



**TOWN COUNCIL
Regular Meeting
Civic Center
September 17, 2015
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 Brown, Godwin, and Wendell, and Councilwoman Natali. Councilman Bennett was not in attendance. Also in attendance were Assistant Town Manager Bob Panek and Town Clerk Libby Hume. The Department Heads were in attendance as well as nine members of the public.

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

RECOGNITION OF VISITORS / PRESENTATIONS

Mayor Proto read a commendation awarded to Mr. Earnest and Ms. Kathleen Coalter in recognition for their generosity and kindness in donating flags to be provided to citizens with motorized wheelchairs and bicycles to increase visibility and safety. Mayor Proto added that he would personally deliver the Certificate of Commendation to the Coalters.

PUBLIC COMMENTS:

Cela Burge, 117 Mason Avenue

Ms. Burge addressed the Council regarding a number of items as follows: i) She expressed her appreciation to Earnest and Kathleen Coalter for their contribution of safety flags to be distributed to citizens with wheel chairs and bicycles. She added that the Coalters were relatively new citizens to the town who must have seen a need. She travelled in and out of town every day and saw the citizens in their wheel chairs and she appreciated what the Coalters did and wanted to go on record with her comments; ii) The town and staff did a great job with the activities throughout the summer. She stated that it was a pleasure to live in the town and that she was proud to have lived here for the last 18 years. She added that she had seen a lot of change over the years; iii) She commented on the cleanliness of the town adding that she was pleasantly surprised with the variety of things going on. She was very thankful for the Public Works crew and all the town staff and what they did. The beach looked great as well as the rest of the town and she wanted to go on record thanking the staff for that; and iv) She often went to the town's website and was very pleased in the amount of information that was provided to the citizens. It was difficult for her to get to the meetings at 6:00 p.m. She came this evening primarily because of the Coalters. She had the opportunity to look at other information that was routinely provided either on the website or as part of the details of the agendas and minutes. She thought staff was doing a good job on the website and she appreciated it for those citizens who could not attend the meetings.

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

CONSENT AGENDA – APPROVAL OF AGENDA FORMAT:

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

CONSENT AGENDA – APPROVAL OF MINUTES:

The Town Council reviewed the minutes of the August 20, 2015 Regular Meeting, the August 20, 2015 Executive Session, and the September 3, 2015 Work Session.

Motion made by Councilman Godwin, seconded by Councilwoman Natali, to approve the minutes from the August 20, 2015 Regular Meeting, the August 20, 2015 Executive Session, and the September 3, 2015 Work Session as presented. The motion was approved by unanimous vote.

DEPARTMENT REPORTS:

A. *Treasurer's Report:*

Treasurer Deborah Pocock was not in attendance. Recreation/Community Events Coordinator Jen Lewis reviewed the Treasurer's report dated August 31, 2015 which showed the Total Cash on Hand of \$1,206,629, the Total Cash Held in Reserve was \$1,464,790 and the Total Cash – All Accounts was \$2,671,419. Jen Lewis went on to review the Debt Service, Revenue vs. Expenditures, and the Three Year Revenue Comparison.

Assistant Town Manager Bob Panek reviewed the Capital Improvement Project Tracking Report regarding the Central Park Playground Equipment Phase 1, the Cape Charles Multi-Use Trail Phase 2, the Harbor Breakwater, and the Pine Street Parking/Waste Management Design. Bob Panek informed the Council that, earlier today, notification was received from the United States Department of Agriculture Rural Development (USDA RD) representative that no grants were approved for this fiscal year. The town had applied for grants to help fund a new police vehicle, a new vehicle for the code official, a tractor for public works, and a new financial software system. 100% loan financing was available for all items. More details would be provided for Council review at the October meeting.

Motion made by Vice Mayor Bannon, seconded by Councilman Brown, to accept the Treasurer's Report as submitted. The motion was approved by unanimous vote.

B. *Planning Commission and Boards:*

Town Planner Larry DiRe reported that the dredge project started today beginning with pipe installation. The project was scheduled for completion by December. There was some discussion regarding the pipe obstructing the golf cart and pedestrian access to the harbor.

C. *Other Departments:*

Code Enforcement:

Code Official Jeb Brady reported the following: i) He was reviewing the submitted plan for the Strawberry Street Station. A VDOT site plan approval letter was still needed; and ii) A number of dilapidated structures in town were being sold and the new owners were planning to renovate the buildings. Two applications were reviewed by the Historic District Review Board for properties under code enforcement. The estimated construction costs for each building was approximately \$250K.

Town Harbor:

Acting Harbor Master Barbara Michaux stated that she did not have anything to add to her written report.

Councilman Wendell asked about the process and timeframe for hiring a new harbor master. Mayor Proto responded that the process was currently on hold and that a work session would be scheduled in October to discuss the harbor.

Cape Charles Memorial Library:

Librarian Ann Rutledge stated that summer was over and added that she did not have anything to add to her written report. There were no questions or comments from Council.

Police Department:

Police Chief Jim Pruitt reported the following: i) He taught an active shooter class at the Cape Charles Christian School for the teachers and administrative staff; and ii) Sergeant Chelsea Pfeiffer would be attending the Virginia FBI Academy in Richmond from October 5 through October 9. Chief Pruitt asked how the USDA RD grant issue would affect the new police vehicle

which had been ordered. Bob Panek stated that Deborah Pocock was obtaining more information and would talk to him about it next week.

Public Utilities/Public Works Departments:

Public Utilities/Public Works Director Dave Fauber was not in attendance.

Bob Panek reviewed the production numbers for water and wastewater noting that for the first time in many months, the numbers for water production exceeded the numbers for wastewater and added that the manhole rehabilitation project was about 75% complete but appeared to be helping with stormwater infiltration.

Vice Mayor Bannon asked if any applications had been received for the public works maintenance worker position. Town Clerk Libby Hume informed Council that two applications had been received to date.

Recreation Department:

Recreation/Community Events Coordinator Jen Lewis stated that she was on vacation last week and was working to finalize a number of events/activities.

Vice Mayor Bannon complimented Jen Lewis on her 2015 Fall Programs flyer. Jen Lewis informed Council that Assistant Town Clerk Amanda Hurley created the recreation flyers for her.

OLD BUSINESS

There was no Old Business to review.

NEW BUSINESS:

A. *Constitution Week Proclamation:*

Mayor Proto stated that Constitution Week was an American observance to commemorate the adoption of the United States Constitution and the observance ran annually from September 17 to September 23. The purpose of the observation week was to emphasize citizens' responsibilities for protecting and defending the Constitution, preserving it for posterity; inform the people that the Constitution was the basis for America's great heritage and the foundation for our way of life; and encourage the study of the historical events which led to the adoption of the Constitution on September 17, 1787. The Town adopted a proclamation each year acknowledging Constitution Week and this year marked the 228th anniversary of the actual signing of the Constitution.

Mayor Proto read Proclamation 20150917 Designating September 17-23, 2015 as Constitution Week in the Town of Cape Charles, Virginia.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Proclamation 20150917 Designating September 17-23, 2015 as Constitution Week in the Town of Cape Charles. The motion was approved by unanimous vote.

B. *Cape Charles Community Trail Phase 3 Grant:*

Bob Panek stated that Phase 2 of the Cape Charles Community Trail project should exhaust nearly all the awarded grant funding. Applications for the FY 2017 Transportation Alternatives Program (TAP) grants were due to VDOT by November 1, 2015. Phase 3 was planned for South Peach Street and any deferred portion of Phase 2 and would connect the Central Park segment to Mason Avenue, one block east of the planned Strawberry Street Station pedestrian plaza. The current cost estimate was \$1,021K - \$817.2K from TAP and \$204.3K Town match. The estimate would be reduced if favorable bids were received for the restructured Phase 2 procurement. A grant application had been prepared for Phase 3 and a resolution was required to accompany the application to demonstrate the governing body's support for the project.

There was some discussion regarding the loss of parking in the median of Peach Street between Mason and Randolph Avenues. It was explained that the vehicles were currently parking illegally in the median but parking would still be available along the curbs after Phase 3 was completed. Councilman Wendell asked for the numbers of parking spots which would be lost with this next phase. Mayor Proto asked Larry DiRe to determine the number of cars currently parking in the median and the estimated number of legal parking spaces after Phase 3 was completed.

Motion made by Councilman Brown, seconded by Councilwoman Natali, to adopt Resolution 20150917 Virginia Transportation Alternatives Program Project Endorsement Resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Brown, yes; Godwin, yes; Natali, yes; Wendell, yes.

C. Proposed Modifications to Town Code:

Bob Panek stated that several proposed revisions addressing outdated, unnecessary and overly restrictive provisions of the Town Code law were reviewed at the September 3, 2015 Work Session. There was general consensus on the majority of the revisions with Council directing additional research related to the personal property/license tax implications for unlicensed motor vehicles and mopeds, as well as the Americans with Disabilities Act (ADA) requirements for power mobility devised on the beach and boardwalk.

In regards to § 42-43 relating to a license tax on unlicensed motor vehicles, staff confirmed with the treasurer that the town utilized the county's personal property tax records which only included vehicles licensed with the Division of Motor Vehicles. Staff recommended deletion of § 42-43.

In regards to §§ 14-9 and 14-12 relating to motorized vehicles on the beach and boardwalk, staff confirmed that the ADA required that power-driven mobility devices be allowed, unless a particular type of device could not be accommodated because of legitimate safety requirements. These sections of the Town Code were revised to allow these devices, with the exception of golf carts, on the boardwalk. A motorized vehicle the size of a golf cart would be unsafe with pedestrians, bicycles, baby strollers, roller blades, wheel chairs, etc. sharing a pathway constrained to a 10' width.

Motion made by Vice Mayor Bannon, seconded by Councilman Brown, to adopt Ordinance 20150917 Revising Various Sections of the Town Code. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Brown, yes; Godwin, yes; Natali, yes; Wendell, yes.

D. Confirmation of Terms and Authorization for Closing on Sale of Tax Parcels 83A3-19 and 83A3-20 to South Port Investors, LLC, Previously Approved by Town Council by Ordinance 20110414:

Bob Panek stated that South Port Investors, LLC (SPI) currently leased five parcels (Lots 12, 14, 17, 19, and 20) from the town under two separate leases. The leases contained acquisition rights for all parcels except lot 14 and were approved by the Town Council by Ordinance on April 14, 2011. SPI notified the town of their interest in exercising their right to purchase lots 19 and 20 and of their intention to purchase lots 12 and 17 within five months of closing on the first two lots. SPI provided appraisals of the four lots. Town staff requested an independent review of the appraisals which valued lot 20 at \$155K higher than the appraisal provided by SPI. SPI accepted the higher valuation of the property, subject to a title review, negotiation of utility easements for the Town, and a rapid closing. The property valuations are as follows: Lot 12 = \$261K; Lot 17 = \$172K; Lot 19 = \$382K; and Lot 20 = \$245K.

Bob Panek stated that although Councilman Bennett was out of town and unable to attend this evening, he had submitted comments via email in support of the sale of the parcels to South Port Investors, LLC.

Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Resolution #20150917 Confirming Terms and Authorization for Closing on Sale of Tax Parcels 83A3-19 and 83A3-20 to South Port Investors, LLC, Previously Approved by Town Council Ordinance 20110414. The motion was approved by majority vote. Roll call vote: Bannon, yes; Brown, yes; Godwin, yes; Natali, yes; Wendell, abstained.

MAYOR AND COUNCIL COMMENTS

Councilman Brown noted that former Councilman Mike Sullivan and former Treasurer Paul Skolnick had both been placed under hospice care.

Vice Mayor Bannon, Councilwoman Natali and Councilmen Godwin and Wendell did not have any additional comments.

Mayor Proto stated that it was a great summer season which was winding down. He hoped to keep it going.

ANNOUNCEMENTS

- September 22, 2015 – Mayor’s Office Hours, 6:00 PM – 7:00 PM.
- September 26, 2015 – Historic Sears Kit Homes Tour
- October 1, 2015 – Town Council Work Session, 6:00 PM.
- October 8, 2015 – Town Council Work Session, 6:00 PM (tentative).
- October 9-11, 2015 – Birding & Wildlife Festival
- October 12, 2015 – Town Offices closed for Columbus Day.
- October 13, 2015 – Mayor’s Office Hours, 2:00 PM – 3:00 PM.
- October 15, 2015 – Town Council Regular Meeting, 6:00 PM.

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

Mayor Proto

Town Clerk

**MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
August 31, 2015**

CASH POSITION

<u>Cash on Hand</u>	<u>7/31/2015</u>	<u>8/31/2015</u>	<u>Increase/(Decrease)</u>
Shore Bank Checking Account	\$ 246,709	\$ 409,530	\$ 162,821
Shore Bank Money Market Account	\$ 550,497	\$ 400,638	\$ (149,859)
LGIP Account 1 - Unrestricted	\$ 97,470	\$ 97,484	\$ 14
LGIP Account 2 - Unrestricted	\$298,934	\$298,977	\$ 43
Total Cash On Hand	\$ 1,193,610	\$ 1,206,629	\$ 13,019

<u>Restricted and Reserved Cash Balances</u>	<u>7/31/2015</u>	<u>8/31/2015</u>	<u>Increase/(Decrease)</u>
Shore Bank Savings Account - Facility Fees Reserved (Utilities)	\$234,471	\$234,471	0
Shore Bank Checking Account - Police Funds	\$431	\$431	0
LGIP Account 2 - Restricted for USDA Police Vehicle loans	\$10,875	\$10,875	0
PNC Account- 2013 Bond Proceeds - Principal	\$958,993	\$958,993	0
PNC Account- 2013 Bond Proceeds - Interest	\$2,284	\$2,433	149
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,584	\$257,586	3
Total Cash Held in Reserve	\$ 1,464,637	\$ 1,464,790	\$ 152
Total Cash - All Accounts	\$ 2,658,248	\$ 2,671,419	\$ 13,171

DEBT SERVICE

<u>Next Debt Service Payments:</u>	<u>Due Date</u>	<u>Amount</u>
2010C General Obligation & Revenue Bond	10/20/2015	\$120,586.73
USDA Loan 5 D	11/6/2015	\$3,392.00

REVENUE VS. EXPENDITURES

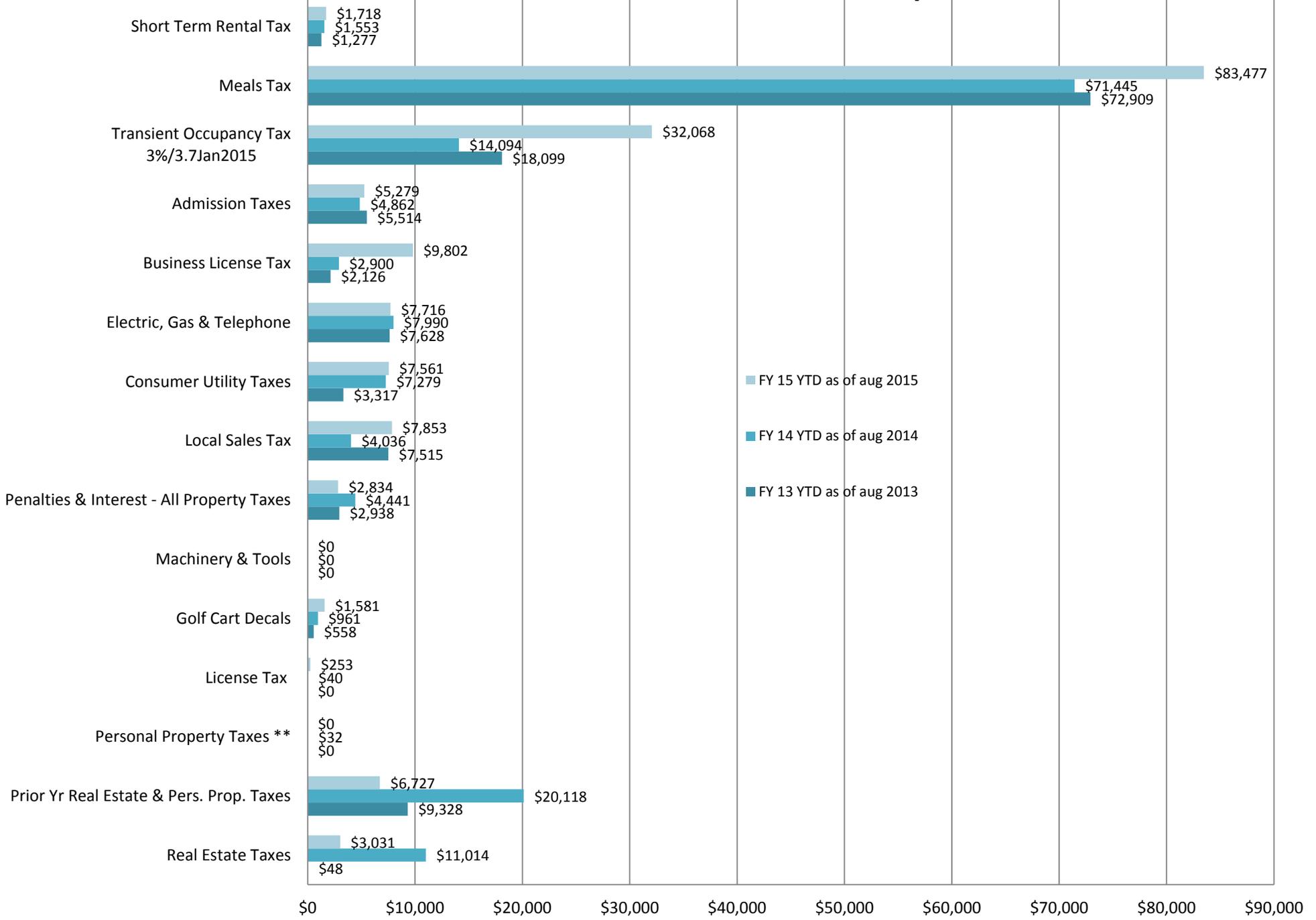
FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY15
GENERAL						
REVENUES	141,144	264,501	238,119	(26,383)	4,158,455	5.73%
EXPENDED	178,021	352,405	511,366	158,961	4,050,514	12.62%
NET	(36,877)	(87,903)	(273,247)	(185,344)	107,941 surplus to harbor	
PUBLIC UTILITIES						
REVENUES	132,803	307,190	340,767	33,577	1,723,011	19.78%
EXPENDED	69,664	245,229	180,511	(64,718)	1,723,011	10.48%
NET	63,139	61,961	160,256	98,295	0	
HARBOR						
REVENUES	130,793	301,229	310,580	9,351	1,965,837	15.80%
EXPENDED	198,578	231,160	310,028	78,869	2,073,778	14.95%
NET	(67,786)	70,069	552	(69,517)	(107,941)	
SANITATION						
REVENUES	14,901	29,674	31,619	1,945	175,300	18.04%
EXPENDED	15,101	13,740	15,258	1,518	175,300	8.70%
NET	(200)	15,934	16,361	427	0	

FY 2016 Capital Improvement Project Tracking Report

As of:
8/31/2015

	<u>FY16 Status or Start Date</u>	<u>Percent of Completion</u>	<u>FY16 Budgeted</u>	<u>FY16 QTR 1 Expended</u>	<u>FY16 QTR 2 Expended</u>	<u>FY16 QTR 3 Expended</u>	<u>FY16 QTR 4 Expended</u>	<u>FY16 YTD Expended</u>	<u>(Over)/Under Budget</u>
General Fund									
Enterprise Management System (Finance)	September/October order date	0%	\$ 55,069	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,069
Replacement Police Vehicle	September/October order date	0%	\$ 26,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 26,000
Police vehicle cameras & software		0%	\$ 10,600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,600
Code Enforcement Vehicle	TBDelivered in August	103%	\$ 25,302	\$ 26,125	\$ -	\$ -	\$ -	\$ 26,125	\$ (823)
Public Works Tractor	September/October order date	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,000
Mason St Parking Improvements		46%	\$ 20,000	\$ 9,216	\$ -	\$ -	\$ -	\$ 9,216	\$ 10,784
Sidewalk Repair Program (VDOT grant 50%)		0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Pine St Parking/Waste Mgmt Design		0%	\$ 60,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 60,000
Strawberry Street Plaza Purchase/Improvements		0%	\$ 70,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 70,000
ArtWalk - Wayfinding Signage		0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Central Park Playground Equipment (phase 1)		0%	\$ 30,000	\$ 103	\$ -	\$ -	\$ -	\$ 103	\$ 29,897
Cape Chas Multi-Use Trail Phase 2		0%	\$ 1,570,000	\$ 4,486	\$ -	\$ -	\$ -	\$ 4,486	\$ 1,565,514
Security Cameras for Beach, Park, Civic Center		0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
subtotal			\$ 1,941,971	\$ 39,930	\$ -	\$ -	\$ -	\$ 39,930	\$ 1,846,972
Water Fund									
Automatic Flush (2 & 3 of 5)	Start in August	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Valve Exerciser (shared cost)	Complete	100%	\$ 3,500	\$ 3,400	\$ -	\$ -	\$ -	\$ 3,400.00	\$ 100
subtotal			\$ 3,500	\$ 3,400	\$ -	\$ -	\$ -	\$ 3,400	\$ 100
Sewer Fund									
Valve Exerciser (shared cost)	Complete	100%	\$ 3,500	\$ 3,400	\$ -	\$ -	\$ -	\$ 3,400	\$ 100
Plum & Mason Pump Station Engineering		0%	\$ 165,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 165,000
Manhole Rehab (if reappropriated)		0%	\$ 41,792	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 41,792
subtotal			\$ 210,292	\$ 3,400	\$ -	\$ -	\$ -	\$ 3,400	\$ 206,892
TOTAL		2%	\$ 2,155,763	\$ 46,730	\$ -	\$ -	\$ -	\$ 46,730	\$ 2,053,964

Three Year Revenue Comparison



Town of Cape Charles Proclamation 20150917

Designating September 17-23, 2015 as “Constitution Week” in the Town of Cape Charles, Virginia

WHEREAS, September 17, 2015, marks the two hundred twenty-eighth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

NOW, THEREFORE I, George Proto, by virtue of the authority vested in me as Mayor of the Town of Cape Charles, Virginia, do hereby proclaim the week of September 17 through 23, 2015 as

Constitution Week

in the Town of Cape Charles and call upon all the citizens to reaffirm the ideals that the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

In witness whereof, I have hereunto set my hand and caused the official seal of the Town of Cape Charles to be affixed this 17th day of September, 2015.

Mayor George Proto

ATTEST:

Town Clerk



*Municipal Corp. of
Cape Charles*

The undersigned Clerk of the Council of the Town of Cape Charles, Virginia (the “Town”), hereby certifies that:

1. A meeting of the Council of the Town (the “Council”) was duly called and held on September 17, 2015 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Ordinance 20150917 (the “Ordinance”) of the Town entitled as recorded in full in the minutes of the Meeting, duly adopted by a majority of the members of the Council present and voting during the Meeting.
3. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Ordinance as set forth below:

<u>Member Name</u>	<u>Present</u>	<u>Absent</u>	<u>Voting</u>		
			<u>Yes</u>	<u>No</u>	<u>Abstaining</u>
George Proto, Mayor	X				
Chris Bannon	X		X		
Steve Bennett		X			
Charles Brown	X		X		
Tom Godwin	X		X		
Joan Natali	X		X		
Frank Wendell	X		X		

4. The Ordinance has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

Witness my signature and the seal of the Town of Cape Charles, Virginia this 17th day of September 2015.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

ORDINANCE 20150917

REVISING VARIOUS SECTIONS OF THE TOWN CODE

WHEREAS, certain sections of the Town Code are inconsistent with implementation of the Cape Charles Community Trail; and

WHEREAS, certain sections of the Town are inconsistent with provisions of the Americans with Disabilities Act; and

WHEREAS, certain sections of the Town Code are inconsistent with current harbor management practice; and

WHEREAS, certain sections of the Town Code are outdated; and

WHEREAS, certain sections of the Town Code contain unnecessary restrictions that may inhibit the enjoyment of residents and visitors; now

THEREFORE, BE IT ORDAINED, by the Town Council of Cape Charles, this 17th day of September 2015, that various sections of the Town Code be revised per the attached.

Adopted by the Town Council of Cape Charles on September 17, 2015

By: _____
Mayor

ATTEST:

Town Clerk

1. **Delete Section 42-43. – (License Tax on Unlicensed Motor Vehicles)**

2. **Sec. 66-57. - Amount of levy. (Transient Occupancy Tax)**

There is hereby levied and imposed on each transient a tax equivalent to three and seven-tenths percent of the total amount paid for lodging, by or for any such transient, to any hotel, motel, bed and breakfast, campground, and other facilities offering guest rooms rented out for continuous occupancy for 30 consecutive days or less. The revenue collected from the transient occupancy tax shall be allocated for tourism-related initiatives.

3. **Sec. 26-36. - Open burning regulated. (Open Burning)**

(a) No property owner or other person shall cause or permit open burning or the use of a special incineration device:

- (1) On any Town-owned property without prior approval from the Town Manager.
- (2) Within 500 feet of any off-site or outside building or other combustible structure;
- (3) Of a diameter of more than four feet in a residential area; or
- (4) Utilizing any form of outside accelerant except as a means of starting the burn process.

(b) No property owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood, bulk polyethylene sheeting, or other rubber or petroleum materials. The agricultural practice of in-field row-by-row burning of polyethylene sheeting or other plastic materials by a mechanical burner shall be exempted from this section; however, open burning of bulk polyethylene or plastic sheeting shall be prohibited. Bona fide firefighting instruction at firefighting training schools having permanent facilities shall be exempted from this section.

(c) When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the fire code official or his designee is authorized to order extinguishment of the open burning operation.

Sec. 26-39. - Certain open burning permitted.

(a) Nothing in this article shall be construed to prevent:

- (1) Open burning pursuant to a permit issued by the Virginia Department of Environmental Quality;
- (2) The destruction of any combustible liquid or gaseous material by burning in a flare stack;
- (3) The disposal of debris waste and land-clearing refuse by open burning on the site of clearing operations at least 500 feet away from off-site occupied building provided that prevailing winds are away from any town or built-up area; or
- (4) Open burning of forests and fields in accordance with forest management and agricultural practices approved by the State Air Pollution Control Board provided that the burn area is at least 1,000 feet away from any occupied building unless the occupant has granted prior permission. All burning activities specified in this section shall be attended by a responsible agent of the owner or contractor.

(b) Nothing in this article shall be construed to prohibit camp fires, ceremonial fires, fires for the outdoor non-commercial preparation of food, and fires for the purpose of warming outdoor workers, provided that these fires be contained so as to not allow the potential spread of fire. The materials specified in applicable sections above shall not be burned and that such fires shall be attended at all times. Notice of open fires specified in section 26-40, notifications required, shall not be required for the fires enumerated in this subsection.

4. Sec. 42-100. - Where operation permitted. (Bicycles)

All bicycles shall be operated on the right hand side of the street in single file only and shall not be operated on the sidewalks or pedestrian paths, unless otherwise indicated or directed by the police department. Bicycles may be operated on the Cape Charles Community Trail.

Sec. 42-108. - Removal of frame number.

It shall be unlawful and a class 2 misdemeanor for any person to remove, change, alter, or mutilate any bicycle or moped frame number.

Sec. 42-109. - Penalty for violations of article.

Unless otherwise specified, any person violating any provision of this article shall, upon conviction thereof, be fined not more than \$25.00.

Delete Sections 42-109 through 42-115.

Delete Sections 42-200 through 42-202.

5. Delete Sections 14.2, 14.3, 14.7 and 14.13.

Sec. 14-8. - Placing obstructions on beach.

It shall be unlawful for any person to put, place or set any equipment, such as dugouts, chairs, umbrellas, windbreaks, surfboards, air floats, kayaks, rafts, boats, personal watercraft or similar paraphernalia not actually occupied or engaged, or to build or erect any fence or other obstruction, on any public beach, so as to obstruct, impede or retard the free and unconstrained use and occupancy of such beach by the public.

Sec. 14-9. - Operating vehicles on beach.

(a) It shall be unlawful for any person to operate or drive a vehicle of any kind, including, but not limited to motor vehicles, bicycles, tricycles and similar devices, but not including wheelchairs and other power-driven mobility devices, on the public beaches within the town.

(b) Town vehicles operated while cleaning or working on the beach, town police and emergency vehicles, and other governmental vehicles operating under proper jurisdiction shall be exempt from the application of this section.

Sec. 14-12. - Driving motor vehicles on boardwalk.

(a) It shall be unlawful for any person to drive or otherwise operate any motor-propelled vehicle, other than a wheelchair or other power-driven mobility devices, upon the boardwalk along the Chesapeake Bay. Golf carts used as mobility devices are prohibited due to safety considerations.

(b) Town vehicles operating while cleaning or working on the boardwalk, town police and emergency vehicles, and other governmental vehicles operating under proper jurisdiction shall be exempt from the application of this section.

Sec. 14-15. - Restriction on use of harbor catwalks, walkways, etc.

No nets, crab pots, baskets, barrels, dredges or any other equipment or commodity shall be stored, piled or stacked on the catwalks or walkways on the perimeter of the harbor or lands surrounding the harbor, except upon approval of the harbormaster.

Sec. 14-17. - Removal of sand from shores, beaches, etc.

In order to conserve the beaches and shores in the town and to protect those areas adjacent to the beaches and shores, it shall be unlawful for any person to carry away or remove, or to cause to be carried away or removed, any sand from the shores, beaches or dunes or high

land along the shores, beaches or dunes in the town; provided, however, that if it shall satisfactorily appear to the town manager or proper authority that the removal of sand, in any instance, will not be harmful to the conservation and protection of the beaches and shores or property adjacent thereto, a permit for such removal may be granted. Removal under such permit shall not constitute a violation of this section.

Sec. 14-18. - Designation and marking of swimming areas.

The town council may designate areas for public swimming or public bathing and to mark such areas with buoys which comply with state and federal laws or with the rules and regulations of the appropriate federal and state agencies and to place the same offshore.

Sec. 14-19. - Unsafe swimming areas.

The town manager may prohibit swimming in such areas or places as may be determined to be unsafe. Areas determined to be unsafe shall be designated with appropriate markers.



*Municipal Corp. of
Cape Charles*

The undersigned Clerk of the Council of the Town of Cape Charles, Virginia (the “Town”), hereby certifies that:

1. A meeting of the Council of the Town (the “Council”) was duly called and held on September 17, 2015 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Resolution 20150917 (the “Resolution”) of the Town entitled as recorded in full in the minutes of the Meeting, duly adopted by a majority of the members of the Council present and voting during the Meeting.
3. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Resolution as set forth below:

<u>Member Name</u>	<u>Present</u>	<u>Absent</u>	<u>Voting</u>		
			<u>Yes</u>	<u>No</u>	<u>Abstaining</u>
George Proto, Mayor	X				
Chris Bannon	X		X		
Steve Bennett		X			
Charles Brown	X		X		
Tom Godwin	X		X		
Joan Natali	X		X		
Frank Wendell	X		X		

4. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

Witness my signature and the seal of the Town of Cape Charles, Virginia this 17th day of September 2015.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

RESOLUTION NO. 20150917

**VIRGINIA TRANSPORTATION ALTERNATIVES PROGRAM
PROJECT ENDORSEMENT RESOLUTION
TOWN OF CAPE CHARLES**

WHEREAS, the Town Council of Cape Charles has adopted a Master Plan to construct, illuminate and landscape a Multi-Use Trail to provide the public the ability to walk or otherwise transit safely between the historic district, business district, beach, Central Park and other areas of Town; and

WHEREAS, the Multi-Use Trail is a priority of the adopted Comprehensive Plan; and

WHEREAS, the Town has completed Phase 1 - Central Park and is about to commence construction of Phase 2 - North Peach Street and Washington Avenue; and

WHEREAS, the Town Council desires to complete Phase 3 - South Peach Street and any deferred portion of Phase 2; and

WHEREAS, Commonwealth Transportation Board procedures require the Town to adopt a resolution requesting Virginia Department of Transportation Program funding for a Transportation Alternatives Project; now

THEREFORE, BE IT RESOLVED, that the Town of Cape Charles requests the Commonwealth Transportation Board establish a project for the completion of the *Cape Charles Multi-Use Trail along Phase 3 – South Peach Street and any deferred portion of Phase 2 - North Peach Street and Washington Avenue*; and

BE IT FURTHER RESOLVED, that the Town of Cape Charles hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right of way, and construction of this project in the amount not to exceed \$204,294 in cash and in-kind, and that, if the Town subsequently elects to cancel this project the Town hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation.

Adopted by the Town Council of Cape Charles on this 17th day of September, 2015.

Mayor

ATTEST: _____
Clerk of the Council



*Municipal Corp. of
Cape Charles*

The undersigned Clerk of the Council of the Town of Cape Charles, Virginia (the “Town”), hereby certifies that:

1. A meeting of the Council of the Town (the “Council”) was duly called and held on September 17, 2015 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Resolution 20150917A (the “Resolution”) of the Town entitled as recorded in full in the minutes of the Meeting, duly adopted by a majority of the members of the Council present and voting during the Meeting.
3. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Resolution as set forth below:

<u>Member Name</u>	<u>Present</u>	<u>Absent</u>	<u>Voting</u>		
			<u>Yes</u>	<u>No</u>	<u>Abstaining</u>
George Proto, Mayor	X				
Chris Bannon	X		X		
Steve Bennett		X			
Charles Brown	X		X		
Tom Godwin	X		X		
Joan Natali	X		X		
Frank Wendell	X				X

4. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

Witness my signature and the seal of the Town of Cape Charles, Virginia this 17th day of September 2015.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

RESOLUTION 20150917A

RESOLUTION CONFIRMING TERMS AND AUTHORIZATION FOR CLOSING ON SALE OF TAX PARCELS 83A3-19 AND 83A3-20 TO SOUTH PORT INVESTORS, L.L.C., PREVIOUSLY APPROVED BY TOWN COUNCIL ORDINANCE 20110414.

WHEREAS, the Town of Cape Charles, Virginia (the “Town”), pursuant to Ordinance 20110414 adopted on April 14, 2011 (the “Ordinance”), authorized certain amendments to the Parcel 12 Lease and the Parcel 14 Lease, as defined the Ordinance;

WHEREAS, the Parcel 14 Lease as amended allows South Port Investors, L.L.C. (“South Port”) to acquire Tax Parcel 83A3-19 (“Parcel 19”) and 83A3-20 (“Parcel 20”) from the Town at a purchase price equal to the Parcels’ appraised values, among other terms set forth therein;

WHEREAS, South Port has exercised its acquisition rights with respect to Parcels 19 and 20; and

WHEREAS, the Town and South Port have agreed to the values contained in an Appraisal Review dated August 21, 2015 from H. Glenn James, a licensed real estate appraiser with Commercial First Appraisers, LLC, in which Mr. James reviewed an appraisal from Kendall C. Bradley & Associates, Inc. dated May 22, 2015 and confirmed a value of \$382,000.00 for Parcel 19 and recommend a value of \$245,000.00 for Parcel 20.

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

1. **Authorization for Closing.** The Council hereby authorizes the Mayor and the Town Manager, either of whom may act, to take all actions necessary or proper to complete the sale of Parcels 19 and 20 to South Port pursuant to the foregoing terms, including without limitation signing and delivering such deeds, affidavits, agreements, and other documents as may be required in connection therewith.

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

3. **Effective Date.** This Resolution shall be effective from the date of its adoption. .

Adopted: September 17, 2015.

By: _____
Mayor of the Town of Cape Charles, Virginia

ATTEST:

Clerk of the Town of Cape Charles, Virginia