



TOWN COUNCIL
Regular Meeting & Executive Session
July 22, 2021
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. None
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of May 31, 2021 Financial Report](#)
6. Unfinished Business:
 - *A. [Application for Zoning Ordinance Text Amendment – Section 3.14-General Business/Light Industrial H-1](#)
 - *B. [Application for Zoning Map Amendment – Tax Parcel #90-8-1A1](#)
7. New Business:
 - *A. [Removal of Edward Wells from the Historic District Review Board](#)
 - *B. [Cape Charles Library Board Member Reappointments](#)
 - *C. [Updates to Cape Charles Guidelines for Citizen Participation](#)
 - *D. [Approval of Town Code of Ethics and Rules of Order](#)
 - *E. [Boating Infrastructure Grant Program Resolution](#)
 - *F. [Cape Charles Post Office Parking Request for VDOT](#)
8. Town Manager Comments
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - August 5, 2021 – Town Council Work Session (*if needed*)
 - August 19, 2021 – Town Council Regular Meeting
 - September 2, 2021 – Town Council Work Session (*if needed*)
 - September 6, 2021 – Town Offices Closed in Observance of Labor Day
 - September 16, 2021 – Town Council Regular Meeting
11. Motion to go into Closed Session

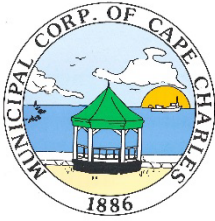
Code of Virginia § 2.2-3711-A, Paragraph 7: Consultation with legal counsel pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the litigating posture of the public body.

Specifically: David Fauber v. Town of Cape Charles

12. Members of the Public Requested to Leave the Room
13. Invite Members of the Public back into the Room and Motion to go into Open Session
14. Motion to Certify

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.

15. Adjournment of Regular Meeting and Executive Session



DRAFT
TOWN COUNCIL
FY 2022 Budget Public Hearing, Regular Meeting,
Executive Session & Emergency Preparedness Training
Cape Charles Civic Center
June 17, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Public Hearing for the Fiscal Year 2022 Budget, Regular Meeting, Executive Session and Emergency Preparedness Training Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O’Brien. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock, Chief Jim Pruitt, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were six members of the public physically in attendance, and 14 viewers on Facebook.

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

PUBLIC HEARING

Mayor Dize read the public hearing advertisement for the fiscal year (FY) 2022 proposed budget, tax and utility rates.

Town Manager John Hozey stated the following: i) There was a technical change to the budget regarding the American Rescue Plan Act (ARPA) funds. The revenue was initially expected during FY 2022, but staff received notification that the funding would be received during FY 2021. A change would be made to move the ARPA funding from FY 2022 to a reappropriation from FY 2021; ii) He met with some members of the community regarding the transient occupancy tax (TOT) proposal, and they asked him to provide the TOT rate necessary to capture the same revenue as the proposed TOT rate increase to 4.0% and the flat rates. The TOT rate needed to get the same revenue was 6.14% and the mean rate for Towns in Virginia was 5%. The alternative to increasing TOT was a real property rate increase of an additional 2.6 cents per \$100 of assessed value, which would equate to just over \$104 per year on a house assessed at \$400K. This would be an increase of 24% over the current rate. Should the Town Council approve the budget as proposed, the TOT increase would not take effect until January 2022 which was after the end of the current season.

Councilman Buchholz added that TOT was a pass-through tax, but real property tax impacted every homeowner.

Anne Vantine

Ms. Vantine stated that she was a co-owner of a duplex. One side was currently being rented and the other side was being renovated for rent after the summer. The problem was that renters balked at fees but had less of an issue with taxes. Rental websites, such as VRBO and HomeAway, considered fees as income. Vacation property owners would be taxed on the flat fee as income so they would not be able to fully pass on this fee. She concluded by stating that she felt the percentage was fine but had issues with the flat fee.

Maria Raphael

Ms. Raphael addressed Council regarding real property taxes which were based on assessed value stating that Cape Charles had seen an exponential increase in new housing construction. She was curious as to how many certificates of occupancy had been issued since 2012 as the assessments go up once the dwelling was constructed. Northampton County had increased assessments astronomically. A year after she moved in, the assessed value of her dwelling went up 75%. She was informed by the County that they use the MLS as a base for reassessments. She expressed her concern

about the Town's statement that it had not increased taxes in over a decade. While the percentage per \$100 of assessed value may not have gone up, the amount of revenue brought in by the real estate tax had and continued to grow given the growth in Cape Charles. The proposed budget was almost \$1.6M over the 2019 budget and \$3.4M over the 2020 budget, which she understood given the reductions for COVID. Nowhere in the budget did it show where the wind fall from 2020 went. The proposed budget showed a 197% increase for the town planner expense over 2020 and 106% increase over 2019 which seemed astronomical in budgetary terms. It also indicated that, as Councilman Buchholz stated and if done as John Hozey stated earlier, the permanent homeowners would bear the costs of commercial occupancies. She questioned why the commercial water and sewer rates were the same as the residential rates. She reiterated her feelings that it was such an astronomical increase in the taxes given that it didn't take into account the new assessments.

Barbara O'Hare

Ms. O'Hare addressed the Council as a representative from the Cape Charles Tree Advisory Board and asked Council to budget \$1K for the Public Works crew to plant native trees in high priority public spaces. (Please see attached.)

Town Clerk Libby Hume read 15 comments submitted in writing prior to the meeting. (Please see attached.)

Councilman Follmer stated that there was a common misunderstanding regarding equalization. A common perception is that our tax rate has stayed the same. Citizens did not understand the equalization aspect. The Town's rates had actually gone down over the years. He asked Treasurer Deborah Pocock to explain equalization.

Deborah Pocock stated that when the assessments were received from the County, staff examined them to see if the tax revenue would be more than 1% of the previous year. If it was, it was considered a tax increase. Over the last 12 years, the Town Council had elected to reduce the tax rate to get the same revenue plus 1% only. Not only had it not been a tax increase, but it was actually a net decrease. The Town allowed for a little bit of growth, but it was not as much as the Town would have realized if we would have been able to increase naturally.

A citizen in attendance asked about the additional revenue from new construction.

Deborah Pocock responded that the assessments received were as of January 1st, so most new construction would not be picked up until the next year. When the projected budget revenue was calculated, staff added an estimated amount for new construction. Meals tax and TOT were handled similarly in that a percentage was added to the projected revenue for growth. Estimated growth for all were already factored in when considering the net loss for the year.

There were additional comments as follows: i) Councilwoman Holloway added that she felt there was a misunderstanding of the process and wanted to make sure that everything was explained. There were a lot of assumptions made that the Town was reacting to 2020 and 2021 with COVID. There was much history going back to 2014. Council held public work sessions to discuss the proposed budget and various options, but no one knew that. She felt that it was incredibly valuable that people submitted their thoughts; ii) Councilman Buchholz commented that the citizens did not need to worry about scooters coming to Town. John Hozey added that a company approached the planner and scooters would not be an issue; iii) John Hozey went on to state that if someone was just looking at the bottom-line budget numbers, it was an extraordinary year with grants. An \$800K grant was received which was a pass-through to businesses. All grants were included in the bottom line and were shown as coming in then going out, so this budget could not be compared with previous years; iv) Councilwoman Holloway informed the citizens that their comments would be reviewed by Council and staff.

There were no additional comments received in writing prior to the meeting nor during the public hearing.

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

The public hearing portion of the meeting closed at 7:20 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no visitors to recognize nor any presentations.

PUBLIC COMMENTS:

Terry Strub

Ms. Strub addressed Council regarding boat trailers, boats, and oversized vehicles parked on town streets. (Please see attached.)

Town Clerk Libby Hume read one comment submitted in writing prior to the meeting. (Please see attached.)

There were no additional comments received in writing prior to the meeting nor during the public comment period.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. May 13, 2021 Town Council Work Session
 - ii. May 20, 2021 Town Council Regular Meeting & Work Session
 - iii. May 25, 2021 Town Council Work Session
 - iv. June 1, 2021 Planning Commission/Town Council Joint Public Hearing
- C. Approval of April 30, 2021 Financial Report

Vice Mayor Bennett stated that he had a question about the financial report and asked that it be pulled from the consent agenda.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to pull the April 30, 2021 Financial Report from the Consent Agenda and approving the remaining Consent Agenda items as presented. The motion was approved by unanimous vote.

Vice Mayor Bennett asked about the Harbor revenue. The Revenue & Expenditures Report showed a net of \$145K. The Three-Year Revenue Comparison Report showed this year's revenue almost double that of last year and he was having difficulty putting the numbers together.

Deborah Pocock stated that the differences related to debt service which was subsidized by the General Fund. The Harbor was doing well and paying part of their debt service and the height of the season was just beginning. The Revenue vs. Expenditures Report was complicated since it split out grants from other expenses.

Additional discussion regarding this item followed. John Hozey stated that he met with Cape Charles Yacht Center this week and asked them to work on capturing specific information in their new software. We needed to track occupancy revenue and could not compare rates. Heads needed to be counted. Going forward, we needed hard numbers of actual occupancy rates to better track the numbers to see if the rate increases were affecting occupancy.

Councilman Buchholz added that it seemed to be busier than in a long time. Boaters were there during the week as well as over the weekends.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to approve the April 30, 2021 Financial Report as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

A. Cape Charles Zoning Ordinance Amendments:

John Hozey stated that a joint work session was held with the Planning Commission and Historic District Review Board and proposed amendments to Articles II and VIII were drafted. A joint public hearing was held with the Planning Commission on June 1, 2021. The Planning Commission conducted a thorough review of the amended language and additional changes were proposed. He forwarded the proposed documents to the Virginia Department of Historic Resources (VDHR) Certified Local Government office for their review. Their only recommendation was for more robust qualifications for board members. Section 8.9 was revised per their recommendation and distributed earlier for Council review. In his opinion, most of the recommended changes provided by the Planning Commission improved and added clarification to the document. The only exception was Section 8.20.A which added a reference to Section 8.25.A regarding the pre-application process but provided no guidance for the Board. Other than this section, John Hozey recommended approval of the proposed text amendments to Articles II and VIII and recommended by the Planning Commission. Council could go through the document to discuss.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to accept the entirety of Articles II and VIII as recommended by the Planning Commission and including John Hozey's changes to Article 8.9 as a result of his discussion with the VDHR.

The floor was opened for discussion.

Councilman Follmer stated that he had a few questions and suggested changes: i) John Hozey had already addressed his first one regarding the qualifications of the Board members in Section 8.9 and he liked those changes; ii) Regarding the changes to Section 8.20.A, this was a forward-looking document, and the recommended changes did not communicate the Town Council's vision. His preference was to reinstate the deleted language from the first proposal "*The board is expected to work with each applicant to assist them in achieving their goal while preserving the character of the district.*" John Hozey asked that each additional amendment be done by vote.

Motion made by Councilman Follmer, seconded by Vice Mayor Bennett, to add back the deleted language in Section 8.20.A as discussed. The motion was approved by unanimous vote.

Councilman Follmer continued his review as follows: iii) He felt that the work "*related*" in Section 8.15.B. was too broad and vague and suggested changing the language to "*Actions addressed by the Guidelines...*"

Motion made by Councilman Follmer, seconded by Councilwoman Holloway, to revise the language in Section 8.15.B. as discussed. The motion was approved by unanimous vote.

There was further discussion as follows: i) Vice Mayor Bennett felt that the deleted wording in Section 8.16.H needed to be added back in. Councilman Grossman stated that the language was removed because it was too subjective. John Hozey added that in previous discussions, he heard that if it could not be seen from the public right-of-way, there was more latitude given to the project. Councilman Buchholz noted that several years ago, a joint meeting was held and members from the Department of Historic Resources attended, and they were fine with additions on the backs of houses.; ii) John Hozey reminded Council that this review was the first step in the process. The Town would be hiring consultants to review and update the design guidelines. Additional changes could be identified; iii) Re: Section 8.18.C.3.c., Vice Mayor Bennett commented that "*structural elements*" needed to be defined. The phrase was used multiple times in the document without definition. He was a structural engineer, and, in his world, structural elements

were floor joists, etc. that could not be changed or seen from the exterior. In his opinion, anything on the exterior was all architectural except for porch columns. This item would be noted for the consultant to address; iv) Vice Mayor Bennett asked about the change regarding the appointment of the zoning administrator. John Hozey stated that the change was based on current practices of appointing a zoning administrator by motion rather than by resolution; v) Vice Mayor Bennett asked if the zoning map had ever been amended. Councilman Grossman stated that it had not been provided for Council adoption.

Mayor Dize moved for adoption of Ordinance 20210617A Adopting Revisions to Cape Charles Zoning Ordinance Articles II and VIII as amended by Council and called for a roll call vote. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

NEW BUSINESS:

A. Code 42-3 – Adoption of State Law:

John Hozey stated an Ordinance had to be adopted each year to accept all amendments to the provisions and requirements set by the Code of Virginia in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations. Last year, Councilman Grossman questioned the need to adopt annually. The town clerk researched this issue and confirmed that it had to be adopted annually.

Motion made by Councilman Follmer, seconded by Vice Mayor Bennett, to adopt Ordinance 20210617B to Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§ 18.2-266 Et Seq.), if any, for Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic. Mayor Dize moved for adoption of Ordinance 20210617B as noticed and forewent reading of the ordinance. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

B. Amendments to Electronic Participation in Town Council Meetings Policy:

John Hozey stated that the General Assembly amended Code of Virginia Section 2.2-3708.2 relating to electronic participation in meetings. The General Assembly added a provision for members of the public body to participate electronically due to a family member's medical conditional that required the member to provide care for such family member, preventing them from physically attending the meeting. The number of permissible meetings was amended to two meetings per calendar year, which was the current permissible number, "or 25 percent of the meetings held per calendar year rounded up to the next whole number." Due to these recent amendments, the Town's written policy must also be amended. John Hozey added that as of today, the Town's emergency ordinance expired, and the state's emergency ordinance would expire on June 30, 2021.

Motion made by Councilwoman Holloway, seconded by Vice Mayor Bennett, to adopt the amended Town of Cape Charles Electronic Participation in Town Council Meetings Policy effective July 1, 2021. The motion was approved by unanimous vote.

C. July Regular Meeting Date Change:

John Hozey stated that the current July Town Council Regular Meeting was scheduled for July 15, 2021. A joint public hearing with the Planning Commission was scheduled for July 13, 2021 to be followed by the Planning Commission's regular meeting. In order to allow sufficient time for submittal of the staff report regarding the Commission's recommendation and associated documentation for inclusion in the Town Council agenda packet, Mayor Dize approved staff's request to reschedule the July Town Council Regular Meeting date to July 22nd. Pursuant to Section 15.2-1416 of the Code of Virginia, any change in the regular meeting date, time or location must be done by adoption of a resolution.

Motion made by Councilman Follmer, seconded by Councilman Buchholz, to adopt Resolution 20210617A Changing the Day of the July 2021 Cape Charles Town Council Regular Meeting. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

D. *Department of Wildlife Resources Boat Landing Cooperative Agreement:*

John Hozey stated that the last agreement expired in the fall of 2020. The agreement was for 20 years and provided that the State would pay the cost of repairs to the boat ramp, but the Town would have to provide use of the ramp to the general public at no cost. At the time, Council opted not to renew the agreement for another 20-year term. He worked with the Department of Wildlife Resources (DWR) to negotiate a 5-year agreement with the following stipulations: i) DWR would perform several deferred maintenance items this year, estimated at about \$50K; ii) The Town would maintain the facility to acceptable standards; iii) The Town would be allowed to close the facility for special events for one day, twice a year. This allowance might not be available in any longer-term agreement using federal or other grant funds; and iv) Free public access. John Hozey added that this was a reasonable approach to stay in the program that could lead to a major renovation, accomplish needed repairs now, and provide time to further evaluate whether a longer-term agreement would make sense.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20210617B Cooperative Agreement for Boat Landing. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) He talked to the Cape Charles Yacht Center. They were doing a fine job. Funding was put aside to clean up the harbor area. There was also a functional place for parking. He was contacted by Canonie regarding additional space by the boat ramp for parking. He would research this and bring it back to Council if reasonable terms could be worked out; ii) The Kevcor legal issue has been resolved. VDOT transferred the funding to our account and the release of funds from escrow has been ordered; iii) VDOT approved the Town's request to reduce the speed limit on Stone Road effective June 23rd. He had requested two weeks' notice to notify the public, but VDOT would be changing the signs next week. Chief Pruitt put out the electronic sign this afternoon to notify the public of the upcoming change. The request to install rumble strips was not initially approved, but after talking to VDOT, it had now been approved, but the signs would be installed before the rumble strips were in place. He encouraged everyone to use caution in the area until accustomed to the change and the rumble strips were in place. The speed limit would be 55 MPH to Cassatt Parkway, then down to 40 MPH to Hermitage Road, then down to 25 MPH into Town. The rumble strips would be installed just east of the 25 MPH zone heading west bound; iv) There were safety concerns with the Randolph Avenue beach entrance point. The underlying wooden path was broken with sharp edges and the dunes had grown so tall and narrowed the entrance so that equipment could not access the walkway. The entrance would be widened a little to enable adequate access for repairs, which was technically against the dune plan. The Public Works crew was busy putting in playground mulch and intended to work on the beach entrance next week. It would not be a permanent fix but would make it passable. It would be repaired correctly off-season. A sign was placed at the entrance temporarily closing it, but the sign kept disappearing, as it was one of the most popular entrance points; v) The American Rescue Plan Act funding request was formally submitted and acknowledged. A work session would be scheduled to review the permitted uses of the funding. A public input session would be scheduled afterwards. Councilman Grossman noted that other localities had already published notices to hold their public input sessions. John Hozey responded that he wanted to have the work session first to go over the parameters before inviting public input on uses, but if Council preferred, he could work on the public input session first. Councilwoman O'Brien added that a business on Mason Avenue had offered space for Council to hold the public meeting. It would be a more informal location for a Town Hall meeting and might be a nice way for people to interact; vi) A request was received from A&N Electric Cooperative for Town support of a grant for electric charging stations for electric vehicles. It involved only generic support with nothing

financially. He planned to submit a letter of support; vii) A notice was received today from the new K Coast Surf Shop on Mason Avenue inviting the Mayor and Town Council to a formal ribbon-cutting ceremony on June 26 at 12:30 p.m. A champion professional surfer would be there to sign autographs; and viii) He had friends coming to visit from Alaska and would be taking time off from July 5 through July 13.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer stated that he walked around the Harbor a few weeks ago and saw that area in disrepair. He went back this week and it looked so much better and safer and wanted to thank the Public Works department for doing a good job. John Hozey noted that the Town had a great Public Works team but the work at the Harbor was done by the Cape Charles Yacht Center. The Public Works manager supplied the lumber.

Councilwoman O'Brien thanked Public Works for taking care of the trees in the alley.

Vice Mayor Bennett commented on the following: i) The Town's sign on Route 13 touting the public beach and free fishing pier. Given the state of tourism, he felt that the signs could be better used for other purposes. Councilwoman Holloway stated that Cape Charles Main Street had a \$10K design grant and their first idea was to redo the sign. Councilman Follmer added that he frequently had business owners and residents say the same thing; ii) He asked that the request to reduce the speed limit on Route 642 from the Bay Creek entrance to the start of the 25 MPH area be put back on the agenda; and iii) He suggested a change to the golf cart regulations to not require seat belts to get an inspection. Golf cart manufacturers did not install seat belts, and many said that it was safer if in an accident, to be able to get away from the golf cart. He had a letter from Club Car stating this. John Hozey asked Vice Mayor Bennett to forward him a copy of the letter.

Councilwoman Holloway comments as follows: i) The boat and trailer regulation needed to get back on the agenda as well for a work session. It was put off because of COVID, but we needed to get back on it; ii) She thanked Diane D'Amico and Patsy Harris for their work on the new business brochure. It had been completed and was well done. She would try to get copies for the next meeting; iii) Tonight was the first Third Thursdays event by the LOVE sign. Unfortunately, Council could not attend due to meetings. A lot of hard work was put into organizing the event and she hoped it was going well; iv) The banners that were on the lamp posts were destroyed over three years. Adjustments needed to be made to the style and size. Advice was sought from Virginia Beach. New material was being used. The banners had arrived and should be put up soon. Banners would also be placed in the Harbor and Central Park. John Hozey added that the Public Works crew was waiting for the banner arms; and vi) Cape Charles Main Street received four Northampton County Infrastructure Grants to add benches on Mason Avenue, LOVE Fests, Festive Fridays, and a golf cart path.

Councilmen Buchholz and Grossman did not have any additional comments.

Mayor Dize commented as follows: i) He thanked the citizens and staff who came out on Cape Charles Day. There was a good attendance; ii) He thanked Public Works for keeping the Town looking nice; iii) The Harbor looked nice, and the Town looked good as a whole; and iv) He thanked John Hozey and staff.

Mayor Dize read the announcements.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, 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 1: Discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specified public officers, appointees, or employees of any public body.

Specifically: Review Performance of Historic District Review Board

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

The member of the public and staff in attendance, with the exception of John Hozey, Libby Hume and Chief Pruitt, left the room.

Council went into executive session at 8:25 p.m.

Chief Pruitt went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

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

The open portion of the meeting resumed at 9:17 p.m.

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: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Public Hearing, Regular Meeting and Executive Session and move to the Council training session. The motion was approved by unanimous vote.

The Public Hearing, Regular Meeting and Executive Session adjourned at 9:19 p.m.

COUNCIL TRAINING SESSION:

John Hozey and Chief Pruitt provided emergency preparedness training for the Mayor and Council.

Motion made by Councilman Grossman, seconded by Councilwoman O'Brien, to adjourn the Town Council Training Session. The motion was approved by unanimous vote.

The training session adjourned at 9:55 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
June 17, 2021 Town Council FY 2022 Budget Public Hearing & Regular Meeting**

Barbara O'Hare, Tree Advisory Board

TO: Cape Charles Town Council

FROM: Cape Charles Tree Advisory Board

A member of the Cape Charles Tree Advisory Board (TAB) will be attending the upcoming June 17 Town Council meeting with plans to make a request for a small budget to support TAB initiatives in the upcoming year. The following points will be discussed:

- Request for \$1,000 be added to the Public Works Department's budget to plant native trees in high priority public spaces.
- Significant commercial, residential and industrial development and re-development over the past few years has resulted in a net loss of many of our trees. The requested funds will help to reverse this trend – enhancing and increasing the town's family of trees.
- TAB is currently working on a Cape Charles Tree Planting Plan which will serve as a guide for the selection and location of new trees that would be purchased with these funds.
- The planting of new trees to replace many of those lost through development and those lost through age or disease directly supports the recently approved Cape Charles Strategic Planning Document with a vision to "Preserve our natural resources now and for generations to come." Trees support the "plan for coastal resiliency" and helps "to protect and improve public green/open space infrastructure" which are stated goals of this plan.

We are hopeful that our request for these funds will be approved.

Members of the Cape Charles Tree Advisory Board:

Joe Fehrer
Phil Goetkin
Jane McKinley
Barbara O'Hare
Christine Williams

Pat Tinkelman

Subject: Proposed paid parking

One of the things I absolutely love about Cape Charles is that parking is free- it is something that helps maintain the small town feel of the town. As a resident, I would rather see my property tax go up a small amount than have to start paying for parking!!!!

Tom and Bonnie Moore

Subject: Thoughts on upcoming decisions for Cape Charles

From: Tom and Bonnie Moore, owners of 206 and 208 Madison Ave.

We are aware of several decisions coming up soon regarding Cape Charles and wanted to share our thoughts and experiences with you. Thank you for taking the time to hear us out!

- We do not support paid parking along Bay Ave. and Mason Ave. It will reduce shopping on Mason Ave. It is not worth the nuisance of paying for and monitoring a parking spot, and people will use side streets to park instead. It will also be an administrative burden on the town.
- We do not support a nightly fee for tourists. Our 3-bedroom houses rent for a maximum of \$335/night (less in off season), so for our guests this is an additional tax of at least 1.2%. Adding a second type of tax is an administrative burden to the town as well as vacation homeowners. Differential taxes between vacation rentals and hotels/B&B's is unfair to guests and business owners. **If you do decide to raise taxes on visitors, how will these funds directly benefit tourists/tourism?**
- A great way to improve Cape Charles while increasing town revenue is to draw visitors in the off season. Visitors generate revenue through TOT and spending at shops and restaurants. They frequent Cape Charles establishments far more often than residents and homeowners. Providing activities to draw them helps increase your revenues while making the town even more enjoyable for homeowners. Win win.

- We support fair assessments of housing prices and property taxes that allow for a sustainable town budget, even if that means increasing the rate. We have never expected property taxes to remain flat while costs for running a town increase, ESPECIALLY if we are meanwhile benefitting from the increased value of our home.
- We do not support electric scooters. We have experienced them in other towns (DC, Memphis), and they create a trashy looking town (because they're left all over), and unsafe sidewalks and streets (because they go too fast to be safe on sidewalks and too slow to be safe on streets). We have witnessed numerous accidents occur while visiting these cities. Cape Charles is completely walkable and adding scooters will not increase mobility for anyone. Additionally, the streets and sidewalks are not smooth enough for a scooter - trust us, we've tried with our kids!

Sincerely,
Tom and Bonnie Moore

Rebekah Carrier

Subject: Taxes

We are the owners of 606 Jefferson Ave. We operate as an AirB&B. We wanted to address our concerns regarding the potential tax increase in the TOT and per night fee that is being proposed.

As you know, vacation homeowners and their customers make up the majority of the revenue for the town. By increasing the taxes on this category, prices for vacationers will increase, and this could cause a decrease in demand resulting in a net decrease in revenue for the town.

We and other vacation homeowners have experienced an increase in rentals this year. This additional volume will already result in additional revenue to the town at the current tax rate.

In addition, I call your attention to the disparity in proposed taxation rates between vacation home owners and hotels. This disparity in rates does not exist anywhere else in Virginia and is inherently unfair to your largest revenue source.

We request the following:

- 1.) No increase in taxes for vacation homeowners or their customers
- 2.) Parity between vacation homeowners and hotels
- 3.) A detailed review of the current budget (there appears to be several line items that could be decreased or eliminated)

Have a great day,
Rebekah Carrier

Beth Hals

Subject: Issues regarding upcoming vote

To whom it may concern,

In light of some of the issues coming up for a vote:

- As of the fall of 2020, we have become repeat visitors to Cape Charles and adore this beautiful little town. When we're visiting, we always visit the shops on Mason, multiple restaurants and dessert places, rent a golf cart, and of course visit the beach and playground. We rent a vacation home when we come because there's more space for our small children and extended family.
- Paid parking on Bay Ave. and Mason Ave. would be a burden and would keep me from frequenting the shops on Mason Ave. I would likely seek parking on side streets before taking the time and energy to attempt to pay and monitor a parking spot on Bay Ave. or Mason Ave. We also worry our elderly family members would have difficulty navigating a paid parking system, which might dissuade them from stopping in the shops.
- Charging a nightly rental fee of \$4 for vacation rentals feels like nickel-and-diming visitors. We understand if the transient occupancy tax (TOT) needs to increase slightly, but both increasing the TOT as well as adding a nightly fee is too much. The rentals we stay in are less than \$400/night, meaning the proposed nightly fee is more than 1% tacked on to the cost of my stay. We love Cape Charles, but if vacationing there becomes too expensive, we will consider vacationing elsewhere. Increasing taxes for visitors should directly benefit them.
- We do not want the option of electric scooters in town. They create cluttered sidewalks and unsafe pedestrian and street traffic issues, especially when walking with young children. The town is so small

that they are not necessary for getting around and the sidewalks and streets are not maintained well enough to safely use a scooter.

- We would love more events outside of the summer season to draw us to Cape Charles. Every time we're in town, we visit many shops and restaurants, and would love to see Cape Charles thrive outside of the summer season.

Thank you,
The Hals Family - Columbia, Maryland

Phillip and Jordan Dail

As a business owner on Mason Avenue as well as the owner of two vacation homes in town we have great concern about the proposed increase in the TOT and the addition of the flat rate fee applied with discrimination to vacation homeowners.

Firstly, we feel the town is taking a narrow-sighted approach to increasing the taxes based revenue that was collected in 2020 and the budget deficit due to Covid-19. The same members of council and the town manager who denied homeowners the ability to rent their homes in the spring of 2020, closed the beaches for any activity during the same period (above and beyond what was done by the governor), and canceled Festive Fridays are now facing the financial consequences of these decisions. The town has admitted that the property taxes were not properly raised to keep up with the increasing house prices. Why are the vacation owners being held responsible for this lack of planning and mismanagement of the town finances? We respectfully request that they reconsider a rash move to increase taxes because of these actions.

Our vacation rental homes are a small business, and all of these small businesses' lost thousands of dollars last year due to the governor and the town's lock downs (Without firm numbers I hesitate to guess, but I would not be surprised if it reached in the \$500,000-\$1,000,000 range of revenue loss total). Most of the vacation rentals did not qualify for the loans and grants offered by the government to help off-set revenue lost during Covid. Unlike the town, who just received almost one million dollars to help cover deficits and loss, we had to absorb these losses in revenue personally. Many of us feared losing our homes to foreclosure if the tourism did not return. It is ridiculous to assume that all the vacation rentals are "cash cows" with deep pockets to pull from. We have restoration costs, maintenance and upkeep (for 100 + year old homes), bills, taxes, cleaning fees, and hefty mortgages to pay. We are families, many young and still working full-time, needing the rent revenue to pay the basic costs and many vacation owners never see a profit (especially after the 2020 season).

If taxes need to be increased at all, we are only in favor of increasing the TOT tax by a small percentage, rather than adding the flat rate tax added to the per night stay. There are several reasons the flat rate fee does not help the town and the homeowners nor does it treat the rental avenues fairly. Why are bed and breakfasts and hotels treated differently (In the entire state of Virginia, only 6 cities impose a flat rate fee, and only Cape Charles would distinguish between types)? Why are all vacation rentals treated the same across the board? Some vacation rentals are only 1 or 2 bedrooms but would pay the same flat rate tax as the other larger homes. This does not make logical sense nor is it fair to those who have smaller homes. Another reason the flat rate tax is not a good choice is that it adds another avenue of responsibility to the vacation renters to keep track of and pay. We are already burdened by all the state, local, and county taxing and the required accounting. It also would add a new system that the town will have to manage which would cause an increase in staffing needs and a computer tracking system of some sort.

It is vitally important to have places to stay and eat for vacationers is for the businesses on Mason Avenue and the Cape Charles economy. Vacations are getting more and more expensive, and people choose Cape Charles based on its affordable vacation homes and quaint main street. But we should be careful to not get too comfortable. Last year we enjoyed a boom in tourism (after rentals resumed and the beaches opened) when people were forced to cancel their other vacation destinations in bigger cities or trips that required a plane flight. I fear we may kill the "Golden Goose" before it actually comes to fruition by making it too expensive to stay. Once Covid is no longer a factor, will tourists choose more exotic locations with more amenities to offer, places with more restaurants with shorter waiting times, and more activities? Cape Charles lacks many things that other towns and cities offer and we should be careful not to chase away our chance to make life long tourist-customers with high prices of food and lodging. The town should be focusing efforts to make our town a wonderful destination by helping individuals open businesses, especially restaurants and looking for ways to meet the needs of this industry that is suffering. The restaurant industry needs some serious care and concern as we bring more folks in town. In turn the town will also reap the benefits of the meal tax increase and the sales tax when tourists shop and eat. My husband and I have recently dined at a local favorite restaurant and had a terrible experience (the food was horrible and expensive-this was off season and we

didn't wait 3 hours for a table like our guests will this summer). With the staffing issues and the lack of restaurant choices we worry that vacationers won't return and will choose other localities with more to offer.

Without vacation rentals there would be no place for our customers to stay. Without customers we will go out of business. Without restaurants there would be nowhere for tourists to eat. We have a very symbiotic relationship that requires all things to work. Please keep all perspectives in mind while you implement taxes that will have repercussions for years to come.

Sincerely,
Phillip and Jordan Dail
Co-Owners 117 Randolph
Owners 202 Madison
Owners Cape Charles Candy Company
Owners Red Truck Candy Company, Norfolk, Virginia



Dear Town Council,

We are a group of homeowners in Cape Charles who rent our homes out to vacationers. We are license-holding, rule-following vacation homeowners in the Town of Cape Charles that seek to foster community building and good neighbor behavior. We love Cape Charles and love sharing our homes with friends and contacts who enjoy spending time (and money) in Cape Charles.

Examples of our work as a group include donating \$1,500 to Cape Charles Main Street's Festive Fridays (3rd highest donor after Bay Creek and Simpson Builders), raising \$2,409 for Cape Charles Citizens for Central Park's 2021 Summer Concert Series, and collaborating with the Town a graphic for golf cart rules to be distributed throughout town. We are also planning several public events for all of Cape Charles, for example The First Day on the Bay (Jan 2022), which has received funds via a Northampton County tourism grant.

We are concerned about the proposed increase in the Town's Transient Occupancy Tax, in particular the differential nightly rate for hotels and bed & breakfasts compared to vacation rental properties. **If Town Council determines that an increase in taxes is warranted, we ask that it be applied uniformly across types of rentals by an increase in the percentage and not through a nightly fee.**

The Proposed Nightly Fee Treats Some Rentals Unfairly

The proposed nightly fee is based on the incorrect assumption that vacation home rentals are four-bedroom houses. Based on an analysis of Airbnb properties in Cape Charles, the average property on Airbnb (excluding B&B rooms advertised on Airbnb) is 3.38 bedrooms. This includes one-bedroom properties and two-bedroom properties that would be subject to an unfair \$4 per night fee that does not accurately reflect the nature of their property. This fee would treat smaller vacation properties in town unfairly.

Also, it is our experience that 3, 4, or 5 bedroom houses are often rented by one couple. The number of bedrooms does not necessarily reflect the number of people staying there. So, charging a higher per night fee would impact these visitors unfairly.

The proposed fee also does not consider the aspects of hotels in town. For example, the 750 sq. ft. loft rooms at Hotel Cape Charles with an eat-in kitchen are larger than several rental homes in town that are 500-600 sq. ft.

The nightly fee would also leave tax revenue on the table by not taxing more expensive properties at a percentage rate. A \$4 per night fee is equivalent to a 2% tax on a rental that charges \$200 per night but is a 0.8% tax for a rental that charges \$500 per night. This provides a benefit for larger home rentals compared to smaller home rentals.

The nightly fee would also provide a lower tax rate for hotels and bed & breakfasts compared to vacation home rentals. A bed and breakfast that has four rooms booked will take in \$968 in room rates and will pay a total of \$4 in nightly fees (0.4% tax rate) while a 2 BR rental that charges \$175/night will also pay \$4 in nightly fees (2.3% tax rate). This type of differential treatment is unprecedented in Virginia and should not be done here in Cape Charles.

If a TOT tax increase is necessary, we ask that you increase the tax rate and not impose a nightly fee.

A 4x Nightly Fee is a Poor Proxy for Increased Demands on Services

One justification for a nightly fee for vacation homes that is four times higher than other properties is that vacation homes create additional demands on services from the Town. First, we disagree that our visitors create additional demands on Town services; in some ways, vacation rentals may lessen the demands on Town services than if these visitors were concentrated at hotels. Second, we care deeply about the Town and want to be good neighbors, so would welcome the opportunity to discuss with the Town ways that we can improve Town relations.

A flat \$4 fee treats every vacation rental the same when they are not. A 1 BR bungalow will not have the same needs as will a home in Marina Village, yet the nightly fee treats them the same. The more accurate proxy for size of the property and number of visitors is a percentage rate applied to the nightly rate -- not an arbitrary flat fee. The nightly rate for the accommodations will naturally take into account the size of the property, the number of visitors, and the time of year. A percentage tax is fairer and more equitable than a flat fee and will take into account the unique aspects of each property.

Tax Collections Will Likely Increase Significantly in 2021 Without a Tax Increase

We all know that 2020 was a year unlike any other. For a big part of the year, the Town was shot down to short-term rentals, significantly impacting TOT tax collections. As we return to normal in 2021, we are expecting to see a significant increase in TOT tax collections because of increased rental activity in the Town throughout the year. Anecdotally, we have seen increased interest in renting in Cape Charles outside of the peak summer months.

It is quite possible that this increased business could bring in the desired additional revenue without having to increase the tax rate. **We ask you to wait until the 2021 tax revenue picture is clearer before increasing tax rates.**

Increased Taxes Will Make Vacationing in Cape Charles More Expensive

Renting in Cape Charles is already subject to 11% taxes, which will soon go to 12%. This includes the Town TOT of 3.7%, Northampton TOT of 2%, 5.3% in sales taxes, and the anticipated additional 1% in sales taxes for local schools.

Taking a summer vacation is not an inexpensive venture, and it can be one of the most expensive items in a family's annual budget. We want Cape Charles to be an accessible, affordable vacation destination. Many of our visitors are young families looking for an economical getaway; not a lavish vacation. Yet Cape Charles competes against locations in Delaware, Maryland, Virginia, North Carolina, and South Carolina for vacationers.

An extra \$28 in nightly fees for a week at the beach should not be taken lightly. This is money that they can't spend at Brown Dog, The Shanty, or Cape Charles Candy. We want them to be able to take a vacation and still have money to spend in the Town's stores and restaurants -- which will bring in additional sales and meals taxes.

Our Common Goal Should Be to Increase the Appeal of Cape Charles

For many years, Cape Charles was primarily a summer destination. In recent years, we have seen gradually increased interest in coming to Cape Charles during the "shoulder season" and "off season." Unlike the hotels that close for the winter, many of us offer accommodations throughout the year. This year, our First Day on the Bay event will aim to get visitors to town (and spend money) during the winter when visits are usually at their lowest.

The most impactful thing that we can do to raise more TOT revenue is to get people to come to Cape Charles in the off-season when they would otherwise not. A home or B&B room that sits empty collects nothing in TOT, but if we can convince visitors to come during the winter months, that is when we will see big jumps in TOT collections.

We would like to work with the Town on making Cape Charles a more attractive year-round destination. If more visitors come to town, businesses like our shops and bakeries will have the incentive to be open throughout the week, have better hours, hire more employees, and will generate more tax revenue in the process. It will also generate interest in new businesses coming to town to serve the year-round population -- increasing the quality of life in the Town for everyone.

In summary, our two main asks are as follows:

1. We ask you to wait until the 2021 tax revenue picture is clearer before increasing tax rates.
2. If a TOT tax increase is necessary, we ask that you increase the tax rate and not impose a nightly fee.

We appreciate your time and look forward to your partnership.

Best regards,
The Officers of Vacation Homeowners of Cape Charles

Phillip Dail
President
117 Randolph Avenue
202 Madison Avenue

Scott Faircloth
Vice President
216 Monroe Avenue

Ahren Foster
Secretary
125 Strawberry Street

Sarah Fullam
Treasurer
508 Plum Street

Jeff Palmore
Legal
618 Randolph Avenue

Gary & Shiela McKinney

Subject: Proposed TOT Increase

As full-time residents of Cape Charles, we ask you not to increase taxes on vacation home rentals. Like many residents, we first came to Cape Charles on a vacation, and we fell in love. We now make Cape Charles our full-time home, and we appreciate the value that vacation home rentals bring to our town.

Vacation home rentals bring a steady stream of visitors to Cape Charles that shop in our stores, eat in our restaurants, and patron our other businesses. Cape Charles is able to sustain businesses that could not exist but for these vacation rental visitors. Ice cream shops, candy stores, surf shops, and restaurants cannot survive on full-time residents alone.

We are especially troubled about singling out vacation houses for a higher per night fee than hotels and bed & breakfasts pay. We should be welcoming these visitors to our wonderful town and encouraging them to spend money in our shops and restaurants -- not hitting them with higher, unfair taxes. A percentage tax that applies equally across the board makes much more sense.

Thank you,
Gary & Shiela McKinney
14 Bay Avenue
Cape Charles, VA 23310

Dawn Dail

Subject: Increase of taxes

We originally "discovered" Cape Charles in 2012. We were looking for a place to spend time with our small extended family that was fairly close (no planes), where we could congregate in one area for evening and breakfast (not a hotel) and that had a family friendly atmosphere (no Myrtle Beach). Cape Charles seemed to meet all of those requirements. After our first experience we were hooked and rented the same house for 2 more summers since there wasn't much else available that would fit our family.

The town was very run down, with many houses severely in need of restoration or demolition, the school was boarded up and there were very few places to eat or shop. In spite of this, the experience of a beach town without all of the big city problems convinced us to invest in a house on Randolph Ave. We poured our lives into the restoration of that old house, working night and day until it was once again the beauty it was originally. We were not the only ones who saw the potential of, not only these houses, but Cape Charles, itself. In short, we, the short term rental home owners, believed in you - the community of Cape Charles - enough that we were willing to invest in you. We were willing because we saw a vision of what the town could be and wanted to save what we could before there was nothing left to build on. ...and it worked! People took notice and told friends, HGTV profiled the town and its wonderful benefits and the town began to flourish all while retaining its small town charm.

Without all of the hard work, investment of money and vision of the short term rental owners it couldn't have happened as it did and the city council would now be searching for funds to keep a town running that was falling into serious decline. And, now, after all of this, the city council is planning to punish these same homeowners by raising the taxes on these houses in an exorbitant fashion. The way that the taxes are being levied is clearly meant for the short term rental owners to bear the largest load of the tax burden.

Although the hotel and bed and breakfasts rely on tourism just as much as the short term owners, they will enjoy the benefit of not having to share that tax burden. The residents of the town are also enjoying the benefits of the increased tourism since all of the businesses and rentals bring in money for the town that they do not have to cover.

With the houses full and the businesses busy, it would seem logical that Cape Charles has already seen an increase in revenue as never before. If there is a shortfall, then consider a small increase overall for everyone. Don't make it more expensive to vacation here. Tourists can go anywhere but their visits here are what will keep this town thriving.

Please reconsider the way that you are planning to tax all of us. Our homes and businesses are an essential part of this town and we love being a part of it but pursuing the large tax increase on only the vacation rental owners is a very discriminatory tax seems like a punishment not a business decision.

Thank you for considering our concerns,
Dawn Dail
117 Randolph Ave.

Janet Coggins

Subject: cape charles visitors

I heard that several issues were coming up for discussion, and as a frequent visitor I wanted to share my opinions with you.

We have been coming to Cape Charles for several years now - (driving from Alabama to meet up with family from VA).

We love the small town feel and the clean and safe vibe the town has. The beach is perfect for families and we especially love to watch the sunsets.

We always rent a vacation home to accommodate our large family and it gives us lots of options to play in the yard and cookout, etc.

I don't think there needs to be any more fees tacked onto the cost of our rentals, they are high enough already!

I think all parking should remain free, surely this will help keep traffic up at the local businesses. We love to just pop over for shopping and dining, and it keeps the small town feel.

We recently attended the street music session when we were there on Memorial Day, and had a blast. Great job everyone! The band was fabulous, loved the chairs available for my elderly mom (her first visit) and being able to walk and get ice cream was fabulous. We'd love to see more activities all during the year, it's fun for the locals and visitors, and keeps the town feeling vibrant and involved.

Lastly, I'd like to give a stern warning about electric scooters. When we visited St. Louis two years ago, the tourists on scooters were awful! They buzzed right around pedestrians with no warning, riders were inexperienced drivers, not following road or sidewalk rules. Then they threw them down and left them all over town. The worst part was at night, when a scooter would come zipping out of the dark, oblivious to the curbs and other hazards and running right in front of cars. I don't know about their safety statistics, but I'm sure it can't be good!!

Let's keep Cape Charles a walking and biking town!

We love coming to visit, and I think your town is perfectly lovely. Keep up the good work! We're coming back in mid July, can't wait!!

Sincerely,

Janet Coggins
4487 County Road 266
Five Points, AL 36855

Cynthia Emrich & Tucker Van Dyck

Subject: Views on Proposed Changes to Vacation Rental Taxes

We're writing to share our views on the proposed changes to taxes associated with short-term vacation rentals in the Town.

As you're well aware, those of us who own and operate such rentals are already taxed significantly, and by multiple jurisdictions, with 3.7% of gross receipts owed to the Town, another 2% to the County, and 5.3% in sales taxes--for a total of 11%. Each of these is likely to go up, adding an additional tax burden.

Now you propose to add an additional, and we would stress *unequal* per-night tax of \$1/night for a hotel or bed and breakfast, **but \$4/night for a vacation home rental**. As you're likely aware, this type of unequal taxation between different types of vacation accommodations is unprecedented in Virginia. And we would argue that it is rooted in inaccurate assumptions. It's our understanding that you arrived at this proposal by assuming that the prototypical vacation rental home offers 4 bedrooms, when our review of all listings on Airbnb puts the average at 3 bedrooms. Further, as Mark Twain once famously wrote, "There are lies, there are damned lies, and then there are statistics." What the statistic related to the number of rooms per vacation home rental overlooks is the wide variation across vacation home rentals--both in their number of rooms and in their nightly rates. What this means in practice is that your proposal will hit much harder the owners of 1- or 2-bedroom rentals and/or homes with nightly rates at the modest, affordable end of the spectrum. This impact strikes us as patently unfair.

The final point we'll make is that we hope the Town will be wary of doing anything that will contribute to Cape Charles becoming out of reach for middle-class families. We are currently riding high as a tourist destination because we offer a very attractive alternative to far-flung destinations that require air travel due to a continued reluctance to travel by plane. We'd encourage you to push pause on your proposed additional taxes until you have a clearer sense of the true budget shortfall post-pandemic. 2020 was an aberration due to the pandemic. 2021 will be a very different year. Let's see what it brings before taking actions that may well have negative, unintended consequences for our Town.

The group of vacation home rental owners in Cape Charles is passionate about our Town, and we are increasingly banding together to make a positive difference--contributing to improvements in our beloved Central Park, supporting the efforts of Cape Charles Main Street, and other critical improvement efforts. Please don't do anything that sends a message that the Town is not supportive of vacation home rentals. Singling out for an unequal tax sends exactly this type of message.

Thank you for reading, and take care.

Cynthia Emrich & Tucker Van Dyck
Cynthia Emrich, Ph.D.
3 Pollard Park
Williamsburg, VA 23185

J. Scott Faircloth

I am writing to oppose the proposed dual tax rate increase of vacation rental properties in Cape Charles. As proposed, the Town of Cape Charles is considering both an % increase AND an onerous flat fee rate of \$4 per night.

In addition to an increased tax burden based on an arbitrarily increased rate, the \$4 per night scheme would also place a significant and unfair accounting and regulatory burden on homeowners.

Already vacation homeowners are taxed at 11% with another 1% increase on the way. And, of course, we must pay property taxes along with Federal and State income taxes, as well. Yet many of us operate on razor thin margins fighting for every dollar we can earn and expense we can save. Particularly during the height and fallout of COVID, our small operations suffered greatly. In fact, many vacation homeowners are still trying to make up for the massive revenue loss from COVID-related cancellations.

And while we are taxed heavily, our contribution to the town budget doesn't stop there. While I am not privy to the numbers, I think it's a safe assumption that vacation rental homes are responsible for generating a

significant percentage of the sales, meals and property taxes collected within the town. We bring people to the town who provide a constant influx of money spent and taxes paid. This, in-turn, creates much-needed jobs for Cape Charles residents, in addition to employing countless tax-paying contractors, landscapers and housekeepers necessary to ensure our operations run smoothly. In other words, we are a key stimulus to the town economy. To unnecessarily burden one of the prime economic engines of the town, particularly on the heels of a global pandemic, is shortsighted and a fool's errand.

I understand there is a budget shortfall which may be exacerbated by the COVID pandemic. However, I encourage the Town Council to not kill their cash cow through over taxation and over regulation. Instead, I would implore the council to close that gap by taking a closer look at: (1) equitable property assessments across the entire town (2) cutting unnecessary expenditures from the town budget (that were, perhaps, exposed as unnecessary by the COVID shutdowns) and (3) supporting vacation homeowners in ways that recognize our invaluable role in the local economy by removing regulatory barriers and tax burdens, not increasing them.

I'll close with the words of Ronald Reagan who once famously said: "Government's view of the economy can be summed up in a few short phrases: if it moves... tax it. If it keeps moving... regulate it. And, if it stops moving... subsidize it." To Reagan, over taxation and over regulation inevitably lead to the opposite of the intended effect. Ronald Reagan was right then and he's right now and I implore the Town Council table this added tax burden until after the effects of COVID (to small businesses and to the town budget) can be more fully understood.

Thank you,
Scott Faircloth, 216 Monroe Ave, Vacation Homeowner of "The Sandlot House"

Harriett Barry

Subject: Thoughts on your upcoming votes

- We are repeat visitors to Cape Charles, in both summer and off-season. When we're visiting, we always visit the shops on Mason, multiple restaurants and dessert places, rent a golf cart, and of course visit the beach and playground. We rent a vacation home when we come because there's more space for our small children and extended family.
- Paid parking on Bay Ave. and Mason Ave. would be a burden and would keep me from frequenting the shops on Mason Ave. I would likely seek parking on side streets before taking the time and energy to attempt to pay and monitor a parking spot on Bay Ave. or Mason Ave.
- Charging a nightly rental fee of \$4 for vacation rentals feels like nickel-and-dime visitors. We understand if the transient occupancy tax (TOT) needs to increase slightly, but both increasing the TOT as well as adding a nightly fee is too much. The rentals we stay in are less than \$400/night, meaning the proposed nightly fee is more than 1% tacked on to the cost of my stay. We love Cape Charles, but if vacationing there becomes too expensive, we will consider vacationing elsewhere. Increasing taxes for visitors should directly benefit them.
- We do not want the option of electric scooters in town. They create cluttered sidewalks and unsafe pedestrian and street traffic issues. The town is so small that they are not necessary for getting around. We just walk! Besides, the sidewalks and streets are not maintained well enough to safely use a scooter.
- We would love if there were more events outside of the summer season to draw us to Cape Charles. Every time we're in town, we visit many shops and restaurants, and would love to see Cape Charles thrive outside of the summer season.

Please try and keep in mind your visitors to your wonderful town. I'd really hate to have to reevaluate our vacation plans and choose somewhere else.

Sincerely,
Harriet Barry

Jeff Palmore

Subject: Keep Cape Charles Taxes Fair for Everyone

I am writing about the proposed flat fee tax on home rentals in Cape Charles.

My wife, two children, and I are frequent visitors to Cape Charles. We are also renovating a home in town to be able to visit more frequently.

During our most recent visit to town, the four of us stayed in a hotel room. Other times, the four of us have stayed in a house. As I understand it, the proposed budget includes a new tax of \$1 per night if the four of us

stay in a hotel but \$4 per night if the four of us stay in a house. The justification for this is apparently that the impact on the Town is somehow 4x more if the four of us are staying at a house than if we are staying at a hotel.

There was mention of a house on Randolph charging \$600 per night. A \$4 per night fee actually gives the renter of this house a break on the taxes they pay. The flat fee amounts to a tax rate of 0.66% if you can afford to rent a \$600/nt house but is 2% (three times more) if you rent a \$200 a night house.

A percentage rate that applies across the board to all properties is much more fair. This would collect more from those renting more expensive houses.

Please don't impose this regressive tax, instead apply the same tax rate to everyone, and help keep Cape Charles affordable for everyone.

Thank you,
Jeff Palmore
618 Randolph Ave.

Kenneth Butta
245 Mason Ave Unit 202
Cape Charles, VA 23310

Mayor Dize, Town Council, and Mr. Hozey,

I am writing to you to express my opposition to the proposed new per night flat tax of \$1 per night for a hotel or bed & breakfast room and \$4 per night for a vacation home rental.

I know that the town must increase revenues in order to provide the services we need. I think that the increase in the TOT is appropriate. What I object to is the unequal treatment of vacation homeowners compared to hotels and B&Bs. The chart below compares the percent of nightly revenue that different lodging types would pay under this plan. Clearly this is not equitable.

Lodging type	# rooms	Occupancy Vac. rental @ 100% Others @ 75%	Estimated average per night cost per unit	Total income per night	Per night tax	% of nightly revenue
Vacation rental	2	2	\$150.00	\$150.00	4	2.7%
Vacation rental	3	3	\$185.00	\$185.00	4	2.2%
Vacation rental	4	4	\$315.00	\$315.00	4	1.3%
Vacation rental	5	5	\$350.00	\$350.00	4	1.1%
B & B	4	3	\$225.00	\$675.00	3	0.4%
Hotel CC	22	17	\$250.00	\$4,125.00	17	0.4%
Northampton Hotel	5	4	\$240.00	\$900.00	4	1.7%

I think a better solution would be to raise the TOT past 4.0% to capture the needed revenue in a fair manner. Please keep in mind that we don't want the increase to decrease tourism or cause visitors to spend less in shops and restaurants. I know you have a difficult task ahead of you; I ask that you treat all members of our community equally.

Thank you for your consideration,
Ken & Ami Butta

Anna Lee
Subject: Comments for tonights meeting

Thank you for the many hours that went into preparing the proposed budget.

My husband and I own a duplex at 107-109 Tazewell where we live in one side and rent out the other side on AirBnb. We've had wonderful, respectful and surprisingly quiet guests and have enjoyed sharing our town with visitors. Our visitors are almost exclusively families with 2-4 children who could not stay at a B&B and could not fit in one hotel room. Most do very little cooking in the rental and spend all of their time at the beach or in restaurants and shops.

2021 will be a record setting year for short term rental taxes and vacation rentals have played a critical role in that growth by allowing more total visitors and larger groups to stay for multiple days.

I disagree with singling vacation rentals out for a special flat tax rate that is 4 times that of hotels/B&Bs and believe that this approach would set a precedent in Virginia. The \$4 flat rate also assumes that all vacation rentals have four bedrooms, penalizing those with fewer rooms.

Can you also please provide us with reporting to support the mention of increased labor costs in town related to managing vacation rental 'grievances and issues'? This data will allow the Vacation Rental Home Owners of Cape Charles group to understand the number and type of complaints and work to address them.

I also recommend revisiting Real Estate Tax and considering a larger increase given that it represents the lion's share of revenue and has not been increased since 2014. Town can offer a payment plan or consider a reduced rate for residents with hardships.

Thank you!
Anna Lee

Terry Strub

Subject: Public Comment: Boat trailers, boats, and oversize vehicles parked on town streets

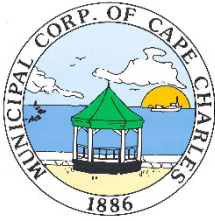
As summer approaches, the increase in boat trailers, boats, and oversize vehicles parked on town streets has become a danger for bikers, children, walkers, and cars. Many of the trailers don't have red flags or other signs to call attention to the hazard. In many cases, drivers must veer into the lane for oncoming vehicles to avoid the obstacle. This concern has been addressed in the past but it seems that nothing has been done to provide safe and secure alternative parking for these obstacles. The residents and visitors to the town deserve safe passage.

Thank you.

Terry Strub
522B Washington Ave

Diane D'Amico, Planning Commissioner

At the Planning Commission meeting of June 1, 2021, I was the sole dissenter to the changes proposed in Section VIII of the Zoning Ordinance. It was clear to me the point of these changes are not to preserve our history but merely to look historic hence the overuse of the word "character" in these Guidelines. For those who want character I suggest you purchase in Bay Creek. They are doing a fabulous job with their standards and guidelines. For those who value the historic integrity of Cape Charles I beg the Council to make the requirements more in line with preservation. Homes in this town are going for 2, 3, 4 times their original cost. Surely people willing to spend that much money can afford a little more to preserve our town. If we are not willing to control the vast number of Air B&B's and VRBO's at least let us revel in our history, our hometown values and our grace.



DRAFT
TOWN COUNCIL
Special Meeting & Executive Session
Cape Charles Civic Center
June 24, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Special Meeting and Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Vice Mayor Bennett was out of town on business and unable to attend. Also, in attendance were Town Manager John Hozey, Town Clerk Libby Hume, and police officers Juana Diaz and Andrew Spencer. There was one member of the public physically in attendance, and 18 viewers on Facebook.

Mayor Dize stated that he would like Council to amend the special meeting order of business to remove Item #3A FY 2022 Budget Update Prior to Adoption from the agenda as it was unnecessary.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to strike Item #3A from tonight's agenda. The motion was approved by unanimous vote.

PUBLIC COMMENTS (AGENDA ITEMS ONLY)

There were no citizens signed up to speak.

Town Clerk Libby Hume read five comments submitted in writing prior to the meeting. (Please see attached.)

There were no additional comments received in writing prior to the meeting nor during the public comment period.

SPECIAL MEETING ORDER OF BUSINESS:

B. FY 2022 Budget Adoption:

John Hozey stated that he had reviewed all the comments received at the June 17, 2021 public hearing and for tonight's meeting and addressed the comments as follows: i) There seemed to be a misconception by some that vacation rentals provided most of the revenue. Transient Occupancy Tax (TOT) amounted to about 7% of the total revenue, with real property taxes at over 40%. With the proposed General Fund increases, visitors and property owners were being asked to each bear half of the new burden. For the Capital Budget, visitors would assist at about 20% with residents at 80%. Overall, residents and property owners were bearing the majority of the burden; ii) Another recurring comment was the difference in the proposed tax rates for hotels/bed & breakfasts (B&Bs) and vacation rentals and that they were punitive, unfair and discriminative. He disputed these comments and explained that they were two different types of businesses with different impacts on the Town and its infrastructure. With the proposed tax rates and fees, the burden was more equitably distributed. On average, vacation home rentals had higher occupancy rates than hotels and B&Bs, which meant more people on the beach, using the public restrooms, etc. On average, vacation home rentals did not have onsite management and any problems fell on the Town. Hotels/B&Bs took care of any issues without a burden on Town staff. Vacation home rentals did not provide parking spaces for their guest who took up as many spaces on the street as needed. Hotels/B&Bs were required to have designated parking for their guests. Vacation home rentals generally included full kitchens and their guests, on average, did not eat out as much, so were not contributing as much in meals tax. The proposed rates and fees were not meant to be unfair or punitive but to be fairer. If the flat tax were to be eliminated, in order to get the same revenue, the TOT rate would have to be increased to 6.14%. The mean rate for Towns in Virginia was 5%. Should the TOT pass as proposed, it would become effective on January 1, 2022. There was still time to figure out any bumps in the road as far as

implementation and administration; iii) Comments were also made that the Town was overreacting to an unusual year. None of the tax rates were based on 2020 experience, but on extrapolation of 2019; iv) Comments were also received that the Town needed to cut the budget. These were very reasonable comments and was always the first thing to look at when putting a budget together. He took a very hard look at the budget looking for areas for growth and cuts. Prior to this year, everything in our budget was lumped together – pass-throughs, grants, reserves, etc. With everything mixed in together, it was difficult to see the real picture. This year, the Town was moving to a more transparent budget. All grants, debt service, etc. were pulled out and placed in specific funds so everyone could see the complete picture. On page 8 of the FY 2020 financial audit, the Town's auditors looked at the 2021 and 2020 budgets and noted 23% lower expenditures in 2021. The budget proposed for adoption today, added some expenditures back in. Last year, the budget was cut drastically since we did not know what to expect with the pandemic. It was not sustainable. The necessary expenditures were added back in to make the budget sustainable.

John Hozey informed Council that by law, the Town was required to post the proposed budget in advance in preparation of the public hearing. Following advertisement of the proposed FY 2022 budget, three minor changes were brought to light. i) The first involved notification that the budgeted American Rescue Plan Act (ARPA) funding would be received in FY 2021 versus FY 2022. This required a change in the FY 2022 budget presentation to recognize this funding as a re-appropriation from FY 2021 versus a new revenue in FY 2022; ii) The second change involved contractual work for the Historic District design guidelines that would no longer be possible in FY 2021. Staff requested that the \$40K earmarked in FY 2021 also be re-appropriated for FY 2022 for the same purpose; iii) A key-entry error was found in the budget advertisement. In the grant pass-through line item of the Special Activity Fund, the amount listed was \$17,500 and should have been \$19,500. This error occurred only in the budget advertisement, not in the budget itself. The clerk drafted the adoption and appropriation Ordinance 20210624 using the budget advertisement as typically done, but unfortunately, it also included the error so needs to be amended as well.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Ordinance 20210624 – Approving the Budget for Fiscal Year 2021/2022 with Real Property, Transient Occupancy, and Meals Tax and Utility Rate Increases, and Making Appropriations for the Fiscal Year.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to amend the FY 2022 Special Activity Fund Revenue to reflect American Rescue Plan Act funding as a re-appropriation. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to amend the FY 2022 General Fund Revenue Re-appropriation line item to increase it by \$40K, to increase the Management Consulting line item of the Town Manager's budget by \$40K, and to adjust revenue and expenditure totals for the General Fund and the total budget accordingly. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adjust the grant pass-through line item of the Special Activity Fund on Ordinance 20210624 from \$17,500 to \$19,500. The motion was approved by unanimous vote.

Mayor Dize thanked staff and Council for planning for the future with the strategic plan. We needed to get over the past. Council did a good job. Everyone worked together to spread the burden as evenly and fairly as possible. It was hard to do especially after the pandemic. He felt we were doing the best we could to make Cape Charles the best it could be for years to come.

Mayor Dize read comments submitted by Vice Mayor Bennett. *"Sorry, but I am out of town and will not make it back in time for tonight's meeting. I am in total favor of the budget and would ask that it be made clear that the budget increases are not primarily due to COVID, but to the previous*

many years of deficit spending without a corresponding tax increase. I believe the tax increases are being fairly distributed between residents and owners and our transient population."

Mayor Dize stated there was a motion and second on the table to adopt Ordinance 20210624 and called for a roll call vote.

The motion was approved by unanimous vote. Roll call vote: Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) He met often with Cape Charles Main Street (CCMS) and we worked well together. The concept was raised that he should perhaps join the CCMS Board. The CCMS Board met and voted to offer him a seat on the Board. He would like to accept but wanted to ensure that Council had no problem with this. There were no issues or objections raised by Council; and ii) The announcements from the June 17, 2021 Council meeting agenda, showed a special meeting scheduled for July 1, 2021 if needed. He did not feel that a meeting was needed, so the next Council meeting would be on July 13, for the joint public hearing with the Planning Commission. The next regular meeting of Council would be on July 22.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer stated that last week a new ordinance was passed regarding the historic district. It was an important piece of legislation and he wanted to flag that it reinforced what was already there and strengthened the demolition by neglect of structures. There were measures in place for the Town to take action. Practice in the past was not to pursue due to costs. He would like to see the Building Department to have Council's backing to do what was outlined in the ordinance and start procedures when needed. There were not a lot of neglected buildings in the Town, but he would like to see letters sent to the owners of the building at 422/424 Randolph Avenue in the near future. There were a few others needing to be addressed as well.

John Hozey responded that the Town did not have the staff capacity at this time but would move forward with this when possible.

Councilman Grossman added that two structures had recently been to the Historic District Review Board (HDRB) and received approvals. The blue house was scheduled to go before the HDRB in August.

Councilman Follmer concluded by stating that the structural integrity of the buildings needed to be protected.

Councilman Grossman commented that new criteria were added to the CCMS grant for small businesses and it was being opened back up allowing reimbursements for utilities. CCMS staff would reach out to businesses that received funding to see if they qualified for additional funding to get them closer to the \$15K maximum. The grant manual was being updated and John Hozey would be presenting it to Council. After Council approval, additional application from previous recipients could be received.

John Hozey added that the grant review committee would be making the changes and he would report it to Council once they were adopted by the committee. Another significant change was the eligibility and the increase in the administrative budget.

Councilwoman O'Brien stated that i) The owners of Bailey's Bait & Tackle offered to extend space for an open invitation to Town Council for a meet and greet with the citizens. This would be a good post-COVID opportunity to meet with our constituents; and ii) The Randolph Avenue beach access looked great.

Councilman Buchholz and Councilwoman Holloway did not have any additional comments.

Mayor Dize stated that he sent an email to Nicole Jacques at the Cape Charles Yacht Center to let her know that the Harbor area looked nice and that he was appreciative of the maintenance being done. He appreciated seeing the boats in the harbor. She wrote back to him expressing her appreciation of him reaching out to her.

Motion made by Councilwoman Holloway, seconded by Councilman Buchholz, 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 pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the litigating posture of the public body.

Specifically: David Fauber v. Town of Cape Charles

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

The members of the public and staff in attendance, with the exception of John Hozey, and Libby Hume, left the room.

Council went into executive session at 7:06 p.m.

John Hozey went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

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

The open portion of the meeting resumed at 7:56 p.m.

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: Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

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

The Special Meeting and Executive Session adjourned at 7:57 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
June 24, 2021 Town Council Special Meeting**

Ryan and Jen Pattan

Subject: Opposed tax for vacation rental

Dear Council Members,

We would like to express our concerns over the proposed tax changes being considered.

As we understand it, the proposed tax treats Vacation Rentals different than Hotels and Bed & Breakfasts and is an unfair burden for owners and guests.

2020-2021 has been a record-setting year for our vacation rentals and the taxes to the town will be higher than ever before -- without a tax increase.

We support vacationers right to rent homes or hotels/B&B and to be able to come to Cape Charles year round and spend money in the town -- eat in the restaurants, shop in the shops. With more visitors, businesses can operate and provide services to the town and bring in additional tax revenue.

Vacation rentals are an important part of the community in Cape Charles. The vacation home owners association has stepped up in many ways over the last several years to support the community. The town should not do anything to send a message that the town is not supportive of these homes -- singling them out for a discriminatory tax would do just that.

Please don't vote to discourage vacation rentals by singling them out for special taxes.

Ryan and Jen Pattan
522 Strawberry Street

Jennifer Jackson and Rachel C. Leyco

Subject: Feedback on Proposed Changes to TOT taxes and new Flat Rate tax on Hotels, B&Bs, and Vacation Rentals

Dear Mayor, Vice Mayor, and Town Council,

We own a duplex within the historic district of Cape Charles and wanted to write to provide our thoughts on the proposed changes to the transient occupancy taxes. We love this town and spend as much time as we can here at all times of the year. We value our friendships with many full-time residents of Cape Charles and the surrounding communities. We work hard to support the amazing local businesses in the area and give back to the town wherever we can. In our time here, we have seen the amazing growth in the town and also witnessed the drain on resources created by the town's popularity as a vacation destination and the increasing number of vacation rentals. Please know that we share the frustration and anger over visitors who create safety concerns by disregarding basic rules/laws and showing blatant disrespect toward us and our neighbors in town.

As we considered renting the other side of our duplex, we worked hard to generate interest amongst our own family and friends because we cared deeply that whoever stayed next door would respect both our home and the community we love so much. We provided information on the many local businesses we love to be sure our friends and family supported the economy. We have also built a strong system of support so that we could be responsive to our guest's needs even when we are not in town.

We both acknowledge the drain that recent growth has created on the town's resources and strongly support the need to address it. However, we would suggest that by applying such a significant tax increase across all vacation rentals, you are significantly impacting a portion of us who are very committed to working to get this right. We have noticed stepped up enforcement in town lately. Might we suggest that a better way of re-capturing revenue would be to levy significant fines on those who are actually breaking the rules (e.g., noise, underaged golf cart drivers, speeding, alcohol, parking, etc.) and/or the homeowners who rent to them? We feel it would be fair if we, as homeowners, were asked to pay a fine based on the irresponsible actions of one or more of our guests.

Please know that we care deeply about this town and making sure all Cape Charles residents feel safe and respected. We hope that the Council will consider alternative means of recouping the budget shortfall by focusing on directly addressing the negative elements that have accompanied the town's growth. We are at your disposal should there be any way that we could assist in these endeavors.

Respectfully,

Jennifer S. Jackson and Rachel C. Leyco
628/630 Madison Ave

Ellen Moore

Subject: Budget and TOT

Dear Mayor and Town Council,

I own a condo at 300 Mason Avenue and am the proprietor of the Ellen Moore Gallery at 223 Mason Avenue. I first came to Cape Charles in 1990 and purchased the building at 203/205 Mason Avenue in 1995, and spent the next five years renovating it. I am proud to have been part of the decades-long effort that successfully revitalized this town.

As a business owner, I benefit from the tourists that stay at vacation rental homes, but I have also seen the additional needs generated by these small businesses during my decades here. I support your planned flat tax of \$1 per night for B&B and hotel rooms and \$4 per night for vacation rentals. It is only fair that this tax recoup some of the cost to town of addressing the issues created by the proliferation of vacation rentals – parking throughout town is an issue, as is the need for a system of regulations governing this booming business sector. The proposal doesn't discriminate against vacation homeowners, it collects this nominal amount from their guests, not the business owners themselves – and it is certainly more fair than increasing the property tax of everyone who lives here to resolve issues exacerbated by a few who, for the most part, do not.

While I realize it is not representative of the majority of vacation homeowners, many of whom I know and who share my appreciation of this town, I would like to revisit comments read last week by one vacation homeowner that demonstrates why we need to protect our town's character and charm with a bit more oversight of vacation rentals. Having been part of the decades-long effort to revitalize Cape Charles, I was offended at the suggestion that someone who came here in 2012 "discovered" our potential and that they, and those who came after, "saved" the town from ruin. If after 9 years they have not bothered to learn our history and recognize that they were standing on the shoulders of many who came before them, then they clearly have no idea what makes this town so special. I would be happy to share my thoughts with them about the true pioneers of the town's renaissance who began working with those native to Cape Charles to achieve the success we enjoy today.

Sincerely,
Ellen Moore

Stuart Smith

Subject: Property Tax for FY22

First, thanks to Council and Staff for preparing the FY 22 Budget, certainly a lot of work.

The following remark is based on Manager Holsey's budget letter relative to the proposed FY 22 Property Tax increase: ***"So, the FY22 budget proposal also includes an increase to real property taxes of about \$0.04 per \$100 of assessed value"***

Source: Town Manager's FY22 Budget Letter

The statement above from the Town Manager is exactly true but a distraction and deflection with a significant lack of transparency.

What this letter didn't tell you is the actual proposed increase is 16%, from .2731 per \$100 of assessed value to .3143 per \$100. This is a massive increase especially considering the higher property valuations! The public deserves to be informed of actual rate changes without attempts to disguise the facts and without having to read detailed budget documents.

The reality is that we have a spending problem. By Manager Holsey's admission Council has been spending at 2% above revenue for many years. While it is true equalization has impacted Property Tax Revenue it increased from **\$1,238,835 in 2012 to \$1,408,353 in 2019**. Hardly unchanged.

Another fact that is being left out of the justification for the tax increase is the total revenue from all sources has increased 50% during the period 2012 to 2019! So spending hasn't been totally constrained by Property Tax revenues.

(\$2,087,384 in 2012 to \$3,079,960 in 2019)

Source: Town Budget Data

The plain truth is Council needs to cut spending to get inline with expected revenues including budgeting below revenues for a few years to build up a reserve fund.

Here is my proposal: Reduce the budget tax increase for property tax to \$.02 (an 8% increase) of the FY22 current request. Adopt a revised budget that is in balance with the \$.02 level. And insure future spending is below projected revenue until an adequate reserve level is reached.

Stuart Smith
27 Kings CT

Jo Ann Bawiec

Subject: June 24 Budget Meeting

I support the Transient Occupancy Tax.

Short term vacation rentals have a huge impact on our small town. The penetration of short term rentals changes the character and quality of life for those that have chosen to retire and or live here full time. It seems that for 5 months out of the year, the keys of our town are turned over to the tourist. Not all the benefits of this rise in tourism are positive for our community.

A few of the negative effects of short term rentals is an increase in noise, trash, parking issues and security / safety concerns. Neighbors that live full time, mostly look out for each other. If you live next to rental properties you don't know who will be coming or going on any given day. Quiet evenings on the front porch seem unlikely. Many rental properties could be considered mini hotels --- with 16 plus visitors at one time. Recently one rental property had 5 extended cab trucks with 3 boats pulled in for their stay. This has a great impact on a neighborhood.

These are just a few of the issues that affect the day to day operation of Cape Charles. Personnel resources seem to be maxed out. It seems that those with investment/rental properties should bear some of this additional expense.

I'd also like to see the Town of Cape Charles look proactively at other revenue sources. Cape Charles is not the first beach town to have parking issues. Other towns have moved to parking permits and paid parking as solutions. Rehoboth Beach is an example of a town that successfully implemented parking permits. It doesn't seem to have negatively impacted their tourism rates.

Parking permits could be tied to Personal Property tax. Let's first make sure everyone who is a resident is registered / paying their personal property tax. For example, for those that have their vehicles registered and are paying personal property tax, they would receive parking permits for their cars / boats / golf carts, etc. This would apply to full time residents. For those that are part time residents (non rental properties) - a small fee would apply to acquire a parking permit. For rental properties, transferable parking passes would be purchased for their guests with a maximum number of parking passes allowed per property. For day visitors, another fee. The time set for parking permits would be during the busiest time, May through September. This might also help get the many boats off the already crowded streets, some without even a VA registration.

There are options, the town leaders just needs to be proactive. We have many beach communities that have been able to work through the growing pains that Cape Charles seems to be going through now.

Jo Bawiec
Strawberry Street

May 2021 Treasurer's Report

Page 1 – Cash Position

- No comments

Page 2 – Revenue vs. Expenditures

- The harbor debt service, typically covered by general fund contribution, is \$102,605, and the YTD net loss is only \$79,910. Disregarding the debt service, the harbor would show \$22,695 net gain YTD.

Page 3 – Capital Projects

- Permit software upgrade was installed.

Page 4 – Tax Collection Rate

- Real property tax collections are at 98% of amount billed, and 103% of budget.
- Supplemental personal property tax bills of \$34,452 are due on June 30, 2021.

Page 5 – Tax Revenue Trends

- Harbor dockage continues to increase. CCYC uses cash basis for revenue reporting and the town uses accrual basis. An adjustment will be made at year end to convert CCYC reported revenue to accrual basis.
- Meals tax revenue was hit hard during the pandemic. It has shown a very nice recovery over the past few months and is now showing an 11 % increase over 2019.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
May 31, 2021

<u>Cash on Hand</u>	<u>4/30/2021</u>	<u>5/31/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$663,704	\$829,577	\$165,873
Atlantic Union Bank Money Market Account	\$1,999,654	\$1,999,739	\$85
LGIP Account 1 - Unrestricted	\$104,214	\$104,221	\$7
LGIP Account 2 - Unrestricted	\$305,353	\$295,455	-\$9,898
Total Cash On Hand	\$3,072,925	\$3,228,993	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>4/30/2021</u>	<u>5/31/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,079,317	\$1,079,326	\$9
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$25,890	\$35,810	\$9,920
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$5,134	\$5,471	\$336
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,589	\$257,582	-\$7
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,372,021	\$1,382,279	\$10,259
Total Cash - All Accounts	\$4,444,945	\$4,611,272	\$166,327

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,633,495
---	-------------

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY21
GENERAL						
REVENUE - Operating	\$229,944	\$2,582,917	\$3,702,718	\$1,119,800.80	\$4,177,677	88.63%
EXPENDED - Operating	\$295,661	\$2,178,157	\$2,814,242	\$636,085.79	\$3,866,830	72.78%
NET	(65,717)	404,761	888,476	483,715	310,847	
REVENUE - CAPITAL GRANTS & LOANS	0	2,042	0	(2,042)	329,817	0.00%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	5,745	343,271	519,009	175,738	640,664	81.01%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	1,953,072	0	(1,953,072)	0	
TOWN CONTRIB. & PENDING GRANTS	(5,745)	(2,294,301)	(519,009)	1,775,292	(310,847)	
PUBLIC UTILITIES						
REVENUE - Operating	155,638	1,563,485	1,650,394	86,910	1,750,836	94.26%
EXPENDED - Operating (less facility fees rsrvd)	53,293	771,791	423,113	(348,678)	1,604,799	26.37%
NET	102,345	791,694	1,227,281	435,588	146,037	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	83,050	227,867	506,186	278,319	275,551	183.70%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	0	712,199	973,866	261,668	421,588	231.00%
TOWN CONTRIB. & PENDING GRANTS	83,050	(484,331)	(467,680)	16,651	(146,037)	
HARBOR						
REVENUE - Operating	108,543	525,555	849,360	323,805	761,102	111.60%
EXPENDED - Operating	110,835	555,010	699,789	144,779	681,900	102.62%
NET	(2,292)	(29,456)	149,571	179,026	79,202	
REVENUE - GRANTS & LOANS	0	212,800	10,586	(202,214)	95,054	11.14%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	1,953,072	0	(1,953,072)	110,101	
EXPENDED - Capital Projects, Debt Svc	0	640,594	240,067	(400,526)	284,357	84.42%
TOWN CONTRIB. & PENDING GRANTS	0	1,525,279	(229,481)	(1,754,760)	(79,202)	
SANITATION						
REVENUE	17,208	183,728	186,988	3,259	220,274	84.89%
EXPENDED	0	201,666	171,812	(29,854)	220,274	78.00%
NET	17,208	(17,937)	15,176	33,113	0	

FY 2021 Capital Improvement Project Tracking Report

As of:
5/31/2021

	FY21 Status or Start Date	Percent of Completion	FY21 Budgeted	FY21 QTR 1 Expended	FY21 QTR 2 Expended	FY21 QTR 3 Expended	FY21 QTR 4 Expended	FY21 YTD Expended	(Over)/Under Budget
General Fund									
Police Vehicle	on backorder	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 38,940
Permit Department Software	partially installed	82%	\$ 7,000	\$ -	\$ -	\$ -	\$ 5,745	\$ 5,745	\$ 1,255
Public Works Shop Heaters	Complete	100%	\$ 6,868	\$ -	\$ 6,528	\$ -	\$ -	\$ 6,528	\$ 340
Grounds Maintenance Equipment	Complete	100%	\$ 22,240	\$ -	\$ -	\$ 29,412	\$ -	\$ 29,412	\$ (7,172)
Central Park Zipline	partially installed	72%	\$ 14,000	\$ -	\$ -	\$ -	\$ 10,031	\$ 10,031	\$ 3,969
Portable ADA Equipped Restroom Trailer	Suspended	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,000
Mason Avenue Re-striping	On Hold	0%	\$ 5,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000
Parking Lots (Mason & Harbor Shanty Area)	Suspended	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Video Surveillance System	Complete	100%	\$ 35,000	\$ -	\$ 56	\$ 34,287	\$ -	\$ 34,343	\$ 657
Municipal Building Project Evaluation	Engineering bid	0%	\$ 45,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,000
Multi-Use Trail Phase 2 Closeout	Complete	100%	\$ 305,000	\$ -	\$ -	\$ 308,000	\$ -	\$ 308,000	\$ (3,000)
Multi-Use Trail Phase 3 Engineering		0%	\$ -	\$ -	\$ -	\$ -	\$ 3,531	\$ 3,531	\$ (3,531)
subtotal			\$ 524,048	\$ -	\$ 6,584	\$ 371,699	\$ 19,307	\$ 397,589	\$ 126,459
Water Fund									
SCADA System	In process	22%	\$ 15,000	\$ -	\$ -	\$ -	\$ 3,277	\$ 3,276.99	\$ 11,723
Remote Read Water Meters - starter setup	On hold- FY22	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,985
Pickup Truck	back-ordered	0%	\$ 32,766	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,766
Water Tower Mixers	On hold	0%	\$ 55,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,000
subtotal			\$ 154,751	\$ -	\$ -	\$ -	\$ 3,277	\$ 3,277	\$ 151,474
Harbor Fund									
Inner Harbor Rehabilitation Phase I carryover	Complete	100%	\$ 60,390	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ (0)
WiFi/Security Cameras/Lighting Project	Complete	100%	\$ 35,000	\$ -	\$ 8,201	\$ 7,570	\$ -	\$ 15,771	\$ 19,229
Inner Harbor Rehabilitation Phase II	Complete	100%	\$ 85,700	\$ -	\$ 5,359	\$ 64,854	\$ 55	\$ 70,267	\$ 15,433
subtotal			\$ 181,090	\$ 60,390	\$ 13,559	\$ 72,423	\$ 55	\$ 146,428	\$ 34,662
Sanitation Fund									
Trash Can Replacements	Complete	100%	\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
subtotal			\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
TOTAL			\$ 871,685	\$ 60,390	\$ 31,939	\$ 444,122	\$ 22,639	\$ 547,294	\$ 324,391

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES
May 31, 2021

YTD 2020 Real Estate Tax Collections

Total Taxable Land Value	179,736,100	
Total Improvement Value	291,966,800	
Exemptions	(2,650,000)	
Additional Assessments (SCC Utility)	3,796,381	
Total Real Estate Value (taxable)	472,849,281	
Total Budgeted	1,223,505	
Total Tax Billed	1,291,310	
Total Adjustments	(3,860)	
Total Collected YTD (percent of billed)	<u>1,263,328</u>	98%
Amount Due per Accounts Receivable	24,122	

**YTD 2020 Personal Property Tax, Machinery and Tools Tax
& 2020 License Tax Collections**

Total Personal Property Value	13,824,800
2020 Initial Assessment Exonerations	(393,342)
Personal Property Value, billed	13,431,458

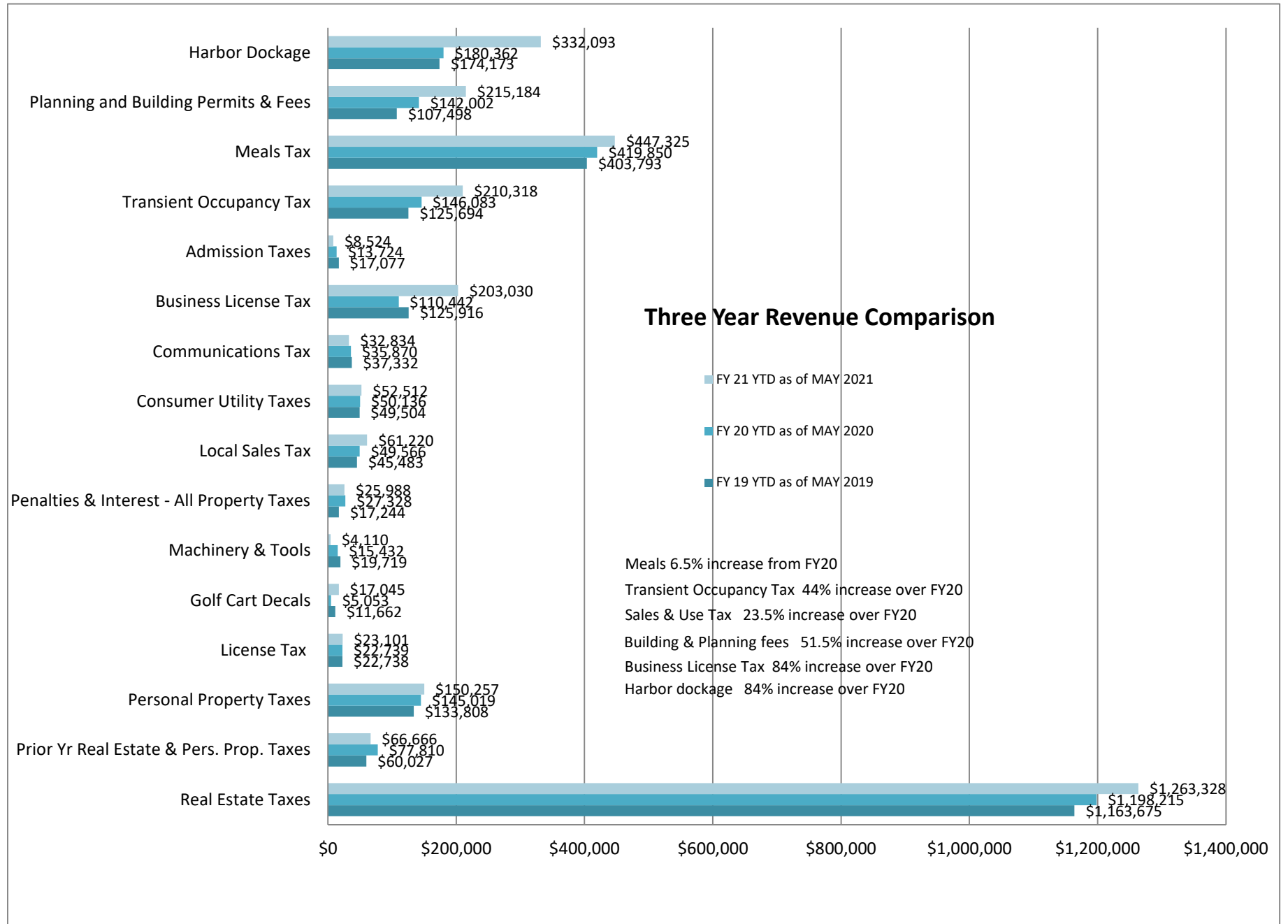
2020 SUPPLEMENTAL BILLING	3,410,200
2020 SUPPLEMENTAL EXONERATIONS	(1,775,358)
Personal Property Value, billed	1,634,842

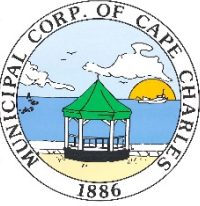
Total Value for 2020 and 2020 supplemental	15,066,300
---	-------------------

Total Budgeted	175,000	
Total Tax Billed less PPTRA	207,905	
2020 Supplemental Tax Billing	34,452	
Total Adjustments & Additional Exonerations	(9,247)	
Total Collected YTD (percent of billed)	<u>177,468</u>	89%
Amount Due per Accounts Receivable	55,642	

YTD Prior Year Real Estate Tax, Personal Property Tax, Interest and Penalty Collections

Total Budgeted	75,300	
Total Collected (percent of budget)	<u>92,654</u>	123%
Amount Due Per Budget	(17,354)	



 TOWN OF CAPE CHARLES	AGENDA TITLE: Application for Zoning Text Amendment – Section 3.14 General Business/Light Industrial H-1		AGENDA DATE July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Zoning Text Amendment to Section 3.14 General Business/Light Industrial H1 (GBI-H1)		ITEM NUMBER: 6A
	ATTACHMENTS: Planning Commission Staff Report & Proposed Text Amendment Changes and correspondence from Southport Investors and Coast Pre-Cast Systems		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

South Port Investment LLC has met with the Town Manager and the Interim Zoning Administrator regarding property owned by them adjacent to the concrete plant and has indicated that Cape Charles Properties, Inc dba Coastal Pre-Cast Systems (CPS) is interested in purchasing this property, which is approximately 11.79 acres, to be used in an ancillary capacity to their current operations; however, there are proposed changes that would be needed to the General Business/Light Industrial-H1 (GBI-H1) District regulations that are supportive and reflective of a light industrial zoning designation whereas the current language in the Cape Charles Zoning Ordinance Section 3.14 contain several provisions that are prohibitive to a light industrial use.

As you are aware, Code of Virginia does not allow a property owner to submit an application for a zoning text amendment but only the Town Council and/or the Planning Commission can petition for a zoning text amendment.

To that end, the interested purchaser has provided the proposed zoning text amendments to Section 3.14 to the Town Manager who proposed a resolution to the Town Council to advance them to public hearing. In addition, the current property owner has also provided a letter requesting text amendments to Section 3.14.

Town Council, at your meeting on Thursday, May 20, 2021, passed a Resolution of Intent to advance the proposed text amendments to Section 3.14 to the Planning Commission.

Planning Commission and Town Council held a joint public hearing on the zoning text amendments on Tuesday, July 13, 2021

ITEM SPECIFICS:

The proposed zoning text amendments to Cape Charles Zoning Ordinance Section 3.14 General Business/Light Industrial H-1 (GBI H-1) are as follows:

- 1) Allow assembly and/or storage of products as a by-right use under Sec. 3.14 B (14);
- 2) Allow buildings up to 75 ft in height with a required setback of 125 feet through a Conditional Use Permit (Sec. 3.14 C (2));
- 3) Deletion of Section 3.14 (F) (7) which currently does not allow manufacturing, assembly or servicing of products used on the property nor the use of trucks or automobiles used in conjunction with or for the transport of materials to the district; and
- 4) Other minor changes

The current zoning district regulations for GBI-H1 contain a provision (Section 3.14 (F) (7) that restrict light industrial use and needs to be considered for removal from the district regulations, regardless of any potential buyer interest in any specific tract in the town.

Additionally, changes have been proposed to expand possible light industrial uses but in a manner that allows for Town review and determination through a Conditional Use Permit based upon a height consideration and

addresses noise issues that have been raised in and around the harbor in the past.

A joint public hearing was held by the Planning Commission and Town Council on Tuesday, July 13, 2021. There were 15 verbal comments and 15 written comments provided at the hearing. The comments expressed concern about the proposed height of buildings, the potential noise impact on neighboring residential properties, and claims of insufficient review by both the general public and the various boards and commissions of the Town. The majority of the comments are opposed to the proposed text amendments as well as the impact said text amendments would have on the property being proposed for rezoning (subsequent public hearing item) but as well as any additional property that is currently zoned GBI H-1 which includes the adjacent parcel owned by Southport which is adjacent to the Baycreek residential development. Concerns were expressed about the current condition of the property being proposed for rezoning as well as the adjacent property (both owned by Southport Investors), specifically the trees on the property and the need for tree preservation on these properties. One comment stated that there needs to be a focus on economic development and a broader view of this matter should be taken and indicated support for this proposal.

The public comment was closed on this matter and the Planning Commission reviewed the application, heard from the property owner (Eyre Baldwin, agent for Southport Investors, and Dan Brown, Chief Financial Officer for Southport Investors) and the proposed purchaser of the property being proposed for rezoning at the subsequent public hearing item (Brandon Mallory, agent for Coastal Pre-Cast Systems), reviewed staff report and discussed the matter.

Following a robust discussion about the proposed zoning text amendments and the properties located adjacent to the concrete plant and the current zoning, the following motions were made:

- 1) Recommend the zoning text amendment to Section 3.14 (B) (14) as presented by Commissioner Butta and seconded by Commissioner McCoy. The motion was approved with only Commissioner D'Amico voting nay.
- 2) Recommend the zoning text amendment to Section 3.14 (C) (2) as presented by Commissioner McCoy and seconded by Commissioner Butta. The motion was approved with only Commissioner D'Amico abstaining with a stated position that she believed this entire zoning district ordinance should be rewritten.
- 3) Recommend the zoning text amendments to Section 3.14 (F) – all items under this section – by Commissioner Grossman and seconded by Commissioner McCoy. The motion was approved with only Commissioner D'Amico voting nay.

RECOMMENDATION:

Town Council is requested to review the proposed zoning text amendment, staff report and the public comments received during the joint public hearing and to consider acting favorably on the Zoning Text Amendment (ZTA) to General Business/Light Industrial Harbor-1 (GBI H-1) and to accept the Planning Commission's recommendation.

The following motion is provided for the Town Council's consideration:

The Cape Charles Town Council accepts the recommendation of the Planning Commission and to approve the zoning text amendments to Section 3.14 (B), Section 3.14 (C) (2) and Section 3.14 (F) – all items under this section – which are further detailed in the document entitled “PROPOSED ZONING TEXT AMENDMENTS FOR PUBLIC HEARING ON JULY 13, 2021.”

PROPOSED ZONING TEXT AMENDMENTS FOR PUBLIC HEARING ON JULY 13, 2021

NOTE – CHANGES ARE SHOWN AS FOLLOWS:

Existing Text – in black font

Proposed Additions – in blue font

Proposed Deletions – in ~~strikethrough~~ blue font

Section 3.14 General Business/Light Industrial H-1 (GBI H-1)

A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:

1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
2. Create family-wage employment and training opportunities for local residents
3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.

1. Adult and/or child day care center
2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
3. Art gallery
4. Business service establishment (including mail order or electronic catalog sales)
5. Conference center
6. Communication and telecommunications centers
7. Commuter parking lot
8. Educational institution
9. Flex industrial use
10. Fire, police, rescue stations
11. Food production, packaging, packing, and canning
12. Hotel, serving as an ancillary and interrelated component of the Park
13. Library or other municipal building
14. Manufacture, processing, fabrication, assembly and/or assembly storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
15. Medical care facility, outpatient only
16. Museum, cultural center, arboretum
17. Offices--administrative, business, professional, and telecommunication

18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category
19. Park, plaza, or natural area
20. Parking structure
21. Performing arts center
22. Post office, drop off and pick up, mail courier and parcel services
23. Printing service
24. Public utility service center, without outdoor storage
25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
26. Recording studio
27. Recreational facilities
28. Recycling drop-off collection center serving the Park
29. Research, experimental testing or development activities
30. Restaurant, indoor and outdoor (excluding drive-through)
31. Telecommunications, television, or radio microwave dishes or antennas
32. Training center (excluding rehabilitation and institutional facilities)
33. Utility generating plant and transmission facilities using renewable energy sources
34. Utility installations
35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area
36. Warehousing facility (excluding mini-storage facility)
37. Water storage tank
38. Wholesale trade establishment

C. Conditional Uses. Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

1. Structures, other than buildings, exceeding 50 feet
2. Buildings over 40 feet but equal or less than 50 feet or building or structure other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

D. Accessory Uses. Within the GBI H-1 District, the following accessory uses shall be allowed.

1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures
2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets

E. Lot, Yard, Height, and Density Requirements. Within the GBI H-1 District, the following standards shall apply.

1. Minimum lot requirements
 - lot area..... 15,000 square feet
 - lot width 100 feet
2. Yard requirements
 - minimum front yard 10 feet

maximum front yard 25 feet
minimum side yard between buildings ... none or 5 feet
minimum side yard adjacent to street.... 10 feet
minimum rear yard 20 feet

3. Maximum building height

buildings 40 feet
structures other than buildings..... 50 feet

4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.

5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:

- a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.
- b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:
 - i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.
- c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:

- i. A 50-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
- ii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where commercial use is allowed.
- iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

F. Additional Development Requirements.

- 1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
- 2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
- 3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
- 4. Parking is not permitted in the front yard of a lot.
- 5. No parking or drive aisles shall be located within the required buffer yards.
- 6. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
- 7. ~~No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
- 8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
- 9. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, ~~or other devices~~ or signals audible outside any buildings shall be allowed on the property. Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.
- 10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: July 13, 2021

Item #: 3a & 7a

Type of Application:	Zoning Text Amendment
Prepared By:	Katie H. Nunez – Interim Planning & Zoning Administrator
Applicant:	Cape Charles Town Council
Owner:	South Port Investment LLC
Proposed:	Amendments to Cape Charles Zoning Ordinance Section 3.14: General Business/Light Industrial H-1 (GHI H-1)

Background:

South Port Investment LLC has met with the Town Manager and the Interim Zoning Administrator regarding property owned by them adjacent to the concrete plant and has indicated that Cape Charles Properties, Inc dba Coastal Pre-Cast Systems (CPS) is interested in purchasing this property, which is approximately 11.79 acres, to be used in an ancillary capacity to their current operations; however, there are proposed changes that would be needed to the General Business/Light Industrial-H1 (GBI-H1) District regulations that are supportive and reflective of a light industrial zoning designation whereas the current language in the Cape Charles Zoning Ordinance Section 3.14 contain several provisions that are prohibitive to a light industrial use.

To that end, the interested purchaser has provided the proposed zoning text amendments to Section 3.14 to the Town Council who has reviewed them and determined to advance them to public hearing. In addition, the current property owner has also provided a letter requesting text amendments to Section 3.14.

Town Council, at their meeting on Thursday, May 20, 2021, passed a Resolution of Intent to advance the proposed text amendments to Section 3.14 to the Planning Commission.

Staff Analysis:

The current zoning district regulations for GBI-H1 contain a provision (Section 3.14 (F) (7) that restrict light industrial use and needs to be considered for removal from the district regulations, regardless of any potential buyer interest in any specific tract in the town.

Additionally, changes have been proposed to expand possible light industrial uses but in a manner that allows for Town review and determination through a Conditional Use Permit based upon a

height consideration and addresses noise issues that have been raised in and around the harbor in the past.

Staff Recommendation:

Staff is supportive of the proposed zoning text amendments and will assist the Planning Commission in developing any proposed motion based upon the public comments, discussion and review of the proposed zoning text amendments.

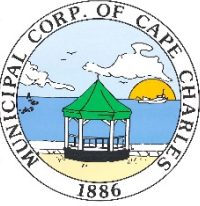
Attachments:

Attachment 1 – Proposed Zoning Text Amendments – Tracking Documents to Original Zoning Ordinance

Attachment 2 – Letter from South Port Investors dated May 11, 2021

Attachment 3 – Letter from Cape Charles Properties dated May 11, 2021 with proposed text amendments

Attachment 4 – Cape Charles Town Council Resolution of Intent dated May 20, 2021

 TOWN OF CAPE CHARLES	AGENDA TITLE: Resolution of intent to consider zoning text amendments to Section 3.14 of the zoning ordinance		AGENDA DATE May 20, 2021
	SUBJECT/PROPOSAL/REQUEST: Consideration of referral to Planning Commission		ITEM NUMBER: 7A
	ATTACHMENTS: Resolution of Intent 20210520A		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manger	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Both the Town zoning ordinance and Virginia Code 15.2-2286 (A) (7) requires a resolution of intent from the governing body to initiate any change to a zoning ordinance or zoning map.

ITEM SPECIFICS:

Approving this resolution does not constitute approval of any change. It merely identifies that sufficient public necessity, convenience, general welfare, or good zoning practice exists within the proposal to conduct a public process that more fully explores the proposed changes. This resolution will formally establish that the proposed changes meet the requirements to be referred to the Planning Commission for public hearing and their recommendation. Final and formal consideration of any change will be brought back to the Town Council following action by the Planning Commission.

RECOMMENDATION:

Staff recommends adoption of Resolution of Intent 20210520A Zoning Ordinance Text Amendment to Section 3.14 General Business/Light Industrial by roll call vote.

RESOLUTION OF INTENT 20210520A
ZONING ORDINANCE TEXT AMENDMENT TO
SECTION 3.14 GENERAL BUSINESS/LIGHT INDUSTRIAL

WHEREAS, in accordance with Code of Virginia § 15.2-2286.A, the Cape Charles Zoning Ordinance § 2.7.1 includes regulations pertaining to initiation of amendments, supplements, change in the regulations, district boundaries or classifications of property contained in the zoning ordinance; and

WHEREAS, the need to update the current zoning ordinance has been discussed in the past; and

WHEREAS, Cape Charles Zoning Ordinance § 3.14 General Business/Light Industrial H-1 (GBI H-1) may require amendment to be consistent with light industrial uses.

NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Ordinance § 3.14 and any other sections of the Zoning Ordinance deemed to be appropriate to achieve the purposes described herein.

Adopted by the Town Council of the Town of Cape Charles on May 20, 2021.

By: _____
Mayor Dize

Attest:

Town Clerk

South Port Investors, LLC

**PO Box 395
Eastville, VA 23347**

May 11, 2021

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

Attn: John Hozey - Town Manager

Dear Mr. Hozey,

Please let this correspondence serve as a request to consider integrating text amendments to the current General Business/Light Industrial H-1 (GBI H-1 Section 3.14) zoning classification.

As you know, our company currently owns the only piece of property in town with the GBI H-1 classification (Tax Map 90-A-1A.) We have contracted to sell this parcel to an existing Cape Charles business - Cape Charles Properties, LLC. Unfortunately, the language in current zoning ordinance will restrict the end user from being able to effectively utilize the property. Similar amendments to your M2 District were accomplished in April 2018 with numerous alterations to text being approved unanimously by Planning Commission and Town Council. Copies of Zoning Administrator Staff Report, minutes from corresponding Planning Commission approval, and minutes from corresponding Town Council Meetings relating to the 2018 M2 District edits are enclosed.

Also enclosed is a correspondence from the buyer detailing the requested zoning amendments. The modification of the existing regulations will benefit the Town of Cape Charles by promoting the growth of Cape Charles' largest employer. The opportunity to grow this business will lead to an increase in year-round jobs as well as an increase in tax revenue for local government. We are mindful of the need for balance regarding local industry and tourism. These proposed amendments have been designed with concern and respect for the Town's citizens and tourism market.

We would also like some clarification from the Town with regard to Additional Development Requirements found in the District Regulations. Our legal research suggests these requirements are only enforceable to the extent they do not compromise Permitted Uses. Would you please provide a formal written response which describes the relationship of Additional Development Requirements and Permitted Uses?

Please present the above request to Council for text amendment consideration and legal opinion. The existing zoning language is restrictive in nature and ineffective for this parcel. The south side of the harbor has much industrial promise. This is an area of town which has always been

designed to accommodate industrial users. In a controlled and collaborative fashion, the value of the south side of Cape Charles Harbor can be unlocked responsibly. Thank you for your time.

Sincerely,

S. Eyre Baldwin

Executive Director - South Port Investors



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

May 11, 2021

Ralph W. Dodd & Associates LLC
16464 Courthouse Rd, Eastville
Eastville, Virginia, 23347

Attn: Dan Brown

RE: Intentions for Property and Request for General Business/Light Industrial H-1 (GBI H-1) Additions/Amendments

Mr. Brown,

Below are the areas Coastal Precast feels need to be amended to the current General Business/Light Industrial H-1 (GBI H-1) Ordinance. Our comments/suggestions are in red. City of Chesapeake's Zoning Ordinance for General Business/Light Industrial was used to help further define business operations.

Section 3.14 General Business/Light Industrial H-1 (GBI H-1)

A. Purpose of the District.

The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:

1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
2. Create family-wage employment and training opportunities for local residents
3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project

B. Permitted Uses.

Within the GBI H-1 District, the following permitted uses shall be allowed.



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

1. Adult and/or child day care center
2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
3. Art gallery
4. Business service establishment (including mail order or electronic catalog sales)
5. Conference center
6. Communication and telecommunications centers
7. Commuter parking lot
8. Educational institution
9. Flex industrial use
10. Fire, police, rescue stations
11. Food production, packaging, packing, and canning
12. Hotel, serving as an ancillary and interrelated component of the Park
13. Library or other municipal building
14. Manufacture, processing, fabrication, **assembly and/or storage** of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
15. Medical care facility, outpatient only
16. Museum, cultural center, arboretum
17. Offices--administrative, business, professional, and telecommunication
18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category
19. Park, plaza, or natural area
20. Parking structure
21. Performing arts center
22. Post office, drop off and pick up, mail courier and parcel services
23. Printing service
24. Public utility service center, without outdoor storage
25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
26. Recording studio
27. Recreational facilities
28. Recycling drop-off collection center serving the Park
29. Research, experimental testing or development activities
30. Restaurant, indoor and outdoor (excluding drive-through)
31. Telecommunications, television, or radio microwave dishes or antennas
32. Training center (excluding rehabilitation and institutional facilities)
33. Utility generating plant and transmission facilities using renewable energy sources
34. Utility installations
35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area



- 36. Warehousing facility (excluding mini-storage facility)
- 37. Water storage tank
- 38. Wholesale trade establishment

C. Conditional Uses.

Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

- 1. Structures, other than buildings, exceeding 50 feet
- 2. Buildings over 40 feet but equal or less than 50 feet or building or structure other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

D. Accessory Uses.

Within the GBI H-1 District, the following accessory uses shall be allowed.

- 1. Only those that are customarily accessory and clearly incidental and subordinate to the principal use and structures
- 2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets

E. Lot, Yard, Height, and Density Requirements.

Within the GBI H-1 District, the following standards shall apply.

- 1. Minimum lot requirements
 - lot area..... 15,000 square feet
 - lot width 100 feet
- 2. Yard requirements
 - minimum front yard 10 feet
 - maximum front yard 25 feet
 - minimum side yard between buildings ... none or 5 feet
 - minimum side yard adjacent to street.... 10 feet
 - minimum rear yard 20 feet
- 3. Maximum building height
 - buildings 40 feet
 - structures other than buildings.....50 feet
- 4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.
- 5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:
 - a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.

iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.

b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:

i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval by Town of Cape Charles Zoning Ordinance and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.

iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:

i. A 50-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

ii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where commercial use is allowed.

iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.



Cape Charles Properties
1316 Yacht Drive • Chesapeake, VA 23320
P: (757) 545-5215 • F: (757) 545-6296

F. Additional Development Requirements.

1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
4. Parking is not permitted in the front yard of a lot.
5. No parking or drive aisles shall be located within the required buffer yards.
6. No outside storage of parts, ~~materials~~, fossil fuels, ~~raw materials~~, or petroleum shall be permitted within the GBI H-1 District.
- ~~7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.~~
8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
9. No outside loudspeakers, intercoms, ~~sirens~~, paging systems, whistles, horns, bells, ~~or other devices~~ or signals audible outside any buildings shall be allowed on the property. ~~Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.~~
10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.

Sincerely,

Coastal Precast Systems, LLC

Brandon Mowrey

ORDINANCE 20210722A

ADOPTING TEXT AMENDMENTS TO CAPE CHARLES ZONING ORDINANCE SECTION 3.14-GENERAL BUSINESS/LIGHT INDUSTRIAL H-1

WHEREAS, the Cape Charles Zoning Ordinance is a compilation of ordinances establishing zoning regulations for the Town of Cape Charles and providing for the administration and enforcement of the regulations; and

WHEREAS, the Zoning Ordinance classifies the territory under the Town's jurisdictions into districts and within each district a set of regulations for the use of land, buildings, structures, and their size, construction, etc.; and

WHEREAS, a letter dated May 11, 2021 was received from South Port Investors, LLC, requesting text amendments to Cape Charles Zoning Ordinance Section 3.14 – General Business/Light Industrial H-1 citing that the current language was restrictive in nature; and

WHEREAS, the letter also stated that the south side of the harbor had much industrial promise and in a controlled and collaborative fashion the value of the area could be unlocked responsibly; and

WHEREAS, the proposed text amendments would i) allow assembly and/or storage of products as a by-right use under Section 3.14.B(14); ii) allow buildings up to 75 feet in height with a required additional setback of 125 feet from residential property through a Conditional Use Permit (Section 3.14.C(2)); iii) deletion of Section 3.14.F(7) which currently did not allow manufacturing, assembly or servicing of products used on the property nor the use of trucks or automobiles used in conjunction with or for the transport of materials to the district unless associated with a use by right; and iv) other minor changes; and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a joint public hearing was held with the Town Council and Planning Commission, followed by the Planning Commission's regular meeting for review and deliberation of the proposed revisions and discussion about the properties located adjacent to the concrete plant; and

WHEREAS, the Planning Commission approved, by majority vote, making recommendation for Town Council approval of the revisions made to Sections 3.14.B(14), 3.14.C(2), and 3.14.F. The revised language is as follows:

Section 3.14.B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.

Item 14: Manufacture, processing, fabrication, assembly and/or storage of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.

Section 3.14.C. Conditional Uses. Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

Item 2: Buildings over 40 feet but equal or less than 50 feet or building or structure other than building may be constructed to a maximum height of 75 feet if the building is set back at least one hundred twenty-five (125) additional feet from the required setback for all yards abutting residential properties.

Section 3.14.F. Additional Development Requirements.

Item 6: No outside storage of parts, fossil fuels, or petroleum shall be permitted within the GBI H-1 District.

Item 7: (item deleted)

Item 8 (now becomes item 7 – no other changes)

Item 9 (now becomes item 8): No outside loudspeakers, intercoms, paging systems, whistles, horns, bells, or signals audible outside any buildings shall be allowed on the property. Any and all OSHA requirements shall be adhered to; any OSHA-accepted alternative warning devices are encouraged.

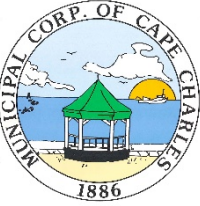
THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 22nd day of July 2021, that Cape Charles Zoning Ordinance Section 3.14 be revised as shown above, as may be amended by Council, to become effective immediately.

Adopted by the Town Council of Cape Charles on July 22, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Application for Zoning Map Amendment – Tax Parcel #90-8-1A1		AGENDA DATE July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Zoning Map Amendment (ZMA): Rezone 1201 Bayshore Road (Tax Map #90-8-1A1) from Harbor District to General Business/Light Industrial H-1		ITEM NUMBER: 6B
	ATTACHMENTS: Application, Town Council Resolution, Staff Report & Cape Charles Zoning Ordinance Section		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Pursuant to Cape Charles Zoning Ordinance Section 2.7.2, South Port Investment LLC is seeking to rezone Tax Map #90-8-1A1 located at 1201 Bayshore Road, which is approximately 11.79 acres, from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products.

AERIAL MAP



ITEM SPECIFICS:

There are many factors to consider in examining this request to change the zoning designation from Harbor (H) to General Business/Light Industrial-Harbor 1 (GBI H1):

- A) the current zoning map & ordinance;
- B) the Cape Charles Harbor Area Conceptual Master Plan; and
- C) the Comprehensive Plan.

The staff report prepared and submitted to the Planning Commission provides an analysis of this rezoning request based upon the three primary adopted policy documents that are examined relative to this property; said report is attached for your review. Specifically, a review of the adopted Comprehensive Plan is essential to determine if the rezoning request is in accord with this document. To that end, the Comprehensive Plan states as follows:

In Section III – Future Land Use: Guiding Decisions for the Coming Decades, this describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land Use Plan strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles.

In this area adjacent to the harbor, there are three primary land designations which are described in the Comprehensive Plan as:

III.3.2 Industrial: The industrial designation permits certain industries, which may detract from residential desirability, and will not be permitted to locate in any area adjacent to a residential area. This category should contribute to the existing maritime and industrial nature of Cape Charles and may consist of buildings used for manufacturing and warehousing. All properties adjacent to the harbor have an alternative future land use of Harbor Mixed Use designation.

III.3.3 Industrial District M-2: The Industrial District M-2 designation provides for mixed industrial and employment land uses which encourage the revitalization of the local industrial economy and the historic Port of Cape Charles and Northampton County, create family-wage employment and training opportunities for local residents, serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers, and encourage cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development.

III.3.4 General Business/Light Industrial H-1 District: The General Business/Light Industrial H-1 designation allows for a planned mixed industrial and employment park with a comprehensive development plan which encourages the revitalization of the local industrial economy and historic Port of Cape Charles and Northampton County; creates family-wage employment and training opportunities for local residents; serves as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers; and incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

Under Chapter II – SETTINGS, Section II.4 - Economy states the following:

"Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town's boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county's towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town's other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity.

As economic opportunities and expansions of existing industries have arisen over the last decade, the Town has considered each of these items and has responded accordingly through a rezoning consideration. The area directly adjacent to the concrete plant continues to support the operations of the plant itself and this rezoning

application is seeking to utilize this property for this purpose which is consistent with the Comprehensive Plan. While the land use designations have not mirrored the Harbor Area Master Conceptual Plan, this document envisioned it be a tool with flexibility to respond to economic opportunities which is what has occurred and has remained consistent with existing historic industry and its growth.

The tract is not located directly on the Harbor and the change of the Zoning Designation would align best with the proposed use of the property. As indicated in the application, the property is under contract for sale to Coastal Precast Systems who intends to use the property for light industrial uses, pursuant to the Cape Charles Zoning Ordinance GBI H-1 District.

A joint public hearing was held by the Planning Commission and Town Council on Tuesday, July 13, 2021. There were 15 verbal comments and 15 written comments provided at the hearing. There was a zoning text amendment public hearing held subsequent to this matter concerning Section 3.14 General Business/Light Industrial Harbor 1 (GBI H-1) and most of the comments focused on the proposed zoning text amendment changes.

The comments expressed concern about the proposed height of buildings, the potential noise impact on neighboring residential properties based upon the possible allowed uses and claims of insufficient review by both the general public and the various boards and commissions of the Town. The majority of the comments are opposed to the proposed text amendments as well as the impact said text amendments would have on the property being proposed for rezoning (subsequent public hearing item) but as well as any additional property that is currently zoned GBI H-1 which includes the adjacent parcel owned by Southport which is adjacent to the Baycreek residential development. Concerns were expressed about the current condition of the property being proposed for rezoning as well as the adjacent property (both owned by Southport Investors), specifically the trees on the property and the need for tree preservation on these properties. One comment stated that there needs to be a focus on economic development and a broader view of this matter should be taken and indicated support for this proposal.

The public comment was closed on this matter and the Planning Commission reviewed the application, heard from the property owner (Eyre Baldwin, agent for Southport Investors, and Dan Brown, Chief Financial Officer for Southport Investors) and the proposed purchaser of the property being proposed for rezoning at the subsequent public hearing item (Brandon Mallory, agent for Coastal Pre-Cast Systems), reviewed staff report and discussed the matter.

Commissioner Grossman motioned to recommend the rezoning of Tax Map #90-8-1A1 from Harbor to General Business/Light Industrial – Harbor 1 (GBI H-1) and was seconded by Commissioner Holloway. The motion was approved with Commissioner D’Amico voting nay.

RECOMMENDATION:

Town Council is requested to review the proposed zoning map amendment, staff report and the public comments received during the joint public hearing and to consider acting favorably on the Zoning Map Amendment (ZMA) of Tax Map #90-8-1A1 from Harbor to General Business/Light Industrial Harbor-1 (GBI H-1) and to accept the Planning Commission’s recommendation.

The following motion is provided for the Town Council’s consideration:

The Cape Charles Town Council accepts the recommendation of the Planning Commission and to approve the zoning map amendment of Tax Map #90-8-1A1 located at 1201 Bayshore Road from Harbor to General Business/Light Industrial Harbor -1 (GBI H1); said rezoning is consistent with the Comprehensive Plan as detailed fully in the Staff Report provided to the Planning Commission and the Town Council as part of the agenda packet for the Joint Public Hearing held on July 13, 2021.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: July 13, 2021

Item #: 3b & 7b

Prepared By:	Katie H. Nunez, Interim Planning & Zoning Administrator
Site Address:	1201 Bayshore Road (Tax Map 90-8-1A1) – acreage is 11.79 acres
Applicant:	South Port Investment LLC
Owner:	South Port Investment LLC
Current Zoning:	Harbor District (H)
Proposed Zoning:	General Business/Light Industrial H-1 (GBI H-1)

Pursuant to Cape Charles Zoning Ordinance Section 2.7.2, South Port Investment LLC is seeking to rezone Tax Map #90-8-1A1 located at 1201 Bayshore Road, which is approximately 11.79 acres, from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products.

AERIAL MAP



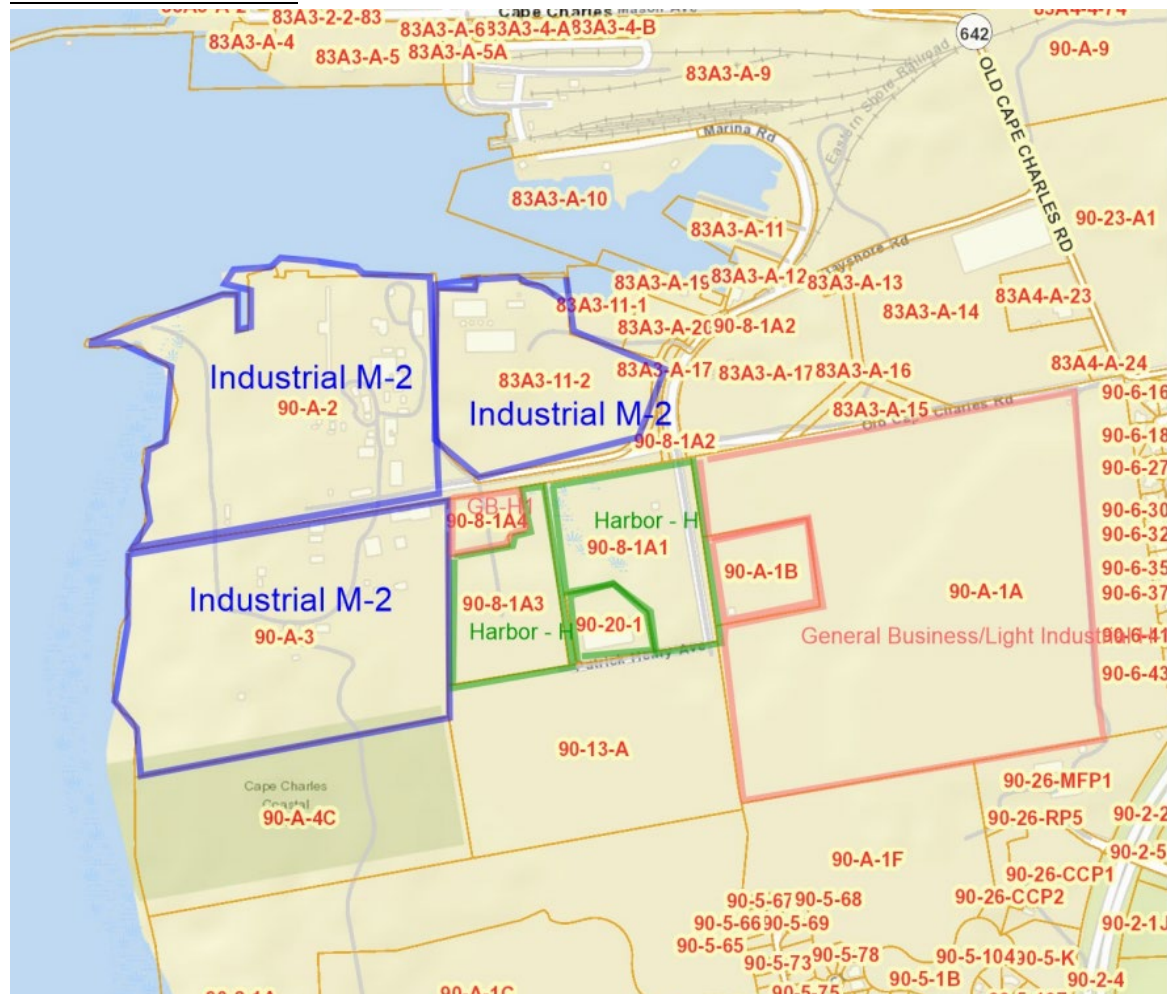
Staff Analysis:

There are many factors to consider in examining this request to change the zoning designation from Harbor (H) to General Business/Light Industrial-Harbor 1 (GBI H1):

- A) the current zoning map & ordinance;
- B) the Cape Charles Harbor Area Conceptual Master Plan; and
- C) the Comprehensive Plan.

A) CURRENT ZONING MAP & ORDINANCE

The current zoning map (below) shows that there is a range of zoning designations at the south end of the harbor, highlighting only the parcels that have either some type of industrial zoning designation or harbor designation.

CURRENT ZONING MAP

The description of each zoning designation is fully listed in the Zoning Ordinance with the intent and purpose of the current zoning of the parcel in question (90-8-1A1) provided herein.

Current Zoning:

Section 3.9 Harbor District (revised 11-21-19)

Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.

PROPOSED REQUESTED ZONING:

Section 3.14 General Business/Light Industrial H-1 (GBI H-1)

A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:

1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
2. Create family-wage employment and training opportunities for local residents
3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

B) Cape Charles Harbor Area Conceptual Master Plan dated August 4, 2006

It is necessary to also consider the Cape Charles Harbor Area Conceptual Master Plan since it is referenced in the Zoning Description for Harbor District. To that end, provided is the conceptual map of the Land Use Plan over the harbor area, along with the text accompanying said map from that document.

The Land Use Plan is overlaid on top of the basic circulation and open space networks developed above. The general locations and types of land uses reflect the vision for the area as a mixed-use district that incorporates residential, employment, Industrial and transportation uses, with a working waterfront and public amenities. The diagram below shows the general disposition of land uses in the area. The location of land use elements also took into account the pattern of ownership in the area, as well as the discussions with property owners in the area for development intentions on their properties. The primary uses anticipated in the Harbor area include:

- Main Street Mixed Use
- Employment
- Rail Yard
- Industrial
- Employment Mixed Use
- Civic
- Residential Mixed Use

- Working Waterfront
- Nature Area
- Public Utilities

This is not intended to be an exhaustive list or a definitive prescription of permitted uses in the area, as would be found in a zoning ordinance. Moreover, the uses are not described definitively in this document. The intent is to provide a general guide, with ultimate flexibility to respond to opportunities for new development in the area that are consistent with the overall design concept and vision, and compatible with the design guidelines described in this document.

LAND USE PLAN



C) REVIEW OF COMPREHENSIVE PLAN

In Section III – Future Land Use: Guiding Decisions for the Coming Decades, this describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land Use Plan strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles.

In this area adjacent to the harbor, there are three primary land designations which are described in the Comprehensive Plan as:

III.3.2 Industrial: The industrial designation permits certain industries, which may detract from residential desirability, and will not be permitted to locate in any area adjacent to a residential area. This category should contribute to the existing maritime and industrial nature of Cape Charles and may consist of buildings used for manufacturing and warehousing. All properties adjacent to the harbor have an alternative future land use of Harbor Mixed Use designation.

III.3.3 Industrial District M-2: The Industrial District M-2 designation provides for mixed industrial and employment land uses which encourage the revitalization of the local industrial economy and the historic Port of Cape Charles and Northampton County, create family-wage employment and training opportunities for local residents, serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers, and encourage cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development.

III.3.4 General Business/Light Industrial H-1 District: The General Business/Light Industrial H-1 designation allows for a planned mixed industrial and employment park with a comprehensive development plan which encourages the revitalization of the local industrial economy and historic Port of Cape Charles and Northampton County; creates family-wage employment and training opportunities for local residents; serves as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers; and incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.

Under Chapter II – SETTINGS, Section II.4 - Economy states the following:

“Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town's boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county's towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town's other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity.

As economic opportunities and expansions of existing industries have arisen over the last decade, the Town has considered each of these items and has responded accordingly through a rezoning consideration. The area directly adjacent to the concrete plant continues to support the operations of the plant itself and this rezoning application is seeking to utilize this property for this purpose which is consistent with the Comprehensive Plan. While the land use designations have not mirrored the Harbor Area Master Conceptual Plan, this document

envisioned it be a tool with flexibility to respond to economic opportunities which is what has occurred and has remained consistent with existing historic industry and its growth.

The tract is not located directly on the Harbor and the change of the Zoning Designation would align best with the proposed use of the property. As indicated in the application, the property is under contract for sale to Coastal Precast Systems who intends to use the property for light industrial uses, pursuant to the Cape Charles Zoning Ordinance GBI H-1 District.

Staff Recommendation:

Staff is recommending a favorable consideration of the Zoning Map Amendment since it is supported by the Comprehensive Plan and creates a more cohesive Zoning Map for the parcels to the south of the harbor. However, this recommendation is contingent upon the favorable consideration of the Zoning Text Amendment application to General Business/Light Industrial Harbor-1 (GBI H-1) which was the subject of a public hearing prior to the public hearing on the Zoning Map Amendment. Without those proposed zoning text changes, the current language of the GBI H-1 does not limit this district to a light industrial application which is of concern since this parcel is approximately 2,100 feet or .41 miles from residentially zoned property.

Staff is prepared to assist the Planning Commission in crafting a motion with supportive reasoning language regarding your recommendation on this rezoning application.

Attachments:

Attachment 1: Application and Documents

Attachment 2: Cape Charles Zoning Ordinance Section 2.7.2; Section 3.9; and Section 3.14

Section 2.7.2 Procedures for Amending Chapter or Zoning Map

- A. All proposed amendments or reenactments of this Chapter, and all proposed amendments to the zoning map, shall be referred by the Town Council to the Town's Planning Commission for its recommendations. Failure of the Planning Commission to report within 100 days after the first meeting of the Planning Commission after the proposed amendment or reenactment has been referred to it shall be deemed approval of the proposal by the Planning Commission, unless the proposal has been withdrawn by the applicant prior to the expiration of said time period. In the event of such withdrawal, processing of the proposal shall cease without further action.
- B. Prior to issuing its recommendations, the Planning Commission shall hold at least one public hearing after notice of same has been published once a week for two successive weeks in some newspaper having general circulation in the Town. Such public hearing shall be held not less than six nor more than 21 days after the second advertisement appears. Such additional and further notice shall be given as required by Virginia Code Section 15.2-2204. The Planning Commission may make appropriate changes in the proposed amendments as a result of the public hearing. Upon the completion of its work, the Planning Commission shall present the proposed amendments, including revised district maps, to the Town Council together with its recommendations and appropriate explanatory materials.
- C. Prior to approving and adopting any amendment to this Chapter or the zoning map, the Town Council shall hold at least one public hearing after giving such public notice as may be required by Virginia Code Section 15.2-2204, after which the Council may make appropriate changes or corrections in the proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the Town's then effective comprehensive plan. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after such notice as is required by Virginia Code Section 15.2-2204. Following the required public hearing(s), the Town Council shall act on the proposed amendment in the same manner as adopting any other ordinance.

Section 3.9 Harbor District (revised 11-21-19)

- A. *Statement of Intent.* The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor

Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.

B. Mainstreet Mixed-use Area.

1. The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 120 feet from the south side of Mason Avenue, is defined as the "Mainstreet Mixed-Use Area." All buildings in the Mainstreet Mixed-use Area shall meet the following requirements:
 - a. Each building shall be a minimum of two stories and shall have only residential uses above the first floor.
 - i. Residential portions of the building shall have at least two entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building.
 - ii. The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue.
 - b. Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices.
 - c. Drive-through facilities are prohibited.
 - d. The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade.
 - e. All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained.
 - f. No building or structure shall exceed 40 feet in height.
 - g. The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue.
 - h. Development design standards in this area shall be subject to both the Historic District Review Board and the Harbor Area Review Board.
 - i. Whenever the provisions of subsection 3.9.B.1 impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.

- C. The maximum FAR for the Harbor District shall be 1.75 by right and up to 2.0 with a Conditional Use Permit. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III.

D. Permitted Uses. The following uses are permitted by right:

1. Accessory uses customarily associated and clearly incidental and subordinate to a principal use.
2. Food service-related uses of the following types:
 - a. Bakeries, confectionaries, delicatessens, and catering services
 - b. Cafes and coffee shops
 - c. Delicatessens

- d. Eating and drinking establishments
- e. Ice cream parlors
- f. Restaurants
- 3. Marine-related uses of the following types:
 - a. Bait and tackle shops
 - b. Boat rentals
 - c. Marinas, docks and wharves if contiguous to harbor
 - a. Sail and canvas making and repair
 - e. Ship stores and chandleries
- 4. Office and institutional uses of the following types:
 - a. Business studios
 - b. Civic and government facilities
 - c. Educational facilities
 - d. Financial institutions
 - b. Medical clinics
 - c. Medical, dental and other laboratories
 - d. Offices
 - e. Office supply stores
 - f. Real estate sales and rentals
- 5. Recreational, cultural, and entertainment uses of the following types:
 - a. Art galleries and art studios
 - b. Athletic clubs
 - c. Conference centers
 - d. Health and fitness facilities
 - e. Libraries and galleries
 - f. Museums and cultural centers
 - g. Outdoor recreational uses
 - h. Parks
- 6. Retail goods establishments of the following types with 2,500 square feet or less of gross floor area:
 - a. Antique shops
 - b. Bookstores, new and used
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Tobacco stores
 - l. Upholstering shops and fabric stores
 - m. Video stores
 - n. Watch and jewelry stores
- 7. Retail service establishments of the following types with 2,500 square feet or less of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle, moped, and street legal golf cart sales and rentals

- c. Blueprinting shops
- d. Dressmaking, tailoring, millinery, dry cleaning
- 8. Public Utility Facility

E. *Conditional Uses.* The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance:

1. Marine-related uses of the following types:
 - a. Boat and marine engine repair shops
 - b. Boatels
 - c. Marine and sports equipment consignment stores
2. Markets of the following types:
 - a. Crafts markets
 - b. Farmers' markets
 - c. Watermen's markets
3. Recreational, cultural, and entertainment uses of the following types:
 - a. Assembly halls
 - b. Auditoriums
 - c. Commercial recreational uses
 - d. Entertainment establishments
 - e. Theaters
4. Retail goods establishments of the following types with more than 2,500 square feet of gross floor area:
 - a. Antique shops
 - b. Bookstores, new and used
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Tobacco stores
 - l. Upholstering shops and fabric stores
 - m. Video stores
 - n. Watch and jewelry stores
5. Retail service establishments of the following types with more than 2,500 square feet of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle moped, and golf cart sales and rentals
 - c. Blueprinting shops
 - d. Dressmaking, tailoring, millinery, dry cleaning
6. Single-family and multi-family dwellings provided the following requirements are met:
 - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first level is not permitted.
 - b. Dwelling units shall occupy no more than 50 percent of the first floor of any building.

- c. The first floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.
- 7. Other miscellaneous uses of the following types:
 - a. Bed and breakfasts and tourist homes, provided the following requirements are met:
 - (1.) The owner and family must occupy the residence. The owner and his/her appointed agent are responsible for supervising guests.
 - (2.) The single-family dwelling appearance must be maintained.
 - (3.) Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off-street parking areas.
 - (4.) A sign no larger than four square feet shall be permitted.
 - (5.) The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council.
 - (6.) The dwelling must meet all of the requirements of Section 3.9.D.6.
 - b. Childcare and childcare education centers
 - c. Hotels and motels
 - d. Laundromats
 - e. Liquor and package stores
 - f. Off-site parking
- 8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

F. *Lot and Height Requirements.* Within the Harbor District, the following standards shall apply:

1. *Minimum lot requirements.*

lot area.....11,200 square feet
lot frontage.....80 feet
lot depth.....140 feet

2. *Height.*

- a. *Measurement criteria.* For the purpose of the Harbor District, height means the vertical distance measured from the crown of the nearest street to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. When the crown of the nearest street has an elevation greater than three feet above the adjacent ground elevation of the building, the adjacent ground elevation shall be used in place of the crown of the nearest street when measuring height. Note: Mechanical equipment, chimneys, air conditioning units, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions. However, these exclusive items may not exceed the height limit by more than fifteen feet.
- b. *Maximum permitted height.* No building shall have the same continuous elevation for a distance of more than 80 linear feet. Building heights greater than 40 feet and equal to or less than 55 feet may also be permitted in other parts of the Harbor District, subject to securing a conditional use permit as provided for in this

ordinance. When reviewing a conditional use permit application for the height of a building in the Harbor District, the following criteria shall be met:

- (1.) On each block, the average height of all buildings greater than 40 feet and equal to or less than 55 feet in height shall not exceed 45 feet. For the purpose of this section, a block is defined as the property fronting on one side of a right-of-way or waterway, and lying between two intersecting rights-of-way or otherwise limited by a waterway or other physical barrier of such nature as to interrupt the continuity of development.
- (2.) The application shall adhere to policies established in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

3. *Setback Regulations.*

- a. Waterfront setback requirement. No building or structure shall be located within 30 feet of the Cape Charles Harbor or within 30 feet of a Resource Protection Area not part of an Intensely Developed Area (IDA), or within 30 feet of Marina Road, Bayshore Road, or Parcel 83A3-A-10. This requirement shall not preclude any other applicable regulations, including but not limited to those associated Chesapeake Bay Preservation Areas. The following shall be exempt from the waterfront setback requirement when permitted by all other applicable regulations:
 - (1.) Water-dependent facilities as defined by Zoning Ordinance Section 7.3.
 - (2.) Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.

G. *Required open space.* Open space shall be provided equivalent to twenty-five (25) percent of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by pedestrians and open to the public. Such open space amenities shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from street level. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.

H. *Utilities.* All utilities shall be installed underground.

I. *Harbor Development Certificate required.* No zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued. Submission of a Harbor Development Certificate Application and approval by the Town Council shall be required to obtain a Harbor Development Certificate.

1. *Content of Harbor Development Certificate Application.* The Harbor Development Certificate Application shall consist of the General Application and the Detailed Application.

- a. *General Application.* The General Application shall include the following items:
 - (1.) An application on forms provided by the Zoning Administrator.
 - (2.) A fee established by the Town Council.
 - (3.) A letter of application stating in general terms the proposed use of the property, the effect of the changes on the surrounding area, and the reason for the request.

- (4.) A plot plan in accordance with the Site Plan Ordinance.
- b. *Detailed Application.* The contents of the Detailed Application may be delineated on the plot plan required for the General Application, or provided in separate maps, elevations, or written document as appropriate. The Detailed Application shall indicate the following:
 - (1.) Location, amount, character and continuity of open space.
 - (2.) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, including elevations demonstrating protection of views from existing streets, and a statement of how such will be accomplished.
 - (3.) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets.
 - (4.) Separation of pedestrian and vehicular traffic.
 - (5.) Landscape plans delineating dimensions and distances and the location, type, size, and description of all existing and proposed plant materials.
 - (6.) Location and dimensions of on-site signage.
 - (7.) Conceptual renderings of building exteriors.
 - (8.) Such other matters as are appropriate to determinations in the specific case. Other information may be requested by the Zoning Administrator, the Harbor Area Review Board, or Town Council.
2. *Review procedure.*
 - a. *Pre-application meeting.* Prior to application submission, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a pre-application meeting. The purpose of the meeting shall be to discuss the general goals of the project and application procedures.
 - b. *General Application.* Following the pre-application meeting, the applicant shall submit a General Application. The contents of the General Application are detailed in Section 3.9.I.1.a.
 - c. *Post-application meeting.* Within thirty (30) days of receipt of the complete General Application, the Zoning Administrator and the Harbor Area Review Board shall meet in a post-application meeting. The purpose of the meeting shall be to discuss the content of the General Application and to formulate recommendations for the applicant.
 - d. *First review meeting.* Within thirty (30) days of the post application meeting, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a first review meeting. The purpose of the meeting shall be to provide the applicant with the Harbor Area Review Board's recommendations and to provide notice to proceed with the Detailed Application.
 - e. *Town Council summary.* Following the first review meeting, the Harbor Area Review Board will present the Town Council with the General Application and a general description of discussion held at the first review meeting. The Town Council summary will be provided at a Town Council regular session or a Town Council work session for informational purposes.
 - f. *Detailed Application.* Following the first review meeting, the applicant shall submit a Detailed Application. The contents of the Detailed Application are provided in Section 3.9.H.1.b.

- g. *Zoning Administrator action.* Following the Zoning Administrator's receipt of the Detailed Application and his determination that it is complete pursuant to Section 3.9.H.1.b, the Zoning Administrator shall prepare a thorough review and analysis of the Harbor Development Certificate Application and a written staff report. The Zoning Administrator's written report shall be forwarded to the Harbor Area Review Board within 45 days of receipt of the Detailed Application.
 - h. *Second review meeting.* After receipt of the Detailed Application, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a second review meeting. The purpose of the meeting shall be to review the Harbor Development Certificate Application, consisting of the General Application and the Detailed Application, and provide the applicant with any necessary recommendations. Follow up meetings may be scheduled to further review the application or to review modifications to the application.
 - i. *Harbor Area Review Board action.* After the second review meeting, the Harbor Area Review Board shall forward its recommendation to approve, deny, or approve subject to modification, to the Town Council along with written findings of fact supporting its recommendation.
 - j. *Town Council action.* After receipt of the Harbor Area Review Board's recommendations and findings, the Town Council shall decide to approve, deny, or approve subject to modification.
 - k. *Concurrent review permitted.* Other development applications, including application for any necessary Certificate of Appropriateness, may be submitted concurrently with an application for a Harbor Development Certificate.
3. *Criteria for review.* In reviewing the Harbor Development Certificate Application, the Zoning Administrator, the Harbor Area Review Board, and the Town Council shall consider the following criteria:
- a. Use characteristics of the proposed development.
 - b. Preservation of historic structures; preservation of significant features of existing buildings when such buildings are to be renovated; relation to nearby historic structures or districts including a need for height limits.
 - c. Location and adequacy of off-street parking and loading provisions, including the desirability of bicycle parking.
 - d. Vehicular circulation within the development and its relation to other existing and proposed transportation facilities.
 - e. Inclusion of alleys to enhance vehicular transportation within the development.
 - f. Provision of concealed commercial loading and unloading areas adjacent to alleys to prevent loading, unloading, and trash collection along public rights of way.
 - g. Traffic generation characteristics of the proposed development in relation to street capacity.
 - h. Provision of open space to meet the requirements of the district; the location, design, landscaping and other significant characteristics of this public open space, and its relation to existing and planned public and private open space.
 - i. Multi-modal transportation facilities within the proposed development and their relation to public open space and pedestrian circulation patterns.
 - j. Architectural relationships, both formal and functional, of the proposed development to surrounding buildings, including building siting, massing, proportion, and scale.

- k. Use of architectural details, storefront design, window openings, roof shapes, porches, and columns to balance the proportions of facades into pleasant and cohesive compositions.
 - l. Microclimate effects of proposed development, including effects on wind velocities, sun reflectance, and sun access to streets and/or existing buildings and/or public open space.
 - m. Protection of significant views and view corridors, particularly views of the Cape Charles Harbor from existing road intersections.
 - n. Relationship of on-site lighting and landscaping to other surrounding lighting and landscaping designs both public and private.
 - o. Relationship of on-site signage to architectural elements of the proposed development and relationships to nearby development.
 - p. Adherence to policies included in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.
 - q. Adherence to the intent and requirements of the Harbor District.
4. Other requirements. Issuance of a Harbor Development Certificate shall not exempt a property owner from obtaining other necessary zoning clearances and building permits as required.

J. *Exemption.*

Railroad activities in this district are subject to federal preemption to the extent that the activities are an integral part of the railroad's interstate operations. 49 U.S.C. 10501 (b). Therefore, "state and local permitting or pre-clearance requirements [such as building permits, zoning clearances, and site plan requirements] which, by their nature, interfere with interstate commerce by giving the [Town of Cape Charles] the ability to delay or deny the [railroad's] right to construct facilities or conduct operations are preempted." *Borough of Riverdale v. New York Susquehanna & Western Railway Corporation*, Surface Transportation Board, Docket No. FD 33466 0, September 9, 1999.

However, environmental and other public health and safety issues and "activities and facilities not integrally related to the provision of rail service are not subject to [Surface Transportation Board] jurisdiction or subject to federal preemption." *Id.* Also, "interstate railroads ... are not exempt from certain local fire, health, safety and construction regulations and inspections." *Id.*

- K. Modifications may be allowed that do not change the wall to window area ratio, and do not add to or reduce the number and type of porches\balconies. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager upon approval of a Harbor Development Certificate.
- L. Modifications may be allowed to balconies and building architectural projections, and there is no change to street\sidewalk access or percentage of open space upon approval of a Harbor Development Certificate. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.
- M. Modification may be allowed if the required percentage of open space, required landscape, buffering, and Dark Sky compliance are met upon approval of a Harbor development

Certificate. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.

Section 3.14 General Business/Light Industrial H-1 (GBI H-1)

- A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:
1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
 2. Create family-wage employment and training opportunities for local residents
 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
 5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.
- B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.
1. Adult and/or child day care center
 2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
 3. Art gallery
 4. Business service establishment (including mail order or electronic catalog sales)
 5. Conference center
 6. Communication and telecommunications centers
 7. Commuter parking lot
 8. Educational institution
 9. Flex industrial use
 10. Fire, police, rescue stations
 11. Food production, packaging, packing, and canning
 12. Hotel, serving as an ancillary and interrelated component of the Park
 13. Library or other municipal building
 14. Manufacture, processing, fabrication and/or assembly of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 15. Medical care facility, outpatient only
 16. Museum, cultural center, arboretum
 17. Offices--administrative, business, professional, and telecommunication
 18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category

19. Park, plaza, or natural area
20. Parking structure
21. Performing arts center
22. Post office, drop off and pick up, mail courier and parcel services
23. Printing service
24. Public utility service center, without outdoor storage
25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
26. Recording studio
27. Recreational facilities
28. Recycling drop-off collection center serving the Park
29. Research, experimental testing or development activities
30. Restaurant, indoor and outdoor (excluding drive-through)
31. Telecommunications, television, or radio microwave dishes or antennas
32. Training center (excluding rehabilitation and institutional facilities)
33. Utility generating plant and transmission facilities using renewable energy sources
34. Utility installations
35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area
36. Warehousing facility (excluding mini-storage facility)
37. Water storage tank
38. Wholesale trade establishment

C. Conditional Uses. Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.

1. Structures, other than buildings, exceeding 50 feet
2. Buildings over 40 feet but equal or less than 50 feet

D. Accessory Uses. Within the GBI H-1 District, the following accessory uses shall be allowed.

1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures
2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets

E. Lot, Yard, Height, and Density Requirements. Within the GBI H-1 District, the following standards shall apply.

1. Minimum lot requirements

lot area	15,000 square feet
lot width.....	100 feet
2. Yard requirements

minimum front yard.....	10 feet
maximum front yard.....	25 feet
minimum side yard between buildings....	none or 5 feet

minimum side yard adjacent to street10 feet
minimum rear yard.....20 feet

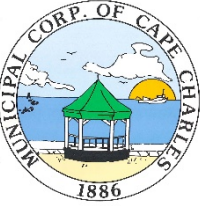
3. Maximum building height
 - buildings.....40 feet
 - structures other than buildings.....50 feet
4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.
5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:
 - a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.
 - b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:
 - i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.
 - c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:
 - i. A 50-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation

easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.

- ii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where commercial use is allowed.
- iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

F. Additional Development Requirements.

- 1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
- 2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
- 3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
- 4. Parking is not permitted in the front yard of a lot.
- 5. No parking or drive aisles shall be located within the required buffer yards.
- 6. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
- 7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.
- 8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
- 9. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices or signals audible outside any buildings shall be allowed on the property.
- 10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
- 11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Resolution of intent to consider a change to the zoning map within the Harbor District		AGENDA DATE May 20, 2021
	SUBJECT/PROPOSAL/REQUEST: Consideration of referral to Planning Commission		ITEM NUMBER: 7B
	ATTACHMENTS: Resolution of Intent 20210520B		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manger	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Both the Town zoning ordinance and Virginia Code 15.2-2286 (A) (7) requires a resolution of intent from the governing body to initiate any change to a zoning ordinance or zoning map.

ITEM SPECIFICS:

Approving this resolution does not constitute approval of any change. It merely identifies that sufficient public necessity, convenience, general welfare, or good zoning practice exists within the proposal to conduct a public process that more fully explores the proposed changes. This resolution will formally establish that the proposed changes meet the requirements to be referred to the Planning Commission for public hearing and their recommendation. Final and formal consideration of any change will be brought back to the Town Council following action by the Planning Commission.

RECOMMENDATION:

Staff recommends adoption of Resolution of Intent 20210520B Zoning Map Amendment of a Parcel Within the Harbor District by roll call vote.

RESOLUTION OF INTENT 20210520B
ZONING MAP AMENDMENT OF A PARCEL
WITHIN THE HARBOR DISTRICT

WHEREAS, in accordance with Code of Virginia § 15.2-2286.A, the Cape Charles Zoning Ordinance § 2.7.1 includes regulations pertaining to initiation of amendments, supplements, change in the regulations, district boundaries or classifications of property contained in the zoning ordinance; and

WHEREAS, the owner of a parcel within the Harbor District has requested a modification in the land use to General Business/Light Industrial to match the current land use of the adjacent parcels.

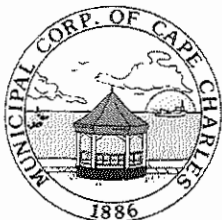
NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Map modifying the land use for one parcel to match the land use of its adjacent parcels.

Adopted by the Town Council of the Town of Cape Charles on May 20, 2021.

By: _____
Mayor Dize

Attest:

Town Clerk



ZONING MAP AMENDMENT APPLICATION

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planner@capecharles.org

received
5/12/2021

PERMIT CHECKLIST - all documents can be emailed to the above email

- ☒ Completed application
- ☒ Letter of intent
- ☒ Existing site plan or survey
- ☐ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of fees (\$1,000)

PROJECT INFORMATION

Name of Project: _____
Property Address: TAX ID 90-8-1A1
Brief Description of Project: _____
Current Zoning District: HARBOR Proposed Zoning District: GBI-H1
Current Use: RAW LAND Proposed Use: Manufact./Assembly/Storage

OWNER INFORMATION

Name and Company: South Port Investors, LLC
Mailing Address: PO Box 395 Eastville, VA 23347
Phone Number: 757-695-0265 Email: danbrowncpa@gmail.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: _____
Mailing Address: _____
Phone Number: _____ Email: _____

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: _____ Date: 5/12/21

Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org

South Port Investors, LLC

PO Box 395
Eastville, VA 23347

May 12, 2021

John Hozey - Town Manager
2 Plum Street
Cape Charles, VA 23310

Re: Rezoning request for Lot 90-8-1A1 Cape Charles Industrial Park

Dear Mr. Hozey,

As we have discussed, South Port Investors is currently under contract to sell Lot 90-8-1A1, an approximate 10 acre parcel located in the Cape Charles STIP on the south side of the harbor. South Port's sale of this property is contingent upon its ability to provide the buyer with property allowing for light industrial permitted uses. We are requesting a zoning change on this lot from Harbor District to General Business/Light Industrial (GBI-H1.)

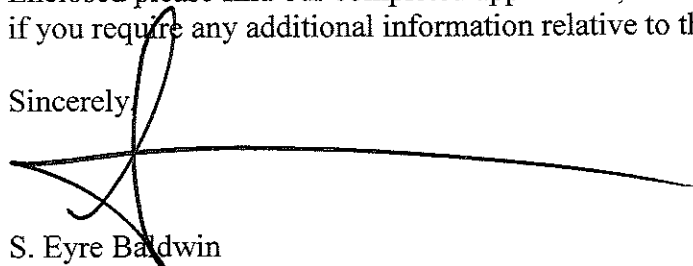
The acquiring company, Cape Charles Properties LLC, requires use capabilities which resemble the provisions in the GBI-H1 zone. The company plans to utilize the land for manufacturing, processing, fabrication, assembly and/or storage of products. Production of renewable energy components is the basis of this initiative.

While the Harbor District zoning classification has proven successful on the north side of the harbor, the south side has not recognized any such traction in the last decade. Harbor District success relies on the proximity to Downtown Cape Charles and the retail foot traffic which it promotes. No such environment exists in the industrial park vicinity.

In 2016, our group registered a similar zoning change request on Lot 83A3-11-2. This is a 20 acre parcel on Cape Charles Harbor which was zoned Harbor District. We approached the Town with our request to alter zoning from Harbor District to Industrial District M-2. The application was approved. Lot 90-8-1A1 is in close proximity to Lot 83A3-11-2. We feel a precedent has been established and are seeking application approval.

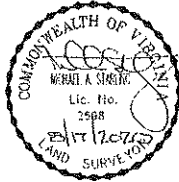
Enclosed please find our completed application, survey, and application fee. Please let me know if you require any additional information relative to this request. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Eyre Baldwin', with a long horizontal flourish extending to the right.

S. Eyre Baldwin
Executive Director - South Port Investors

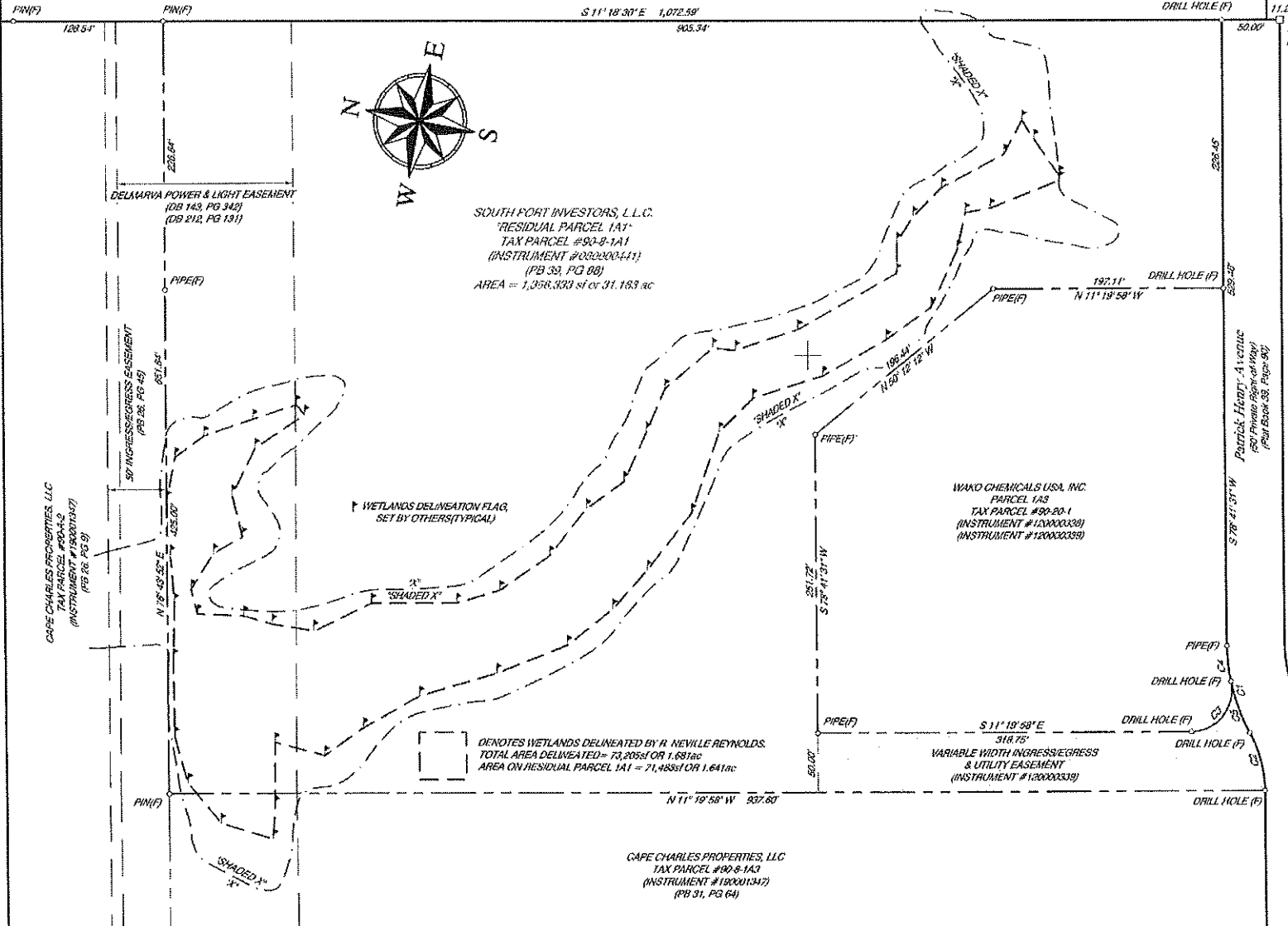
I HEREBY CERTIFY THAT THIS PLAT IS BASED ON A CURRENT FIELD SURVEY, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS.



SOUTH PORT INVESTORS, L.L.C.
TAX PARCEL #90-A-1A
(INSTRUMENT #060000441)
(PB 39, PG 68)
(PB 27, PG 23)

Bayshore Road - State Route 1117
(80' Right-of-Way)
(Plat Book 39, Page 88)

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	BEARING	CHORD	TANGENT
C1	76.51'	150.00'	29° 13' 24"	S 64° 04' 49" W	75.68'	30.10'
C2	50.91'	100.00'	29° 10' 07"	S 64° 03' 11" W	50.56'	26.02'
C3	62.01'	35.00'	101° 30' 28"	S 62° 05' 12" E	54.21'	42.84'
C4	30.19'	150.00'	11° 31' 57"	S 72° 55' 33" W	30.14'	15.15'
C5	40.31'	150.00'	17° 41' 27"	S 69° 18' 51" W	40.13'	22.24'



THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN.

FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM FEMA FLOOD MAPS. SHORELINE SURVEYORS IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. FOR FURTHER INFORMATION AND TO DETERMINE THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.

THIS PROPERTY APPEARS TO FALL IN:
FLOOD ZONES: 'X' & 'SHADED X'
COMMUNITY NO.: 510105
PANEL: 0256F DATED: MARCH 2, 2016

FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.

THE NORTH MERIDIAN OF THIS PLAT IS BASED ON A SURVEY PREPARED BY THE TAX GROUP DATED JANUARY 3, 2001 AND RECORDED IN PLAT BOOK 29 AT PAGE 29.

THE WETLANDS SHOWN HEREON WERE DELINEATED BY H. NEVILLE REYNOLDS ON JULY 17, 2020.

WETLANDS EXHIBIT OF

'Residual Parcel 1A1'

'SUBDIVISION OF SUSTAINABLE
TECHNOLOGIES INDUSTRIAL PARK'
(INSTRUMENT #120000339)
(PLAT BOOK 39, PAGE 88)
TAX PARCEL #90-B-1A1
TOWN OF CAPE CHARLES
NORTHAMPTON COUNTY, VIRGINIA
FOR

South Port Investors, L.L.C.
AUGUST 3, 2020

Shoreline Surveyors

23314 Courthouse Avenue - P.O. Box 735
Accomac, Virginia 23001
PHONE (757) 760-3050 FAX (757) 760-3952



GRAPHIC SCALE
SCALE: 1" = 60'

DRAWN: MAS

FIELD BOOK: 3, PAGES 55-57

JOB #12081

SHEET 1 OF 1

Adjacent Property Owners

Lot 90-8-1A3
Cape Charles Properties, LLC
1316 Yacht Drive
Chesapeake, VA 23320

Lot 90-13-A
Commonwealth of Virginia
Department of Conservation and Recreation
600 East Main Street
12th Floor
Richmond, VA 23219

Lot 90-A-1A
South Port Investors, LLC
PO Box 395
Eastville, VA 23347

Lot 90-A-1B
Up Front Storage, LLC
10605 Oliver Street
Fairfax, VA 22030

ORDINANCE 20210722B

ADOPTING CAPE CHARLES ZONING MAP AMENDMENT FOR TAX PARCEL #90-8-1A1 FROM HARBOR DISTRICT TO GENERAL BUSINESS/LIGHT INDUSTRIAL H-1

WHEREAS, pursuant to Cape Charles Zoning Ordinance Section 2.7.2, South Port Investors, LLC is seeking to rezone Tax Map #90-8-1A1 located at 1201 Bayshore Road, which is approximately 11.79 acres, from Harbor District (H) to General Business/Light Industrial H-1 (GBI H-1) for a proposed use of manufacturing, assembly and storage of products; and

WHEREAS, factors to consider in examining this request to change the zoning designation from Harbor to General Business/Light Industrial H-1 include: i) the current zoning map and ordinance; ii) the Cape Charles Harbor Area Conceptual Master Plan; and iii) the Comprehensive Plan; and

WHEREAS, Cape Charles Zoning Ordinance Section III – Future Land Use: Guiding Decisions for the Coming Decades, describes each land use designation and indicates that the guiding principle is to mirror and extend the existing historic pattern of development in the town as it grows and adapts to new land uses and building types over time. The Future Land use strongly reinforces the current form of the town and recommends that new development should be an extension of the traditional patterns of growth and settlement in Cape Charles; and

WHEREAS, in this area adjacent to the harbor, there are three primary designations which are described in the Comprehensive Plan as: Industrial (Section III.3.2), Industrial District M-2 (Section III.3.3) and General Business/Light Industrial H-1 District (Section III.3.4); and

WHEREAS, Comprehensive Plan Section II.4 - Economy, states “Cape Charles has experienced increased commercial activity recently. Several new restaurants have opened, and a new yacht refurbishing operation has opened for business. If this trend continues, economic opportunities will improve. The town must achieve an atmosphere conducive to the growth of new and existing businesses through cooperation with private, county, and regional economic development partners. Cooperation with other towns and Northampton County is needed to plan development near the town’s boundaries. Commercial investment should be encouraged where it is needed in revitalizing the county’s towns not in development of agricultural land or along Route 13. The town should encourage development of the area formerly known as the STIP (Sustainable Technologies Industrial Park) and several other large land tracts. It must continue support of existing economic infrastructure including the harbor and railroad. The town’s other strengths, such as its natural environment and historical character, must be preserved as well to encourage economic prosperity;” and

WHEREAS, as economic opportunities and expansions of existing industries have arisen over the last decade, the Town has considered each of these items and responded accordingly through rezoning consideration. The area directly adjacent to the concrete plant continues to support the operations of the plant and this rezoning application seeks to utilize this property for purposes which are consistent with the Comprehensive Plan; and

WHEREAS, this parcel is not located directly on the Harbor and the proposed change of zoning designation would align best with the proposed use of the property; and

WHEREAS, this property is under contract for sale to Coastal Precast Systems which intends to use the property for light industrial uses, pursuant to the Zoning Ordinance General Business/Light Industrial H-1 District; and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a joint public hearing was held with the Town Council and Planning Commission, followed by the Planning Commission's regular meeting for review and deliberation of the proposed zoning map amendment; and

WHEREAS, the Planning Commission approved, by majority vote, making recommendation for Town Council approval of the rezoning of Tax Map #90-8-1A1 from Harbor to General Business/Light Industrial H-1; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 22nd day of July 2021, that Cape Charles Zoning map be amended as recommended by the Planning Commission, to rezone Tax Map #90-8-1A1 (1201 Bayshore Road) from Harbor District to General Business/Light Industrial H-1, to become effective immediately.

Adopted by the Town Council of Cape Charles on July 22, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Removal of Edward Wells from the Historic District Review Board		AGENDA DATE: July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Remove of Edward Wells from the Historic District Review Board		ITEM NUMBER: 7A
	ATTACHMENTS: N/A		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Members of the Historic District Review Board are appointed by the Town Council.

ITEM SPECIFICS:

The Town Council finds that it is no longer in the best interest of the Town for Mr. Edward Wells to continue serving on the Historic District Review Board.

RECOMMENDATION:

“Move to remove Mr. Edward Wells from the Town of Cape Charles Historic District Review Board, effective immediately”

 TOWN OF CAPE CHARLES	AGENDA TITLE: Reappointment of Library Board Members		AGENDA DATE: July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Two Library Board members		ITEM NUMBER: 7B
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

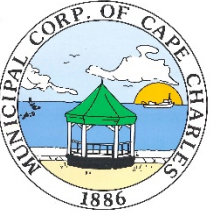
The Library Board meets monthly and consists of seven members each serving four-year terms.

DISCUSSION:

Dianne Davis and Karen Mahaffy currently serve on the Library Board and their terms will be expiring on August 8, 2021. Ms. Davis and Ms. Mahaffy have expressed their interest in continuing their service on the Library Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Ms. Dianne Davis and Ms. Karen Mahaffy to the Library Board for another four-year term.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Updates to Cape Charles Guidelines for Citizen Participation		AGENDA DATE: July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Review Proposed Updates to Guidelines for Citizen Participation		ITEM NUMBER: 7C
	ATTACHMENTS: Proposed Updates to Guidelines for Citizen Participation		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town of Cape Charles Guidelines for Citizen Participation at public meetings was last adopted by Council on January 10, 2013.

ITEM SPECIFICS:

A request to update the Citizen Participation Guidelines was received from Councilman Follmer. Town Manager John Hozey reviewed the current guidelines and proposed the updated attached for review.

RECOMMENDATION:

Staff recommends Council review and discussion of the revised draft guidelines and if desired, make a motion to adopt the guidelines.

Town of Cape Charles

Guidelines for Citizen Participation

Town Council meetings are open to the public, except when the Council ~~votes to confer on certain matters in~~ invokes the provisions of the Virginia Freedom of Information Act to discuss an authorized topic under a closed (Executive) session.

A period of Public Comment shall be provided as part of the Agenda for the Council's regular monthly meetings. The Public Comment period is ~~a privilege provided to permit~~ an obligation of the Council to provide members of the public an opportunity to address the Council on legitimate matters of town business. This period shall be governed by the following provisions:

Eligibility

Only those citizens with standing in the Town of Cape Charles will be provided the opportunity to provide input during the Public Comment period. Citizens with standing include full-time residents, property owners, and business owners within the corporate boundaries of the Town of Cape Charles. State, federal, and county officials representing/serving the Town of Cape Charles are also eligible. When eligibility is called into question, input may be provided upon affirmative vote of the Council.

Registering

Persons having an interest in making in-person comments to the Town Council during the Public Comment period must register on a sign-up sheet, including their name and ~~residential address~~ basis for standing, indicating the item or topic on which they wish to speak. The sign-in sheet is available at the main entrance to the Council meeting and must be completed prior to the start of the meeting. The Mayor will recognize speakers at the appropriate time.

Persons having an interest in providing written comments to the Town Council during the Public Comment period must provide such comments to the Town Clerk no later than 60 minutes prior to the start of the meeting. Written comments must include a full name, basis for standing, and the agenda item or topic on which they wish to comment. The Clerk will read authorized comments into the record following all in-person speakers during the Public Comment period.

Members of Council are not permitted to sign-up and make comment during the Public Comment period unless an agenda item being considered has a direct impact upon the Council member or his/her ~~property~~ interests, they have declared a potential conflict of interest, and the remaining Council members have voted to excuse that Council member from official action on the related item.

Regulations:

Cell Phone and Recordings

- Ringers on cell phones or pagers shall be turned off during the time that persons are at a Town Council meeting.
- The taking of photographs and video or audio recordings of a speaker or the activities during a meeting of Town Council shall be no closer than the front row of seating or other location designated by the Mayor or presiding officer to avoid disruption to the meeting and to promote public safety. The photographer or recorder shall take steps to avoid obstructing the aisles or other areas for any length of time in such a manner as to prevent other citizens

from taking photographs, or to block the view of other citizens attending the meeting. No flashes or lighting devices may be used by photographers or operators of video recording equipment.

Speaking

When a speaker is called by the Mayor or presiding officer, the following is required:

- Speakers shall speak into the microphone to ensure that their name and remarks are heard and recorded as a part of the record of the meeting.
- Speakers shall state their full name and address **basis for standing** and topic to which they are speaking.
- If a speaker represents a group or organization, the speaker shall indicate the name of the organization and the speaker's relationship to the group or organization. Speakers may ask others from their group or organization to stand at their seats to be recognized while the group's or organization's name is announced, but non-speakers or individual members are not permitted to stand with the speaker at the podium and for safety reasons, no members of the group or organization are permitted to stand in the aisles or doorways at Town Council meetings. Those members of a group or organization who do stand when the name of the group or organization is announced shall then be seated.
- Speakers shall address remarks to the Mayor and members of Council and not to the audience.
- Speakers shall state their position, give the facts to substantiate their position, and relate the concerns they believe the Town Council should consider.
- Speaker's comments will be made part of the record and a written copy ~~shall~~ **should** be delivered to the Town Clerk for inclusion. If other supportive material is available, it should also be delivered to the Town Clerk for the record.
- Speakers shall refrain from campaigning for public office, personal attacks upon members of the Town Council, Town employees or officials, or any other person.
- Speakers shall refrain from words or statements which, from their usual construction and common acceptance, are construed as insults or which have a tendency to cause an act of violence or a breach of the peace.
- Speakers shall refrain from abusive language, obscenity, vulgarity, and profanely cursing or swearing.
- Speakers shall refrain from actions that would interrupt the public meeting.

Time limitations for remarks

- **In-person** speakers shall confine their remarks to no more than three (3) minutes. Speakers will be advised when their three (3) minutes have concluded.
- **Persons providing written input must limit their comments to no more than can be read by the Town Clerk within three (3) minutes. Written comments provided beyond what can be read during the allotted time will not be entered into the record.**
- Speakers cannot "yield," "transfer" or "designate" their time to another speaker in an effort to provide another speaker more than the allotted three (3) minutes.
- The Mayor or other presiding officer shall have the right to limit redundant remarks, as well as the overall time provided for remarks based on consideration of the time available and the need to complete the meeting efficiently.
- After a speaker has concluded his or her remarks, the speaker shall be seated.

Decorum and order

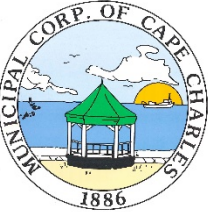
- For safety reasons, petitioning, picketing, displaying signs or posters, solicitation, demonstrating, pamphlet distribution, conducting polls, and blocking of the entryway shall not be permitted at a Town Council meeting or within ~~forty (40)~~ **one hundred (100)** feet of ~~the~~ **any** doorway to the meeting location.
- These guidelines do not preclude speakers, when addressing the Town Council, from delivering to the Council members by way of the Town Clerk written materials including reports, statements, exhibits, letters, or signed petitions. Nor do these guidelines preclude those addressing the Town Council from using a chart or graph during their remarks.
- Speakers and members of the audience shall be respectful of others, even if they do not agree with others' comments.
- The Mayor or other presiding officer shall preserve decorum and shall decide all questions of public order.
- At the request of the Mayor or Town Manager, one or more persons, including Town police officers shall act as sergeant-at-arms or sergeants-at-arms at all Town Council meetings. The sergeant-at-arms or sergeants-at-arms shall, under the direction of the Mayor or other presiding officer, have charge of the Council meeting location, and shall prevent disorder or interruption of the business of Town Council.
- Applause shall be permitted only during awards and presentations. Flash photography will be permitted at this time.
- Violation of these rules by speakers or members of the audience shall enable the Mayor or other presiding officer to rule the speaker or member of the audience out of order and by directive to have the speaker or member of the audience removed from the meeting, if necessary, and to take such other steps the Mayor or other presiding officer deems appropriate. The Mayor's or other presiding officer's decision to remove or rule a speaker or member of the audience out of order shall be final. One (1) warning will be given and if not heeded, the speaker or member(s) of the audience shall be escorted from the meeting.
- Any citizen is welcome to address their concerns **informally** with the Mayor, Town Council or Town Manager at any time outside of a Town Council meeting.

Town Council Response

Council members or Town employees shall not respond to questions posed nor address or rebut speaker's statements made during the Public Comment period. The Council, at its discretion, may direct matters raised during the Public Comment period be placed on the Agenda of a future meeting.

The Town Council hopes these Guidelines will encourage the greatest possible participation by citizens in the Town Government.

Thank you for your interest and participation in your Town Council meeting. The Mayor and Town Council invite and encourage you to attend whenever possible because good, responsive government depends on the interest and involvement of all citizens.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Approval of Town of Cape Charles Code of Conduct and Rules of Order		AGENDA DATE: July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Approve Town of Cape Charles Code of Conduct and Rules of Order		ITEM NUMBER: 7D
	ATTACHMENTS: Draft Code of Conduct and Rules of Order		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town of Cape Charles Code of Ethics was last adopted by Council on November 14, 2006.
The Town of Cape Charles Meeting Rules of Order was last adopted by Council on March 4, 2009.

ITEM SPECIFICS:

Periodic review of the Town's rules and procedures is prudent. Updates and inclusion of new information is important. The previous Code of Ethics and Rules of Order were contained in two separate documents. For ease of reference and maintenance, they have been combined into one document in this version.

Besides formatting, grammar, and minor wording changes, most of the 2006 and 2009 documents are retained in this update. By exception, the Conflict-of-Interest portion was pulled out and made it's own section with additional guidance provided. The Rules of Order section was also expanded to include the new section "Meeting Types".

This guidance will apply to the Town Council and all boards, commissions, and committees of the Town.

RECOMMENDATION:

Staff recommends Council review and discussion of the updated draft Code of Ethics and Rules of Order, and if desired, make a motion to adopt this guidance.

DRAFT



Town of Cape Charles Code of Ethics & Meeting Rules of Order

July 22, 2021

Preamble

The citizens and businesses of the Town of Cape Charles, Virginia, are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of representative government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial, and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Town of Cape Charles Town Council has adopted this Code of Ethics and Rules of Order for members of the Town Council and of the Town's boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operations.

Code of Ethics

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the Town of Cape Charles and not for any private or personal interest, and they will assure fair and equitable treatment of all persons, claims, and transactions coming before the Town of Cape Charles Town Council, boards, commissions, and committees.

2. Comply with the Law

Members shall comply with the laws of the nation, the Commonwealth of Virginia, and the Town of Cape Charles in the performance of their public duties. These laws include but are not limited to the United States and Virginia Constitutions; the Charter of the Town of Cape Charles; laws pertaining to conflicts of interest, election campaigns, employer responsibilities, open processes of government; and Town ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct or language, personal charges or verbal attacks upon the character or motives of other members of the Town Council, boards, commissions, committees, the staff, or the public.

DRAFT

4. Respect for Process

Members shall perform their duties in accordance with the processes and Rules of Order established by the Town Council; they shall respect the deliberation of public policy issues of other bodies, the meaningful involvement of the public, and the Town staff's implementation of policy decisions of the Town Council.

5. Conduct of Public Meetings

Members shall prepare themselves for public business; listen courteously and attentively to all public discussions before the body; and focus on the issues at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Town Council or boards, committees, and commissions, which they may have received from sources outside of the public decision-making process.

8. Gifts and Favors

A member should never accept for himself or herself or for family members, gifts, favors, or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

9. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the Town. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

10. Use of Public Resources

Members shall not use public resources that are not available to the public in general, such as Town staff time, equipment, supplies, or facilities, for private gain or personal purposes.

11. Advocacy

Members shall represent the official policies or positions of the Town Council, boards, commissions, or committees to the best of their ability when designated as delegates for this purpose. When representing their individual opinions and positions in any venue, members shall explicitly state they do not represent their body of Town of Cape Charles, nor will they allow the inference that they do.

DRAFT

12. Policy Role of Members

The Town Council determines the policies of the Town with the advice, information, and analysis provided by the public boards, commissions, committees, and Town staff. The Town Council delegates authority for the administration of the Town to the Town Manager.

Members, therefore, shall not interfere with the administrative functions of the Town or the professional duties of Town staff, nor shall they impair the ability of staff to implement Town Council policy decisions. Inquiries to staff shall be made through the Town Manager or the appropriate department manager or director as authorized by the Town Manager.

13. Independence of Town Council and Commissions

Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, members of the Town Council shall refrain from using their positions to unduly influence the deliberations or outcomes of board, committee, or commission proceedings.

14. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace environment for Town employees, citizens, and businesses dealing with the Town. Members shall recognize their special role in dealings with Town employees and in no way create the perception of inappropriate direction to staff. All requests for staff resources must be approved by the Town Manager.

15. Implementation

Ethical standards shall be included in the regular orientations for candidates for the Town Council, applicants to boards, committees, commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understood the Town of Cape Charles Code of Ethics and Rules of Order. In addition, the Town Council, boards, committees, and commissions, shall annually review the Code of Ethics and Rules of Order, and the Town Council shall consider recommendations from boards, committees, and commissions to update it as necessary.

16. Compliance and Enforcement

The Town of Cape Charles Code of Ethics expresses standards of ethical conduct expected of Members of the Town of Cape Charles Town Council, boards, committees, and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of boards, committees, and commissions and the Mayor of the Town of Cape Charles have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics are brought to their attention.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a Town Council, board, committee, or commission decision. However, it may be considered when the Town Council is determining the suitability of any person to serve in any appointed position.

DRAFT

Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest and shall disclose any substantial organizational responsibility or personal business relationship to the parties in any matter coming before them. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts are determined to exist. This paragraph is not intended to unduly restrict members who have minor business or professional dealings with clients whose matter comes before them.

1. Abstention

As elected or appointed officials, members have a duty/obligation to represent their constituents in all public matters coming before their body. It is not appropriate for individual members to decide in which matters they should abstain. If a member believes they have a conflict of interest on any matter before their body, they are REQUIRED to disclose it before deliberations on that business begins. However, it shall be up to the remaining members of that body to determine if an actual conflict exists and if the member disclosing the potential conflict can be excused from participating in the business. If the body votes to allow the member to recuse him/herself, that member will not participate in any of the discussions or vote related to that business. Failing a vote to allow recusal, the member shall participate as normal.

2. Representation of Third-Party Interests

In keeping with their role as stewards of the public interest, members of the Town Council shall not appear on behalf of the private interests of third parties before the Town Council or any board, committee, commission, or proceeding of the Town; nor shall members of boards, committees, or commissions appear before their own bodies or before the Town Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies. This provision should not unduly restrict a member's participation who is associated with, but not representing, community or non-profit organizations serving the Town, whose matter comes before them.

Meeting Rules of Order

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

1. Meeting Types

All meetings of the Town of Cape Charles fall under the provisions of the Virginia Freedom of Information Act (FOIA). All members will receive training on VA FOIA requirements upon initial appointment, as well as periodic refreshers. The Town Clerk will ensure FOIA training is completed, and that all records of the training are maintained. This document is not to be considered a substitute for FOIA training and offered only as a summary overview.

DRAFT

The public must be provided notice and access to all Town meetings.

- **Regular Meeting:** Meetings required by Charter or Bylaws to occur on a regular interval to conduct the primary business of the body. These meetings are conducted more formally, with established procedure. The Mayor or presiding officer will enforce these procedures to ensure proper decorum and efficient flow of business. Agendas will include a public comment period on any topic in accordance with public comment procedures established by the Town Council.
- **Special Meeting:** Meetings to conduct official business of the body that are deemed necessary in addition to Regular Meetings. Special Meetings are also conducted formally but may not include all Regular Meeting agenda items. Public comments will be permitted but limited to only business items on the agenda. Special meetings may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.
- **Work Session:** Informal meetings of the body that allow for relaxed procedure enabling freer flowing discussion. No official action may be taken during a work session, however determining consensus on items to be brought forward to a Regular or Special meeting is appropriate. Work Sessions are generally used for (but not limited to) brainstorming, information gathering, planning efforts, budget review, or when more time is needed on a particular item than is typically afforded during formal meetings. The public must be permitted the opportunity to observe work sessions but are not typically permitted an opportunity to provide comments. The Mayor or presiding officer may on special circumstance, allow public comment. Work sessions may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.
- **Closed Session:** Closed Sessions (Executive Sessions) are authorized by FOIA to discuss certain confidential matters limited to specific purposes, while using very specific procedures. Though a portion of this meeting is closed to the public, other portions are open. The public must be permitted to observe the motion to go into Closed Session as well as the certification upon leaving the Closed Session.
- **Public Hearing:** Public Hearings are intended to solicit public feedback on specific topics. These topics will be advertised in advance. Input may be made in person or in writing. All comments will adhere to the Town Council approved guidelines. Comments will be directed to the body and not to any individual. Members shall not respond to questions posed nor address or rebut speaker's statements made during the Public Hearing.
- **Town Hall Meeting:** An informal meeting where no official action is taken. A Town Hall Meeting is essentially a Work Session that involves the public. These meetings are typically focused on one or two topics and encourages dialog between members and the public. A primary goal of a Town Hall meeting is to provide decision makers with in-depth public perspectives prior to taking an official action.

DRAFT

- Social or Community Events: These are gatherings where no official business is conducted, but where Town issues may be informally discussed. If more than two members will be present in their capacity as a Town official, the gathering should be posted. There are no agendas or minutes associated with these functions.

2. Motions

- Unanimous Consent: Routine business is typically conducted by unanimous consent. This is an informal process that allows business to be conducted expeditiously. The procedure is for the presiding officer to ask whether anyone objects to a particular action and then to state, "Hearing no objection the action will be taken by unanimous consent." Note that even when a member is not in favor of a particular action the member may chose not to object in the interest of moving the agenda forward. In other words, unanimous consent does not mean that everyone was actually in favor of the action. If anyone objects, then the action must be addressed with a formal motion and vote.
- Main Motion: This is the motion that brings business before the council or other body. Such motions should be stated in a concise form and should generally be in writing to avoid misunderstandings. It must be seconded and when voted upon will ordinarily require a simple majority vote. There are circumstances where a super majority may be required. such as in the disposition of real estate. Before voting on the motion the presiding officer should call for discussion. The presiding officer should allow for discussion until it terminates by *unanimous consent* or is formally terminated by a subsidiary motion (discussed below).

When the motion is ripe for a vote the presiding officer should call for "all in favor" and then "all opposed." The presiding officer should then clearly state either the "motion passes" or the "motion fails." Generally, in the event of a tie the presiding officer may cast the deciding vote. The Town Charter expressly allows the Mayor to vote in the event of a tie. Any member may request a roll call vote.

- Subsidiary Motions:
 - Motion to Postpone Indefinitely (sometimes incorrectly called a motion to table): Normally used to put aside business that is not ripe for consideration, such as when further study is required. It requires a second. is debatable and is not amendable.
 - Motion to Amend: This is a motion to amend the wording and sometimes the meaning of the main motion. It requires a second and is debatable. It is also amendable *one time*. Note that a vote to adopt the amendment is not a vote on the main motion. Once the motion to amend is adopted the amended main motion must then be voted on as well. Often, simple motions to amend are adopted by unanimous consent. Also, note that whether the member that offered the original motion is willing to accept the proposed amendment or not is irrelevant. It must still be seconded and voted upon or adopted by unanimous consent.

DRAFT

- Motion to Refer: This is a motion to refer a matter to a committee or other body for action. In effect, when the motion is to refer the matter to a "workshop, it is a motion to refer the matter to a committee comprised of the entire council or other body (a committee of the whole). It requires a second and is debatable.
- Postpone to a Certain Time: Used when a matter is best considered at a different time to allow for the orderly conduct of business. It requires a second and is debatable.
- Motion to Limit Debate: Used to put a limit on the time permitted for debate of a motion. It requires a second, is not debatable and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion to limit debate does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.
- Motion of the Previous Question (often referred to as "a motion to call the question" or "motion to bring the matter to a vote"): Used to end debate and bring the pending motion to a vote. It requires a second, is not debatable, and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion of the previous question does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.
- Motion to Lay on the Table (often confused with a motion to postpone indefinitely): Used to temporarily interrupt pending business so that another matter can be considered first. It requires a second and is not debatable. This is often done by unanimous consent to move business forward.
- Motion to Recess: This is a motion to take a short break in the proceeding. It requires a second and is not debatable.
- Motion to Adjourn: This motion closes the meeting. It requires a second and is not debatable.

3. Agenda

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

DRAFT

4. Other Issues

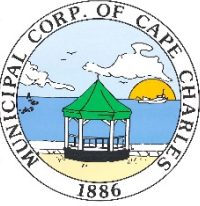
- Mayor's Veto: The Town Charter provides the Mayor with "the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and meeting." With a six-member council the override requires a vote of four members if all are present and voting.
- Quorum: The Town Charter provides that "four members of the town council shall constitute a quorum for the transaction of business at any meeting." The bylaws of other bodies establish the number of members required for a quorum. The Code of Virginia provides that if a member is disqualified due to a conflict of interest "the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members." 2.2-3112.C.

Acknowledgement

I _____ (printed name), a sitting member of
_____ (body), hereby certify that I have been
given a copy, read, understand, and will abide by the above rules and procedures.

_____ (signature)

_____ (date)

 TOWN OF CAPE CHARLES	AGENDA TITLE: BIG Grant Obligations		AGENDA DATE July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: BIG Grant resolution		ITEM NUMBER: 7E
	ATTACHMENTS: Resolution 20210722A		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Debbie Pocock	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

In prior years, US Fish and Wildlife Service (USFWS) has accepted public trust doctrine, meaning states and localities using federal funds ensured rather informally that funds were being used for what they were secured for. Having gone through a number of audits, however, USFWS now requires government entities to pass a resolution identifying the federal interest.

ITEM SPECIFICS:

The Town installed a Wi Fi system, security cameras and lighting, and replaced fuel pumps at the harbor between November 2018 and February 9, 2021. These projects were approved to be funded partially by a Boating Infrastructure Grant (BIG). Previous projects built the floating docks, the bathhouse, and other harbor fixtures.

The resolution before you is to acknowledge the Town's responsibilities under the BIG law to maintain all of these additions and replacements in good condition during their useful lives as described in the resolution, and to make these facilities available to transient boaters.

RECOMMENDATION:

Staff recommends that Council vote to approve Resolution 20210722A acknowledging the Town's obligations and to formally accept the terms of the US Fish and Wildlife Service Boating Infrastructure Grant.

RESOLUTION #20210722A

**REGARDING THE USEFUL LIFE, OBLIGATION, AND MAINTENANCE OF THE
TOWN OF CAPE CHARLES HARBOR MARINA AT
11 MARINA ROAD, CAPE CHARLES, VIRGINIA**

WHEREAS, the Town of Cape Charles, is the owner in fee simple of real property with improvements thereon know generally as Town of Cape Charles Harbor Marina at 11 Marina Road, Cape Charles, Virginia; and

WHEREAS, the Town of Cape Charles, acting as sub-recipient of the Virginia Department of Health, replaced existing fuel pumps (location at the dockmaster's office), installed Wi Fi, security camera(s), and lighting at the Town of Cape Charles Harbor Marina transient docks with funds from the Boating Infrastructure Grant Program; and

WHEREAS, the Town of Cape Charles is obligated to allow transient recreational vessels to purchase fuel and utilize the Wi Fi system in accordance with the Boating Infrastructure Grant; 2 CFR 200 and 50 CFR 86; and

WHEREAS, pursuant to the grant agreement(s) between the Town of Cape Charles and the State of Virginia, Department of Health (the "Agreement(s)") dated November 16, 2018 (Agreement Number VDH-19-102-0040), dated February 11, 2020 (Agreement Number VDH-19-102-0040) and dated February 9, 2021 (Agreement Number VDH-21-102-0104), copies of which is kept on file at the office of the Virginia Department of Health, 109 Governor Street, 5th Floor, Richmond, Virginia 23219.

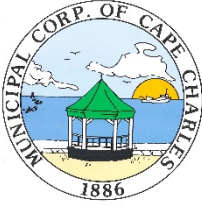
NOW THEREFORE, BE IT RESOLVED that the Town of Cape Charles, desires to acknowledge the existence of the Agreement and its obligation to abide by the terms and conditions thereof. The Town of Cape Charles confirms its obligations with regard to the Agreement as it relates to the property, including the obligation of the Town of Cape Charles to provide long-term maintenance of the property in accordance with the Boating Infrastructure Grant Program Rule (522 FW 18.5) and the following useful life parameters: fuel system – 20 years; and security cameras, lighting, and W iFi – 10 years as referenced in Appendix 8 – United States Fish and Wildlife Service Plant, Property & Equipment Financial Management Guidance Handbook.

Adopted by the Town Council of Cape Charles on this 22nd day of July 2021.

By: _____
Mayor William "Smitty" Dize

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Post Office Parking Restriction Request – VDOT resolution.		AGENDA DATE: July 22, 2021
	SUBJECT/PROPOSAL/REQUEST: Request from the Cape Charles Post Office for 15-minute parking restriction on Randolph Avenue in front of the Post Office		ITEM NUMBER: 7F
	ATTACHMENTS: Email from postmaster, Resolution 20210722B		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

A telephone call and email were received from the Cape Charles Post Office Postmaster Sandra Robinson requesting support with an application for a 15- minute parking restriction on Randolph Avenue Street in front of the post office.

ITEM SPECIFICS:

With the increase in the number of visitors to the Town, there have been growing issues with parking at the Cape Charles Post Office located at 299 Randolph Avenue. Customers are unable to park in front of the post office to conduct business due to non-postal customer vehicles being parked in the area directly in front of the post office building. Since the streets in Cape Charles fall under the purview of the Virginia Department of Transportation (VDOT), Postmaster Sandra Robinson contacted them inquiring about the possibility of designating the space in front of the post office for 15-minute parking. She was informed that she needed a resolution from the Town Council supporting her request to submit with their application to VDOT.

The Council adopted a similar resolutions to support Mr. Fox’s request for parking restrictions at 1 Monroe Avenue in October 2016, and the Cape Charles Christian School’s request in May 2018.

RECOMMENDATION:

Staff requests Council review and discussion of Resolution 20210722B in Support of the Request from the Cape Charles Post Office for 15-Minute Parking Restrictions on Randolph Avenue as submitted, and adoption of the resolution by roll call vote if deemed appropriate.

From: "Robinson, Sandra M - Cape Charles, VA" <Sandra.M.Robinson@usps.gov>
To: "clerk@capecharles.org" <clerk@capecharles.org>
Date: 07/13/2021 11:39 AM
Subject: #sensitive# Request for Town Council Resolution

Good afternoon,

There have been ever growing issues with parking at the Cape Charles Post Office, 299 Randolph Ave., Cape Charles, VA 23310. Customers are complaining about not being able to park near the office. Vehicles are parked in front but they are not postal customers. Yesterday, there was a RV there for over an hour. This then creates another issue of postal customers parking in the Employee Only lot behind the office. I would like to request that VDOT designate the space in front of the Post Office as "15 minute" parking only. I do not believe that it is necessary to prohibit others from parking there; just to a reminder to not stay there.

Please present this request to the Town Council. I am available to answer any further questions or concerns. Thank you.

Sandra Robinson
Postmaster
Cape Charles Post Office
299 Randolph Ave.
Cape Charles, VA 23310
757-331-4927 (Office)

RESOLUTION 20210722B

**IN SUPPORT OF THE REQUEST FROM THE CAPE CHARLES POST OFFICE
FOR 15-MINUTE PARKING RESTRICTIONS ON RANDOLPH AVENUE IN FRONT OF THE POST OFFICE**

WHEREAS, the Town received a request from the Cape Charles Post Office for 15-minute parking restrictions in front of the post office located at 299 Randolph Avenue; and

WHEREAS, the request cited issues with non-postal customer vehicles parking in front of the building for extended periods of time making the spaces unavailable for postal customers; and

WHEREAS, although this request falls under the purview of the Virginia Department of Transportation (VDOT), the Cape Charles Post Office has requested the support of the Town Council to submit with their application;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town Council of the Town of Cape Charles expresses its support of the request to VDOT for 15-minute parking restrictions in front of the Post Office building located at 299 Randolph Avenue.

Adopted by the Town Council of Cape Charles on this 22nd day of July 2021.

By: _____
Mayor William "Smitty" Dize

ATTEST:

Town Clerk