



TOWN COUNCIL
Regular Meeting & Executive Session
September 17, 2020
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Recognition of Visitors / Presentations / Recognitions
 - A. Recognition of Employee Celebrating a Significant Anniversary
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of July 31, 2020 Financial Report](#)
6. Unfinished Business:
 - *A. [USDA Rural Development Loan Resolution](#)
7. New Business:
 - *A. [Harbor Management Agreement](#)
8. Town Manager Comments
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - October 1, 2020 – Town Council Special Meeting
 - October 6, 2020 – Joint Public Hearing with Planning Commission
 - October 8, 2020 – Town Council Work Session
 - October 12, 2020 – Town Offices Closed in Observance of Columbus Day
 - October 15, 2020 – Town Council Regular Meeting & Work Session
 - October 29, 2020 – Town Council Work Session

11. Recess to Closed Session

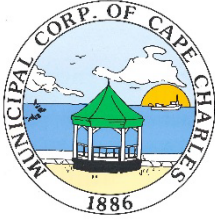
Code of Virginia § 2.2-3711-A, Paragraph 7: Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

Specifically: Discussion of Legal Matter – Fauber v. Town of Cape Charles

12. Return to Open Session

Certification 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.

13. Adjournment



DRAFT
TOWN COUNCIL
Public Hearing, Regular Meeting
& Executive Session
Cape Charles Civic Center
August 20, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Regular Meeting and Executive Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Also, in attendance were Town Manager John Hozey, Town Planner Allyson Finchum, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were several department heads, 17 members of the public physically in attendance, and eight viewers on Facebook Live.

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

PUBLIC HEARING COMMENTS:

Town Clerk Libby Hume read written comments from Marlene Cree from Blue Heron Realty Co, Amanda Gerber from Momma Hen’s and Co, Kathy Glaser from Alyssa House Bed and Breakfast, Charlene Dix from Chuckletown Productions, Clelia Sheppard and MaryAnn Roehm from Lemon Tree Gallery and Studio, Suzanne Golibart from Periwinkles Boutique, Robie Marsh, Executive Director of the Eastern Shore of Virginia Tourism Commission, and Roxanne Ward from Buoy 56. (Please see attached.)

There were no comments to be heard nor any other comments submitted in writing prior to or during the public hearing.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to close the public hearing portion of the meeting. The motion was approved by unanimous vote.

RECOGNITION OF VISITORS / PRESENTATIONS / RECOGNITIONS:

- A. *Joint Industrial Development Authority Update – John Burdiss, Charles Kolakowski, Bill Parr*
Mr. Bill Parr, Chairman of the Joint Industrial Development Authority (JIDA), began the presentation by announcing the name change of the authority to the Joint Economic Development Authority (JEDA). The process began in 2019 during discussion regarding the future of the JIDA. Their goal was to be a sustainable organization with the ability to lend assistance in economic development affairs of Northampton County and the participating towns.

Mr. John Burdiss, the Town’s representative on the JIDA/JEDA, provided information regarding their funding from Northampton County and revenue from outstanding bonds.

Mr. Charles Kolakowski, Northampton County Administrator, expressed his pleasure to work with Bill Parr and the JIDA board to reactivate the board as the Economic Development Authority adding that the name change was important for the effort to make people aware of the board and their new mission. Economic development was the key to making Northampton County’s economy a sustainable economy for current and future residents. One of the initial programs was the Virginia Agriculture and Forestry Industries Development (AFID) Fund to provide assistance for agricultural and forestry value-added products. Agriculture included aquaculture. The first application was successfully completed, and Shore Breeze Farms would receive \$15K from the AFID fund and \$15K from the JEDA. Shore Breeze Farms was obligated to guarantee employment and investment. A program would be developed to sustain and encourage current businesses

providing access to capital to help them to sustain and expand their operations. It was critical to provide opportunities for current and new businesses to grow.

B. *YMCA Presentation - Bruce Bradley, Anthony Walters*

Mr. Bruce Bradley, a volunteer with the YMCA, addressed Council to announce plans to construct a YMCA facility along Route 13 just outside of Cape Charles to assist with the need of a place for young kids to exercise and learn how to swim. Typically, a YMCA would not be built in such a small area, but another facility was built in South Boston a number of years ago after raising capital to fund the project. The facility in South Boston received \$30K annual support from the county and Northampton County agreed to provide their annual support at the same level. Land was purchased and being cleared. The groundbreaking ceremony was scheduled for August 25. The planned opening was targeted for July 2021. Mr. Bradley requested a \$25K commitment from the Town to be payable over five years.

Mr. Anthony Walters, President and CEO of YMCA of South Hampton Roads, distributed a presentation and provided more details of the plans. (Please see attached.)

C. *Southwest Mason Avenue Development and Dock Update – Eyre Baldwin*

Mr. Eyre Baldwin updated Council regarding the planned development at the southwest area along Mason Avenue. Mr. Baldwin stated that the U.S. Army Corps of Engineers had been contacted regarding the placement of the planned dock further out than originally planned. The dock would not impede navigation of the harbor or railroad property. There were a number of companies already with reservations to use the facilities, the majority of which were wind energy companies. The companies were realizing the convenience of working out of Cape Charles. Mr. Baldwin added that he was here tonight to notify Council that the process to build the docks would begin. The Town and harbor area had come a long way since 2008 and his goal was to continue to create more opportunities for the Town. Mr. Baldwin concluded by asking Council to keep an open mind and that things were being done one step at a time. (Please see attached.)

D. *Cape Charles Central Park 10-Year Anniversary Proclamation*

Mayor Dize read Proclamation 20200820 – Cape Charles Central Park 10th Anniversary – September 5, 2020.

Motion made by Councilman Bannon, seconded by Councilman Grossman, to adopt Proclamation 20200820 Cape Charles Central Park 10th Anniversary – September 5, 2020 as presented. The motion was approved by unanimous vote.

PUBLIC COMMENTS:

Phil Hullinger, 226 Tazewell Avenue

Mr. Hullinger addressed the Council regarding the following: i) He asked Council if there was a way to get the golf carts to park along Bay Avenue straddling the median which would open up parking along the sides of the street; ii) There was debris from the last storm along Mason Avenue. He suggested staff get some gloves, shovels a wheelbarrow to clean up the gutters. He asked if it would be possible for sticks and debris to be blown into the gutters to be picked up on a regular basis. He asked Council to look into it since the area looked trashy; and iii) He asked for police officers to walk along the streets, especially Mason Avenue, once in a while. They did a great job, but it would be nice to see them walking the streets.

AJ Ewell, 210 Madison Avenue

Mr. Ewell commented on the raccoons that were around the community cat feeding stations and asked Council whether anything could be done. The raccoons were not aggressive, but more would be coming to the area for the food. It would be nice to have them moved to another location.

There were no other comments to be heard nor any comments received in writing prior to the meeting or during the public comment period.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. July 16, 2020 Regular Meeting & Executive Session
 - ii. August 6, 2020 Public Hearing, Special Meeting, Work Session & Executive Session
 - iii. August 13, 2020 Public Hearing
- C. Approval of June 30, 2020 Financial Report

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the Consent Agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business to review.

NEW BUSINESS:

- A. *Appeal of Historic District Review Board Decision – 648 Monroe Avenue:*

Town Planner Allyson Finchum stated that a request was received from the applicant of a renovation project at 648 Monroe Avenue to appeal the July 21, 2020 decision made by the Historic District Review Board (HDRB). Allyson Finchum summarized the HDRB's application review of 648 Monroe Avenue as follows: i) The building was a contributing structure in the National Register of Historic Places defined as a "Folk Victorian" built in 1920; ii) A pre-application meeting was conducted on June 18, 2020 with the applicant, building official and one HDRB member, prior to submittal of a formal application. One of the comments documented was that the applicant was requested to submit needs to reflect exactly what the applicant would like built; ii) The HDRB application for construction of a one-story rear addition to an existing single-family detached dwelling was submitted on June 24, 2020. The applicant proposed to replace a first story window with a doorway and the removal of the window casing on the second story window, shortening it and partially covering it due to the proposed roofline of the porch; iii) The HDRB meeting was held on July 21, 2020 and the application was approved unanimously with the condition that the roof line be altered to retain the second story window which was visible from the right-of-way. A different roof was suggested which would allow construction of the addition while retaining the integrity of the historic property; iv) She read language from the Historic District Guidelines regarding additions, exterior alterations which stated "New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property." Allyson Finchum's recommendation was for Council to uphold the HDRB's decision.

There was discussion as follows: i) Councilman Grossman stated that the appeal pertained to the second story window only; ii) Councilman Follmer stated that the window could not be seen from Fig Street, only from the alley. Allyson Finchum countered that the window could be seen from the right-of-way at Fig Street, through some trees; and iii) Councilman Buchholz added that modern materials and structure could be used on the backside of historic buildings.

The applicant, Pat Pendergrast, stated the following: i) The guidelines repeatedly state that rear additions were not in the purview of the HDRB. In his opinion, his proposed rear addition would not be in the public view; ii) Over the last six months, several projects had been approved by the HDRB which involved the removal of windows and he felt that his case got a very unfavorable review by the HDRB; iii) He and his wife looked at using a flat roof as suggested by the HDRB, but felt that it would not be appealing for the style of their house and was not what they wanted for their property. He felt that the design that they submitted was more appropriate with the historic guidelines and the secretary of the interior's guidelines. He had spoken to several of his neighbors and they agreed that a flat roof would be unappealing; iv) He asked that the plans be approved by Council as submitted.

Councilman Grossman asked whether there was any information provided to Council for the appeal that had not been seen by the HDRB. Mr. Pendergrast responded that he had submitted several documents and photos upon the request of the planner.

HDRB Chairman Kerry Shackelford stated the following: i) The HDRB had not approved any additions that required removal of any windows or doors. The HDRB was consistent in their stance regarding following the interior guidelines with additions on buildings and the application of the first ten standards; ii) There was a lot of discussion at the HDRB regarding what was visible from the street and it came down to choice of material and the visible impact. The HDRB agreed that if it was not visible from the street, it was not their concern, neither the design or materials; iii) Preservation issue of the historic character of the building was another category. Preservation of the historic façade, the rear, front, side, top, bottom, was all the same; iv) To answer Councilman Grossman's question, the HDRB did not see the drawings or photos which were included in the appeal packet; and v) The HDRB offered a compromise by allowing the removal of a window that was not visible, but keeping the window that was visible.

There was much discussion as follows: i) Vice Mayor Bennett asked how the HDRB's decision could have been affected if they had viewed the additional information. Kerry Shackelford responded that there was a lot of misunderstanding and the board could possibly have said to keep the existing doorway and both of the windows. Mr. Shackelford went on to state that the board did not have enough information to make a good decision; ii) Councilman Buchholz asked how the project made it through the pre-application meeting without drawings. Councilman Grossman responded that the pre-application meetings were to discuss the project in general adding that plans were not necessarily available at that time. Mr. Pendergrast stated that plans were submitted to the pre-application meeting and he took the input received and revised the plans. Kerry Shackelford stated that the information was not included in the HDRB application packet. Allyson Finchum responded that the plans were too large to copy and had asked the applicants to provide smaller versions which could be copied for inclusion in the appeal packet; iii) Vice Mayor Bennett stated that in order to make a decision, a complete application with drawings and photos was necessary. Kerry Shackelford reiterated that the HDRB did not have the opportunity to review this information. Councilman Follmer interjected that the decision on the application could have been tabled. Kerry Shackelford responded that the board did the best they could with the information they had; iv) Allyson Finchum stated that she started as town planner after the pre-application meeting had already been held. She asked the applicant to submit additional material before the HDRB meeting but did not receive the requested information. After the meeting, she asked again and received it for the Town Council packet. Kerry Shackelford added that the HDRB would be happy to review the application again with the additional information; v) Councilman Grossman stated that standards nine and ten dealt with additions. If the applicant didn't remove the windowsill, the project would achieve the requirements under standards nine and ten. Kerry Shackelford stated that the project had to abide by all ten standards, not just one or two of them; vi) Councilman Follmer stated that he thought the board's decision was counterintuitive and that a flat roof was contrary to the roof guidelines section. A flat roof would not fit with the surrounding structures and he thought it would create a visual blight. It seemed like the HDRB was prioritizing a minimally visible window over the flat roof which would be more visible and unappealing. The Town was not trying to discourage additions. Cape Charles was not a museum. He went to look at the house and was convinced that the submitted plans were more compatible than the revisions posed by the board. He went on to note several additions which were recently approved; and vii) Vice Mayor Bennett pointed out that a project could not be based on precedent. Because a project was approved in the past, or approved elsewhere, was not a reason for an appeal. Each project was handled individually. He found it phenomenal for a board to make a recommendation without seeing a plan or some type of drawing.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to approve the appeal of the Historic District Review Board's decision regarding 648 Monroe Avenue. The motion was approved by majority vote with Councilman Bannon opposed.

B. *Virginia Department of Housing and Community Development Community Development Block Grant Resolution:*

John Hozey explained that with the onset of the COVID-19 pandemic, Governor Northam issued an emergency declaration which included travel restrictions, stay-at-home orders, and closures of businesses that were not designated as essential businesses. The majority of businesses in Cape Charles relied on tourism-related revenue and were severely impacted by the pandemic. The Virginia Department of Housing and Development (DHCD) was offering a Community Development Block Grant (CDBG) to Destination Marketing Organizations in order to provide relief from the impact of the COVID-19 pandemic. The CDBG Virginia Funding Opportunities for COVID-19 Response grant was available to small cities, towns and rural counties to respond to local needs. The Town of Cape Charles was partnering with Cape Charles Main Street (CCMS) to apply for the CDBG grant to provide assistance for the Cape Charles business community for expenses such as rent/mortgage relief, reopening expense relief to help cover required equipment and supplies, possible technology upgrades to allow for hands-free point-of-sales systems, etc. The grant application required two public hearings to obtain feedback from interested parties. The first public hearing was held on August 13, 2020 with seven comments received. The second public hearing was held earlier this evening. Council must also adopt a resolution supporting the grant application. Once the Town received notification of the awarded amount, staff would work with CCMS to develop criteria regarding how the funding would be distributed. This information would be presented to the Town Council at a future meeting for approval.

Councilwoman Holloway recused herself from the discussion and the vote regarding this item stating her involvement with CCMS, adding that she assisted with the writing of the grant.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Resolution 20200820 Supporting Community Development Block Grant Virginia Funding Opportunities for COVID-19 Response. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes.

TOWN MANAGER COMMENTS

John Hozey commented on the following:

- i) COVID-19 Update: The numbers were improving. The curve had leveled and started trending downward. The amount was still higher than in June. Considering that we were nearing the end of August, he wanted to wait until Labor Day. If the downward trend continued, the Town would move into Phase 3 after Labor Day.
- ii) Mason Avenue Parking: He reached out to VDOT and was learning more about the issue. He was pursuing the option of restricting the types of vehicles using the diagonal parking to circumvent the length requirement but was awaiting a response from VDOT. He wanted to hear from VDOT before moving forward.
- iii) Harbor Management Contract: The principles of the company submitting the proposal were on vacation last week and he just heard back from them today. They had a number of comments and concerns which were all reasonable and able to be worked through. The next item in the timeline was to hold a stakeholder meeting, which was tentatively scheduled for August 27. He wanted to move forward with that meeting next week but would not have the contract prepared by them. He would like to post the request for proposals and the original proposal received. He would communicate that the details for the contract were still being worked out. If okay with Council,

he wanted to move forward to announce the meeting scheduled for next Thursday, August 27, beginning at 6:30 p.m. The meeting was open to anyone interested, but especially to the harbor stakeholders.

Councilwoman Holloway asked how the stakeholders would be invited. John Hozey responded that he and the town clerk drafted handouts to be distributed to all at the harbor. It will be posted on the website and on Facebook.

Councilwoman Holloway stated that CCMS would assist with notifications to the businesses.

- iv) Joint Economic Development Authority: We heard the presentation from representatives regarding the status of the JEDA. Charles Kolakowski provided an ordinance that had been approved by the Northampton County Board of Supervisors. The ordinance also had to be approved by the participating towns and called for a public hearing prior to adoption. Council heard the entire presentation earlier this evening.
- v) Status of Aqua unsolicited proposal: The process was on hold. In order to proceed, the Town needed to use the Public-Private Education Facilities and Infrastructure Act (PPEA), which required the Town to adopt guidelines on use. He was working with the attorney regarding the process and needed more time to get the PPEA procedures completed.
- vi) Playground: He was receiving a lot of comments regarding the playground. He attended the Citizens for Central Park (CCP) board meeting on Monday night and the prominent item on the agenda was the playground. He informed CCP that the playground remained closed because the Governor specifically closed playgrounds during Phase 2 and remained silent regarding playgrounds since that time. Each time the Governor authorized certain facilities to reopen, there had been a component requiring cleaning. The Town hired a contractor to clean the beach. Alternate 1 covered the public restrooms and alternate 2 covered the playground. Unfortunately, after awarding the base bid and alternate 1, no funding remained for alternate 2. He asked Bob Panek to reach out to the contractor for a quote for cleaning the playground and he was awaiting a response. The reason the contractor bid on the original contract was because there was enough work and he had enough staff. The contractor would lose some of their labor pool with the beginning of the school year. The contract would not be economically feasible for the contractor after the end of September. Also, the playground was a convenient location to store the memorial benches which were removed from Central Park due to the cleaning requirement. His hands were tied, and the Town did not have the ability to open the playground in a way to manage any liabilities to the Town.

Councilman Grossman asked that this information be communicated to the community.

Councilwoman Holloway stated that the “why” needed to be communicated to the public and added that over the weekend, she witnessed some older kids jumping the fence and playing in the playground. She asked Chief Pruitt to increase playground checks during patrols.

John Hozey would draft a notice to the public regarding the playground closure.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer thanked the Town staff for their diligence. He also thanked Allyson Finchum for jumping right in to perform the planning and zoning duties.

Councilman Grossman commented as follows: i) He attended the kick-off meeting regarding the 1% Northampton County sales tax increase for school construction which would be on the November ballot. District 1 Supervisor John Coker would be addressing this issue at a future Council meeting. Mayor Dize interjected that Mr. Coker would be attending the September 3 Council meeting; and ii)

The HDRB reviewed the application discussed earlier this evening and the final decision was unanimous. The first vote resulted in a 2-2 tie which was negated. There had been a vacancy on the HDRB for some time and the position needed to be filled. Libby Hume noted that she had reached out to the applicants interested in the HDRB and all the individuals had replied that they were no longer interested. Applications were still being solicited. Councilwoman Holloway suggested a notice on Facebook to solicit applicants interested in serving on the boards.

Councilman Bannon commented that he was happy with the back in parking on Mason Avenue. Whenever he drove down Mason Avenue, all the places were taken, and he had not heard any comments from people having to back into a spot.

Councilwoman Holloway stated that she heard complaints about the back in parking from her guests every day.

Councilman Buchholz stated that he was very happy with John Hozey, Allyson Finchum and other staff. Everyone was doing tremendous work dealing with everything that was going on.

Vice Mayor Bennett had no additional comments.

Mayor Dize commented as follows: i) He thanked John Hozey and staff; and ii) He received a couple of calls regarding leaves on the streets and added that the Town needed a street sweeper. Councilman Buchholz interjected that the Town needed to call VDOT. Mayor Dize added that he hated the fact that the Town's taxpayers were paying for the Town to do a job that they were also paying the state to do but we had to take care of our Town. John Hozey stated that he had contacted the town manager of Onancock and was told that VDOT swept their streets every month.

Councilwoman Holloway announced that Councilman Buchholz was recently recognized as the small businessperson of the year by the Northampton County Chamber of Commerce. All in attendance applauded Councilman Buchholz.

Mayor Dize read the announcements.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, calling for a short recess before going into executive session. The motion was approved by unanimous vote.

The meeting recessed at 8:43 p.m. Staff, with the exception of John Hozey, and the members of the public left the meeting.

At 8:57 p.m. Mayor Dize called the meeting back to order.

Messrs. Michael Sterling of Vandeventer Black LLP and Rick Matthews of Pender & Coward P.C. joined the meeting via teleconference.

Motion made by Vice Mayor Bennett, seconded by Councilman Follmer, 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 7: Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probably litigation, where such consideration or briefing in open session would adversely affect the negotiating or litigating posture of the public body.

Specifically: Discussion of Legal Matter – Fauber v. Town of Cape Charles

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to return to open session. The motion was approved by unanimous vote.

Certification, to the best of each member's knowledge, that (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; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Public Hearing, Regular Meeting and Executive Session. The motion was approved by unanimous vote.

The meeting adjourned at 10:14 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
August 20, 2020 Town Council Public Hearing & Regular Meeting**

Marlene Cree, Blue Heron Realty Co.

Subject: CDBG COVID grant

To Whom It May Concern:

Blue Heron Realty Co. would like to express its support for the Cape Charles Main Street application for funds under a CDBG COVID grant. Like most businesses, we were substantially negatively impacted by this pandemic so this grant could be of assistance to help offset this.

Thank you,
Marlene Cree

Amanda Gerber, Momma Hen's and Co.

Subject: grant

My name is Amanda Gerber and I am the owner of Momma Hen's and Co. I am writing in support of the Town of Cape Charles/Cape Charles Main Street applying for the grant provided by the Department of Housing and Community Development's (DHCD) CDBG COVID 19 Recovery Grant.

Momma Hen's and Co. was impacted significantly during the pandemic and continues to be and a grant to support things like COVID reopening supplies, rent rebate, etc...will be of great assistance.

As a single mom this is my livelihood and any support we can get is so greatly appreciated.

Kathy Glaser, Alyssa House Bed and Breakfast

I am Kathy Glaser and I own the Alyssa House Bed and Breakfast in Cape Charles and I am writing in support of the Town of Cape Charles/Cape Charles Main Street applying for the grant provided by the Department of Housing and Community Development's (DHCD) CDBG COVID 19 Recovery Grant.

The Alyssa House was impacted significantly during the pandemic losing three quarters of our revenue and a grant to support things to help the town recover is badly needed. The town needs support for anything that can help bring business and sustain our town after the devastation of the Covid pandemic. We are a small town with a hard working population and would greatly appreciate any assistance.

Charlene Dix, Chuckletown Productions, 237 Mason Avenue

Subject: CDBG Recovery Grant

My name is Charlene Dix. I am writing you on behalf of Chuckletown Productions located at 237 Mason Avenue, Cape Charles. Laurie Klingel and I support the Town of Cape Charles and Cape Charles Main Street applying for the grant provided by the Department of Housing and Community Development's CDBG Covid 19 Recovery.

Chuckletown Productions is a non-essential Retail business that was impacted by Covid-19 due to closure during the pandemic. This grant would greatly impact our community by providing assistance to maintain operations for small businesses in our town.

Kind Regards,
Charlene Dix
Co-owner Chuckletown Productions

Clelia Sheppard and MaryAnn Roehm, Lemon Tree Gallery and Studio, 301 Mason Avenue

Subject: CDBG Recovery Grant Comments

We, Clelia Sheppard and MaryAnn Roehm, are writing in support of the the Town of Cape Charles/Cape Charles Main Street application for the grant provided by the Department of Housing and Community Development's (DHCD) CDBG COVID 19 Recovery Grant.

The Lemon Tree Gallery & Studio was closed from the middle of March thru the middle of June. While we attempted to sell through our social media channels, that is not a totally successful model for us. We cancelled our popular Fridays at Lemon Tree. The loss of income from our usual events is not retrievable. The Historic Palace Theatre cancelled the rest of the 2020 season and all dance, music and theatre classes were cancelled. The theatre will remain dark. A grant to support local small businesses that have suffered during the pandemic will be of great assistance.

Clelia C. Sheppard
MaryAnn Roehm

Suzanne Golibart, Periwinkles Boutique, 215 Mason Avenue

Subject: Letter in Support of TOCC/CCMS DHCD Covid 19 Recovery Grant Application

I, Suzanne Golibart, am the owner of Periwinkles Boutique at 215 Mason Avenue. I understand that the Town of Cape Charles and Cape Charles Main Street are applying for the grant provided by the Department of Housing and Community Development's (DHCD) CDBG COVID 19 Recovery Grant. I am writing to support this effort.

My shop, like many others in town, has been significantly impacted during the pandemic. The most significant impacts for me have been reduction of sales and loss of employees. I have also incurred increased expenses for additional supplies and added safety measures/routines required to meet the state requirements to be open. A grant such as this would assist us in overcoming these challenges and many others that my business and others in the Town of Cape Charles have experienced during the COVID 19 Pandemic.

I am truly grateful for the effort and support that both the Town of Cape Charles and Cape Charles Main Street have offered to my business. This Grant could help them continue to provide support and assistance to the businesses that are the heartbeat of our Town.

Thank you,
Suzanne Golibart

Robie Marsh, Executive Director of the Eastern Shore of Virginia Tourism Commission
To whom it may concern:

The Eastern Shore of Virginia Tourism Commission is in complete support of the Town of Cape Charles/Cape Charles Main Street applying for the grant provided by the Department of Housing and Community Development's (DHCD) CDBG COVID-19 Recovery Grant.

Tourism is essential to the growth and success of the Eastern Shore of Virginia. The impact of the pandemic has been significant to the businesses in Cape Charles. A grant like this will help those businesses with the countless expenses they have suffered and will continue to incur due to COVID.

Thank you for your time and consideration.

Sincerely,
Robie Marsh
Executive Director
Eastern Shore of Virginia Tourism Commission

Roxanne Ward, Buoy 56

Subject: Comments for tonight's hearing.

Good evening,

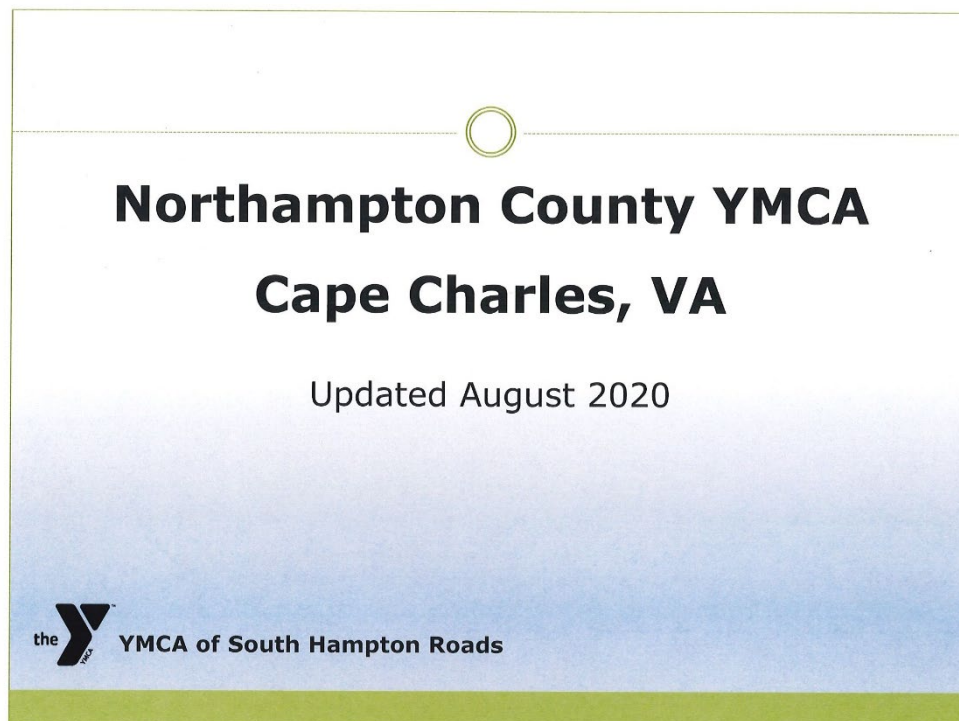
My name is Roxane Ward, I own Buoy 56, a small woman owned and operated micro-business in town. As I did last week, I am writing in total support of the Town of Cape Charles/Cape Charles Main Street applying for the grant provided by the Department of Housing and Community Development's (DHCD) CDBG COVID 19 Recovery Grant.

Buoy 56 has been and is still being hit hard by the pandemic and we are not alone. Many of us, microbusinesses, seem to fall through the cracks with other programs such as the PPP. It appears that we are too small for the "small business" programs, however, this grant provides a light at the end of the tunnel for many of us.

The Covid 19 Recovery Grant is much needed and vital for some to meet the necessary requirements while pivoting their business to align with the "new norm" and keep their doors open. Please support this grant.

Thank you for your time and attention,
Roxane Ward
Buoy 56

Anthony Walters, YMCA of South Hampton Roads





NORTHAMPTON COUNTY FAMILY YMCA



NORTHAMPTON COUNTY FAMILY YMCA



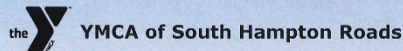
Greenville Pool & Supply | Keith Galer
YMCA New Northampton County

Brief Overview and Mission of Organization

The Y's mission is to put Judeo-Christian principles into practice through programs that build healthy spirit, mind and body, for all. With that, and a cause of strengthening community, the Y is here to make Coastal Virginia and Northeastern North Carolina a better place to live.

The YMCA of South Hampton Roads is a nonprofit, community-based health and human services organization that has been positively impacting people at every age and stage of life across South Hampton Roads, and beyond, for the last 150 years. Every year, over 250,000 children and families throughout Coastal/Eastern Shore of Virginia, Northeastern North Carolina and as far west as South Boston/Halifax County in Virginia take part in YMCA programs and membership. Our mission focuses on youth development, healthy living and social responsibility.

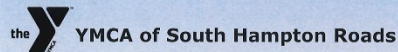
With a cause to strengthen community, the Y's focus is to provide accessible and relevant programming that helps improve the health of its community, build confidence to help children realize their full potential, and provide opportunities for neighbors to give back to one another through volunteer projects. With nearly 30% of the Y's participants on financial assistance, and some locations reporting over a 50% financial assistance rate, generous donors and community partners help make it possible for all to participate, no matter the barriers that may exist financially.



Description of Current YMCA Programs

In 2019, the YMCA of South Hampton Roads:

- Provided over \$7,700,000 in financial assistance to families and individuals, creating equity in access to critical youth development, healthy living and social responsibility programming.
- Served over 5,000 children in before and after-school programs, providing them a safe, healthy space to explore interests, enjoy being active and get help with homework.
- 6,400 kids had fun exploring and learning in nearly 25,000 weeks of summer day camp at the Y, keeping them active and learning through the summer months, a critical time when summer learning loss and the potential for risky behavior are addressed and combated with structured and positive summer programming.
- Nearly 11,000 children/adults learned critical water safety skills through over 17,000 swim lessons at the Y. Additionally, YMCAs provided water safety programs, including community outreach initiatives through school, non-profit, and local government partnerships.
- Over 800,000 attendees participated in almost 70,000 fitness classes. The YMCA of South Hampton Roads also operates the LIVESTRONG at the YMCA program at four locations, providing healthy living support to cancer survivors, helping them regain their health back after their diagnosis.
- Over 2,078 volunteers shared 37,175 hours participating in service projects and gifting their time to their community through various programs and projects to help build up their neighbors and community.



Northampton County YMCA

Our goal is to expand operations and services to provide Northampton County on the Eastern Shore of Virginia. The health and wellness needs, as well as the youth development and social program needs in this community are critically underserved, and the Y is uniquely qualified to address those deficits by establishing this YMCA location within the county.

According to data collected by the US Census Bureau and the Virginia Department of Health regarding Northampton County, multiple deficits exist throughout the community, including the availability of services and programs for the aging community, wealth disparities, youth program opportunities, healthy living resources, academic resources for critical out-of-school time hours, childcare services, and medical services.

These disparities also impact the community by threatening the academic success of local youth; negatively impacting the mental and physical well-being of all, specifically aging adults and impressionable teens; contribute to chronic health conditions and contribute to the county's leading causes of death—cancer and heart disease.

These are all gaps that the YMCA of South Hampton Roads has a history of addressing and providing resources towards improving, across a diverse portfolio of communities. With the help of community Partnerships and relationships with key stakeholders across multiple geographies, the YMCA of South Hampton Roads is equipped and dedicated to making the Northampton County YMCA a key community asset, and dedicated to improving the health and well-being of its residents.

In addition to its internal programs and services, the YMCA of South Hampton Roads is currently in discussions with Sentara Medical Group regarding the operation of a Sentara Medical Practice out of the Northampton County YMCA location. This addition would bring more equitable access to important medical care to residents, and would align with the Y's hope to improve the health and well-being of the whole community, even by means not traditional to most YMCA locations.

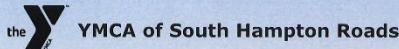
Benefits, changes, and improvements

- The Eastern Shore of Virginia's plan for well-being (as presented by the Virginia Department of Health), operates off of the assumption that the Eastern Shore can live healthy and prosperous lives by factoring health into policy decisions related to education, employment, housing, transportation, land use, economic development and public safety

- Investing in the health, education, and development of the shore's children
- Promoting a culture of health through preventative actions

The YMCA is qualified, with a proven track record of, investing in children through programs like after-school, summer camp, youth sports, and character development, and is uniquely positioned to address community health deficits brought on by unbalanced lifestyles through programs that foster healthy eating, exercise, chronic disease prevention, and social engagement. These programs include:

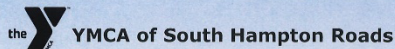
- LIVESTRONG
- Lifestyle classes that teach healthy habits
- Programs that keep older adults active and engaged
- Programs that encourage children to keep moving and fight learning loss during critical out-of-school time.
- Swim lessons, which directly addresses one of the largest threats to life for children in coastal communities.



Additional information about this project and economic impacts

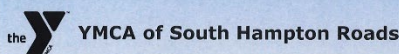
For the Y, the goals of any effort are fairly streamlined:

- Provide services and programs that address the areas of youth development, healthy living and social responsibility.
- In addition to addressing social and healthy living needs through programs that improve the health and wellbeing of its participants, economic improvements are also a secondary benefit of having a YMCA location in the Northampton County community.
- With the foundational principles of partnerships, community wealth building and self-sustainability, a YMCA location within a community can provide a healthy footprint for building on or feeding a lack of economic growth.
- These partnerships have helped create growth within the Y network and opportunity for the Y's members and program participants, as well as create opportunities for local businesses to grow and thrive by expanding their client base through networking within the YMCA.
- The Chesapeake Bay Bridge Tunnel and Ballard Fish and Oyster Company are currently two local business entities that have committed to partnering with a YMCA location in Northampton County in order to provide their employees "group" membership opportunities to encourage healthy lifestyles and social engagement.
- As the economic condition in Northampton County is in part dependent upon tourism, this YMCA location will also provide opportunities to enhance the area for those considering visiting by providing similar "group" membership opportunities to local hotels, bed and breakfasts, and rental properties.



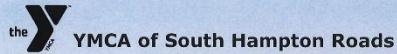
NORTHAMPTON COUNTY YMCA Timeline

- Feb. 2019: Bruce Bradley and Russel Goodrich met with YMCA leadership to discuss feasibility of a YMCA to serve North Hampton County Project identified by local community leaders from the Faith Community
- Y's capital investment would be fully funded by initial contribution, \$1M pledged
- Local government leaders support annual contributions to help fund the Y's operations
- CBBT and the Oyster Company agree pay a % of Y dues for their employees.
- \$1M gift matched
- Three additional donors pledge \$250,000
- Potential site is identified and a LOI is signed
- Contract to purchase agreed to in August. Engineer's evaluation completed.
- \$4.7 million budget established to build building with heated outdoor lap/instruction pool and play pool.
- Phase 1 Environmental Survey completed.
- Phase 2 Environmental Survey completed. Additional soil, water and in ground tank testing completed.
- Property purchase and project was approved by the YMCA Corporate Board of Directors.
- Budget to enclose the lap pool with an architectural membrane cover is estimated to cost \$300,000.



NORTHAMPTON COUNTY YMCA Construction Schedule

- **Property closed February 25th, 2020**
- **Start clearing the site March 20th, 2020**
- **Site submitted, reviewed & approved June 23rd, 2020**
- **Architectural, Structural, & PM&E review is pending**
- **Ground Breaking August 2020 (Tentative)**
- **Projected opening Summer 2021**



Capital Campaign Commitments

Bruce and Lilly Bradley	\$1,000,000
Jane Batten	\$1,000,000
Joan Brock	\$1,000,000
David and Helen Bernd	\$250,000
John and Harriet Malbon	\$250,000
Chris Perry/Windward Foundation	\$250,000
Charlie and Beth Walker	\$125,000
Hampton Roads Community Foundation	\$100,000
Rotary Brick Campaign	\$100,000 *
Sentara Healthcare Foundation	\$100,000
Furlong Baldwin (NH Medical Services Foundation)	\$50,000
Roberta and Polk Kellam	\$50,000
Jesse Waltz	\$50,000
Susan and Norman Colpitts	\$25,000
Preston and Catherine White	\$25,000
Chad Ballard - Oyster Company	\$25,000
Lucius and Tata Kellam	\$25,000
George Clarke	\$25,000
Josh and Jen Harris (includes matching gift)	\$20,000
Edwin S. Webster Foundation	\$10,000
Anonymous	\$10,162
Anonymous	\$10,013
Ed Tankard	\$10,000
Montaigne Cree	\$10,000
John and Martina Cocker (includes matching gift)	\$10,000
Russell and Bonnie Goodrich	\$5,000
Zachary and Robin Bradley	\$5,000
Amarda and Kyle Gift	\$5,000
Town of Cheriton	\$5,000
Hungars Parish Thrift Shop	\$500
TOTAL COMMITMENTS TO DATE:	\$4,555,684

Rotary Brick Campaign Donors

* Rotary Brick Campaign Donors

Anonymous - CD	\$2,005
Regina Aleksiewicz	\$1,500
John Burdiss and Cela Burge	\$5,000
Mark G. Clarke	\$1,500
Randolph A. and Dawn R. Diamond	\$1,500
Ralph Dodd	\$1,500
Bruce Gittinger	\$1,500
Richard L. and Catherine H. Hubbard	\$3,000
Dennie and Stephanie Libby	\$1,500
David and Sherry Moran	\$1,000
Bob and Sue Panek	\$1,000
Bill Payne and Jackie Chatmon	\$1,500
Stanley and Sheila Plowden	\$1,500
Paul and Ginger Strong	\$2,500
Reginald and Eloise Widgeon	\$1,500
Walter Childs	\$2,500
Fiameta Pellier	\$1,500
Total Commitments:	\$32,005

GET TO KNOW US

YMCA of South Hampton Roads
2019 Community Impact




- More than **10,975** children, teens and adults made a splash in YMCA Aquatic Programs
- 523** teens developed leadership skills in YMCA Teen Leaders' Club and YMCA Blue Ridge Leaders' School
- 217,282** people came to the Y in 2019 for healthy living, youth development and social responsibility
- 62** cancer survivors participated in Livestrong, a 100% donor-funded community health program
- 18,485** active older adults are now Aging Strong
- The YMCA of South Hampton Roads provided **\$7,707,151** in financial assistance to remain accessible and open to all
- More than **800** children learned life-saving aquatics skills in YMCA Learn to Swim, a 100% donor funded program
- 24,895** children experience the fun of YMCA Summer Day Camp
- Over **8,700** members walk through our doors – every day
- 5,266** children served through school-aged child care in 2019
- YMCA of South Hampton Roads – 22 family centers, 58 child care sites, 2 outdoor adventure camps, 29 aquatics centers, 1 resident camp, 1 differing needs retreat
- 6,172** kids challenged with new skills in YMCA Youth Sports

Thank you!

For additional questions, please contact:

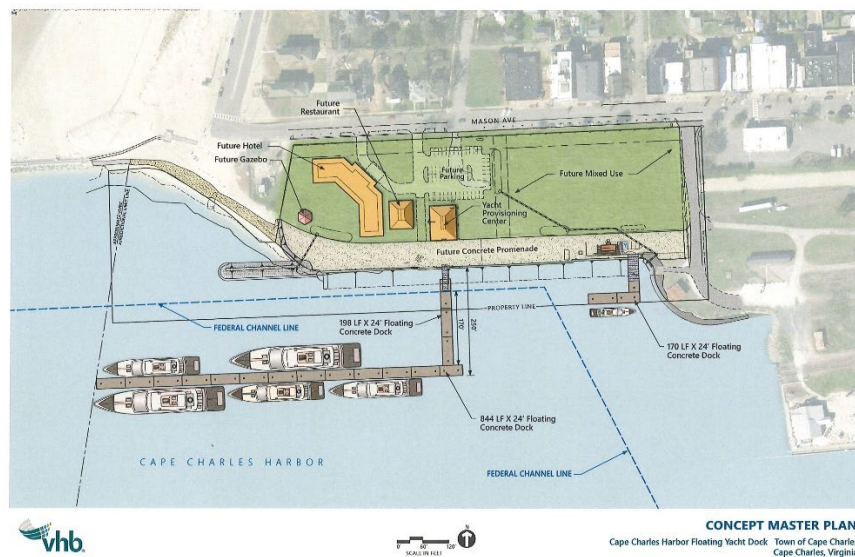
Anthony Walters, President and CEO
awalters@ymcashr.org

Nancy Moore, Vice President of Donor Impact
nmoore@ymcashr.org



YMCA of South Hampton Roads

Eyre Baldwin, Southwest Mason Avenue Development and Dock Update



Scheduled Boats

- Feadship - Samadhi
- Feadship - Moonrise
- AXYS
- ARIES - Liftboat
- Northstar
- Semper Marine
- Kitty Hawk Offshore
- Geoquip Marine - Dina Polaris







[OVERVIEW](#)
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SAMADHI YACHT CHARTER

200R /6096m Feadship 2006

SPECIAL FEATURES:

- Expansive sundeck
- Three all fresco dining options
- Sundeck gym with a skylight
- Separate dining salon
- Extensive glazing

The 200ft /6096m Custom motor yacht 'Samadhi' was built in 2006 by Feadship. This luxury vessel's sophisticated exterior design and engineering are the work of De Voogt. Previously named April Fool her luxurious interior is designed by Larvor and her exterior styling is by De Voogt.

ACCOMMODATION

BOOK THIS YACHT

GUESTS **12**
 CABINS **5**
 CREW **15**

CABIN CONFIGURATION

1.Master 4.VIP



About Moonrise

A new star has been born into the Feadship firmament with the launch of the 99.95-metre *Moonrise*, the largest superyacht by waterline length built in the Netherlands to date. Unveiled by the Feadship yard in Makkum, she successfully marries sleek sensual lines with a modern masculine profile. A wide range of elegant details, long hull windows, a glorious grey hull and striking vertical bow add to the elegance of the design by Studio De Voogt.

In addition to her imposing length, *Moonrise* has a very impressive volume thanks to a 15.50-metre beam. This has generated some fabulous interior space for sixteen people in eight staterooms. There are also exceptionally high-end crew accommodations for up to 32 crew, which are bathed in natural light and designed to ensure a premium standard for those living and working on the yacht. Guests and staff alike will benefit from the huge effort expended on keeping *Moonrise* exceptionally quiet, eclipsing even Feadship's legendary standards of noise and vibration attenuation.


AXYS TECHNOLOGIES

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[SOLUTIONS](#)
[PRODUCTS](#)
[SERVICES](#)
[ABOUT](#)



MEASURE YOUR WORLD
Collect quality data with AXYS environmental monitoring systems.



LATEST NEWS

June 18, 2020 Avangrid Renewables has deployed our FL04R WeatherLink at the Kitty Hawk offshore wind farm off North Carolina, US. — June 2, 2020 Environment Canada has successfully received, tested and accepted all 38 Next Generation AXYS Watchman500 payloads that will replace the existing Watchman100 payloads.



LIVE DATA LIVES

Check out real-time wave, current, met-ocean, and water quality data from AXYS systems deployed throughout the world.



CASE STUDIES

Read about AXYS work on various projects around the world.



ARIES MARINE CORPORATION

Aries Marine Corporation ~ Liftboats

Our Liftboat Fleet ranges in length size from Class 130' high to Class 215'

Aries Marine provides Liftboats to the offshore oil production and construction industry. These self-elevating work platforms are outfitted with cranes ranging from 10 to 150 tons. Accommodations for third party personnel are available for platform maintenance and repair, workover operations, pipeline repairs, well hook-ups, rig landing and salvage operations. Our fleet ranges in rig length size from Class 130 to Class 215', and is capable of operating in maximum water depths of 175'.

Each Liftboat is equipped with a Boatrac system, which provides wireless communication and vessel positioning.

Since 1981, Aries Marine has conducted operations utilizing experienced personnel with safety and service as its highest priority. We provide Liftboats and offshore support vessels to most of the major and independent oil companies operating in the Gulf of Mexico. Aries Marine takes pride in the integrity of its vessels, we continue to set the standard of the Gulf regarding safety and efficient operations.



NORTHSTAR

MARINE SERVICES • EST. 1990

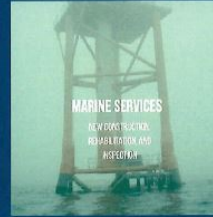
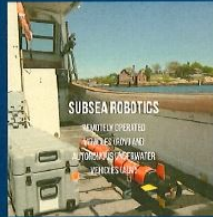
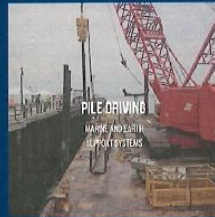


WHO WE ARE

Simpson Diving & Marine Corp. is a veteran-owned, Boston-based commercial diving and marine construction contractor established in 2009. We provide a wide range of construction and inspection services to heavy civil contractors, facility owners, and municipal and private clients. Our capabilities include full service diving in all environments, marine construction and rehabilitation, pile driving, advanced underwater robotic services, as well as inspection services.

Simpson's staff includes experienced divers, engineers, ROV and AUV operators, and marine construction personnel with an in-depth knowledge of all forms of diving, marine construction, rehabilitation, and engineering. Simpson's staff brings decades of marine construction, heavy civil and diving expertise to the firm, including many years of diving and heavy civil work and management on the Central Artery/Tunnel Project, aerial kinetics, offshore and freshwater for the Boston Harbor Cleanup project, bridge opening projects, as well as major facility rehabilitation.

OUR SERVICES



Kitty Hawk Offshore is a project of Avangrid Renewables, a subsidiary of AVANGRID, Inc. (NYSE: AGR), and part of the IBERDROLA Group, an energy pioneer with one of the largest renewable asset bases in the world. AVANGRID is at the forefront of transforming the way the U.S. produces and uses energy. Strongly positioned to develop, build, and operate the clean energy infrastructure of the future, Avangrid Renewables is already generating power from more than 60 renewable energy projects for its utility-scale customers in the United States, helping lead America's transition to a renewable energy future and playing a leading role in the growing U.S. offshore wind industry.

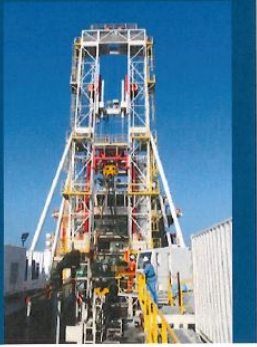
Our energy projects around the country, including the Amazon Wind Farm in northeastern North Carolina, have brought substantial long-term economic benefits to local businesses, schools and communities. We are proud to be a part of the communities where we live and work and are excited to work together with stakeholders in Virginia and North Carolina on Kitty Hawk Offshore to create lasting benefits for generations to come.



Kitty Hawk Offshore is an offshore wind project proposed more than 27 miles from the Outer Banks. The Wind Energy Area is projected to be able to support 2,500 MW of electricity generation which would be enough to power approximately 700,000 homes.

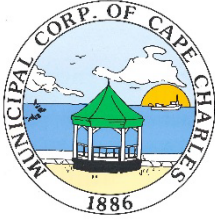
The U.S. Bureau of Ocean Energy Management (BOEM) awarded Avangrid Renewables a 122,405-acre lease in 2017 for the development of an offshore wind project off the coast of North Carolina and Virginia. Avangrid Renewables has been studying the area in more detail as part of early stage project development since then.

Avangrid Renewables is a leading renewable energy developer and is a subsidiary of AVANGRID, Inc. (NYSE: AGR), part of the IBERDROLA Group, an energy pioneer with one of the largest renewable asset bases in the world. AVANGRID is at the forefront of transforming the way that the U.S. produces and uses energy.

DINA POLARIS + GMTR120

DP2	99.0x21.0	97	5	2500m	4.5m
Class 2 Dynamic Positioning	LOA x breadth	Berths	Offices	Water + borehole depth	Heave compensation



DRAFT
TOWN COUNCIL
Work Session – Harbor Stakeholder Meeting
Cape Charles Civic Center
August 27, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Work Session/Harbor Stakeholder Meeting of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Also, in attendance were Town Manager John Hozey, Capital Projects Manager Bob Panek, Harbor Master Charlie Farlow, Community Relations Manager Jennifer Lewis, Town Clerk Libby Hume and Police Officers Tom Lynch and Will Garrett. There were 14 members of the public physically in attendance, and 13 viewers on Facebook Live.

WORK SESSION ORDER OF BUSINESS/DISCUSSION:

A. *Open Discussion Regarding Potential Privatization of the Town Harbor:*

Town Manager John Hozey gave an overview of the topic explaining that the Town would not be giving up ownership or control of the harbor. The Town would still prepare and control the budget for the harbor, but it would be administered by a third party who would be paid a fee for their services. They would take over some of the expenses and have the ability to better market the facility. Council had not made a decision yet and staff was still in discussions with the bidder. The meeting this evening was to obtain input from the citizens of the Town and harbor stakeholders. (Please see attached.)

Prior to opening the floor for discussion, John Hozey introduced Officers Tom Lynch and Will Garrett.

Town Clerk Libby Hume read comments submitted by Jim Granger.

There was much discussion regarding the following: i) concern regarding the benefits to the citizens of Cape Charles and watermen using the Town Harbor; ii) the financial viability of the Harbor; iii) whether the situation could be improved using the current staff or was there dissatisfaction with the current staff; iv) possibly increasing the Harbor’s budget to help improve some of the areas which would also increase revenue; v) The proposal stated that the bidder would assume the cost of personnel, marketing and some other expenses, but the Town would continue to pay for other expenses such as maintenance and capital improvements. Some attendees were uncertain as to how the Town could net more revenue when still paying for these items. It appeared that the only savings to the Town was the cost of staffing; vi) How would the Town’s ability to apply for grants for improvements to the Harbor facilities be impacted by having a private management company? vii) Would there be a possible conflict of interest with having the Cape Charles Yacht Center manage the Harbor with their adjacent facility at the harbor? viii) the occupancy rate and that 30% of the existing dockage had to be reserved for transient boaters; and ix) The agreement with the Department of Game and Inland Fisheries (DGIF) which prevented charging for the boat ramp. Mayor Dize interjected that the current agreement with the DGIF would expire this October.

Mr. JB Turner, one of the principals for the Cape Charles Yacht Center (CCYC), introduced himself and went on to state the following: i) They wanted to create a brand for the whole town, making the Harbor somewhere special for people cruising up and down the East Coast. A place where people could find dockage, fuel, and other amenities. Their goal was to make Cape Charles a major destination point on the East Coast; ii) They also ran a larger shipyard, Front Street Shipyard, in Belfast, ME and that facility also helped to promote Cape Charles to its customers; iii) They understood that they would lose money for the first couple of years and were okay with

that; iv) Their initial plans were to place most of the transient boaters at the Cape Charles docks and keep the CCYC docks for ships needing repairs. It made sense for logistical efficiency to have one voice answering the phone directing boat traffic to the correct location; and v) He had worked in this business a long time and loved being outside and working on boats. Nicole Jacques, the other principal of CCYC, worked on marketing. As a team, they were able to put Front Street Shipyard on the map and hoped to put Cape Charles on the map as well.

Discussion continued regarding: i) marketing and creating a brand, websites, promotional materials, boat shows and newsletters; ii) Would the current discount for residents and watermen continue with the change in management? Mr. Turner responded that the discount would continue for several years; ii) The Town of Cape Charles had already garnered national recognition and had an increasing population centering on tourism. People enjoyed the small-town life. The Town had two assets – the only public beach on the Eastern Shore which was beautiful with shallow water for families to enjoy, and the Town Harbor which was also well known and well recognized as there were about 20 marinas within a day's travel. The Town is a major draw for boaters and some clubs have been coming to the Town for decades and reserved their slips a year in advance; iii) How will this change affect the taxpayers of the Town? iv) More slips were needed for smaller boats; iv) Could the management agreement be short-term for one or two years to see the benefits of this type of arrangement? John Hozey responded that the agreement would be for a three-year term but either party could terminate the contract with 60 days' notice; v) There was an advantage to have a long-term contract in the future after we gained some experience that could benefit both organizations; vi)

The Harbor was a great asset for the Town and should remain that way; and vii) It would be good to see the impact on meals and sales taxes from transient boaters. Councilwoman Holloway responded that Cape Charles Main Street conducted a zip code study three times per year to determine where visitors were coming from. Currently the study was mostly done for the retail businesses but would be expanded to include restaurants and the Harbor.

Council comments were as follows: i) Councilman Grossman stated that he liked the proposal but was still evaluating the benefits. CCYC was a professional organization with marketing skills to help promote the Town. The Harbor and dockage could grow under their management; ii) Councilman Buchholz stated that when he was first elected to Council, he asked for the dockage numbers to be added to the monthly financial report. The revenue decreased quite a bit for the first three years but were beginning to improve. The Harbor was not full continually throughout the summer and there was room to grow. The Town was growing but the Harbor revenue continued to decrease; iii) Vice Mayor Bennett stated that the Harbor Fund was an enterprise fund which was supposed to be self-sufficient. The last few years, the Harbor budget had to be supplemented by the General Fund, which was funded by the taxpayers. The deficit was primarily due to debt for infrastructure. Council was looking for answers to get the Harbor back to being self-sufficient. The Town would continually be improving the Harbor so there would always be some debt; iv) Councilwoman Holloway stated that the Town did not have the budget to properly market the Harbor. CCYC had professionals who could market the Harbor which would benefit the Town as a whole; v) Mayor Dize noted that the Town would continue trying to obtain grants for improvements. Bulkheads and other infrastructure had a life span and would continually need to be repaired and replaced; vi) The Town Council would continue to set the rates; vii) All revenue would stay in the Harbor Fund for future improvements.

Council was asked about their vision of what would be a success at the Harbor. Council responded as follows: i) Mayor Dize would like the Harbor to be a place for everyone. A place where watermen could sell their catch. A place where people could watch the watermen hauling in their catch, then purchase it. He wanted the Harbor to look nice and be maintained; ii) Councilman Bannon stated that when he first opened his bed and breakfast (B&B) 35 years ago, people questioned him about who would be coming to Cape Charles. Now there were lots of people coming by boat and rather than staying on their boats, many stayed in the B&Bs. It was difficult trying to maintain a working harbor as well as a tourist attraction; iii) Councilwoman Holloway thought of the Harbor as an asset, similar to the beach. The Town needed to do its best

to keep it nice. The Town didn't have the resources and skill to take the Harbor to the next level. The historic and harbor districts needed to be tied together. It would take time, but working with a management company could alleviate some of the pressures; iv) Councilman Grossman saw a good synergy with the CCYC and the Harbor and would like to see a strong connection with the Harbor and other businesses. He wanted the Harbor to operate as efficiently as it could and be economically viable; v) Councilman Follmer agreed with what others had said and added that success required a broad range of expertise, which the Town couldn't afford to have on staff; and vi) Councilman Buchholz stated that he moved to Cape Charles in 2004 and the Town and Harbor had come a long way since then.

Mr. Turner added that they purchased the property in Belfast, ME in 2010 and built the shipyard in 2011. Belfast was worse than Cape Charles. It had a poultry plant on one side and a sardine plant on the other side. When he moved to Maine in 1994, no one would go to Belfast due to the odor and oil from the sardines running down the street. It was a disaster area. A major bank came to Belfast, purchased and demolished the poultry plant. Ten years later, he purchased the sardine plant, tore it down and built the shipyard. Belfast was now the place everyone wanted to go to. A few little things made a huge difference. There were no empty storefronts and a rail trail ran through Belfast for several miles to the river and was the only walkway going through a working shipyard on the East Coast. Everything worked and it happened by everyone working together. It could work perfectly in Cape Charles as well. Mr. Turner welcomed anyone to contact the City Council of Belfast.

John Hozey stated that i) The budget adopted in May was very conservative with dramatic cuts due to COVID-19. A budget review was scheduled in October and adjustments could be made; ii) If Council were to move forward with the management agreement, it would be effective January 1, 2021 with a transition period where CCYC would work with existing staff; iii) The Town was still working with CCYC regarding the details of the contract. Staff was waiting to hear tonight's comments. The contract would most likely be finalized for review by Council at their September 17th meeting. When the agreement was finalized, it would be made available to the public for review and additional comments.

Councilman Follmer stated that he would be interested in hearing more from the commercial watermen before making a final decision regarding the contract.

Mayor Dize agreed adding that this was a big decision for Council to make and the more comments received, the better the decision.

Mayor Dize thanked everyone for attending.

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

The meeting was adjourned at 7:45 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
August 27, 2020 Town Council Work Session**

**Town Manager Memorandum
August 27, 2020
RE: Town Harbor Management**

Last February the Town Council asked for requests for proposals for private management of the Town Harbor. This was not a decision by the Council to move toward private management, rather it was just the Town's due diligence to see if there were any better options to current management; something that might improve the appearance, function and experience associated with the Town Harbor.

The Town received three proposals. These were from Oasis Marinas, F3 Marina, and Cape Charles Yacht Center. A proposal review committee was established comprised of the town manager, the mayor, vice-mayor, our project manager, and a representative of the Cape Charles Yacht Club (not affiliated with the Yacht Center). After careful consideration, the committee favored the Cape Charles Yacht Center, who took a unique approach to their proposal. The CCYC was able to capitalize on economies of scale provided by their existing operation. Of the three proposals, this seemed to have the best chance for success.

The Town Council considered the committee's recommendation and negotiations began with the Cape Charles Yacht Center to see if a potential agreement was possible. Those negotiations are still underway, and the Town Council has not made a final decision yet regarding this process. Before finalizing and formally considering any agreement, the Mayor and Town Council are requesting public comment, especially from harbor stakeholders. A public work session has been scheduled for August 27 at 6:30 pm at the Civic Center for this purpose.

Representatives from the Cape Charles Yacht Center will be present at this public discussion to help address comments/questions. If this process does move forward, the change in management is expected to occur on January 1, 2021.

Jim Granger, 524 Jefferson Avenue

Subject: Privatization of Cape Charles Town Harbor

Mayor Dize, Town Council Members,

I oppose turning over the management of the Cape Charles Town Harbor to a private firm. Where an elected government has only one motivation, the welfare of its citizens, a private company is motivated by profit, not the welfare of the town's citizens. As a retired civil servant after 33 years+, I have never seen outsourcing management of a public resource go well. Ask VDOT and Hampton Roads residents about how outsourcing management of the Downtown Tunnel is going.

Reading over the proposal, I'm not really seeing what the Town gets out of it. Rates for the town marina will be raised to meet the CCYC prices, and the boat launch ramp which has always been free for use, will now charge a fee to launch boats. I know the Harbormaster and staff have many ideas to improve services at the Harbor, and I'd rather see the Council support them rather than turn over management to a private company.

Diane D'Amico, 602 Jefferson Avenue

The Town Manager's Memorandum says we want to *do something that might improve the appearance, function, and experience associated with the Town Harbor*. The Request for Proposals says *our objective is to improve the financial operating results*. The Cape Charles Yacht Center says their *ultimate goal is to position Cape Charles as the Mid-Atlantic hub for recreational vessels of all sizes*. Let's make sure we are all working towards the same outcome and that our visions align. Towards that end I have questions that I hope can be answered now but if not, I hope they will be seriously considered by the Town Council prior to a final decision.

First, for the committee...

Can you discuss your research as to why the Harbor loses money year after year?

Is it our staff or our lack of staff?

Are we unreasonable in our budget appropriations?

What has happened in the past when we raised our dockage fees, storage fees, and our gas prices?

Have we done anything in the recent past that has resulted in an increase in revenue? Is that worth expanding upon?

What is physically or geographically standing in the way of future success?

What in this situation is your vision of a successful outcome?

Second, for the Cape Charles Yacht Center...

Do you agree with the committee's findings?

Do you have anything to add?

Exactly what will you do to address these problems?

What in this situation is your vision of a successful outcome?

Finally, to the Town Council...

Given that the responsibility of government is to act for the good of its citizens what criteria is the Town Council using to determine in this case what will best serve the citizens of Cape Charles?

What in this situation is your vision of a successful outcome?

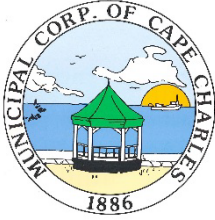
Do all three groups' visions align? I ask the Town Council to take all the time they need and ask all the questions to which they need answers to come to the best outcome for current and future citizens of Cape Charles. Please do not let time be a factor.

Phil Goetkin, 602 Jefferson Avenue

Consideration for privatizing the management of the Town Harbor

I would like to thank Cape Charles Yacht Center for their submission. Their proposal presents lots of good ideas and information. They paint an optimistic vision for the Harbor. However, only one thing matters in this decision process: will the Town and the citizens of this town benefit from signing this agreement. Although I have not been convinced one way or the other, I do have several questions and comments. I believe the Town Council should consider these items before you make a decision.

- Past complaints about the Harbor have focused on operational losses and not on qualitative aspects including appearance, functionality, and customer experience
- The only objective identified in the introduction of the February 24, 2020 RFP was improving financial results
- Are there actions the Town can take on its own to improve our financial situation? Increase rates and charging for launch fees?
- The August 20, 2020 memorandum from the Town Manager mentions better management options and qualitative aspects of the Harbor
- Are we dissatisfied with the current Harbor staff?
- Can the current staff resolve some of the qualitative concerns of the Harbor?
- Do we need to increase the Harbor budget to resolve some of these issues?
- In CCYC's proposal, they will assume costs for personnel, advertising and office expenses. The Town will remain responsible for all other costs including facility maintenance and capital improvements. I assume that little or no additional funds are currently available for these activities. Unless we reprioritize the Town's budget, how do we expect funds to become available in the future? When CCYC requests resources for facility maintenance or capital improvements, how will we be able to respond?
- Will this agreement represent a conflict of interest for CCYC? How will business be divided between CCYC and the Town Harbor? For example, when a boat requests docking privileges, how will the decision be made on where to put it?
- Will private management of a public facility affect our ability to obtain grant funding?
- CCYC's fees are based on gross revenues and comparisons to the prior year. Were revenues during the 2019-2020 fiscal year dramatically affected by COVID-19. Would 2018 (or some other base amount) be more appropriate?
- How will CCYC's fees be calculated during the requested transition period?



DRAFT
TOWN COUNCIL
Public Hearing, Special Meeting,
Work Session & Executive Session
Cape Charles Civic Center
September 3, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Public Hearing, Special Meeting, Work Session and Executive Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were seven members of the public physically in attendance, and six viewers on Facebook Live.

PUBLIC HEARING COMMENTS:

- A. Amendment to Ordinance Creating the Joint Industrial Development Authority of Northampton County and Towns – Name change to Joint Economic Development Authority and adding the towns of Eastville and Nassawadox as participants in the authority

There were no comments to be heard nor any written comments received prior to or during the public hearing.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to close the public hearing. The motion was approved by unanimous vote.

PRESENTATIONS:

- A. *Northampton County Supervisor John Coker – November Tax Referendum*

Supervisor Coker addressed the Council regarding the renovation and construction of the Northampton County schools which were currently estimated at a cost of \$35M. The Board of Supervisors (BOS) approved moving forward with construction due to the unprecedented low interest rates. Studies showed that quality schools were a good economic driver that helped improve skills to increase the work force in the county. The county had already borrowed \$25M and would obtain another loan for \$10M in the fall. The plans were to reopen the middle school after renovation. The BOS saw two options to raise revenue to help with the debt service 1) raise property taxes; and 2) raise the sales tax by one cent for non-essential items. The Virginia General Assembly approved the added sales tax for the county during their session earlier this year, but the tax could only be implemented by referendum with approval from a majority of voters. The tax would expire in 20 years and require another referendum to be reimplemented. The proceeds of this tax would only be used for school construction and renovation. The BOS estimated collection of \$1.4M per year with this tax. It was also estimated that about 45% of sales tax collected in the county were paid by visitors and the BOS wanted to take advantage of the tourism economy to bring the school complex up to date. Mr. Coker asked for Council’s support and for everyone to vote “yes” on November 3rd.

PUBLIC COMMENTS (REGARDING AGENDA ITEMS ONLY):

Tiffany Mohr, 215 Madison Avenue

Ms. Mohr addressed Council regarding the Oyster Farm’s directional sign at Fig Street and Randolph Avenue. (Please see attached.)

There were no other comments to be heard nor any written comments received prior to or during the public comments period.

SPECIAL MEETING ORDER OF BUSINESS:

A. *Amendment to Ordinance Creating the Joint Industrial Development Authority of Northampton County and Towns:*

Town Manager John Hozey stated that representatives from the Joint Industrial Development Authority (JIDA) gave a presentation to Council at the August 20, 2020 meeting providing an update of proposed changes to the JIDA. The name was being changed to the Joint Economic Development Authority and the towns of Eastville and Nassawadox had petitioned to participate in the Authority. Each of the participating towns needed to adopt the ordinance in order for the amendments to become effective. The ordinance to be adopted this evening was the same ordinance provided by the county, verbatim with the addition of our ordinance number for tracking purposes.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Ordinance 20200903 An Ordinance to Amend an Ordinance Entitled, "An Ordinance Creating the Joint Industrial Development Authority of Northampton County and Towns". Mayor Dize moved for adoption of Ordinance 20200903 as noticed and forewent reading of the Ordinance. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

B. *Atlantic Union Bank Line of Credit Renewal:*

John Hozey stated that since 2011, the Town of Cape Charles had maintained a \$500K line of credit for working capital. The Town had never had to use the credit line, but it would be prudent to extend the account for another year. All disbursements must be approved by the Town Council.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to adopt Resolution 20200903 Authorizing the Renewal of the Line of Credit with Atlantic Union Bank in the amount of \$500K. Mayor Dize moved for adoption of Resolution 20200903 as noticed and forewent reading of the Resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

C. *Approval of Public-Private Education Facilities and Infrastructure Act Guidelines:*

John Hozey stated that an unsolicited proposal was received from AQUA in May. For most transactions, the Town followed the Virginia Public Procurement Act regarding the process for the expenditure of public funds. For certain projects, the attorney recommended alternate procurement processes using the Public-Private Education Facilities and Infrastructure Act (PPEA) and the Public-Private Transportation Act (PPTA). These Acts could provide more process flexibility for some transactions. The Acts required the formal adoption of local guidelines before the Town could be authorized to access the provisions of these laws. The guidelines were very detailed, and a set of abbreviated guidelines were also included for Council review.

Councilman Grossman commented on several aspects of the guidelines that he liked such as the ability for the Town to charge a fee to cover costs of processing, reviewing and evaluating any unsolicited proposal and the clear and detailed process regarding posting requirements, etc.

Vice Mayor Bennett agreed with Councilman Grossman adding that even though the guidelines were extremely detailed, they were also very straightforward. He expressed his appreciation for the work done to develop the guidelines.

John Hozey stated his intent to contact AQUA tomorrow morning to see if they were interested in revising their initial proposal for a conceptual proposal for possible acceptance.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to approve the Public-Private Education Facilities and Infrastructure Act and the Public-Private Transportation Act guidelines as presented. The motion was approved by unanimous vote.

C. *Oyster Farm Direction Sign at Fig Street and Randolph Avenue:*

John Hozey stated that his research showed that the Town Council approved the placement of the Oyster Farm's direction sign for a very temporary period until the wayfinding signs could be developed. VDOT guidelines no longer permitted what the Town envisioned so there was no end to the situation. The new wayfinding signs could not contain as much information and could not list individual businesses. The existing wayfinding signs would be removed within the next couple of weeks and replaced with the new ones that conformed to VDOT's guidelines.

Councilman Grossman noted that the basis for the original approval did not fit this particular application since it referred to temporary signage placed on Mason Avenue for the businesses on the side streets. This was a different scope and he was unsure how it was extended to include Fig Street.

Mayor Dize stated his agreement but added that this was not the time to order removal of the signage since many businesses were hurting due to effects of the pandemic. The Town should do whatever possible to help direct people to the businesses. He understood the concerns but the timing wasn't good.

Councilman Buchholz stated that he was the president of the Cape Charles Business Association when the original ordinance was passed, and he received numerous complaints about the sign being allowed. Everyone was told that it would be temporary until wayfinding signs could be installed. Now we know that the original wayfinding signs would not be coming. He was unsure how removal of the sign would affect the Oyster Farm but continuing to allow the sign was giving preferential treatment for one business over others.

Councilwoman Holloway commented that the Oyster Farm did a great job with their marketing and most people coming into the Town knew where to find them and there was always GPS for those who weren't familiar with the Town. Her guests typically were already aware of the Oyster Farm from seeing their signs along the highway. The Oyster Farm also had the ability to get a sign from VDOT that would list their business.

Councilman Buchholz agreed, noting that the Cape Charles House Bed and Breakfast paid for a sign from VDOT for a number of years. He went on to suggest allowing the sign to remain until December 31, 2020 to give them adequate time to contact VDOT.

John Hozey stated that after hearing Council comments at the last meeting regarding this sign, he directed staff to contact the Oyster Farm asking them to remove the sign. He then received the attached email from the Oyster Farm and permitted the sign to remain until the issue could be brought to Council for a decision.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to allow the Oyster Farm's directional sign to remain at the current location until December 31, 2020. The motion was approved by majority vote with Vice Mayor Bennett opposed.

TOWN MANAGER COMMENTS:

Town Manager John Hozey commented as follows: i) COVID Update: The numbers had been on an upward trend for the past week with about 1K new cases per day. He had targeted the week after Labor Day to begin opening up the offices, but with the fact that the numbers were not improving, with the majority of cases in the Hampton Roads area, and that he would be out town, he was uncomfortable with opening the offices up. He preferred to wait until his return. Staff was performing their jobs and no complaints had been received; ii) Community Development Block Grant (CDBG) award: He was contacted today about the necessary follow-up to get the contract awarded. He tried to get something done before he left for vacation, but the individual handling the contract

for the CDBG just came back from vacation and was unable to get things done this week. He got a date of September 30th but felt that was too late. He would work on the criteria while he was on vacation in order to get things drafted for Council's review. He would contact the representative to get an earlier date for their review; iii) Harbor stakeholder meeting: He was working with the Cape Charles Yacht Center (CCYC) to finalize the agreement. It was proving to be challenging in many ways. Everyone was comfortable conceptually but when working on the details, the CCYC was getting nervous doing the math. He was working with them to make adjustments and pushing to have the agreement in time for the September 17 meeting; and iv) He reviewed the meeting schedule over the next couple of months. The next meeting was scheduled for September 17 and he hoped the harbor agreement would be addressed. In October, the first week was typically a special meeting or work session. He requested scheduling the first meeting for October 8 to review the capital improvement plan (CIP). October 15 would be the regular meeting when he would like to have Council approval of the CIP. October had five Thursdays, so he would like to schedule the budget review for October 29 so the September numbers would be available for inclusion in the review. The other fiscal policies would be reviewed at the November 5 work session. If the budget required an amendment, there was a notice requirement, so the amended budget and fiscal policies could be presented for Council approval at the November 19 regular meeting. All the necessary business would be completed before Thanksgiving. The only other thing requiring Council approval would be the CDBG criteria which would be worked in as soon as possible.

MAYOR & COUNCIL COMMENTS:

Councilman Grossman stated that at the last Planning Commission meeting, it was discovered that first floor residences in the Commercial-1 district were being approved incorrectly. A conditional use permit was not the proper tool for this purpose. The Commission would be working on their recommendation to bring to Council at a future meeting.

Councilwoman Holloway commented as follows: i) She, along with Mayor Dize, John Hozey and Karen Zamorski, met regarding the train car. The project was put on hold due to the COVID pandemic. There was a volunteer, with project management experience, willing to restart the project. Cape Charles Main Street (CCMS) had a \$15K grant from Northampton County for the project. CCMS would like to attend a future Council meeting to present a clearer idea of the project; ii) She was the Eastern Shore of Virginia Tourism Commission (ESVTC) representative and gave her apologies for not providing regular updates about the ESVTC. She suggested inviting ESVTC Executive Director Robie Marsh to a future meeting to speak; and iii) Lovefest was this weekend and CCMS was partnering with the Citizens for Central Park for a celebration in conjunction with their 10th anniversary dedication of Central Park. Volunteers were needed for tomorrow at 4:00 p.m. to help decorate the park.

Vice Mayor Bennett, and Councilmen Bannon, Buchholz, and Follmer did not have any additional comments.

Mayor Dize commented as follows: i) He asked John Hozey to provide an update on the LOVE sign. John Hozey state that he received a report that one of the kayaks had broken off. Vandalism was not suspected. The kayak was secured until a plan was in place for repair. CCMS was contacting the individual who repaired it the last time. Councilwoman Holloway interjected that the sign needed to be repaired soon as it was planned for the backdrop of their marketing campaign. CCMS had fundraising events for maintenance of the LOVE sign; and ii) He thanked Supervisor Coker for his update earlier this evening.

WORK SESSION ORDER OF BUSINESS/DISCUSSION:

A. *Capital Improvement Plan:*

John Hozey began by stating that he had intended to have more information for Council's review, but his efforts were preempted by other issues. The document drafted by Councilman Grossman and approved by Council in January was a good foundation. He would be offering suggestions to tweak the process. Since CIP could refer to several things, he recommended changing the name to Capital Asset Management Program (CAMP). In preparation for meeting next month, he

wanted to gather the needs from staff and departments. He also needed Council's priorities and asked them to email him with their input within the next couple of weeks.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, calling for a short recess before going into executive session. The motion was approved by unanimous vote.

The meeting recessed at 7:20 p.m. Staff, with the exception of John Hozey, and the members of the public left the meeting.

At 7:30 p.m. Mayor Dize called the meeting back to order.

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

Paragraph 7: Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

Specifically: Update on Legal Matter – Fauber v. Town of Cape Charles

Paragraph 7, Specifically: Update on Legal Matter – Kevcor Contracting Corporation v. Town of Cape Charles

Paragraph 1: Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals.

Specifically: Six-Month Evaluation of Town Manager

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to return to open session. The motion was approved by unanimous vote.

Certification, to the best of each member's knowledge, that (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; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Public Hearing, Special Meeting, Work Session and Executive Session. The motion was approved by unanimous vote.

The meeting was adjourned at 8:07 p.m.

Mayor Dize

Town Clerk

Comments & Information Provided in Writing
September 3, 2020 Town Council Public Hearing, Special Meeting & Work Session

Tiffany Mohr, 215 Madison Avenue

On behalf of the management team at The Oyster Farm at Kings Creek I am speaking tonight in support of having our directional sign remain on the town property until a time when updated wayfinding signs are completed.

This request was granted in 2016 and I see no reason why this should change, as the signs have not changed since that time either. While I understand that it has been expressed that it sets a precedent for allowing businesses to place signs on town property, we are in a unique situation in where we are not part of the "historical commercial district" or the town harbor area and are essentially on our own isolated on the north end of town.

The Oyster Farm is not just one business, but a collection of businesses over 30 acres: two restaurants, a marina, vacation rentals as well as a catering operation and events facility. Much like Bay Creek, we are not just a business, but a place, so directional signage, like Bay Creek Golf currently having a place on the main wayfinding sign coming into town, is important for visitors and guests to be able to find us. It is more important now than ever, given the times that we are in.

Historically the Oyster Farm has not only been amongst the largest employers and commercial tax payers in town, but it has always been a huge supporter of the town and brought many people to Cape Charles through various events, most notably our weddings and large events like Shuck N Suck and Bash by the Bay. Every visitor that we have is a visitor we share with the town. On a personal note, I have always sold out wedding business as a destination, encouraging clients to make a weekend of their event by having guests stay in hotels, bed and breakfasts and rental houses; eat in town restaurants, shop with local businesses, rent golf carts, etc.

The sign has been in place for 4 years without issue, so what exactly has changed to make it an issue now. I would ask that the council grant permission for the directional sign to remain until such time when new wayfinding signage is put in place or new politics are developed as it relates to town property. A long term agreement with the town by way of a lease and improved permanent signage is something that we are open to if indeed that is a possibility.

Thank you for your time.

July 2020 Treasurer's Report

Page 1 – Cash Position

- A \$90,000 principal payment was made on the Pinnacle 2016A loan.

Page 2 – Revenue vs. Expenditures

- Revenues and Expenditures are tracking much like July 2019 except for the Harbor, which had increases in dockage and fuel sales.

Page 3 – Capital Projects

- \$33,890 was expended on light poles and utility mapping survey for phase I of the Harbor Rehab Project, which is a carryover from FY20.

Page 4 – Tax Collection Rate

- This page will return in November
|

Page 5 – Tax Revenue Trends

- Not surprisingly, tourism-based tax revenue shows a decrease but in most cases is close to that earned in July of 2018.
- BPOL collections are high due to the postponed due date.
- Harbor revenue is 71.3% higher July 2020 than it was July 2019.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
July 31, 2020

<u>Cash on Hand</u>	<u>6/30/2020</u>	<u>7/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$1,238,062	\$555,643	-\$682,419
Atlantic Union Bank Money Market Account	\$825,836	\$1,426,309	\$600,473
LGIP Account 1 - Unrestricted	\$104,066	\$104,094	\$28
LGIP Account 2 - Unrestricted	\$299,319	\$299,409	\$91
PNC SNAP Account - no longer restricted	\$0	\$0	\$0
PNC SNAP Account Interest	\$0	\$0	\$0
Total Cash On Hand	\$2,467,283	\$2,385,456	-\$81,827

<u>Restricted and Reserved Cash Balances</u>	<u>6/30/2020</u>	<u>7/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,078,911	\$1,079,003	\$92
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$31,454	\$31,454	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$2,792	\$2,792	\$0
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,582	\$257,584	\$1
Wells Fargo 2010 Debt Service pass through account #300	\$2,897	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,374,829	\$1,374,922	\$93
Total Cash - All Accounts	\$3,842,112	\$3,760,378	-\$81,734

DEBT SERVICE

Net Debt as of Current Reporting Month End \$7,118,668

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

July 31, 2020

REVENUE VS. EXPENDITURES

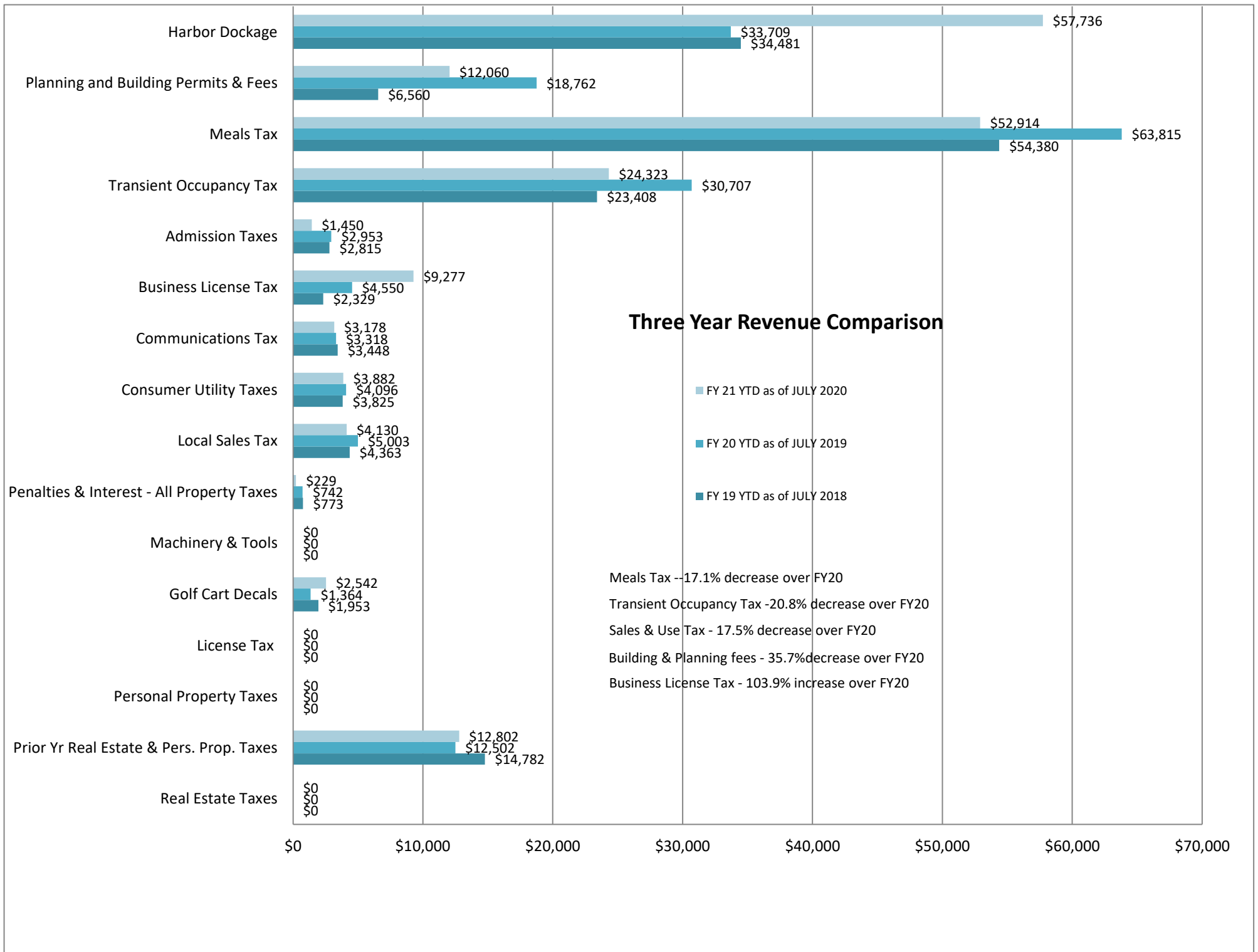
<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY19</u>
GENERAL						
REVENUE - Operating	\$128,317	\$158,463	\$128,317	\$82,421.34	\$3,580,706	3.58%
EXPENDED - Operating	\$251,133	\$284,217	\$251,133	-\$33,083.89	\$2,805,563	8.95%
NET	(122,816)	(125,754)	(122,816)	2,938	775,143	
REVENUE - CAPITAL GRANTS & LOANS	0	0	0	0	813,867	0.00%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	65,356	64,828	65,356	527	1,589,010	4.11%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	0	0	0	0	
TOWN CONTRIB. & PENDING GRANTS	(65,356)	(64,828)	(65,356)	(527)	(775,143)	
PUBLIC UTILITIES						
REVENUE - Operating	158,023	158,360	158,023	(336)	1,689,134	9.36%
EXPENDED - Operating	52,859	60,873	52,859	(8,013)	1,146,690	4.61%
NET	105,164	97,487	105,164	7,677	542,444	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	42,400	54,068	42,400	(11,668)	169,600	25.00%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	75,028	87,741	75,028	(12,712)	712,044	10.54%
TOWN CONTRIB. & PENDING GRANTS	(32,628)	(33,673)	(32,628)	1,044	(542,444)	
HARBOR						
REVENUE - Operating	179,458	110,330	179,458	69,128	1,060,080	16.93%
EXPENDED - Operating	135,516	84,641	135,516	50,874	692,473	19.57%
NET	43,942	25,688	43,942	18,254	367,607	
REVENUE - GRANTS & LOANS	0	0	0	0	375,765	0.00%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	0	0	(32,023)	0	
EXPENDED - Capital Projects, Debt Svc	55,836	32,023	55,836	87,859	743,372	7.51%
TOWN CONTRIB. & PENDING GRANTS	(55,836)	(32,023)	(55,836)	(87,859)	(367,607)	
SANITATION						
REVENUE	16,624	17,326	16,624	(703)	214,546	7.75%
EXPENDED	20,313	17,535	20,313	2,778	214,546	9.47%
NET	(3,690)	(209)	(3,690)	(3,481)	0	

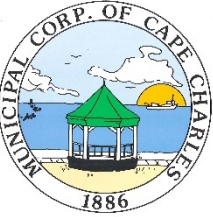
FY 2021 Capital Improvement Project Tracking Report

As of:
7/31/2020

	<u>FY21 Status or Start Date</u>	<u>Percent of Completion</u>	<u>FY21 Budgeted</u>	<u>FY21 QTR 1 Expended</u>	<u>FY21 QTR 2 Expended</u>	<u>FY21 QTR 3 Expended</u>	<u>FY21 QTR 4 Expended</u>	<u>FY21 YTD Expended</u>	<u>(Over)/Under Budget</u>
<u>General Fund</u>									
Police Vehicle	Pending	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	38,940
Permit Department Software	Pending	0%	\$ 7,000	\$ -	\$ -	\$ -	\$ -	\$ -	7,000
Public Works Shop Heaters	Pending	0%	\$ 6,868	\$ -	\$ -	\$ -	\$ -	\$ -	6,868
Grounds Maintenance Equipment	Pending	0%	\$ 22,240	\$ -	\$ -	\$ -	\$ -	\$ -	22,240
Portable ADA Equipped Restroom Trailer	Pending	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	35,000
Mason Avenue Re-striping	On Hold	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	15,000
Parking Lots (Mason & Harbor Shanty Area)	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	10,000
Video Surveillance System	.	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	35,000
Multi-Use Trail Phase 2 Closeout	Pending	0%	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	200,000
subtotal			\$ 370,048	\$ -	\$ -	\$ -	\$ -	\$ -	370,048
<u>Water Fund</u>									
SCADA System	pending	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	15,000
Remote Read Water Meters - starter setup	pending	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	51,985
Pickup Truck	pending	0%	\$ 32,766	\$ -	\$ -	\$ -	\$ -	\$ -	32,766
subtotal			\$ 99,751	\$ -	\$ -	\$ -	\$ -	\$ -	99,751
<u>Harbor Fund</u>									
Inner Harbor Rehabilitation Phase I carryover	in process	#DIV/0!	\$ -	\$ 33,890	\$ -	\$ -	\$ -	\$ 33,890	\$ (33,890)
Inner Harbor Rehabilitation Phase II	pending	0%	\$ 118,470	\$ -	\$ -	\$ -	\$ -	\$ -	118,470
subtotal			\$ 118,470	\$ 33,890	\$ -	\$ -	\$ -	\$ 33,890	84,580
<u>Sanitation Fund</u>									
Trash Can Replacements	on order	100%	\$ 11,796	\$ -	\$ -	\$ -	\$ -	\$ -	11,796
subtotal			\$ 11,796	\$ -	\$ -	\$ -	\$ -	\$ -	11,796
TOTAL			\$ 600,065	\$ 33,890	\$ -	\$ -	\$ -	\$ 33,890	566,175

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT



 TOWN OF CAPE CHARLES	AGENDA TITLE: USDA Rural Development Grant-Loan Requests for Fiscal Year 2021		AGENDA DATE: August 6, 2020
	SUBJECT/PROPOSAL/REQUEST: Public Hearing Information – USDA Rural Development Grants and Loans		ITEM NUMBER: 6A
	ATTACHMENTS: Capital Project Schedule, Resolution 20200917		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Deborah Pocock	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

At the May 28, 2020 Council meeting the Town Council approved the 2020-2021 budget. The budget included several capital projects to be funded with USDA Rural Development grants and loans. The attached schedule lists the approved projects.

DISCUSSION:

Staff will submit 2 applications, the first for funding available this summer for the general fund projects. The lawn mowing equipment is urgently needed by the public works department, and the code enforcement software is obsolete. The second application for the water projects, if approved, will be awarded sometime after September 30th.

The total of the grant proceeds for both applications is \$78,026, and loan proceeds total will be \$144,905.

The maximum interest rate is expected to be no more than 3.5%.

Prior to submittal of the applications, Council must adopt Resolution 20200917 authorizing Town Manager John Hozey to execute the necessary documents.

RECOMMENDATION:

Staff recommends Council hear public comments followed by discussion of proposed projects for the USDA-RD funding, and if deemed appropriate, adoption of Resolution 20200917.

CAPITAL PROJECTS - USDA Grant/ Loan Funded	BUDGET	USDA RD GRANT 35%	USDA RD LOAN 65%
<u>GENERAL FUND</u>			
POLICE			
Police Vehicle, including outfitting	38,940	13,809	25,131
CODE ENFORCEMENT			
Permit Software - replace obsolete system	7,000	2,482	4,518
PUBLIC WORKS			
Grounds Maint. Equipment	22,240	7,887	14,353
Portable ADA Equipped Restroom Trailer	35,000	12,411	22,589
Video Surveillance System	35,000	12,411	22,589
Total Public Works	92,240	32,709	59,531
TOTAL USDA LOAN/GRANT REQUEST	<u>138,180</u>	<u>49,000</u>	<u>89,180</u>

USDA

Form RD 1942-47

(Rev. 12-97)

LOAN RESOLUTION (TOCC 20200917)
(Public Bodies)

FORM APPROVED

OMB NO. 0575-0015

A RESOLUTION OF THE Town CouncilOF THE Town of Cape Charles

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

2020 DCI Police Vehicle, Public Works Equipment, Code Enforcement Software

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Town of Cape Charles*(Public Body)*

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

90,000.00pursuant to the provisions of Va Code 15.2; and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U. S. C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$ 10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
 - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
 - (b) Repairing or replacing short-lived assets.
 - (c) Making extensions or improvements to the facility.

Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$

under the terms offered by the Government; that the Town Manager

and Mayor of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee

The vote was: Yeas _____ Nays _____ Absent _____.

IN WITNESS WHEREOF, the Town Council of the
Town of Cape Charles has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _____ day of _____, 2020.

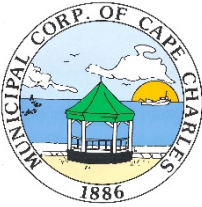
(SEAL)

By

Attest:

Title

Title

 TOWN OF CAPE CHARLES	AGENDA TITLE: Harbor Management Agreement with the Cape Charles Yacht Center		AGENDA DATE September 17, 2020
	SUBJECT/PROPOSAL/REQUEST: Approval of Town Harbor Management Agreement with the Cape Charles Yacht Center		ITEM NUMBER: 7A
	ATTACHMENTS: Harbor Management Agreement, Vision Statement		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Last February the Town Council asked for requests for proposals for private management of the Town Harbor. This was not a decision to move toward private management, rather it was just the Town's due diligence to see if there were any better options that might improve the appearance, function, and experience associated with the Town Harbor.

The Town received three proposals. These were from Oasis Marinas, F3 Marina, and Cape Charles Yacht Center. A proposal review committee was established comprised of the town manager, the mayor, vice-mayor, our project manager, and a representative of the Cape Charles Yacht Club (not affiliated with the Yacht Center). After careful consideration, the committee favored the Cape Charles Yacht Center, who took a unique approach to their proposal. The CCYC was able to capitalize on economies of scale provided by their existing operation. Of the three proposals, this seemed to have the best chance for success.

Negotiations began with the Cape Charles Yacht Center to see if a potential agreement was possible. As part of this process public comment was sought, especially from harbor stakeholders. A public work session was held on August 27 for this purpose. Representatives from the Cape Charles Yacht Center were present to help address comments/questions.

ITEM SPECIFICS:

The final details of this agreement have now been worked out and if approved, the change in management would occur on January 1, 2021 and run for three years. This is a management arrangement only. The Town will retain ownership of the facilities and provide for an annual budget. CCYC will provide the labor and oversight to accomplish the annual Vision Statement within the approved budget. This first year's Vision Statement is included as part of this approval.

As compensation for their services, CCYC will receive a portion of gross revenue generated. This fee increases for any portion of gross revenue that exceeds the prior year's, thus providing an incentive to grow the operation.

This is an entirely new concept for both sides, and we must go into it with the understanding that both parties need to work closely with each other in a good faith effort to try and make this work. After we get some actual experience under our belts, there may be tweaks or adjustments needed going forward. Such adjustments (if needed) would be brought back for Council consideration, likely next fall.

RECOMMENDATION:

Staff recommends approval of the Harbor Management Agreement and Vision Statement with the Cape Charles Yacht Center.



**TOWN OF CAPE CHARLES
AGREEMENT FOR
TOWN HARBOR MANAGEMENT**

This Agreement ("Agreement"), made this ____ day of August, 2020 by and between the Town of Cape Charles, a Virginia municipal corporation ("Owner"), and Cape Charles Yacht Center, LLC, a Virginia limited liability company, having its principal office at 1011 Bayshore Road, Cape Charles, Virginia 23310 ("Contractor").

WHEREAS, the Town owns the Town Harbor ("Harbor"), located within the boundaries of Cape Charles, which serves recreational, commercial and governmental vessels and which provides docking, fuel, sale of marine supplies, offload of seafood catch, and public boat launch and recovery; and

WHEREAS, the Harbor consists of 95 boat slips, 4 T-Heads, 1,200 feet of side-to-dock space, pump out facility, bath house, and public restrooms; and

WHEREAS, on February 24, 2020, the Town issued a Request for Proposals (RFP) for management of the Harbor, a copy of which RFP is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, in response to the RFP, Contractor submitted "Proposal Marina Management, Town of Cape Charles, April 20, 2020" ("Proposal"); and

WHEREAS, the Town has determined that acceptance of the Proposal is in the best interest of the Town.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein, and for other good and valuable consideration, the sufficiency of which is acknowledged by the parties hereto, the parties agree to the following:

I Contract Period

- A. A transition period shall commence October 1, 2020 and shall run through December 31, 2020. During this period Contractor shall observe current operations, evaluate current staff for potential employment with Contractor, and develop a plan to operate the balance of fiscal year 2020 under the approved budget. Full performance shall commence January 1, 2021 and shall run through December 31, 2023. Contract may be extended in writing by mutual consent.
- B. Inventory: Upon commencement of full performance of this Agreement, Owner and Contractor will sign an acknowledged inventory list of Owner supplied major equipment/vehicles available for Contractor use on January 1, 2021, and for which the Contractor will assume maintenance in

accordance with Statement of Work. Contractor will maintain this inventory in a similar condition to which it was received, using resources provided by the Owner in the annual operating budget. Additionally, Owner and Contractor will sign an acknowledged inventory of the existing stock of items held for resale, including fuel.

II Compensation

A. Base Fee.

In consideration of the services provided by Contractor, Owner shall pay Contractor on a monthly basis the following base fees calculated as a percentage of Gross Receipts:

Fuel Sales – 60 cents per gallon
Dockage & Wharfage – 40% of Gross Receipts
Electricity Sales – 20% of Gross Receipts
Lease Storage – 30% of Gross Receipts

B. Incremental Fee.

In addition to the base fees described above, the Owner shall pay Contractor on an annual basis the following incremental fees calculated as a percentage of that portion of Gross Receipts that exceeds the gross receipts from the previous calendar year:

Fuel Sales – 65 cents per gallon
Dockage & Wharfage – 50% of excess annual Gross Receipts
Electricity Sales – 20% of excess annual Gross Receipts
Lease Storage – 50% of excess annual Gross Receipts

C. Material and Operating Cost Reimbursement.

The Owner will reimburse the Contractor for allowable cost of materials and operations indicated in the approved budget as a cost reimbursement item provided-

- i. The Contractor has made payments for materials/operations in accordance with the terms and conditions of the agreement or invoice with its vendor; or
- ii. The Contractor ordinarily makes these payments within 30 days of the submission of the Contractor's payment request to the Owner and such payment is in accordance with the terms and conditions of the agreement or invoice with the vendor.
- iii. The allowable costs of materials/operations are the actual amounts paid by the Contractor.
- iv. All materials/equipment for which the Owner provides reimbursement shall be the property of the Owner.

To the extent able, the Contractor shall-

- i. Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and
- ii. Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits.

The Owner will not pay indirect costs, material handling, profit, or fee to the Contractor on materials/operational expenses.

It is estimated that the total cost to the Owner for materials/operations shall not exceed the amount of the approved budget, and the Contractor agrees to use its best efforts to perform the work within the budget. The Contractor is not authorized to procure materials in excess of the approved budget. If at any time the Contractor has reason to believe that the material or operational costs that will accrue in performing this Agreement in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the budget, the Contractor shall notify the Owner's Representative giving a revised estimate of the material/operational costs with supporting reasons and documentation so that the Owner may determine whether to revise the budget.

D. Payment.

Contractor shall submit to the Owner's Representative a request for monthly payment of the base fee with documentation supporting calculation of the payment as described in subparagraph E below. Payment shall be made by the Owner within thirty (30) days of receipt of the required documentation or correction of any discrepancies by Contractor. Contractor shall submit to the Owner's Representative a request for payment of the annual payment of the incremental fee with documentation or correction of any discrepancies by Contractor after close of the preceding twelve-month period. Payment of the incremental fee shall be made by the Owner within thirty (30) days of receipt of the required documents.

Owner may reduce payment to Contractor by an amount equivalent to the value of costs incurred by the Town due to misuse, neglect or damage to Owner's personal or real property. Such reductions in payment will be documented and provided to the Contractor no less than thirty (30) days in advance. Contractor may contest the reduction by presenting corroborating facts and conditions in writing to the Town Manager, who will duly consider such information. The Town Manager shall make a final decision regarding payment reduction. In the event the Contractor continues to dispute said reduction(s), they may seek reinstatement via Section VI.m.

E. Documentation of Gross Receipts.

Within twenty (20) business days following the end of each calendar month, Contractor shall provide the Owner's Representative with a final statement of Gross Receipts for the immediately preceding calendar month. Such statement shall detail all daily Gross Receipts by income category. Examples of income categories include, at a minimum, but are not necessarily limited to, dock fees, storage leases, fuel sales, electricity sales, and merchandise and goods sales.

Within twenty (20) business days following the end of each calendar year of this Agreement, Contractor shall provide the Owner's Representative with a final statement of Gross Receipts for the preceding year. Such statement shall detail all daily Gross Receipts by income category as described above.

The Owner shall have the right to inspect the records used to develop the monthly and annual statements of Gross Receipts upon reasonable notice to Contractor.

III Owner's Representative

Town Manager, 757-331-2979, Townmanager@capecharles.org; or his designee.

IV Statement of Work

- A. Provide all labor, office supplies and incidental materials to manage and operate the Town Harbor, including routine maintenance and repairs. Supplies and materials not reimbursed by the Owner will remain the property of the Contractor. The harbor includes 95 slips, 4 T-Heads, 1,200 feet of side-to dock space, pump out facility, bath house, office, public restrooms, dock side and street side fueling system, boat landing, and parking lots, all within the boundaries of Tax Parcel 83A3-A-10. Harbor operations are subject to the following conditions:
- i. Local Cooperation Agreement with the United States of America, particularly Harbor of Refuge; Exhibit A.
 - ii. Free public use of the boat landing, per the Cooperative Agreement with the Virginia Department of Game and Inland Fisheries; Exhibit B. Should this agreement not be renewed at the sole discretion of the Owner, the boat landing may be operated as an additional profit center with an additional fee structure upon concurrence of the Owner.
 - iii. All conditions of the Boating Infrastructure Grant and any other current or future grants for the operation or improvement of the Harbor
 - iv. All applicable state, federal and local laws, ordinances, regulations and policies.
 - v. A minimum of 32 floating dock spaces must be reserved for transient vessels, 14 on B Dock and 18 on C Dock, as a Boating Infrastructure Grant requirement.
 - vi. Continued certification as a Virginia Clean Marina.
 - vii. Public access from the western terminus of Marina Road through the asphalt parking lot to The Shanty (or successor) restaurant, the boat landing and any other facility open to the public.

Any fine, penalty or monetary loss resulting from Contractor's failure to abide by the agreements, grant conditions, or laws referenced herein, resulting from action or inaction directly related to the Contractor's responsibilities under this agreement, shall be the sole responsibility of Contractor. Contractor shall defend, indemnify and hold harmless the Town, its officers, employees and agents, from any and all liability or claims arising from, or alleged to arise from, such failure to abide by said agreements, grant conditions, and federal, state, and local laws, ordinances, regulations and policies.

B. The following functions are included:

- i. Budget/Vision Development and Implementation.
 1. Prepare annual budget for submission to Town Manager and approval by Town Council. This will include proposed rates, fees, prices and any discounts for Town property owners and commercial operators. Annual budgets shall clearly indicate which items are: (i) managed by the Contractor and covered by the fee, (ii) material and operating costs managed by the Contractor and reimbursed by the Owner; and, (iii) items managed and a paid for by the Owner.
 2. Prepare/update annual vision statement for the Town Harbor, to include specific deliverables or goals to be achieved in the next calendar year. The Owner will evaluate Contractor's performance annually at the conclusion of each boating season and prior to development of the following year's goals. Such evaluation will consider whether the Contractor received prior year's agreed upon support from the Owner.
 3. Implement approved budget/vision statement, including expense items such as utilities, facilities maintenance and repair, tools and equipment, fuel, and other retail item purchases.
 4. Prepare mid-year forecast of operating results.
- ii. Financial Control and Reporting.
 1. Bill and collect payments for all fees, sales, goods and services, including related deposits.
 2. Contractor and Owner shall maintain its books and records in compliance with Generally Accepted Accounting Principles (GAAP). Contractor shall not commingle revenues from its operations under this Agreement and other operations, and Contractor shall hold revenues due the Owner under this Agreement in trust.
 3. Account for all expense and revenue transactions through the Cape Charles Yacht Center marina software and accounting system. Provide monthly detail reporting to Town Treasurer.
 4. Revenues shall be collected, accounted for, and remitted by the Contractor to the Owner, and authorized expenses reimbursed by the Owner per Section II. C, D and E.
 5. The chart of accounts will be established cooperatively with the Town Treasurer.
 6. Pursue third party insurance claims as necessary for damages or liabilities incurred to the Owner's equipment or infrastructure.
 7. Utilities will be billed directly to the Owner, for payment by the Owner.
- iii. Operations.
 1. Solicit and administer occupancy agreements and slip assignments. Monitor for unauthorized occupancy. Actively pursue delinquent accounts payable. Administer evictions and remove abandoned vessels in accordance with law and resources provided by the Owner.
 2. Ensure boaters are provided with and sign rules and regulations and provide certificates of liability insurance.
 3. Implement standard operations procedures and facilities and equipment maintenance schedules.

4. Maintain emergency contact numbers and an Emergency Procedures Plan for staff. Ensure staff members are trained in safety and emergency procedures. Copies of all current emergency plans/contact information will be provided to the Owners Representative.
5. Provide all slip renters access to the facilities and amenities of Cape Charles Yacht Center.
6. Establish a grievance procedure for staff, contractors, and patrons of the Town Harbor. This procedure shall provide the grievant with a formal process to document concerns, a written response of possible resolutions, and a method to appeal a decision within the Contractor's organization. All grievances will be maintained as permanent records and available to the Owner.
7. Assist with the placement/maintenance of swim buoys at the Town's public beach.
8. Provide a weekly report (approximately half a page) to the Town Manager NLT 3:00 pm each Friday, highlighting significant operational issues and accomplishments, including repair and capital improvement projects.
- iv. Retail Sales.
 1. The Contractor will manage and account for fuel sales to retail customers, work with vendors to ensure appropriate fuel is available for sale, and act as the Owner's agent when dealing with fuel vendors. Fuel vendors will invoice the Owner directly.
 2. The Contractor shall operate an independent retail store for marine related supplies, equipment, apparel, and other appropriate items at the Town Harbor. Store inventory will be selected and procured by the Contractor at the Contractor's sole discretion and expense. All expenses, proceeds, and inventory associated with the retail store will remain with the Contractor.
- v. Human Resources.
 1. Hire, train and supervise all staff as employees of contractor.
 2. The Owner must concur in the selection of all subconsultants to be engaged in performance of this Agreement. The contractor shall be responsible for the performance of all subconsultants authorized under this agreement.
 3. Ensure all staff working at the Town Harbor are dressed in proper apparel with shirt exhibiting joint CCYC/CCTHM logo.
 4. Contractor shall be responsible for taking all reasonable measures to prevent the spread of communicable diseases that may be carried by its employees. Reasonable measures shall include compliance with any and all regulations, guidelines, executive orders, and executive directives by the Governor of Virginia, the State Health Commissioner, or other federal, state, regional, or local officer or agency.
 5. Cape Charles Yacht Center will assume all expenses for staff.
- vi. Facilities and Equipment.
 1. Within the approved budget and as outlined in the Vision Statement, maintain harbor to a high level of appearance and operational status.
 2. Within the approved budget, provide security monitoring for common areas and docks.

3. Conduct weekly inspections of grounds, systems, buildings, and docks. Maintain detailed inspection logs reviewable by the Owner at the Owners request.
 4. Within the approved budget and as outlined in the Vision Statement, perform routine maintenance and repair of all facilities and equipment.
 5. Within the approved budget, purchase tools, equipment and materials required for operations, maintenance, and repair. Such tools, equipment and materials remain the property of the Owner.
 6. Collaborate with Owner's representative to recommend a capital improvement plan for the harbor.
- vii. Marketing and Branding.
1. Prepare and submit to the Town Manager, at least annually, a competitive market analysis that identifies the marinas, amenities, slip sizes, services, and rates in the region. Include a positioning strategy based on this analysis.
 2. Develop and implement an aggressive marketing strategy as outlined in Cape Charles Yacht Center's proposal of April 20, 2020, incorporated by reference.
 3. Cape Charles Yacht Center will assume all expenses for marketing and branding.

V Definitions

- A. "Office Supplies and Incidental Materials" include but are not limited to:
- i. Computer hardware, software, and technical support
 - ii. Copiers, fax machines, credit card machines, and typical office equipment
 - iii. Printer paper, toner, and other typical office supplies
 - iv. Janitorial cleaning supplies and paper products exclusive of those provided for customer use
 - v. Employee uniform items
 - vi. Promotional materials
- B. "Routine Maintenance and Repairs" refers to labor or service contract management done outside of the Town's approved capital improvement plan and within the Town approved ~~materials~~ budget needed to address ongoing repairs and issues outlined during the budget development process. Maintenance and repairs that are deemed by the Contractor and Owner to be outside the scope of this agreement during the budget /vision development process, will be the responsibility of the Owner. Labor or service contract management under this agreement may include, but is not limited to, the following areas:
- i. Carpentry
 - ii. Plumbing
 - iii. Electrical
 - iv. Mechanical
 - v. Painting
 - vi. Horizontal Surfaces

- C. "Vision Statement" refers to both an aspirational desire to improve the appearance, function, and financial position of the Town Harbor; as well as annual tangible goals the Contractor will strive to achieve throughout an operational period, consistent with the resources provided by the Town. This Vision Statement is a separate document and hereby incorporated by reference; and will be updated annually in conjunction with an evaluation of Contractor performance following each boating season.

VI Terms & Conditions

- A. Termination: After the first year, it shall be the right of either party to terminate the contract upon sixty (60) days written notification.
- i. Within ten (10) days after the expiration or termination of this Agreement, Contractor shall remove all of its property from the Harbor. All property left on the Harbor premises shall be considered abandoned and shall be subject to disposal or retention by the Town. Contractor shall leave the areas it has occupied in a clean state and in good repair.
 - ii. The termination or expiration of this Agreement shall not relieve the parties of the obligation to pay any amount due the other that accrued prior to the termination or expiration of this Agreement.
 - iii. Contractor shall provide to Owner's representative an electronic record in Excel of accounts receivable, accounts payable, and revenue earned for the current fiscal year through the termination date for continuity of financial records. Such records shall be at the transaction detail level. All pending paper records (such as invoices due, etc.) shall also be transferred to the Owner's representative.
- B. Modification: The contract shall not be amended, modified, or otherwise changed except by a written change order. Change orders may be proposed by either the Contractor or the Owner.
- C. Ownership of Work Products and Records: Except for items which have preexisting copyrights or are solely associated with the Cape Charles Yacht Center and not associated with this agreement, all work products and records produced under this Agreement, are the property of the Owner. Payments to the Contractor for services hereunder includes full compensation for all work products, field notes, interim work, promotional materials, reports, and other materials produced by the Contractor and its subconsultants pertaining to this Agreement. Any re-use the Owner might make of these work products shall be at the Owner's own risk and option and the Contractor shall not incur any liability for the Owner's re-use of any work products.
- D. Insurance: Contractor shall obtain and maintain the following minimum insurance coverage:
- i. Workers Compensation Insurance as required by the Code of Virginia.
 - ii. Longshore and Harbor Workers Compensation Insurance as required by law.
 - iii. Commercial General Liability insurance, including contractual liability and products and completed operations liability coverage, with limits no less than One Million Dollars (\$1,000,000) per occurrence combined single limits (CSL);

- iv. Marine Pollution Liability Insurance with limits no less than One Million Dollars (\$1,000,000) per occurrence combined single limits (CSL); and
- v. Automobile and vessel liability insurance coverage in the minimum amount of One Million Dollars (\$1,000,000) per occurrence combined single limit (CSL). This coverage shall include non-owned and hired, as well as owned motor vehicles and vessels

Contractor may meet insurance requirements through separate, combination, or package policies if those policies meet the required limits and the required scope of coverage. Contractor or its insurance broker shall promptly notify the Owner of any material change to any such policy and provide an updated certificate of insurance.

The Contractor shall pay all premiums and other costs of insurance at its own expense. The Owner shall not be responsible to pay for the Contractor's insurance.

Prior to assuming operations of the Harbor under this Agreement, and not less than thirty (30) days prior to expiration of any policy thereafter, Contractor shall furnish to the Owner's Representative a certificate of insurance reflecting that the insurance required by this Agreement in force, accompanied by an endorsement showing the required additional insureds satisfactory to the Owner's Representative in substance and form. Notwithstanding the requirements of this paragraph, Contractor shall at the Owner's Representative's request provide to the Owner a certified copy of each insurance policy required to be in force at any time pursuant to the requirements of this Agreement.

Insurance coverage required under this Agreement shall be procured from a company or companies authorized to transact business in the Commonwealth of Virginia with a rating by A.M. Best & Company of A- or above. All such policies shall cover the Contractor and the Town of Cape Charles, including its officers and employees, as additional insureds and shall include or provide coverage for liability assumed under this Agreement. All such insurance policies shall be primary and shall contain a provision requiring the insurance company or insurance broker to give the Owner written notice at least thirty (30) days prior to cancellation of or material change to the policy.

- E. Right to Audit: Contractor's records of expenses and revenues directly related to operation of the Cape Charles Town Harbor shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the Town to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Contractor of any of its payees pursuant to execution of the contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this contract.

For the purpose of such audits, inspections, examinations and evaluations, the Town shall have access to said records from the effective date of this contract, for the duration of the work, and until five (5) years after the date of final payment by the Town to Contractor pursuant to this contract.

The Town shall have access to Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with this article. The Town shall give Contractor three business days advance notice of intended audits.

- F. Drug Free Workplace: In accordance with Section 2.2-4312 of the Code of Virginia, during the performance of this contract the contractor agrees to:
- i. Provide a drug-free workplace for the contractor's employees.
 - ii. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
 - iii. State in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace.
 - iv. Include the provisions of the foregoing clauses for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this contract.

- G. Faith-based Organizations: The Town does not discriminate against faith-based organizations in accordance with the Code of Virginia, Section 2.2-4343.1.
- H. Nondiscrimination: In accordance with Section 2.2-4311 of the Code of Virginia, during the performance of this contract the Contractor agrees as follows:
- i. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - ii. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

- iii. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - iv. The Contractor shall include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
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- I. Unauthorized Aliens: In accordance with Section 2.2-4311.1 of the Code of Virginia, during the performance of this contract the contractor shall not knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
 - J. Environmental Management: Contractor shall be responsible for complying with all applicable federal, state, and local environmental regulations.
 - K. Finance Charges: The Owner will not pay any finance charges imposed on any invoices submitted by the contractor relative to this Contract. However, the Owner will reimburse any finance charges incurred by the Contractor due to late payments to vendors and contractors caused by late payment by the Owner.
 - L. Assignment: Contractor may not assign his rights and obligations hereunder unless approved by the Owner.
 - M. Claims and Disputes: The Owner and Contractor shall endeavor to resolve claims, disputes and other matters in question between them by informal means. In the event resolution is not forthcoming via informal means, the Owner and Contractor will attempt resolution via mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The parties shall share the mediator's fee and any filing fees equally. The nonbinding mediation shall be held in a location that is mutually agreed upon.
 - N. Choice of Law and Venue: Any disputes that cannot be resolved between the Owner and the Contractor via informal means or mediation must be resolved in the Courts of Northampton County, Virginia. The contract shall be governed by the laws of the Commonwealth of Virginia.
 - O. Force Majeure: Neither the Owner nor the Contractor shall be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after the effective date. For purposes of this agreement, Events of Force Majeure shall mean: acts of God (such as, but not limited to, fires, explosions, earthquakes, drought, hurricanes, tornados, tidal waves and floods); war, hostilities (whether war be declared or not), invasion, act of foreign enemies; riots, commotion, strikes, lock outs or disorder, unless solely restricted to employees of the Contractor or of his subcontractors; or acts or threats of terrorism.
 - P. Conflict of Interest: The Contractor shall notify the Owner as soon as possible if this Agreement or any aspect related to the anticipated work under this Agreement raises an

actual or potential conflict of interest. The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the Owner is able to assess such actual or potential conflict. A conflict of interest will exist when interests other than the Owner's are potentially enriched at the Owner's expense; notwithstanding the anticipated growth of both the Contractor's and Owner's Cape Charles operations as a function of the mutual support and collaboration contemplated by this Agreement.

- Q. Confidentiality: The Owner agrees not to disclose Contractor's trade secrets, proprietary information, or other confidential information, directly or indirectly, during or after the term of the Agreement, unless compelled to do so by controlling law. Contractor acknowledges the Owner's obligation to disclose certain public documents under the Virginia Freedom of Information Act and other laws.
- R. Compliance with Laws: Contractor shall at all times comply in all respects with all applicable local, state and federal laws, ordinances and regulations applicable to its performance under this Agreement and shall obtain all permits or licenses necessary for its operations. Contractor shall provide the Town with copies of all government-issued health, safety or environmental inspection reports relating in any way to Contractor's operations at the Harbor. Each right and remedy of the Town provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy under this Agreement, applicable laws, and regulations.
- S. Indemnification: Contractor shall defend, indemnify, and hold harmless, the Town and its officers, employees and agents, from and against any and all losses, claims, damages and expenses, including reasonable costs of investigation and attorneys' fees, (collectively, the "Losses") arising from: (i) Contractor's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions (collectively the "Laws") applicable to Contractor's performance of this Agreement; (ii) any unlawful acts on the part of Contractor or its officers, agents, employees, or subcontractors; (iii) personal or bodily injury to or death of persons or damage to the property of the Town to the extent caused by the negligent acts, errors, and/or omissions or the willful misconduct of Contractor or its officers, agents, employees, or subcontractors, or; (iv) material breach or default by Contractor or its officers, agents, employees, or subcontractors of any provisions of this Agreement. The indemnity provisions set forth in this Article shall survive the termination of this Agreement.
- T. Independent Contractor: The parties acknowledge that Contractor is an independent contractor pursuant to this Agreement and not an employee or agent of the Town. Neither the Town or Contractor is in any respect an agent, officer or employee of the other, and no officer, agent or employee of either party, or any person acting on behalf of either of them shall act or represent himself as, an agent, employee or officer of the other.
- U. Assignment; Delegation: Neither party shall assign, transfer, or convey this Agreement, or any part thereof, nor delegate the performance thereof, without the prior written consent of the other.
- V. Interpretation: Each party agrees to the use of the particular language of the provisions of this Agreement, and any questions of doubtful interpretation shall not be resolved by any

rule or interpretation against the draftsman, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties and the limitations and restrictions upon such rights and benefits intended to be provided.

- W. Severability: If any part of this Agreement is, for any reason, held invalid for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Agreement, provided that the purpose of this Agreement and the intent of the parties are not frustrated.
- X. Further Acts: Each party agrees to perform any further acts and to execute, acknowledge and deliver any documents, and to provide any information which may be reasonably necessary to carry out the provisions of this Agreement.
- Y. Consequential Damages Waiver: In no event will the Town be liable or responsible to the Contractor for any type of incidental, punitive, indirect or consequential damages, including, but not limited to, lost revenue, lost profits, replacement goods, loss of technology, rights or services, loss of data, or interruption or loss of use of service or equipment, even if advised of the possibility of such damages, whether arising under theory of contract, tort (including negligence), strict liability or otherwise.
- Z. Small Businesses and Women-Owned and Minority-Owned (Swam) Business and Local Procurement: The Contractor shall use good faith efforts to purchase goods, materials, supplies and services from small, women-owned, and minority-owned (SWAM) businesses, and from locally owned businesses.
- AA. Good Faith: Both parties shall cooperate in the implementation of the provisions of this Agreement in a spirit of good faith and fair dealing and, to that end, any consent or approval required hereunder shall be given or withheld or conditioned on a reasonable and timely basis.
- BB. Non-Appropriation: All Owner obligations under this Agreement are subject to, and contingent on, appropriation of funds by the Town Council.
- CC. No Waiver: The failure of either party at any time to require performance of any provision of, or to resort to any remedy under, this Agreement shall in no way affect the right of such party to require performance or to resort to a remedy at any time thereafter, nor shall the waiver by either party of a breach be deemed a waiver of any subsequent breach. No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof. No waiver of satisfaction of a condition or nonperformance of an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver
- DD. Applicable to Successors and Assigns: The Town and Contractor agree that the rights and obligations under this Contract shall inure to and be binding on their respective successors and permitted assigns.

EE. The recitals form a part of this Agreement. This Agreement constitutes the entire Agreement of the parties and supersedes all prior or contemporaneous agreements, whether oral or written, between the parties. This Agreement may be amended only by a written agreement, addendum or change order signed by the parties hereto.

FF. Notice: Notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or sent by certified mail, return receipt requested, postage prepaid, addressed to the respective addresses last given by each party to the other.

Owner

Town Manager
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

Contractor

Nicole Jacques or John B. Turner
Cape Charles Yacht Center
1011 Bayshore Road
Cape Charles, VA 23310

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date written below.

Town of Cape Charles, Virginia

By: _____

Its: _____

Date: _____

Cape Charles Yacht Center, LLC

By: _____

Its: _____

Date: _____

Town Harbor Management
Vision Statement
(September 2020)

The Contractor will work in good faith toward the Owner's desire to improve the appearance, function, and financial position of the Town Harbor. The pursuit of this vision will create an improved experience for mariners (commercial and recreational), as well as non-mariners visiting the facility. The Town harbor will present a welcoming and attractive appearance from both the water and upland points of view. All interactions with patrons and visitors will be geared toward a friendly, customer service driven philosophy.

While maintaining the appearance and philosophy stated herein, the Town harbor will also be operated to maximize utilization and efficient allocation of facilities and resources. This operation must strive toward a self-sustaining enterprise (excluding debt service), with the goal of achieving ongoing year-over-year increases in net income sufficient to enable continued re-investment in the facility and improvements to the operational experience.

Specific goals for calendar year 2021:

- Fully integrate the docking and storage operations of the Cape Charles Yacht Center and the Town Harbor to achieve maximum efficiency and utilization of both facilities
- Develop and implement a new comprehensive marketing strategy consistent with this vision
- Re-design and deploy a new website consistent with this vision
- Develop and distribute new promotional materials consistent with this vision
- Increase Town Harbor net income over previous 12 month period
- Re-organize the site, clean up the boat storage areas, and install visual barriers as necessary to shield operational areas and improve the overall aesthetics of the facility
- Ensure all customer facing employees are properly trained in operational responsibilities and customer service philosophy
- Re-organize and re-stock the Harbormaster's office and store with improved offerings and selections of customer desired items
- In coordination with the Owner's representative, work with third party vendors to improve the services and amenities available at the facility
- Clean, repair, and/or paint facilities consistent with SOW to enhance existing conditions

Owner

Contractor

Date

Date