



**TOWN COUNCIL
Regular Meeting
Civic Center
February 18, 2016
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 Town Manager Brent Manuel, Treasurer Deborah Pocock, Planner Larry DiRe and Town Clerk Libby Hume. The majority of the Department Heads were in attendance as well as 11 members of the public.

Mayor Proto called for a moment of silence followed by the recitation of the Pledge of Allegiance.

RECOGNITION OF VISITORS / PRESENTATIONS

- A. *Eastern Shore of Virginia Tourism Commission Presentation – Kerry Allison*
Eastern Shore of Virginia Tourism Commission Executive Director Kerry Allison gave a presentation regarding the tourism economy on the Eastern Shore. (Please see attached.)
- B. *Proclamation for Paul Skolnick*
Mayor Proto read Proclamation 20160218 in Memory of Paul W. Skolnick. (Please see attached.)

Motion made by Councilman Brown, seconded by Councilman Godwin, to adopt Proclamation 20160218 in Memory of Paul Skolnick.

- C. *Proclamation for Michael Sullivan*
Mayor Proto read Proclamation 20160218A in Memory of Michael Sullivan. (Please see attached.)

Motion made by Councilman Godwin, seconded by Councilwoman Natali, to adopt Proclamation 20160218A in Memory of Michael Sullivan.

PUBLIC COMMENTS:

Wayne Creed, 548 Monroe Avenue

Mr. Creed addressed Council as a representative of Arts Enter. The play “*Barefoot in the Park*” was held over the weekend and Mr. Creed thanked the following: Mayor and Mrs. Proto for their assistance with the sets; Vice Mayor Bannon for advertising in his B&B and supplying hospitality services for the out-of-town attendees; Councilwoman Natali for advertising the event in the *Cape Charles Happenings*; the Town of Cape Charles and other volunteers. The Town’s support of the Arts Enter was appreciated and Mr. Creed asked Council to keep Arts Enter in mind during the upcoming budget season.

Bill Prickett, 210 Tazewell Avenue

Mr. Prickett began by stating that Cape Charles was a great town and how fortunate he felt to live here. He continued to thank the Town Council and Mayor for their great job in their service to the town and making decisions, although sometimes contentious. He also thanked the town staff and departments for doing a great job. Mr. Prickett continued to address Council regarding the following: i) There were a number of ceiling lights out at the Central Park Gazebo which needed to be replaced and some of the balusters and other parts of the Gazebo needed repair; and ii) Parking – He was against any kind of angled parking on the street and urged Council to do a complete study

and examine all options regarding the parking along Bay Avenue. He stated that he did not think there was a problem on Bay Avenue but understood the concern of people living close to the beach, the congestion during the summer and competition for parking spaces and added that it was part of living at the beach. He asked that Council examine the issue and not do anything hasty.

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 Councilman Brown, seconded by Councilwoman Natali, 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 January 14, 2016 Executive Session, the January 21, 2016 Regular Meeting, and the February 4, 2016 Work Session.

Motion made by Vice Mayor Bannon, seconded by Councilman Brown, to approve the minutes from the January 14, 2016 Executive Session, the January 21, 2016 Regular Meeting, and the February 4, 2016 Work 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 January 31, 2016 which showed the Total Cash on Hand of \$1,731,159, the Total Cash Held in Reserve was \$1,465,983 and the Total Cash – All Accounts was \$3,197,141. Deborah Pocock went on to review the Debt Service, Revenue vs. Expenditures, the FY 2016 Capital Improvement Project Tracking Report, the YTD 2016 Real Estate, Personal Property, Machinery and Tools Tax & 2016 License Tax Collections, the YTD Prior Year Real Estate Tax, Personal Property Tax, Interest and Penalty Collections and the Three Year Revenue Comparison.

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

B. Planning Commission and Boards:

Town Planner Larry DiRe stated that he did not have anything to add to his written report.

Councilman Wendell asked where things stood regarding parking at the beach and whether the parking situation was still being surveyed. Larry DiRe stated that currently there wasn't anyone going to the beach but the parking survey would begin again around May 1st. The side streets would be included in the study this summer. The 1999 parking space study performed by the police department was scanned and provided to the Planning Commission for review. There was much discussion between Councilman Wendell and Planner Larry DiRe regarding this issue. Mayor Proto stated that Council needed to see the complete data for consideration before a decision could be made.

C. Other Departments:

Code Enforcement:

Code Official Jeb Brady stated that he did not have anything to add to his written report.

Vice Mayor Bannon asked about the number of houses under construction. Jeb Brady responded that there were nine new construction houses and a possibility of three more to begin construction within the next two months.

Town Harbor:

Town Manager Brent Manuel introduced the new Harbor Master Charlie Farlow who started at the Harbor on February 1st and added that he was glad to have Mr. Farlow on board and excited about his ideas.

Charlie Farlow stated that he was looking forward to the experience and enjoyed a challenge. He continued to report the following: i) Assistant Harbor Master Barbara Michaux would be out for approximately six weeks and was home resting. He and James were learning the computer systems at the Harbor; ii) He was aggressively booking slips for spring and summer. During his first week well over 100 slip days were booked to repeat customers; iii) Due to the staffing issues, the Cape Charles Town Harbor and Harbor Master Facebook pages have not been updated but he was hopeful to be able to work on them this week; iv) He was shopping advertising leads and signed up with Dockwa which provided an app where customers could book online. There was no cost to the town. Map Tech was another company which provided NOAA charts. Cape Charles Harbor would be in their cruising guide for the next two years and on all their e-Charts; v) He's been working daily on the delinquent accounts and the bottom line had been reduced by about 10% year-to-date; vi) He was working on a bid package for replanting of the BMP along the boardwalk between the bath house and the Shanty. The existing shrubbery needed to be replaced per DEQ requirements. He met with Ms. Kathleen Coalter from the Cape Charles Yacht Club and Ms. Kim Allen, a horticulturist, regarding the design of the beds and the plantings. The project had to be put out for bids due to the anticipated cost; vii) He's been working on stock for summer goods such as t-shirts, charts, drinks, snacks, etc.; viii) Repairs from the recent nor'easter were being addressed; ix) The offshore breakwaters were progressing with a projected completion by the end of February; x) The final phase of dredging by the US Army Corps of Engineers would be starting soon. Vice Mayor Bannon asked about the volume of sand to be placed on the beach. Dave Fauber stated that about 140K cubic yards was anticipated. Brent Manuel added that some of the sand would be placed on the beach and some would go in to the berm.

Councilman Wendell stated that a rate survey was discussed at last month's meeting and asked Charlie Farlow if he had scheduled a time to do the survey. Charlie Farlow responded that the Town Harbor was in line with other facilities on the Eastern Shore. A rate survey needed to be performed in November so rates could be advertised prior to the people making reservations for the season. People were also coming in to renew their slips. Charlie Farlow continued to state that he had been with the town for three weeks and over 200 days had been booked.

Councilman Wendell went on to ask about the discount program for residents and added that if the harbor wasn't making money, the losses were being subsidized by the General Fund, by residents who didn't even have boats in the harbor. Councilman Wendell suggested that the issue needed to be discussed whether it was a good business practice. There was much discussion regarding the Harbor Fund budget. Discussion resumed regarding the rates and Charlie Farlow stated that he would do a rate comparison and check whether other marinas gave discounts to residents or commercial watermen and have the information for Council at the next meeting.

Cape Charles Memorial Library:

Librarian Ann Rutledge stated that she did not have anything to add to her written report.

Councilman Godwin asked whether improvements had been made regarding the bathrooms and mold issues. Ann Rutledge stated that a report regarding mold was received and there was no mold in the library except in the boiler room. Staff was trying to get a solution to clean the bathrooms and work was planned for the meeting room. The four new computers had been installed and all computers were working.

Police Department:

Officer Tom Potts stated that Police Chief Jim Pruitt was on vacation and added that he did not have anything to add to the written report. There were no questions from Council.

Public Utilities/Public Works Departments:

Public Utilities/Public Works Director Dave Fauber reported that the playground equipment had arrived and would be installed once the weather got better. There were no questions from Council.

Recreation Department:

Recreation/Community Events Coordinator Jen Lewis was not in attendance. There was some discussion regarding the Outdoor Market which was scheduled for May 28th.

OLD BUSINESS

There was no Old Business to review.

NEW BUSINESS:

A. *Sidewalk Installation Contract Award:*

Dave Fauber stated that an invitation for bids was advertised on January 20th for sidewalk infill of two areas – Pine Street Pump Station and an area by Central Park. One bid was received from Browder-Hite, formerly Eastern Shore Landscape Management. Browder-Hite was the town's landscaping contractor and submitted a bid of \$10,741 for the Pine Street Pump Station and \$8,832 for Strawberry Street at Central Park. The total of the two areas was below the \$20K included in the FY16 budget. Dave Fauber went on to explain that the sidewalks were five feet wide. The handicap curb installed years ago at Pine Street must be removed and rebuilt to current standards. The Pine Street area consisted of approximately 500 feet of sidewalk and Dave Fauber added that \$10,741 was not a bad price for the amount of work entailed. The Strawberry Street area was approximately 240 feet with two handicap curbs. This area also had three utility poles which needed to be relocated. Dave Fauber showed photos of the poles and added that ANEC quoted a price of \$5,328.25 to move their pole and he had not yet received a response from Verizon regarding the cost of relocating their two poles. There was much discussion regarding the project, the fact that only one bid was received, and the costs of relocating the utility poles.

Motion made by Councilman Brown, seconded by Vice Mayor Bannon, to authorize the Town Manager to enter into a contractual agreement with Browder-Hite, Inc. for the sidewalk installation. The motion was defeated by majority vote with Vice Mayor Bannon and Councilman Brown voting in favor and Councilmen Godwin and Wendell and Councilwoman Natali opposed.

Motion made by Councilwoman Natali, seconded by Councilman Wendell, to award the contract to Browder-Hite for the Pine Street Pump Station sidewalk and the Strawberry Street portion would be addressed at a later date after more details had been received regarding the relocation of the utility poles. The motion was approved by majority vote with Councilmen Brown and Godwin opposed.

B. *2016/2017 Virginia Commission for the Arts Local Government Challenge Grant:*

Brent Manuel stated that the Town of Cape Charles had participated in the Virginia Commission for the Arts local Government Challenge Grant since 1997. The Commission matched local government funds up to \$5K. In FY 2016, the Town allocated \$5K as the local match. The grant application deadline was April 1, 2016 and the Town must confirm in writing to the Commission the Council's decision to appropriate the matching funds by July 1, 2016. The local match of \$5K would be included in the draft FY 2017 budget and the amount would be reviewed by Council at a future budget work session.

Motion made by Vice Mayor Bannon, seconded by Councilman Wendell, to approve the submittal of the Local Government Challenge Grant application for \$5K by the April 1, 2016 deadline. The motion was approved by unanimous vote.

C. *Reappointment of Member to Joint IDA of Northampton County and Its Incorporated Towns:*

Brent Manuel stated that the Joint Industrial Development Authority of Northampton County and Its Incorporated Towns (Joint IDA) was formed in 1995 to administer development of a network of industrial facilities throughout Northampton County's participating towns. The Board consisted of seven members each serving four year terms. Mr. John Burdiss was appointed as the Cape Charles representative and his term was due to expire on March 31, 2016. Mr. Burdiss had expressed his interest in continuing his service on the Joint IDA for another term.

Motion made by Councilwoman Natali, seconded by Councilman Godwin, to reappoint John Burdiss to the Joint IDA for another four-year term. The motion was approved by majority vote with Councilman Wendell opposed.

Mayor Proto stated that he would like Mr. Burdiss to attend a future Council meeting to provide an update on the Joint IDA.

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

Brent Manuel stated that Phase 3 Breakwater Project was well underway and included the building of the third breakwater and raising the height of the first two breakwaters by two feet to better protect the Harbor from southwest swells. Approximately \$190K of grant funding from the Virginia Port Authority (VPA) Aide to Local Ports Grant would remain available after completion of this project. At their February 4, 2016 work session, Council reviewed the Capital Improvement Plan and suggested that the Town proceed with the Phase 4 Breakwater Project as well as the possibility of increasing the height of the existing jetty by two feet. The previous cost estimate for Phase 4 construction was \$860K, including bid preparation. The estimated cost of design and engineering for the jetty rehabilitation was \$40K for a total of \$900K. With the 75/25 grant/match, the VPA share would be \$675K. Subtracting the \$190K estimated carryover request left a new grant request of \$485K. The Town's share for these projects would be about \$225K. There was much discussion regarding these projects and a suggestion to increase the new grant request to \$500K since all the numbers were estimated.

Motion made by Councilman Brown, seconded by Councilman Godwin, to authorize the Mayor to request that VPA approve a carryover of \$190K of the existing grant and \$500K of new grant funds as discussed. The motion was approved by unanimous vote.

E. *VDOT Route 642 Right-of-Entry Agreement:*

Brent Manuel stated that this issue was discussed during last week's work session. The purpose of the VDOT Right-of-Entry Reconstruction project was to provide safety improvements and enhance access to the Cape Charles Harbor. The roadway would consist of two 12' lanes and 8' width shoulders with 4' being paved and would accommodate bicycles and pedestrians. The Town owned a drainage easement over several parcels on the project pursuant to Quitclaim Deed of Easement recorded among the land records of Northampton County. This Right-of-Entry would grant to VDOT and its employees, agents, contractors or assigns the right to enter upon portions of the land encumbered by the Town's drainage easement for the purpose of completing the project. Approval of the Right-of-Entry Agreement must be by ordinance.

Mayor Proto read Ordinance 20160218 Approving a Right-of-Entry for the Benefit of the Commonwealth of Virginia Department of Transportation.

Motion made by Councilman Brown, seconded by Vice Mayor Bannon, to adopt Ordinance 20160218 authorizing the Town Manager to execute the Right-of-Entry Agreement on behalf of the Town. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Brown, yes; Godwin, yes; Natali, yes; Wendell, yes.

VICE MAYOR AND COUNCIL COMMENTS

Councilman Brown informed the Mayor that he would not be able to attend the March 3rd, March 31st and April 14th meetings since they were scheduled to start at 3:00 p.m.

Councilman Wendell commented as follows: i) All utility poles along Randolph Avenue were located on the north side but a new pole was just installed on the south side of the 500 block in the front yard of a rehabilitation project. It was curious; and ii) There was a lot of speculation regarding the large prohibitive hook-up fee of \$42K for the proposed brew pub. Was this the correct figure? Brent Manuel stated that the figure was based on the current connection fee structure and was payable at time of the application for a building permit. The Tourism Ordinance, which was still in draft form, had a provision for possible rebate of up to 50% of the connection fee. There was much discussion regarding this issue and whether the information had been communicated to the property owner. Councilman Wendell continued to state that he hoped that the Town would look at all available avenues to mitigate this issue and open a line of dialogue and try to reduce the figures. Fees were reduced by 75% for an apartment complex and it seemed that the Town could use that kind of energy to do something for the brew pub as well. Councilwoman Natali added that she asked Code Official Jeb Brady about the rumor and Mr. Brady quoted the figure based on information provided by the property owner for a 64 seat restaurant and informed them that they could ask to pay the fee over time. Mr. Brady also informed the owner that they could possibly undertake a historic restoration for tax credit to further reduce the \$42K to somewhere around \$20K.

Brent Manuel agreed that, from his past experience, \$42K seemed high for a restaurant of that size and informed Council that he obtained a quote of \$10K for a connection fee study and it might be good to have it done by an independent third party.

Mayor Proto stated that he had no further comments and proceeded to read the Announcements.

ANNOUNCEMENTS

- February 20, 2016 – February Freeze
- February 22, 2016 – Town Council Public Hearing & Special Meeting, 9:00 a.m.
- February 22, 2016 – Comprehensive Plan Public Input Meeting, 6:00 p.m.
- March 3, 2016 – Town Council Budget Work Session, 3:00 p.m.
- March 8, 2016 - Mayor's Office Hours, 2:00 p.m. – 3:00 p.m.
- March 10, 2016 - Town Council Budget Work Session, 6:00 p.m.
- March 17, 2016 – Town Council Regular Meeting, 6:00 p.m.
- March 22, 2016 – Mayor's Office Hours, 6:00 p.m. – 7:00 p.m.
- March 31, 2016 – Town Council Budget Work Session, 3:00 p.m.

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

Mayor Proto

Town Clerk



The Eastern Shore of Virginia Tourism Economy

January 2016

Key Performance Indicators



ESVA REGION HIGHLIGHTS

2014 By the Numbers

- **VA's FASTEST GROWING TOURISM REGION**

Second year in a row

- **VISITOR SPENDING TOTALED \$254.4 MILLION**

\$697,000 per day

TOURISTS PAID \$6.6 MILLION IN TAXES

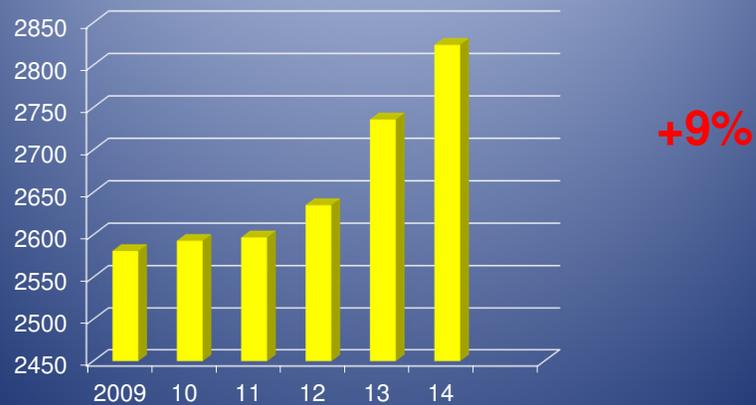
Visitors pay lodging, meals, sales tax



Source: Virginia Tourism Corporation

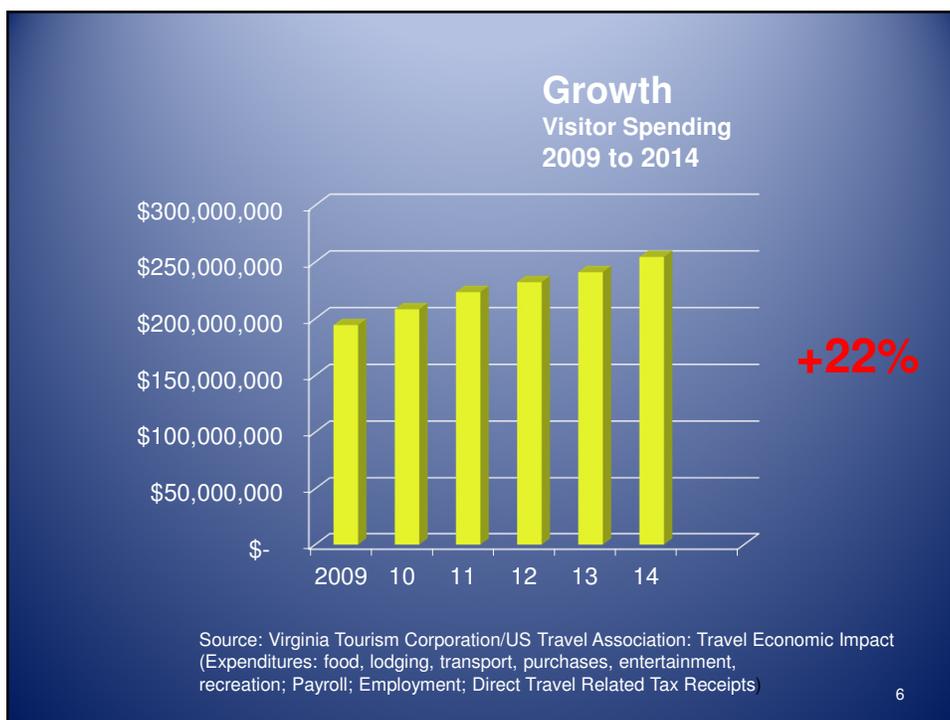
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Tourism Jobs 2009 to 2014



Source: Virginia Tourism Corporation/US Travel Association
Estimate of direct travel-related employment in the locality

4



Growth Lodging Tax 2009 to 2014



+43%

NOTE: In 2012 Chincoteague town increased its lodging tax to 9% from 8%.

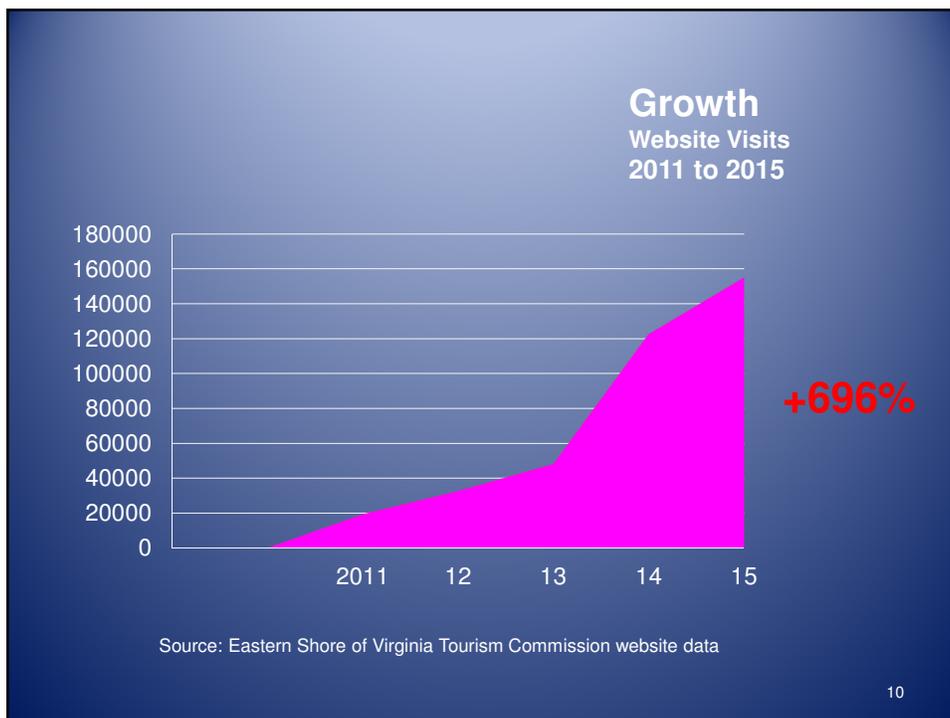
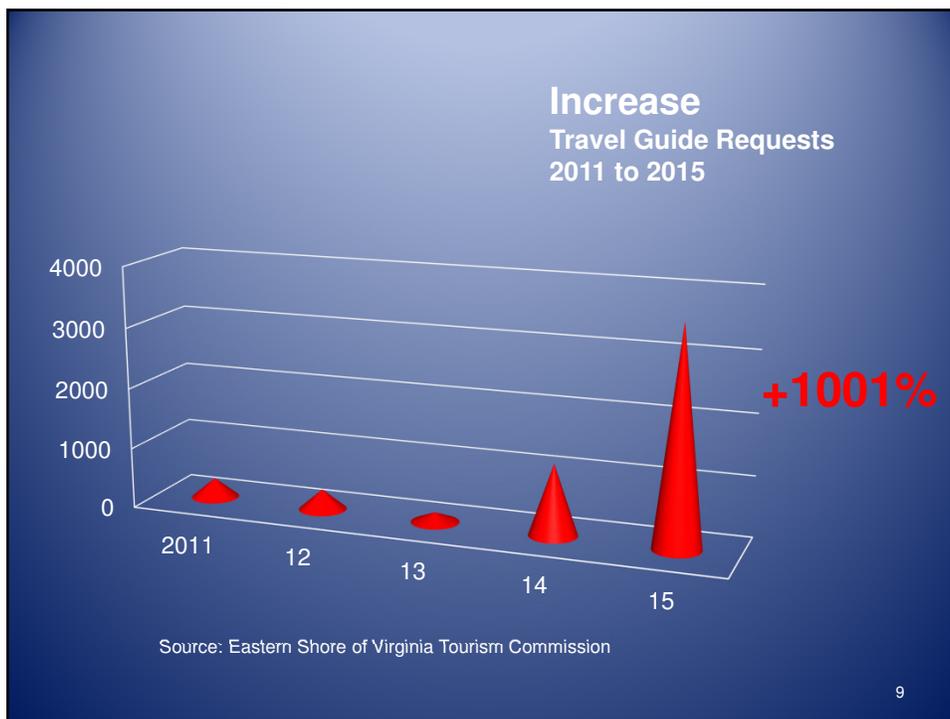
Source: Virginia Tourism Corporation, Town of Chincoteague, Local excise tax collections for hotels, motels, bed and breakfasts, cabins and campgrounds

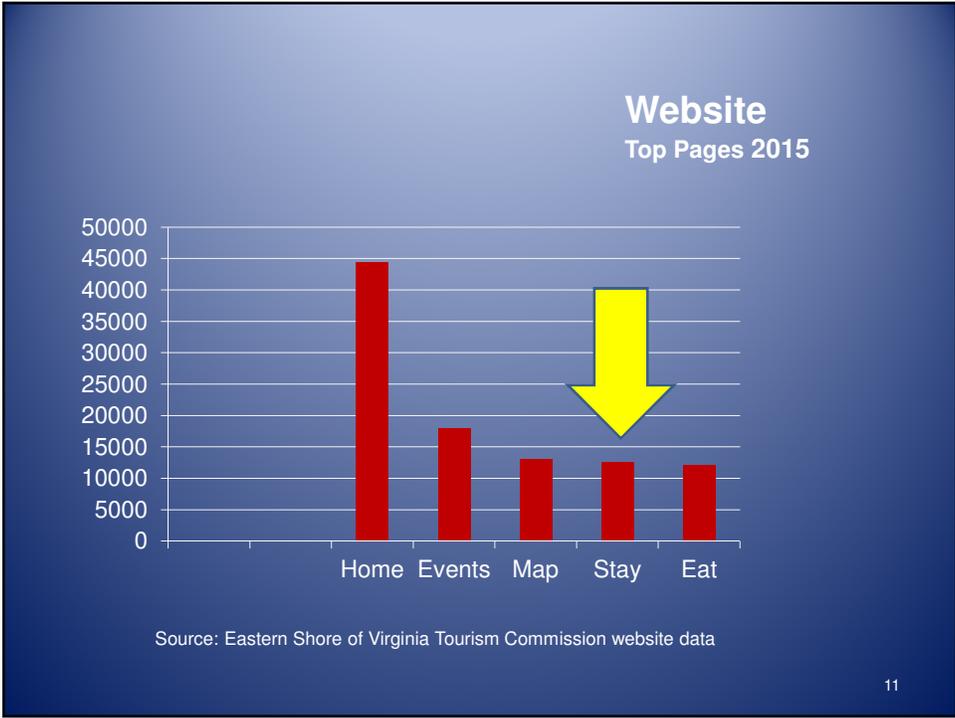
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Signals of Intent to Travel

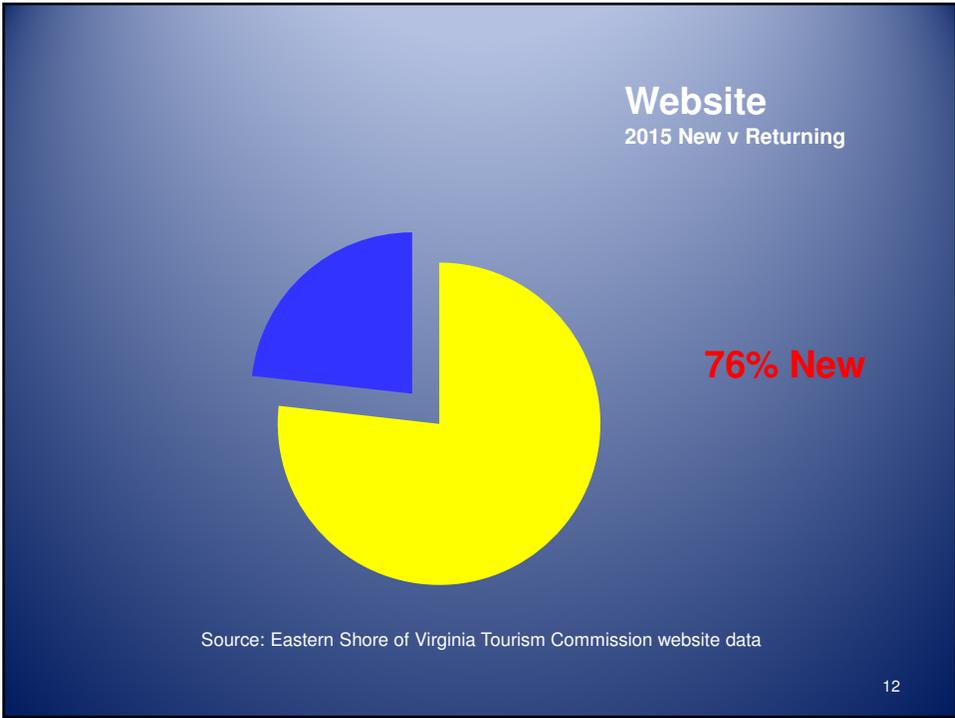


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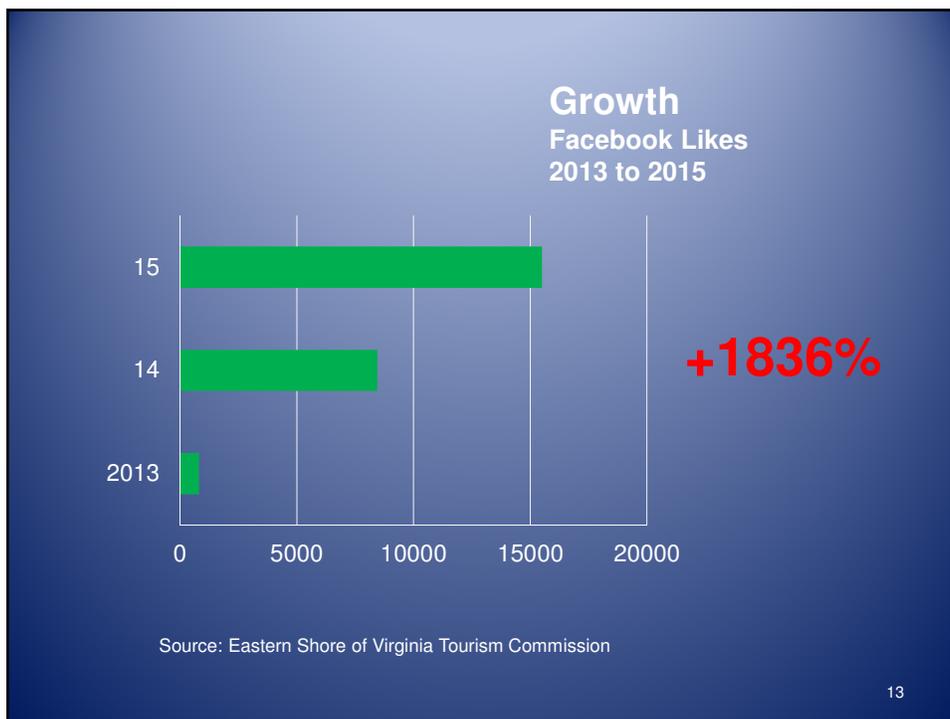




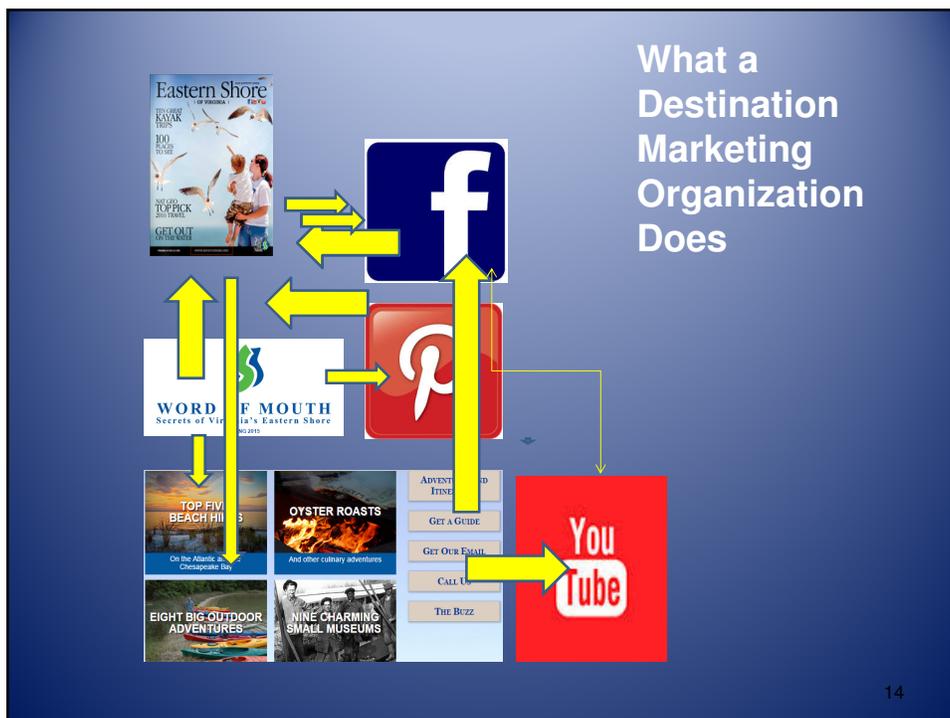
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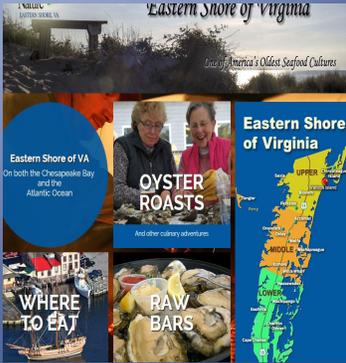
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Funding

Tourists Pay Transient
Occupancy Tax -- TOT

<p>Cape Charles Budget Line Item 6.67%</p> <p>Onancock Percentage of TOT .7%</p> <p>Accomack County Budget Line Item 38.6%</p> <p>Northampton County Percentage of TOT 54%</p>	
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Programs

CONCIERGE
Welcome Center at CBBT

INDUSTRY SUPPORT
Welcome Center advertising, Tourism Summit, fall workshop, quarterly emails

MARKETING
Print: Produce, distribute print guide, marketing collateral
Digital: Website, consumer email, social media platforms (Pinterest, Facebook, Instagram, YouTube), blog, image library
Earned Media: Pitches/response, tours, FAMS
Paid Media: Advertisements

COLLABORATION
Oyster/Artisan Trails, Coastal VA Tourism Alliance, Stronger Economies Together, Partnership Grants, Market Development



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Earned Media Publications

17

Paid Media Digital Marketing

Audiences
Age is no longer relevant

Geo Targeting
Near drive metro areas
Mid-Atlantic states

Affinity Targeting
Keyword marketing VIA Facebook:
"Oysters" "Coastal Living" "Chincoteague Ponies" "Food & Wine" "Artisan"
"Kayaking"

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The New Consumer

What They Want

Simplified Trip Planning

Itineraries, listicles
Social media
Trails
Maps
Trip Advisor/User Comments

Authenticity

Handmade
Local
Immersive

Values Alignment

Sustainable practice
Rich, local culture
Un-orchestrated



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Tourism Partners

Must Do's

Digital Presence

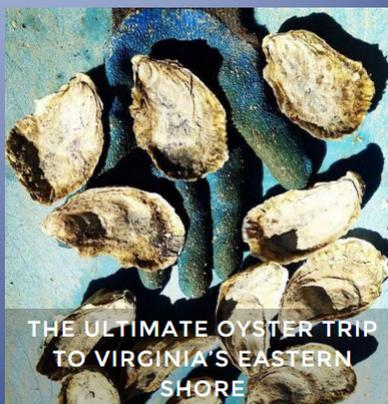
Trip Advisor/Yelp – FREE
Facebook -- FREE
State/local tourism websites – FREE
Google maps -- FREE

Responsive

Accurate info
Answer phones, emails
Manage user-generated feedback

New Products

Evolve tourism business to meet
consumer wants



20

Challenges

TOURISM DEVELOPMENT

Deliberate, strategic

MOBILE SITE

Data-driven

RESEARCH

Evidence = best strategic & tactical decisions

RESOURCES

Budget, staff, time

REGIONALISM

Oyster Trail, Artisan Trail, Coastal VA Tourism Alliance,
ESVA Integration, Virginia Tourism Corporation



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Contact Info
Eastern Shore of Virginia Tourism Commission
Kerry Allison
kerryallison@esvatourism.org
757-787-8268



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PROCLAMATION 20160218
IN MEMORY OF PAUL W. SKOLNICK

WHEREAS, Paul Skolnick resided within the Town of Cape Charles for over a decade and during that time made major and everlasting contributions to the town's workforce that benefitted the town's citizenry and tourists; and

WHEREAS, he was a decorated Vietnam veteran who was active in the American Legion Post 56 and supported local veterans and the Post's Cape Charles Food Pantry Christmas Canned Food drive that led to a record collection of food for the disadvantaged; and

WHEREAS, he was instrumental in the planning and conduct of numerous patriotic programs in the Town of Cape Charles that included 4th of July parades, Memorial Day ceremonies and Veterans' Day services; and

WHEREAS, he assisted and directed the preparation of meals at Post 56 that were served to veterans and home-bound veterans; and

WHEREAS, he served with distinction as the treasurer for the Town of Cape Charles and was well known for his skill and dedication to the town's citizenry; and

WHEREAS, he returned to work for the Town of Cape Charles on two occasions on a temporary contract basis to assist with a departmental leadership transition; and

WHEREAS, he volunteered with the Cape Charles Volunteer Fire Company to mentor them financially and was a driving force for the refurbishment of their working areas;

WHEREAS, he touched many lives as a fellow citizen, friend, brother, veteran, town treasurer, mentor and all around great guy. His life made a great impact on this community and his service to its citizenry will never be forgotten;

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the Town of Cape Charles, I, George Proto, do hereby extend this proclamation in memory of Paul Skolnick to celebrate an exceptional life whose simple presence lit up a room and filled it with humor, love and purpose.

Adopted by the Town Council of Cape Charles on this 18th day of February, 2016.

Mayor George Proto

ATTEST:

Town Clerk

PROCLAMATION 20160218A
IN MEMORY OF MICHAEL SULLIVAN

WHEREAS, Mike Sullivan moved to the Town of Cape Charles in 1997 and was a citizen of the town for over 18 years; and

WHEREAS, he served in the U.S. Air Force and was an Arabic linguist. After his discharge from the Air Force he went to college and was hired by Xerox Corporation where he worked for 33 years; and

WHEREAS, he was First Vice Commander of American Legion Post 56 and continued to be an active member of Post 56 in support of local veterans until his death. He also served as an ambulance driver for Station 19 Cape Charles Rescue; and

WHEREAS, he and his wife, Theodora Sullivan, owned and operated Sullivan's Office Supply for 13 years and Mike operated a computer repair service in the same location; and

WHEREAS, he continued serving the American Legion Post 56, Station 19 Cape Charles Rescue and the Cape Charles Volunteer Fire Company by maintaining their computers at no cost; and

WHEREAS, he designed and maintained the Town's first website as well as originating the Cape Charles Gazette, the Town's electronic newsletter; and

WHEREAS, he was elected to the Cape Charles Town Council in 2010 and served the Town and its citizens for four years; and

WHEREAS, he touched numerous lives as a fellow citizen, dear husband, father, grandfather, friend, veteran, and Town Councilman;

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the Town of Cape Charles, I, George Proto, do hereby extend this proclamation in memory of Michael Sullivan whose life made a great impact on this community and his service to its citizenry will never be forgotten.

Adopted by the Town Council of Cape Charles on this 18th day of February, 2016.

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 February 18, 2016 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Ordinance 20160218 (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 19th day of February 2016.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

ORDINANCE 20160218

**APPROVING A RIGHT OF ENTRY FOR THE BENEFIT OF THE
COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF TRANSPORTATION**

BE IT ORDAINED by the Council of the Town of Cape Charles:

Section 1:- That the terms and conditions of a Right of Entry (ROE) for the benefit of the Commonwealth of Virginia, Department of Transportation (“VDOT”), a copy of which is attached hereto as Exhibit A, are hereby approved.

Section 2:- That the Town Manager of the Town of Cape Charles (“Town”) is authorized to execute the ROE on behalf of the Town.

Section 3:- That the Town Manager is further authorized to correct, amend or revise the ROE as he may deem necessary in order to carry out the purposes as stated therein.

Section 4:- That this ordinance shall be in effect from and after the date of its adoption.

Adopted by the Council of the Town of Cape Charles on February 18, 2016.

By: _____
Mayor

ATTEST:

Town Clerk

Exhibit A

February 1, 2016

Route: 642
State Project: 0642-065-577, R201
Federal Project: STP-065-5(027)
County: Northampton
UPC: 103391

RIGHT OF WAY - Property of the Town of Cape Charles, Virginia
Drainage Ditch Adjacent to State Route 0642

To: Ms. Lori A. Snider
State Right of Way & Utilities Director

THIS AGREEMENT is made this day of February, 2016, between the Town of Cape Charles, a political subdivision of the Commonwealth of Virginia, (the "Town"), and the Virginia Department of Transportation ("VDOT"),

WITNESSETH:

WHEREAS, VDOT has declared that a public necessity exists to improve State Route 642 from Route 1117 to 0.61 miles west of Route 641 on Route 184 in the County of Northampton, Virginia; and,

WHEREAS, the Town owns a drainage easement over several parcels of property on the Project pursuant to Quitclaim Deed of Easement recorded among the land records of Northampton County, Virginia in Deed Book 227, at page 778 (the "Quitclaim Deed"), upon which VDOT must enter in order to complete the Project.

NOW, THEREFORE, in consideration of the benefits to be derived by the Town from the construction of the Project, the parties agree as follows:

1. Plans for the construction and improvements to Route 642 have been fully explained to the Town, and the Town is fully aware of the effects on its easement interest.
2. The Town hereby grants to VDOT and to its employees, agents, contractors or assigns (hereinafter collectively referred to as VDOT's "Agents") the right to enter upon portions of the land encumbered by the Town's drainage easement (the "Property") for the purpose of completing the Project; the portions of the Property upon which this right to enter is granted are shown outlined in GREEN on Plan Sheets 7, 7B, 7C, 8, and 8B, copies of which are attached hereto and made a part of this Agreement.
3. By executing this Agreement, the Town does not, and will not be required to, during the life of this Agreement, assume any liability or responsibility for loss of, or damage to, the property or equipment of VDOT or its Agents or for any injury to, or death of, any third party, any of VDOT's Agents or any of the Town's employees, contractors, agents or assigns arising out of, or in any way connected with, the construction of the Project, unless such damage, loss, injury or death is caused by the negligent acts or omissions of the Town, its employees, agents, contractors or assigns.
4. By executing this Agreement, the Town does not assume the responsibility for acts or omissions of persons or forces not employed by the Town.
5. VDOT covenants that it will exercise reasonable care in using the Property, and will not damage Town owned land, if any, adjacent to the Property.

6. Upon completing the Project, VDOT will, with the exception of the areas upon which any facilities are constructed or improved, restore the Property as close as reasonably possible to the condition it was in just prior to VDOT's entry upon the Property.
7. Unless the parties hereto agree otherwise, this right of entry shall automatically terminate, without further action by either party, on the earlier of (i) December 31, 2017 or (ii) sixty (60) days after the date the project is completed.
8. VDOT represents that all work conducted by VDOT or VDOT's Agents on the Property will not adversely affect or impair the operation of any business existing on Town owned property outside the boundaries of the Property.
9. This Agreement, and all rights and privileges granted to VDOT, and the exercise thereof, are subject to all terms, conditions, restrictions, and rights in the Quitclaim Deed and in the Deed of Easement from the Town to the United States of America dated July 16, 1987 and recorded among the aforementioned land records in Deed Book 227 at page 794.

WITNESS the following signatures and seals:

APPROVED AS TO FORM:

Town Attorney

VDOT

By: _____
Waliuz Zaman
2016.02.01 08:02:28-05'00' SEAL
 Name: Wali Zaman
 Title: Assistant L & D Engineer / Project manager

TOWN OF CAPE CHARLES

By: _____ SEAL
 Name: _____
 Title: _____