue: 17
- Foot Patrol Hours: 56

The following took place in December:

- The Progressive Dinner Tour was again a great event, one of my favorite town events.
- Corporal Pfeiffer is making good progress on the Neighborhood Watch Program.
- Bay Creek patrol hours: 85

Traffic summons:

1. No inspection sticker
2. Expired inspection sticker
3. Reckless driving (G)
4. Unregistered vehicle
5. Reckless driving (G)
6. Speeding 44/25 zone
7. Expired inspection

Arrests:

1. Possession of marijuana
2. Destruction of property
3. Disorderly conduct
4. D.U.I.
5. Capias
6. D.U.I.
7. Refusal to submit breath sample
8. Participate in riot
9. Conspire to cause riot
10. Conspire to cause riot
11. Conspire to cause riot
12. Conspire to cause riot
13. Participate in riot
14. Conspire to cause riot
15. Conspire to cause riot
16. Contribute to delinquency of minor
17. Contribute to delinquency of minor
18. Contribute to delinquency of minor
19. Participate in riot
20. Participate in riot
21. Contribute to delinquency of minor
22. Participate in riot

January will mark one year since I have been your Police Chief. I hope I have satisfied you all with the job I have done so far. I want to tell you that I am grateful for the opportunity to be your Police Chief. This year has been a roller coaster ride that I will never forget, and I feel I have pushed through everything and represented the town well. Several tragic events took place this year that affected me personally. First was a young friend of my son's that took his own life as I was on the way to stop him. It took me six minutes to get to his home by the state park but I was too late. The tornado that hit Cherrystone campground was beyond anything I could have imagined. The feeling of helplessness and the sheer devastation was mind-boggling. The drowning on our beach was tragic and every effort was exerted to bring closure for the family. The Police Department ran short staffed most of the year but we made it work. We are now fully staffed with great officers with a broad line of expertise. I am very proud of my officers, and feel privileged to be their leader. Thank you again for the opportunity to be your police chief and I look forward to many more. Hope you all had a blessed holiday season.

Cape Charles Police Department January 2014 –December 2014 Statistics

- Calls for service in Cape Charles: 566
- Calls for service outside Cape Charles: 188
- Total calls for service: 754
- Felony Arrests: 19
- Misdemeanor Arrests: 46
- Traffic Warnings: 154
- Traffic Summons: 141
- Parking tickets: 63
- Building checks: 429
- Foot Patrol hours in town: 893
- Bay Creek Patrol hours: 306

Public Utilities

Monthly Report December 2014



Production Summary

- Miss Utility Tickets: 12
- Emergency Call Outs After Hours and Weekends:
Number of times called out: 3
Total Man Hours: 6
- Fire Calls: 1 Man Hours: 1
- Sludge: November: 10 Tons
- **Water: Total Production:**
High: Water and Waste Water Figures not Available Yet
Low:

Average	Raw Water	Finished Water
Hardness		
Iron		
Manganese		

All Data in PPM

- **Waste Water:**
Average Flow gpd
Maximum gpd
Total for Month Gallons
Nutrients:
Phosphorus Average Limit .3 mg/l annual average
Nitrogen Average Limit 4 mg/l annual average

Personnel

- Water
 - Patrick Christman Operator Class 3 Water, Operator in Charge
 - Ron Bailey Operator Class 3 Water
 - **Scottie Neville Operator Class 4 Water**
 - **Scottie has just passed his Class 3 Water Plant Operator Certification exam.**
 - Gerald Elliott Maintenance
- Waste Water
 - Patrick Christman Operator Class 2 WW, Operator in Charge
 - Freddie Meditz Operator Class 3 WW, Lab Manager
 - Dan Dabinett Operator Class 3 WW, Maintenance
 - Billy Powell Maintenance Supervisor

Public Utilities

Completed Projects

- We have responded to DEQ comments on the Keck Well Aquifer Test and Ground Water Withdrawal Permit. Waiting for their Reply.
- The water in Heron Point tested high for THM's this quarter. This put the Running Annual Average over the PMCL of 0.080 mg/l. The public has been notified by mail. We have submitted a report to the VDH and they have commented on the report.

In Progress

- Working with GHD on preparing a new Task Order for upgrades to the Plum Street and pine Street Pump Stations.
- An automatic flush valve will be installed in Heron Point. We have received the OK from Bay Creek and will proceed with the installation.

Upcoming Projects

- Manhole repairs.

Capital Projects

- Water:
 - Emergency Generator for Water Plant \$45k
 - Installed
 - Engineering for Keck Wells \$60k
 - 90% drawings and specifications are going through GHD internal QA/QC review process.
 - GHD to deliver the 90% documents to the Town mid-December.
 - After addressing the Town's comments on the 90% documents, GHD would send out permitting packages in late January.
 - With about 1 month for addressing any permitting comments, 1 month for final review, and 2 months for project bidding, construction would be expected to start as early as August 2015.
- Waste Water
 - Channel Grinder for MAPS \$50k
 - Engineered as part of the MAPS improvements and Mason Avenue Force Main Project
 - The equipment has been delivered, installed and is up and running.

PUBLIC WORKS

December 2014

Dump Fees

- Oyster Landfill: 8 Trips, 25.44 tons @ cost of \$1,653.60
- Recycled 8 truck loads of bags & leaves
- Recycled 6 truck loads of non-chip able brush

Staff Report

- Brent Mears out sick 4 days, Willie Lyons out sick 2 ½ days
- Community Service - Tommy Golibart - December scheduled 40 hours (22nd, 23rd, 29th, 30th & 31st)

Completed Projects

- Monthly meter reads
- Central Park Holiday lights installed
- Mason Ave & Fig Street Town sign Holiday lights installed
- 4 GFI outlets replaced in Central Park & 3 on Mason Ave
- Bay Ave palm trees wrapped up for winter season
- Compound & waxed 2 dump trucks
- Police Explorer - L.O.F. & tire rotate service performed
- Vehicle maintenance checked all P.W. fleet and topped off fluids
- Virginia State 2015 inspections performed on Ford & Chevy dump trucks
- Winterized Hustler mower (LOF, new blades, fuel stabilizer, washed) all prepped for 2015

Events

- Veterans Day (Tuesday-11-11)
- Thanksgiving (Wednesday 1/2 day-Thursday & Friday 11-27 thru 28th)
- Progressive Dinner (Friday 12-5)
- Central Park Grand Illumination (Saturday 12-6)
- Town surplus sale (Saturday 12-6)
- Fire Department "Tool Mania" (Saturday 12-13)
- Town lunch (Friday 12-19)
- Christmas Holiday (Wednesday 1/2 day, off Thursday & Friday 12-25th & 26th)

In Progress

- Manual street gutter clean - 90% complete
- Beach winter fence & burlap erosion control maintenance
- Removed 2 damaged tennis court lights for repair
- Central Park & Mason Ave holiday light maintenance
- Case backhoe hydraulic leak up front investigating
- Grading of Public Works yard
- Wood chipper maintenance- replacement belt & blades
- Town wide street tree & bush trimming - 60% complete
- Vehicle/equipment maintenance
- Training

Upcoming Projects

- Safety training
- Alley tree & bush right of way trimming
- Construct new steps to beach from sidewalk @ Jefferson Ave
- Equipment clean, wax or repaint
- Re-paint no parking curbs (yellow) Town wide & handicapped areas (blue) on Mason Ave
- Re-paint Municipal building 1st floor entrance & down stairs offices
- P.W. shop office space
- Bay Ave Gazebo trim repair

Man Hours per Project/Task

Vehicle Maint.	Equipment Maint.	Building Maint.	Public Debris Areas	Street Cleaning	Beach Maint.	Public Sanitation	Public facilities cleaning	Admin. training	Property maint. & repair	Events	Meter Reads
31	32	78	67	119	22	28	36	70	64	9	10

Recreation Department

January 2015 Council Report

Programming and Events

1. Arts and Crafts
 - A. December 10 – Christmas Craft – 3 participants
 - B. December 17 – Christmas Craft – 2 participants

2. Adult Book Club
 - A. December 1 – The All Girl Filling Station – 5 participants
 - B. December 15 – Cookie Exchange – 5 participants

3. Mommy and Me
 - A. December 9 – 10 participants
 - B. December 16 – 6 participants

4. Line Dancing – Cancelled until the new year.

5. Scrapbooking
 - A. December 1 – 3 participants
 - B. December 8 – 3 participants
 - C. December 15 – 3 participants
 - D. January 5 – 2 participants

6. Bingo
 - A. December 5 – 7 participants
 - B. December 19 – 12 participants

7. Christmas Crafts – 2 participants

Of Note – Jen was out of the office on vacation most of the month and a full report will be available for February.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Public Service Authority (PSA) and Regional Wastewater.		AGENDA DATE: January 15, 2015
	SUBJECT/PROPOSAL/REQUEST: Update on Southern Node regional wastewater project.		ITEM NUMBER: 7A
	ATTACHMENTS: None.		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Bob Panek	REVIEWED BY: Bob Panek, Interim Town Manager	

BACKGROUND:

The Public Service Authority (PSA) has been exploring a limited Southern Node service area focused on 68 commercial properties around the US 13/SR 184 intersection. The PSA has been working with the Northampton County Board of Supervisors (BOS) to develop financial options for implementing the system. The capital cost for construction would be financed via a combination of tax revenues from a special tax district and the general fund. The operations cost for the new system would include treatment at the Cape Charles wastewater treatment plant and may include collection system maintenance, meter reading and billing, if the PSA contracts with the Town for these services. These costs would be included in customer service rates in the proposed new service district. The PSA and the BOS have been provided the Town estimates for these operational costs.

At the joint BOS/PSA meeting on March 24, 2014, the BOS reaffirmed their support of the PSA and the Southern Node commercial project, and approved creation of a subcommittee of two members each of the BOS, the PSA and Cape Charles to negotiate the provision of treatment services. The BOS appointed Mr. Hogg and Mr. Hubbard. The PSA appointed Mr. Panek and Mr. Ingram. The Town appointed Ms. Natali and Mr. Brown.

The PSA subcommittee met on October 29th to continue discussions on the provision of treatment services by the Town. This encompassed the price offered by the Town, as well as other aspects of an agreement. There was general consensus that much of the Town's proposal was reasonable. Two elements of the Town's proposal, connection charges and the extent of an overlay district on US 13, will require additional discussion. The subcommittee requested that the PSA Executive Director prepare in initial draft of an agreement that can be refined through further discussions.

DISCUSSION:

At the December 15, 2014 meeting, the PSA Board authorized the Chairman to amend the engineering contract with Hurt & Proffitt to evaluate the Bayview wastewater treatment system and the possibility of its use as the treatment option the Southern Node, Phase I project.

The next meeting of the PSA subcommittee will be scheduled after the initial draft of a PSA-Cape Charles agreement is available.

RECOMMENDATION:

Provided for information only.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Grounds Maintenance Service Contract Award		AGENDA DATE: January 15, 2015
	SUBJECT/PROPOSAL/REQUEST: Award contract for the Grounds Maintenance Services for the Town.		ITEM NUMBER: 8A
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Dave Fauber	REVIEWED By: Bob Panek, Interim Town Manager	

BACKGROUND:

Staff published an Invitation for Bids (IFB) for Grounds Maintenance Service on November 26, 2014. Proposals were due and opened on December 16, 2014. Eastern Shore Landscape Management, Inc. (ESLM) was the sole bidder. The Director of Public Works reviewed the bid proposal with the Town Manager.

DISCUSSION:

ESLM has been the grounds maintenance contractor for the past 6 years. The original contract was signed in 2008 and was extended, as allowed by the contract, for two subsequent years. In 2011 ESLM was once again awarded the contract which was extended another 2 years. Over the past six years ESLM has performed the duties of the ground maintenance contractor in a responsible and responsive manner. The company performs its duties professionally and safely.

ESLM's base bid for mowing services is \$19,840 which is less than was charged for service last year. The bid for the maintenance of Central Park, including mowing, fertilization, aeration, herbicide spraying, mulching, pruning and irrigation is \$15,705.

RECOMMENDATION:

Staff requests that Council award the Grounds Maintenance Service Contract, including the maintenance of Central Park, to Eastern Shore Landscape Management, Inc.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Flood Plain Ordinance – Set Public Hearing		AGENDA DATE: January 15, 2015
	SUBJECT/PROPOSAL/REQUEST: Schedule a public hearing regarding the revised Flood Plain Ordinance		ITEM NUMBER: 8B
	ATTACHMENTS: Draft Flood Plain Ordinance		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: Bob Panek, Interim Town Manager	

BACKGROUND:

FEMA updated the Flood Insurance Rate Maps which will become effective on May 18, 2015. As part of this process, the Town is required to adopt an updated Flood Plain Ordinance by March 2, 2015 and submit it to the FEMA Regional Office for approval. The adopted measures would be reviewed by the FEMA Regional Office and the Town would be notified when the measures are approved.

In August 2014, the Planning Commission reviewed the model ordinance provided by Mr. Charley Banks, NFIP Coordinator for the Virginia Department of Conservation & Recreation (DCR). As a Community Rating System (CRS) community, the Town is eligible for credit under the CRS program for enacting more restrictive flood plain management programs. The CRS provides insurance premium discounts to policyholders in the community. The Planning Commission reviewed the higher standards also provided by Mr. Banks and included a number of the standards in the draft Flood Plain Ordinance. Code Official Jeb Brady also recommended the requirement for mechanical units to be elevated.

Mr. Banks reviewed the first draft of the ordinance and suggested additional changes which have been incorporated into the final draft Flood Plain Ordinance. The Planning Commission reviewed these changes and has concurred.

DISCUSSION:

A public hearing must be held before the updated Flood Plain Ordinance can be adopted. The Planning Commission recommends a joint public hearing following by a joint meeting to streamline the approval process in order to meet the March 2, 2015 deadline.

RECOMMENDATION:

Staff requests Council review of the draft Flood Plain Ordinance and schedule a joint public hearing and meeting with the Planning Commission on February 3, 2015.

ARTICLE VI. Flood Plain District

AN ORDINANCE AMENDING ARTICLE VI, THE ZONING ORDINANCE OF CAPE CHARLES, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE TOWN OF CAPE CHARLES, Virginia, as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 10.1-600 et. seq.

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

- A. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Cape Charles and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the Town of Cape Charles by FEMA.

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with

the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of the Town of Cape Charles or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 1.4 – Records [44 CFR 59.22(a)(9)(iii)]

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

Section 1.5 - Abrogation and Greater Restrictions [44 CFR 60.1(b)]

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 1.6 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 1.7 - Penalty for Violations [44 CFR 60.2(e)]

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the Town of Cape Charles shall be guilty of the appropriate violation and subject to the penalties therefore.

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of the Town of Cape Charles are addressed in Section 2 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within

a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the Town of Cape Charles to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

DRAFT

ARTICLE II - ADMINISTRATION

Section 2.1 - Designation of the Floodplain Administrator [44 CFR 59.22(b)]

The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (A) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Town of Cape Charles Town Manager or Designee.
- (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (C) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

Section 2.2 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- (E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

(F) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).

(G) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

(H) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(I) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(J) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Cape Charles, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(K) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(L) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(M) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(N) Administer the requirements related to proposed work on existing buildings:

1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

(2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(O) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(P) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Cape Charles have been modified and:

(1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(Q) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(R) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Town of Cape Charles, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

(2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(C) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 1.5(C) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 2.4 - Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 2.5 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Town of Cape Charles where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

Section 2.6 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Section 2.7 – Submitting Technical Data [44 CFR 65.3]

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date

such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

Section 2.8 – Letters of Map Revision

When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision or a Letter of Map Revision.

Examples:

1. Any development that causes a rise in the base flood elevations within the floodway.
2. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12)*

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

Section 3.1 - Description of Special Flood Hazard Districts [44 CFR 59.1, 60.3]

A. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the Town of Cape Charles, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 18, 2015, and any subsequent revisions or amendments thereto.

The Town of Cape Charles may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Town of Cape Charles offices.

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. There are no floodways within Cape Charles.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Town of Cape Charles’ endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Article III Section 3.1 A 1 a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of

Article 4.

b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

2. The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone [44 CFR 60.3(c)]:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Cape Charles.

Development activities in Zones A1-30 and AE or AH, on the Town of Cape Charles' FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the *Town of Cape Charles'* endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

No new or substantially improved manufactured homes shall be built in the Special Flood Hazard Area.

3. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high

water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to two feet or greater above the base flood level.

During the permitting process, the Floodplain Administrator shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Prior to any new development in an approximate A zone, the floodway must be determined through a hydrologic study by a certified engineer using currently accepted methods. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

No new or substantially improved manufactured homes shall be built in the Special Flood Hazard Area.

4. The **AO Zone** on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 CFR 60.3(c)]:
 - a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
 - b. All new construction and substantial improvements of non-residential structures shall
 - 1) have the lowest floor, including basement, elevated to or above the flood

depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

- 2) together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
 - d. No new or substantially improved manufactured homes shall be built in the Special Flood Hazard Area.
5. The **Coastal A Zone** shall be those areas, as defined by the VA USBC, that are subject to wave heights between 1.5 feet and 3 feet, and identified on the FIRM as areas of **Limits of Moderate Wave Action (LiMWA)**. For these areas, the following provisions shall apply:

Buildings and structures within this zone shall have the lowest floor elevated to or above the base flood elevation plus two feet of freeboard, and must comply with the provisions in Article III, Section 3.1 A 2 and Article IV, Sections 4.2 and 4.3.

6. The **VE or V Zones** on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast. For these areas, the following provisions shall apply [44 CFR 60.3(e)]:
 - a. All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
 - 1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to two feet or greater above the base flood level; and,
 - 2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equalled or exceeded in any given year (one-percent annual chance).
 - b. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with

accepted standards of practice for meeting the provisions of Article III, Section A 6 a.

- c. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Administrator shall maintain a record of all such information.
- d. All new construction shall be located landward of the reach of mean high tide.
- e. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - 1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - 2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equalled or exceeded in any given year.
- f. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.
- g. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.
- i. No new or substantially improved manufactured homes shall be built in the Special

Flood Hazard Area.

Section 3.2 - Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

ARTICLE IV - DISTRICT PROVISIONS [44 CFR 59.22, 60.2, 60.3]

Section 4.1 – Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town of Cape Charles Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

4. Topographic information showing existing and proposed ground elevations.

Section 4.2 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required

agencies, and the Federal Emergency Management Agency.

- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- K. No new or substantially improved manufactured homes shall be built in the Special Flood Hazard Area.
- L. The following structures shall not be located within the Special Flood Hazard Area floodplain:
 - 1. Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
 - 2. Hospitals, nursing homes and housing likely to have occupants who may not be sufficiently mobile to avoid injury or death during a flood.
 - 3. Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before during and after a flood.
 - 4. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

Section 4.3 - Elevation and Construction Standards [44 CFR 60.3]

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 3.1 A 3, the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to two feet or greater above the base flood level. Mechanical units (AC/HVAC) must be located two feet or more above ground elevation.

B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to two feet or greater above the base flood level. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or

architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by Floodplain Administrator.

C. Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

g. Electrical panels are not permitted in space below the lowest floor.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 and section 4.3.
2. All recreational vehicles placed on sites must either
 - a. be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - b. meet all the requirements for manufactured homes in Section 4.3(D)(1) if in the AE zone, and Section 3.1.A.6.if in the VE zone.

Section 4.4 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

ARTICLE V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than

fifty (50) percent of its market value shall conform to this ordinance and the VA USBC.

- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

ARTICLE VI - VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]

Variations shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variations may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

DRAFT

GLOSSARY [44 CFR 59.1]

- A. Appurtenant or accessory structure - Accessory structures not to exceed 200 sq. ft.
- B. Base flood - The flood having a one percent chance of being equalled or exceeded in any given year.
- C. Base flood elevation - The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.
- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- F. Coastal A Zone - Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.
- G. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- H. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
- I. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- J. Existing construction - structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- K. Flood or flooding -
 - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 - c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the

surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- L. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- M. Flood Insurance Study (FIS) – a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- N. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- O. Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- P. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- Q. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.
- R. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- S. Historic structure - Any structure that is
1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the

- Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.
- T. Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.
- U. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:
- Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a Land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.
- Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.
- Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

- V. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- W. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- X. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- Y. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after February 2, 1983, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- Z. Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after February 2, 1983.
- AA. Pre-FIRM structures - A structure for which construction or substantial improvement occurred on or before February 2, 1983.
- BB. Recreational vehicle - A vehicle which is
1. built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. designed to be self-propelled or permanently towable by a light duty truck; and,
 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- CC. Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equalled or exceeded 25 percent of the market value of the building at the time of each flood event.

- DD. Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- EE. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.1 of this ordinance.
- FF. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- GG. Structure - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- HH. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- II. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:
1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

JJ. Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

KK. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE VII - ENACTMENT

ENACTED AND ORDAINED THIS ____ DAY OF _____, 20___. This ordinance shall become effective upon passage.

Signature

Title

Attested

 TOWN OF CAPE CHARLES	AGENDA TITLE: Virginia Port Authority (VPA) Aid to Local Ports Grant Request		AGENDA DATE: January 15, 2015
	SUBJECT/PROPOSAL/REQUEST: Authorize the Mayor to sign letter to VPA.		ITEM NUMBER: 8C
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Smitty Dize	REVIEWED BY: Bob Panek, Interim Town Manager	

BACKGROUND:

Every year during the General Assembly session, staff meets with the Virginia Port Authority (VPA) staff to ask informally for grant funds to be authorized to continue to improve our Harbor as part of the Harbor Redevelopment Plan. A date has not yet been set. Additionally, the VPA requires a letter signed by the Mayor by March 1st to officially request a new grant or carry-over an existing grant. The VPA Board typically considers these requests in May, with approved funding becoming available July 1.

Last year, the VPA approved a carryover of \$500K that the Town requested for Phase 3 of the offshore breakwaters and \$75K for the inshore wave attenuator and docks. This carryover was necessary because local matching funds were not available.

The VPA also awarded the Town a new grant of \$255K for a wave attenuator. This was requested as part of a proposed marine terminal project, but not authorized as such.

Previously, the VPA's policy required a 25% local funding match for projects costing \$500K or less, but a 50% match for anything greater than \$500K. This requirement made Phase 3 of the offshore breakwaters unaffordable for the Town, as the project is estimated to cost about \$860K (\$430K local match). Recently, however, the VPA has adopted an amended policy that all grants will require only a 25% match. This drops the local match for Phase 3 of the offshore breakwaters to \$215.2K.

Town Council has held several work sessions to discuss the protection of the Harbor and a variety of options have been explored.

DISCUSSION:

Two of five planned offshore breakwaters have been constructed. After considerable research, it has been determined that construction of the three remaining breakwaters would provide the best protection for the Harbor. The third breakwater is a priority project to better protect the Harbor from southwest swells.

The inshore wave attenuator/docks is still a viable project and staff is researching alternatives for this as well as other Harbor redevelopment projects.

At this time, the Town needs to request carryover for the total grant amount of \$830.2K to fund Phase 3 of the offshore breakwaters (\$645K), and the inshore wave attenuator/docks and other redevelopment projects (\$185.2K). Local matching funds must still be identified for these projects.

RECOMMENDATION:

Authorize the Mayor to send a letter to the VPA requesting carryover of the currently authorized grants as outlined above.

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Library Second Floor HVAC		AGENDA DATE: January 15, 2015
	SUBJECT/PROPOSAL/REQUEST: Award contract for the Installation of HVAC Unit(s) for Library Second Floor Level		ITEM NUMBER: 8D
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Dave Fauber	REVIEWED By: Bob Panek, Interim Town Manager	

BACKGROUND:

Staff published an Invitation for Bids (IFB) for the design and installation of the Library Second Floor HVAC on December 10, 2014. Proposals were due and opened on January 8, 2015. The Herbert Senn Co., Inc. was the sole bidder. The Director of Public Works reviewed the bid proposal with the Town Manager.

DISCUSSION:

Herbert Senn Co. is a known and respected company that has been doing business on the Eastern Shore for many years. The proposed price of \$7,585 fits what was budgeted for this project. The company performs its duties professionally and safely. Past work for the town includes the new bathroom at the Civic Center.

This amount does not include electrical connections. The electrical will be under a separate contract. With \$2,415 remaining for the electrical portion of the project we should come in under budget.

Proposed Amount	\$ 7,585
Budgeted	\$10,000

RECOMMENDATION:

Staff requests that Council award the Library Second Floor HVAC Contract to The Herbert Senn Co.