



TOWN COUNCIL
Public Hearing & Regular Meeting
July 20, 2023
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. Public Hearing:
 - A. [Zoning Map Amendments – from Commercial-1 \(C-1\) to Commercial Residential \(CR\)](#)
 - i. 107 Mason Avenue – Tax Map #83A3-2-1-74 & 83A3-2-1-75A
 - iii. Mason Avenue Lots – Tax Map #83A3-2-1-75B & 83A3-2-1-77
 - B. [Real Property Disposal - Monroe Avenue Parcel – Tax Map #83A3-1-418A](#)
4. Recognition of Visitors / Presentations / Recognitions
 - A. [Proclamation for US Coast Guard Appreciation Day](#)
5. Public Comments (3 minutes per speaker for topics not subject to this evening's public hearing)
6. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of May 31, 2023 Financial Report](#)
7. Unfinished Business:
 - *A. None
8. New Business:
 - *A. [Zoning Map Amendments – from Commercial-1 \(C-1\) to Commercial Residential \(CR\)](#)
 - i. 107 Mason Avenue – Tax Map #83A3-2-1-74
 - iii. Mason Avenue Lots – Tax Map #83A3-2-1-75B & 83A3-2-1-77
 - B. [Real Property Disposal – Monroe Avenue Parcel – Tax Map #83A3-1-418A](#)
 - *C. [Tourism Zone Credit Payment](#)
 - *D. [Memorandum of Agreement with Cape Charles Main Street](#)
 - *E. [Adoption of New Cape Charles Town Code](#)
 - *F. [Cape Charles Community Trail Phase 3](#)
 - *G. [Town Tourism Zone Recension](#)
9. Town Manager Comments
10. Mayor & Council Comments (5 minutes per speaker)
11. Announcements
 - August 3, 2023 – Town Council Meeting *tentative*
 - August 17, 2023 – Town Council Regular Meeting
12. Adjournment

TOWN OF CAPE CHARLES
Town Council – Public Hearing

The Cape Charles Town Council will hold a public hearing on Thursday, July 20, 2023 at 6:30 pm in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive comment on the following requests:

- A. A Zoning Map Amendment (ZMA) 2023-02 application from Nancy T. Rooney to rezone 107 Mason Avenue (Tax Map #83A3-2-1-74) and Tax Map #83A3-2-1-75A from Commercial-1 (C-1) Zoning District to Commercial Residential (CR) Zoning District for proposed use pursuant to CCZO Section 3.5.

A Zoning Map Amendment application from RL & B Seaside Investments, LLC to rezone Tax Map #83A3-2-1-75B and Tax Map #83A3-2-1-77 from Commercial-1 (C-1) Zoning District to Commercial Residential (CR) Zoning District for proposed use pursuant to CCZO Section 3.5.

The applications are available for public review on our website at www.capecharles.org under Agendas and Minutes/Town Council. Please contact the Planning Department at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information.

AD PLACED: *Eastern Shore Post on Tuesday, June 27, 2023*

AD TO RUN: *Friday, July 7, 2023 and Friday, July 14, 2023*



Zoning Map Amendment Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-2036

planner@capecharles.org

Revised 03/2023

Taxes

✓

Violations

Yes

Fee

\$

Decision

PART 1: APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
2. A zoning map amendment application should be consistent with the Comprehensive Plan and therefore, may also require a Comprehensive Plan amendment, which should be approved prior to the zoning map amendment application.
3. The Town Council may not add conditions of approval to a zoning map amendment application.
4. If proffers are being offered, the proffer statements may not be less restrictive than the requested base zoning district standards.
5. If proffers are being offered, proffer statements may not be amended after the public notification of a public hearing to consider the application has been sent. The applicant may voluntarily offer proffered conditions as part of their application, which must be listed in a separate voluntary proffer statement using the template found on our website.
6. The fee associated with this process is \$500

PART 2: PROPERTY INFORMATION

Property Address: 4 lots on the NE corner of Mason and Harbor Ave. – see photo below and 1921 map at the end of this document.

Tax Map #s:

- 83A3-2-1-75A
- 83A3-2-1-74 ✓
- 83A3-2-1-77
- 83A3-2-1-75B ✓



Project name: Mason and Harbor Ave. (Rooney and Jones) Joint rezoning request

Current Zoning District: C-1

Does this application include proffers? ☒ No ☐ Yes, if so, attach separate form

Proposed Zoning District:
Commercial-Residential (CR)

PART 3: PROPERTY OWNER INFORMATION

Applicant Names:

Nancy Rooney (Tax Map #83A3-2-1-75A &v 83A3-2-1-74) and

RL & B Seaside Investments LLC (Tax Map #83A3-2-1-77 & 83A3-2-1-75B) POC: Will Jones

Mailing Addresses:

Nancy Rooney - 107 Mason Ave. Cape Charles VA 23310;

Will Jones - RL & B Seaside Investments PO Box 401, Cape Charles, VA 23310

Email address:

Nancy Rooney sakabaka@me.com

Will Jones wfjones7796@gmail.com

Phone:

Nancy Rooney 757- 323-4057

Will Jones 571-212-2525

If property is owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.

Will Jones - RL & B Seaside Investments, PO Box 401, Cape Charles, VA 23310

Email wfjones7796@gmail.com

Phone 571-212-2525

Zoning Map Amendment Application (also referred to as a Rezoning or Conditional Rezoning) may be submitted by a Cape Charles property owner and may be advanced to public hearing, after this application is submitted to Town Council who authorizes said applications to public hearings, first to the Planning Commission in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204.

The applicant will be required to make a presentation to fully explain the request and demonstrate the need for said request and how the Comprehensive Plan supports and maintains compliance with the goals and objectives of the Comprehensive Plan

Additionally, the Planning Commission or Town Council may prepare and apply for a zoning map amendment with either the Town Manager or the Zoning Administrator or Planning Director representing the application on behalf of the Town.

PART 4: Written Description of Request – Answer all questions in this section. Attach additional sheets as needed.

- A) Describe the existing conditions on the property including existing land uses and buildings as well as the land uses and zoning districts on the abutting properties.

The 2 Lots directly on the corner of Mason and Harbor Avenue are under common ownership of RL & B Seaside Investments LLC and are vacant – Tax Map #83A3-2-1-77 & 83A3-2-1-75B.

The 2 Lots adjacent to those are under the common ownership of Nancy Rooney with one lot being vacant and one lot with a 3,300 square foot, one story building (107 Mason Ave.) – Tax Map #83A3-2-1-75A and 83A3-2-1-74.

- B) Describe how existing conditions have changed, thereby making the proposed amendment needed.

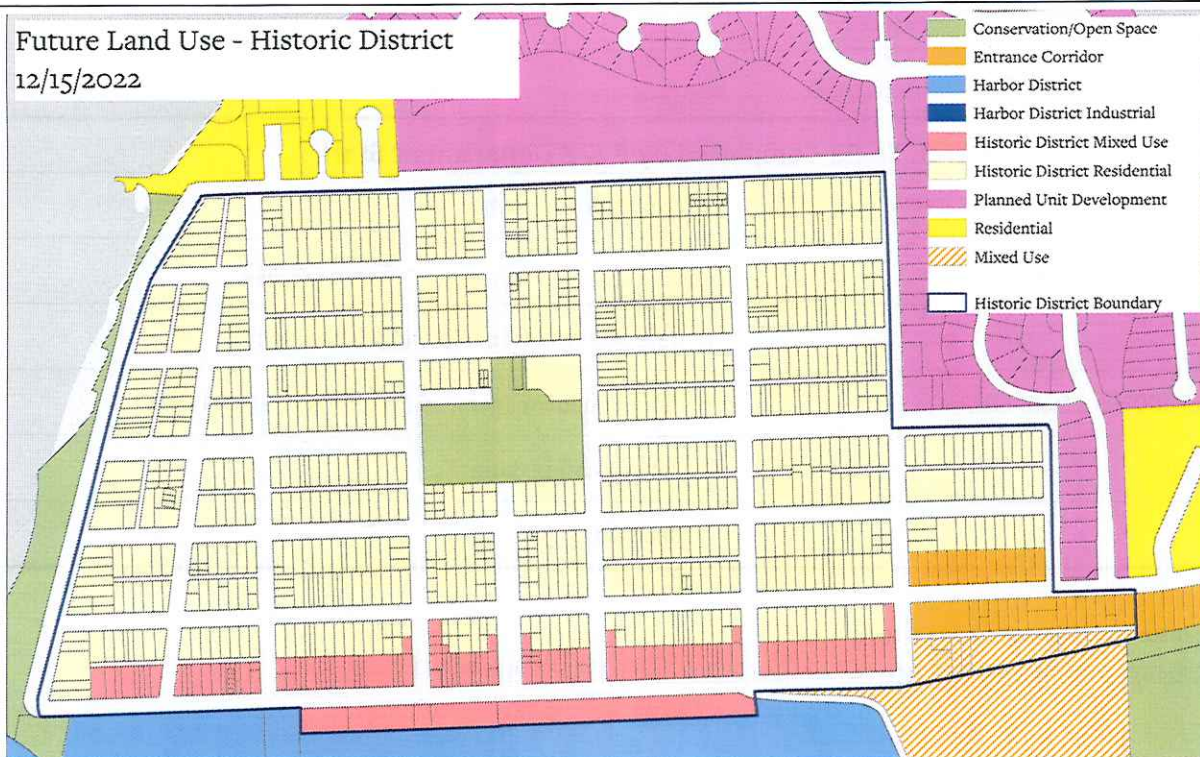
Consistent with the town's future mixed land use plan dated 12/15/22 for all of Mason Ave. (see map below), the applicants would like to have the capacity for both residential and commercial year-round use in all of these properties. Tax Map #83A3-2-1-75A and 83A3-2-1-74: These lots appear to have never been developed, per the 1921 map (inserted at the end of this application). The applicant seeks to develop them in the future.

Tax Map #83A3-2-1-74: By changing the zoning from C-1 to CR the property will be zoned historical, residential and commercial which pertains to the marketing best use of the town for function year-round economy as shown in the above future land use plan.

Tax Map #83A3-2-1-75A. This is a 20-foot wide, vegetated strip of land, which is part of the building property.

Future Land Use - Historic District

12/15/2022



C) Describe how the proposed amendment furthers the objectives of the Comprehensive Plan.

In the town's 1922 Future Land Use Map deliberations, the whole of Mason Avenue was designated as Historic District Mixed Use. The Zoning Administrator stated in her Staff Report dated 2/7/23 stated that it makes sense for the town to reconsider a different Land Use (zoning) designation for this particular ½ block on Mason Avenue for the following reasons:

- the block on Mason Avenue between Bay Avenue up to Harbor Avenue is mostly zoned Residential-1 (except the Northampton Hotel lots which the Town several years ago conditionally rezoned to Harbor).
- these 4 lots closer to the beachfront (½ block starting at the corner of Harbor and heading east along Mason Avenue) could move to the mixed zoning designation of Commercial-Residential (CR), thus serving as a transition zone between the residential lots (R-1) closer to the beach and the full commercial (C-1) that starts in the adjacent building, which currently occupied by Buskey Cider in the front and office space rentals behind Buskey Cider.

D) Describe why the proposed rezoning is necessary.

This rezoning of the empty lots (Tax Map #83A3-2-1-75A and 83A3-2-1-74) to CR would be in accordance and consistent with the town's future mixed-use plan along Mason Ave. as stated above.

Further, the current owner of 107 Mason Ave. building (Tax Map #83A3-2-1-74) and the green space on the south side (Tax Map #83A3-2-1-75A), could reside and work, i.e., business, on the property in accordance with the town's future land use plan, Historic District Mixed Use.

E) Describe the proposed use of the rezoned property including a site plan with the proposed types of site improvements and buildings.

There is no plan for additional development at this time, nor any changes proposed for the existing building as of today. However, this provides options for the owners in the future.

Applicant signatures:

Kenny J. Rooney

[Signature]

Date: _____

Zoning Administrator's Signature: _____

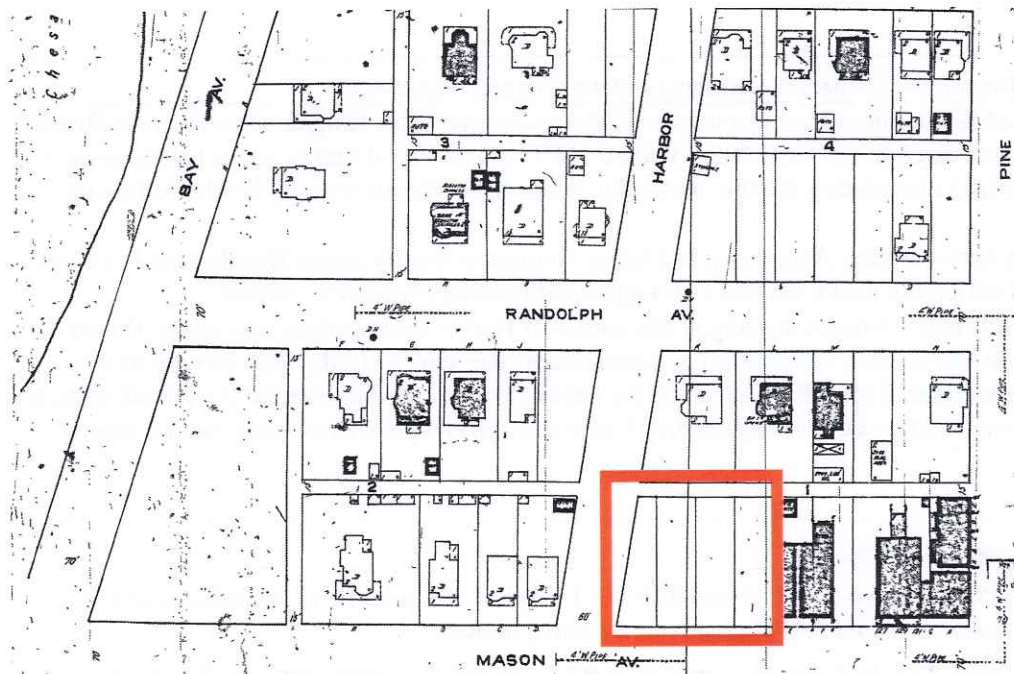
Date: _____

PART 5: To Be Completed by P & Z Department Staff

Date Application Received in Office:	Application #: ZMA
Planning Commission	Town Council
Date referred:	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date:	Public hearing date:
Decision:	Decision:

1921 Sanborn Fire Insurance Map of Cape Charles

<https://www.capecharles.org/files/documents/1921SanbornFireInsMap21468114830112717AM.pdf>



Town of Cape Charles
Town Council Notice of Public Hearing

The Cape Charles Town Council will receive public comments on a proposed ordinance to approve the sale of excess property, specifically Tax Parcel 83A3-1-418A on Monroe Avenue, at 6:30 PM on July 20, 2023, at the Civic Center, 500 Tazewell Avenue, Cape Charles, Virginia. The ordinance will be considered by Council at their meeting immediately following the Public Hearing. The proposed ordinance is available for public review on our website at www.capecharles.org, under Agendas and Minutes/Town Council. You may also contact the Town Clerk, 757-331-3259, X10, or clerk@capecharles.org to obtain a copy of the ordinance.

AD PLACED: Eastern Shore Post on Tuesday, June 27, 2023

AD TO RUN: Friday, July 7, 2023

TOWN OF CAPE CHARLES
PROCLAMATION 20230720

COAST GUARD STATION CAPE CHARLES
APPRECIATION DAY – AUGUST 3, 2023

WHEREAS, Coast Guard Station Cape Charles provides service to the Nation and the Region by being “Always Ready – Semper Paratus” to perform their missions; and

WHEREAS, Coast Guard Station Cape Charles embodies the U.S. Coast Guard core values of Honor, Respect and Devotion to Duty; and

WHEREAS, Coast Guard Station Cape Charles commits themselves to excellence by supporting and executing their operations in a proficient and professional manner; and

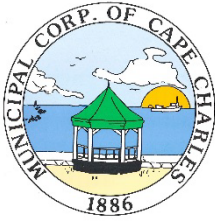
WHEREAS, Coast Guard Station Cape Charles leads by example, and faces challenges each and every day to protect and serve the maritime community selflessly to ensure the safety and security of the people on our waterways; and

WHEREAS, the U.S. Coast Guard was founded 233 years ago on August 4, 1790; now

THEREFORE, BE IT PROCLAIMED, that the Town Council of the Town of Cape Charles, Virginia, hereby recognizes August 3, 2023 as Coast Guard Station Cape Charles Appreciation Day in the Town and call this observance to the attention of all our citizens.

Mayor Adam Charney

ATTEST: _____
Clerk of the Council



DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
June 12, 2023
7:00 PM

At 7:00 p.m. Mayor Adam Charney, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Charney, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Butta, Follmer and Grossman, and Councilwoman Holloway.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711.A of the Code of Virginia 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 specific public officers, appointees, or employees of any public body.

Specifically: Town Manager Performance

There were no members of the public in attendance at this time.

Council went into executive session at 7:01 p.m.

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

The open portion of the meeting resumed at 7:58 p.m. There were no members of the public waiting to return to the meeting.

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; Butta, yes; Follmer, yes; Grossman, yes; Holloway, yes.

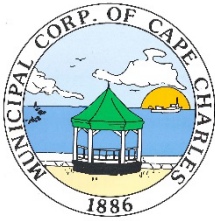
Councilwoman Holloway reminded everyone that all discussion during executive session was confidential.

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

The Executive Session adjourned at 8:00 p.m.

Mayor Charney

Town Clerk



DRAFT
TOWN COUNCIL
Regular Meeting
Cape Charles Civic Center
June 15, 2023
6:30 PM

At approximately 6:30 p.m. Vice Mayor Steve Bennett, having established a quorum, called to order the Regular Meeting of the Cape Charles Town Council. In addition to Vice Mayor Bennett, in attendance were Councilmen Buchholz, Butta, and Grossman, and Councilwoman Holloway. Mayor Charney was out of town on business and participated telephonically from Clearwater, Florida. Councilman Follmer was not in attendance. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek, Treasurer Deborah Pocock, Assistant Treasurer Adrian Oei, Police Chief Jim Pruitt, Planner/Zoning Administrator Katie Nunez, Assistant to the Town Manager Julie Pruitt, and Town Clerk Libby Hume. There were two members of the public physically in attendance, and 11 viewers on Facebook.

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

RECOGNITION OF VISITORS / PRESENTATIONS/RECOGNITIONS:
There were no visitors, presentations, or recognitions.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

There were no comments to be heard nor any comments received in writing prior to the meeting.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. May 18, 2023 Town Council Public Hearing & Regular Meeting
 - ii. June 1, 2023 Town Council Public Hearing & Special Meeting
- C. Approval of April 30, 2023 Financial Report

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the consent agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

- A. *Fiscal Year 2024 Proposed Budget & Appropriation:*

Town Manager John Hozey stated that the Town Council held a work session on May 4, 2023 to develop the proposed FY 2024 budget. The Town was in good fiscal shape, and the proposed budget included a 2.5% Cost of Living Allowance for all employees, two new police officers, the connection of the Keck wells, harbor upgrades, the library portion of the building on Mason Avenue, continuation of planning for the municipal center although construction was not planned in 2024. It was determined that projected revenues were appropriate to meet current and strategic requirements, therefore, the proposed budget did not recommend any changes to the real estate or personal property tax rates. Contract support for trash collection increased over the last year requiring the increase of the trash collection fee by \$2.42 for a total of \$20.80 per month per receptacle. An updated schedule of Building, Planning & Zoning fees was included in this budget authorization. All other proposed rates and fees, including utility fees, were

unchanged from FY 2023. The public hearing was held on June 1, 2023 with no comments received. (Please see attached.)

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Ordinance 20230615A Approving the Budget for Fiscal Year 2024 and Building, Planning and Zoning Fee Schedule, and Making Appropriations for the Fiscal Year. Vice Mayor Bennett moved for adoption of Ordinance 20230615A as noticed and forewent reading of the Ordinance. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

B. *Tourism Zone Credit Payments:*

John Hozey stated the following: i) In 2016, Council established a Tourism Zone for the purpose of attracting new tourism-related business and investment in town, adding that he did not realize this program existed until recently; ii) There was a backlog of credits owed to qualifying businesses, with the last payments being made in 2018. He would like to get the payments caught up tonight. The amount was not significant with a total of \$10,823.79 earned by nine businesses over a four-year period; iii) Cape Charles was not the same town as in 2016, and he recommended ending this program. The program required much staff time to administer, and the meager amount of credit being offered under the program could not be making any significant impact to ongoing investment in the Town. Businesses currently participating in the program would be grandfathered until the expiration of their application; iv) He requested Council approval of the tourism zone payments for credits due through 2022, to the nine businesses listed on amended Attachment A totaling the amount of \$10,823.79, and direction to staff to bring back an ordinance for consideration at the July regular meeting to repeal this program. (Please see attached.)

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the tourism zone payments as listed on amended Attachment A for credits due through 2022, and requesting staff to bring an ordinance for Council consideration at the July regular meeting to repeal the tourism zone program. The motion was approved by unanimous vote.

C. *Code 42-3 – Adoption of State Law:*

John Hozey stated that in order to have the authority to enforce any new laws in the Commonwealth of Virginia, each year a new ordinance must be passed accepting any and 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 and any penalties for traffic violations.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Ordinance 20230615B to Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 16.2-278 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. Vice Mayor Bennett moved for adoption of Ordinance 20230615B as noticed and forewent reading of the Ordinance. The motion was approved by unanimous vote. Roll call vote: Bennett, yes, Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

TOWN MANAGER COMMENTS

John Hozey commented as follows:

- i) We had several new hires this past month: Caleb Silvey-beach attendant; Vanity Hernandez-seasonal library assistant and beach attendant; Nick Beach-full-time maintenance specialist; and Markeen Hines-seasonal maintenance specialist. The FY 2024 budget included a second position for a seasonal maintenance specialist effective July 1; ii) The paperwork for the State Corporation Commission (SCC) filing for the sale of the public utilities was taking longer than expected. The Virginia Code required reports and working papers related to the appraisal which we were trying to obtain. Upon receipt of this documentation, the application would be completed and filed. He was hopeful that it could be submitted next week; iii) He received

an email late this afternoon related to the final official consent order for the wastewater treatment plant. All violations were consolidated into one notice which required the Town to provide a plan of action to correct the issues. The plan was submitted today. He thanked Virginia American Water for their help and guidance in getting this completed. We had until the end of the year to complete the work on the action plan; iv) He would be out of the office next week, but reachable by email or cell. He had a long drive and might also be out the following Monday, June 26.

Vice Mayor Bennett asked whether any applications had been received for the two new police officer positions. John Hozey responded that the positions had been advertised and some resumes had been received which were being reviewed by Chief Pruitt.

MAYOR AND COUNCIL COMMENTS

Councilwoman Holloway commented as follows: i) Several Cape Charles businesses had been approved for grants through Main Street America which supported preservation; ii) Cape Charles Main Street (CCMS) also received several Virginia Tourism grants and Northampton County Tourism Grants. CCMS did not receive the AARP or T-Mobile grants; iii) Incredible work was being done on the train car. She recommended everyone look at the west side which was above and beyond what was expected. Similar work would be done on the east side. There was still work to be done on the top of the train. Design work would also be done on the windows.

Vice Mayor Bennett stated that he had missed the special meeting on June 1st but wanted to congratulate Gerald Elliott on his 40th anniversary. Gerald was a terrific guy who had done a lot for the Town. He was the nicest person you would ever hope to meet and the Town was fortunate to have him as an employee. He went on to give a plug for Cape Charles Mini Golf, stating that it was great fun and he highly suggested everyone to go.

Councilman Grossman stated that last month, Beth Walker from the Cape Charles Rosenwald School Restoration Initiative (CCRSRI) had given a presentation to Council and since that time, CCRSRI had been awarded another grant for a substantial amount of money.

John Hozey added that CCRSRI received the African American Heritage Grant from the National Trust for Historic Preservation for \$100K which was great news. CCRSRI was putting together the application for the Department of Housing & Community Development Industrial Revitalization Fund grant, and he had provided a letter of support/recommendation. There were a lot of people working very hard on this grant and he hoped this year's grant would be successful.

Councilmen Buchholz and Butta did not have any additional comments.

Vice Mayor Bennett read the announcements.

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

The Regular Meeting adjourned at 6:49 p.m.

Vice Mayor Bennett

Town Clerk

June 15, 2023 Town Council Regular Meeting **Comments and Information Provided in Writing**

FY 2023-2024 Proposed Budget, Building/Planning & Zoning Fees

TOWN OF CAPE CHARLES 2024 BUDGET PREP SUMMARY		
Fund	Dept	FY2024 Proposed Budget
100-General Fund		
Revenue	TOTAL REVENUE	\$5,719,836.98
Expenditures		
	4110-Legislative	\$53,233.44
	4112-Clerk	\$124,015.31
	4121-Town Manger	\$2,654,302.30
	4124-Treasurer/Finance	\$480,419.07
	4310-Police	\$909,712.59
	4340-Building & Code Enfrmnt	\$166,764.04
	4430-Public Works	\$775,270.58
	4730-Library	\$188,576.34
	4811-Planning/Zoning	\$367,543.31
	TOTAL EXPENDITURES	\$5,719,836.98
	REVENUE LESS EXPENDITURES	\$0.00
110-Capital Projects Fund		
Revenue	TOTAL REVENUE	\$2,446,213.13
	TOTAL EXPENDITURES	\$2,446,213.13
	REVENUE LESS EXPENDITURES	\$0.00
120-Debt Service Fund		
Revenue	TOTAL REVENUE	\$255,222.72
Expenditures		
	TOTAL EXPENDITURES	\$255,222.72
	REVENUE LESS EXPENDITURES	\$0.00
130-Special Activities Fund		
Revenue	TOTAL REVENUE	\$296,350.00
Expenditures		
	TOTAL EXPENDITURES	\$296,350.00
	REVENUE LESS EXPENDITURES	\$0.00
501-Utility Fund		
Revenue	TOTAL REVENUE	\$4,555,115.41
Expenditures		
	4500-Administration	\$330,648.09
	4501-Water	\$2,021,403.98
	4502-Sewer	\$2,142,021.34
	4503-Utility Billing	\$61,041.99
	TOTAL EXPENDITURES	\$4,555,115.41
	REVENUE LESS EXPENDITURES	\$0.00
510-Harbor Fund		
Revenue	TOTAL REVENUE	\$1,687,427.36
Expenditures		
	TOTAL EXPENDITURES	\$1,687,427.36
	REVENUE LESS EXPENDITURES	\$0.00
520-Sanitation Fund		
Revenue	TOTAL REVENUE	\$314,265.00
Expenditures		
	TOTAL EXPENDITURES	\$314,265.00
	REVENUE LESS EXPENDITURES	\$0.00

MUNICIPAL CORPORATION OF CAPE CHARLES
FY 2024 Summary of Capital Projects

as of 5/9/2023

CAPITAL PROJECTS	BUDGET Requested	GRANT PROCEEDS or DONATION	USDA RD FINANCE 35% Grant/65% loan	REAPPROPRIATION FROM FUND BALANCE	TOWN Other Budget Revenue
<u>GENERAL FUND OPERATING FUND</u>					
<u>POLICE</u>					
FY 2024 Police Vehicle, including outfitting new	42,000	14,700	27,300	0	0
FY 2024 Police Vehicle, including outfitting new	42,000	14,700	27,300	0	0
TOTAL GENERAL FUND OPERATIONS	84,000	29,400	54,600	0	0
<u>GENERAL FUND CAPITAL FUND</u>					
<u>PUBLIC WORKS</u>					
Multi-Use Trails, Phase 3 Construction	929,922	703,483	0	226,439	0
Municipal Space Design (ARPA)	210,000	0	0	170,000	40,000
Library Upgrade & Condo-ization-use proceeds from sale	310,000	0	0	0	310,000
Visitor Center/Restroom	455,000	330,000	0	125,000	0
Storage Facility Roofing	20,000	0	0	0	20,000
Capital Project Contingency	50,000	0	0	41,141	8,859
TOTAL GENERAL CAPITAL FUND	1,974,922	1,033,483	0	562,580	378,859
<u>UTILITY FUND</u>					
<u>WATERWORKS</u>					
Keck Well Connection (Construction)	1,150,000	0	0	0	1,150,000
<u>WASTEWATER</u>					
WWTP Membrane Replacement	465,000	0	0	0	465,000
Sewer Pod Controller Upgrades Phase 1 of 5	14,500	0	0	0	14,500
TOTAL UTILITY FUND	1,629,500	0	0	0	1,629,500
<u>HARBOR FUND</u>					
Inner Harbor Fixed Dock Repair	13,000	0	0	13,000	0
Inner Harbor King Pile & Waler Replacement Design	306,000	153,000	0	0	153,000
Inshore Breakwater Repair/Upgrade	180,000	0	0	0	180,000
TOTAL HARBOR FUND	499,000	153,000	0	13,000	333,000
TOTAL BUDGETED CAPITAL EXPENDITURES	4,103,422	1,186,483	0	575,580	2,341,359

TOWN OF CAPE CHARLES - Building, Planning & Zoning Fee Schedule			
EFFECTIVE JULY 1, 2022			
Any changes in Fee Schedule are shown in red - if nothing shown, then seeking to retain the existing fee structure.			
Type of Permit or Review	Charge or Fee	PROPOSED Charge or Fee	Notes
1. Residential: (repair, alteration, demolition, construction)			
a. Single inspections w/ no permit required	\$35		
b. Less than \$2,500	\$50		
c. \$2,500 - \$10,000	\$50 + 0. 5% project cost over \$2500		
d. \$10,000 +	\$125 + 0.5% project cost over \$10,000		
e. Demolition	\$50		
2. Commercial: (repair, alteration, demolition, construction)			
a. Single inspections w/ no permit required	\$35		
b. Less than \$2,500	\$75		
c. \$2,500 - \$10,000	\$75 + 1% of project cost over \$2,500		
d. \$10,000 +	\$175 + 1% of project cost over \$10,000		
e. Demolition	\$100		
Notes:			
1. Add 2% to all permit fees for state surcharge.			
2. Permits include inspections and a follow up inspection for a failure. Subsequent inspections for the same item are at \$40 each.			
3. Add 10% to Base Fee for Fire Department (before tax and not to be taxed).			
3. New Construction: Per BOCA/ICC permit fee tables based on building square footage and at 100%			
Certificates of Occupancy			
1. Permanent Certificat of Occupancy	Included in cost of permit		
2. Certificate of Occupancy when no permit is issued	\$100		
3. Temporary Certificate of Occupancy	\$400 (per issuance) Max. of 2 issuances	\$800	Contractors are abusing this with the current nominal fee. Hope an increase will be more of a deterrent.

	Type of Permit or Review	Charge or Fee	PROPOSED Charge or Fee	Notes
	4. Rental Certificate of Occupancy	\$100 (includes inspection)	\$150	Additional staff time required. Extra \$\$ would help offset the cost of the requested additional Part-time Person.
	Notes:			
	1. Inspection fee for 3rd inspection of the same item	\$40		
	2. Inspections scheduled outside normal business hours	\$75		
	3. Fee for starting work without a permit	\$300		
	4. Underground Fuel Tank Removal	\$100 per tank		

	Type of Permit or Review	Charge or Fee	PROPOSED Charge or Fee	Notes
ZONING	5. Zoning Clearance			
	a. As part of a building permit or a Certificate of Appropriateness application	\$0		
	b. All other approved by administrative review	\$150		
	c. Trees/Landscaping			
	1.) Tree Removal Permit	\$10/tree	\$20/tree	increased fee to cover staff review time
	2.) Landscaping Plan for full lot	\$100	\$0	Landscaping Plan fee removed
	2.) PENALTY - Tree removal without a permit	\$300	\$300/tree	added per tree for clarification
	d. Variance Application to Board of Zoning Appeals	\$500**		
	e. Signage			
	1) All affixed and free-standing signage greater than ten (10) sq. ft	\$50	\$100	increased fee
	No permit required for smaller signage or residential signage			
HISTORIC DISTRICT REVIEW BOARD	6. Historic District Review Board Application Fee			
	a. New Construction - Residential	\$500		
	b. New Construction: Commercial or Commerical/Residential Mixed Use	\$750	\$1,000	increased fee more staff review required
	c. Renovation			
	1) Minor Work authorized by CCZO Section 8.17, residential and/or commercial - Administrative Review and Approval only	\$150	\$50	We are looking to create two fee categories for the Minor Work review done by the Zoning Administrator - fences & sheds and then everything else that is spelled out in the ordinance, reflective of staff time for these items.
	2) Minor Work: Fences & Accessory Structures (not visible from any street & under 256 sq. ft) - Administrative Review and Approval Only		\$200	
	3) Substantial alterations - Residential	\$500		
	4) Substantial alterations - Commercial	\$750	\$1,000	increased fee to cover staff review time
	5) Demolition of structure	\$400		
	d. Extension of approved Certificate of Appropriateness	\$50		
	e. Modification to an approved and active Certificate of Appropriateness (CoA)	\$250	\$200	decreased fee
	f. Working without an approved and active Certificate of Appropriateness (CoA) or After the Fact Permit Fee		\$1,000	NEW - to discourage all from doing work without getting approvals.

	Type of Permit or Review	Charge or Fee	PROPOSED Charge or Fee	Notes
APPEALS	7. APPEALS			
	a. Appeals Application to Board of Zoning Appeals	\$500*	\$500**	correction - asterisk needed to be added
	b. Certificate of Appropriateness Appeals to Town Council	\$500**		
	c. Appeals Application to Building Code Board of Appeals	\$250**		
HARBOR AREA REVIEW BOARD	8. Harbor Area Review Board Certificate of Appropriateness			
	a. Development Certificate	\$750/ application base fee + \$100 per acre**		
	b. Extension of approval	\$100		
	c. Modification to an approved and active Certificate of Appropriateness (CoA)	\$250		
ENVIRONMENTAL PERMITS	9. Environmental Permits			
	a. Wetlands Permit	\$500	\$500**	correction - asterisks needed to be added
	b. Structures in & across dunes	\$200		
	c. CBPA Encroachment or Exemption	\$200		
	d. CBPA Administrative Waiver for Maintenance Work of Vegetation in the RPA	\$50		
	e. Erosion & Sediment Control Permit	\$500 + \$10/acre not to exceed \$1000		
	f. Erosion & Sediment Agreement in lieu of plan	\$150		
	g. Erosion & Sediment Inspection fees	\$40/hr with 1 hour minimum		
	h. Erosion & Sediment Control Plan Review Fee	\$350		
	i. Working without an approved and active Permit or After the Fact Permit Fee		\$1,000	NEW - to discourage all from doing work without getting approvals
SITE PLAN	10. Final Plan Review Fees			
	a. Residential	\$150/site		
	b. Commercial	\$250/site #^		
	c. Misc	\$150/site #^		

	Type of Permit or Review	Charge or Fee	PROPOSED Charge or Fee	Notes
PLANNING	11. Planning Applications			
	a. Regular Rezoning	\$1,000	\$0	fee removed
	1) Non-PUD	\$500 + \$50/acre**		
	2) PUD	\$1,000 + \$50/acre**		
	a) Amendment to Comprehensive Plan; Concept Approvals	\$550/application		
	b. Conditional Rezoning	\$1,000 + \$50/acre**		
	c. Zoning Text Amendment Petition Application - for consideration only by Town Council and/or Planning Commission	\$200/application		added wording
	d. Conditional Use Permit	\$600		
SUBDIVISION	12. Subdivision through recordation			
	1) Concept or sketch plan review	\$100 + \$10/parcel		
	2) Preliminary plat review			
	a) 3 lots or less	\$250 + \$50/lot #^	\$500	increased base fee deleted per lot fee due to staff time required
	b) 4 lots or more	\$500 + \$100/lot #^	\$500 + \$250/lot #^	increased per lot fee
	3) Final plat review			
	a) 3 lots or less	\$125	\$200	increased fee due to staff time required
	b) 4 lots or more	\$250	\$400	increased fee due to staff time required
	4) Subdivision modification	\$75		
	5) Administrative Plat/Lot line adjustment	\$200		
	6) Easement Plat	\$200		
	7) Vacation of Plat	\$250		
	All recordation of plats are the responsibility of the applicant			
OTHER	13. Deferral at the request of Applicant, if public hearing has been set (BZA, Planning Commission, HDRB, HARB, Town Council)	\$200		
LEGEND with GENERAL NOTES				
*	Advertising Costs, Actual			
**	Advertising Costs, Actual + Adjacent Property Owner Notification Mailing Costs, Actual			
#	3rd Party Review Costs - Water and Sewer Connections and Layout, including any re-reviews			
^	3rd Party Review Costs - Erosion & Sediment Control, including any re-reviews			

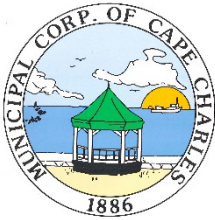
Tourism Zone Credits – Amended Attachment A

Attachment A (amended)

Tourism Zone Credits Earned and unpaid through 2022

<u>Business Name</u>	<u>Award Recommendation</u>
Ambrogia Restaurant	\$871.24
CC Trading dba The Boardwalk	\$757.80
CC Trading dba Like a Sailor	\$295.56
Voiajer LLC	\$641.27
Chuckletown	\$1,268.13
The Northampton Hotel	\$4,264.42
Alyssa House	\$1,124.70
Moonrise	\$71.69
K-Coast Surf Shop	\$1,529.00
TOTAL	\$10,823.79

DRAFT



DRAFT
TOWN COUNCIL
Work Session
Cape Charles Civic Center
June 15, 2023
Immediately Following Regular Meeting

At approximately 6:50 p.m. Vice Mayor Steve Bennett, having established a quorum, called to order the Work Session of the Cape Charles Town Council. In addition to Vice Mayor Bennett, in attendance were Councilmen Buchholz, Butta and Grossman, and Councilwoman Holloway. Mayor Charney was out of town on business and participated telephonically from Clearwater, Florida. Councilman Follmer was not in attendance. Also in attendance were Town Manager John Hozey, Project Manager Bob Panek, Planner/Zoning Administrator Katie Nunez and Town Clerk Libby Hume. There was one member of the public in attendance.

ORDER OF BUSINESS:

A. *Update on Library Project Options and Discussion of Project Goals:*

John Hozey stated that the Town's advertisement included the lots on Randolph Avenue. Some interesting ideas were received, and a committee was formed to review the proposals, but he needed guidance from Council before getting the committee together. The proposals made it evident that the Randolph lots with higher density units would make the library building project more feasible. This would be a significant difference from the current character of Randolph Avenue. Excerpts from the proposals were distributed for Council review. (Please see attached.) A summary of four proposals was reviewed along with renderings of the proposed building on Randolph Avenue. The proposals varied between market-rate residences, workforce housing, and office space for the third floor and mezzanine of the library building. The proposals for the Randolph lots were for residential units with two proposals for market-rate housing, and two for workforce housing. The parcels would have to be rezoned regardless of the proposal chosen.

There was discussion regarding i) whether workforce housing was feasible in these locations; ii) concern with the surrounding neighborhood with multi-family residential units on Randolph Avenue and the density and look of the proposed buildings; iii) rezoning of the parcels required public hearings and several of the Council members felt that citizens would be lined up to provide their comments.

John Hozey stated that he understood that a big building on Randolph Avenue was not what was envisioned for that area and did not fit the character of the surrounding neighborhood, but staff could go back to the proposer to see if the building could be redesigned. He would provide this information to the committee, then schedule appointments to meet with the various developers.

Councilman Grossman asked that the pages distributed tonight be attached to the minutes identifying the developer that submitted each.

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

The work session adjourned at 7:16 p.m.

Vice Mayor Bennett

Town Clerk

June 15, 2023 Town Council Work Session Handouts

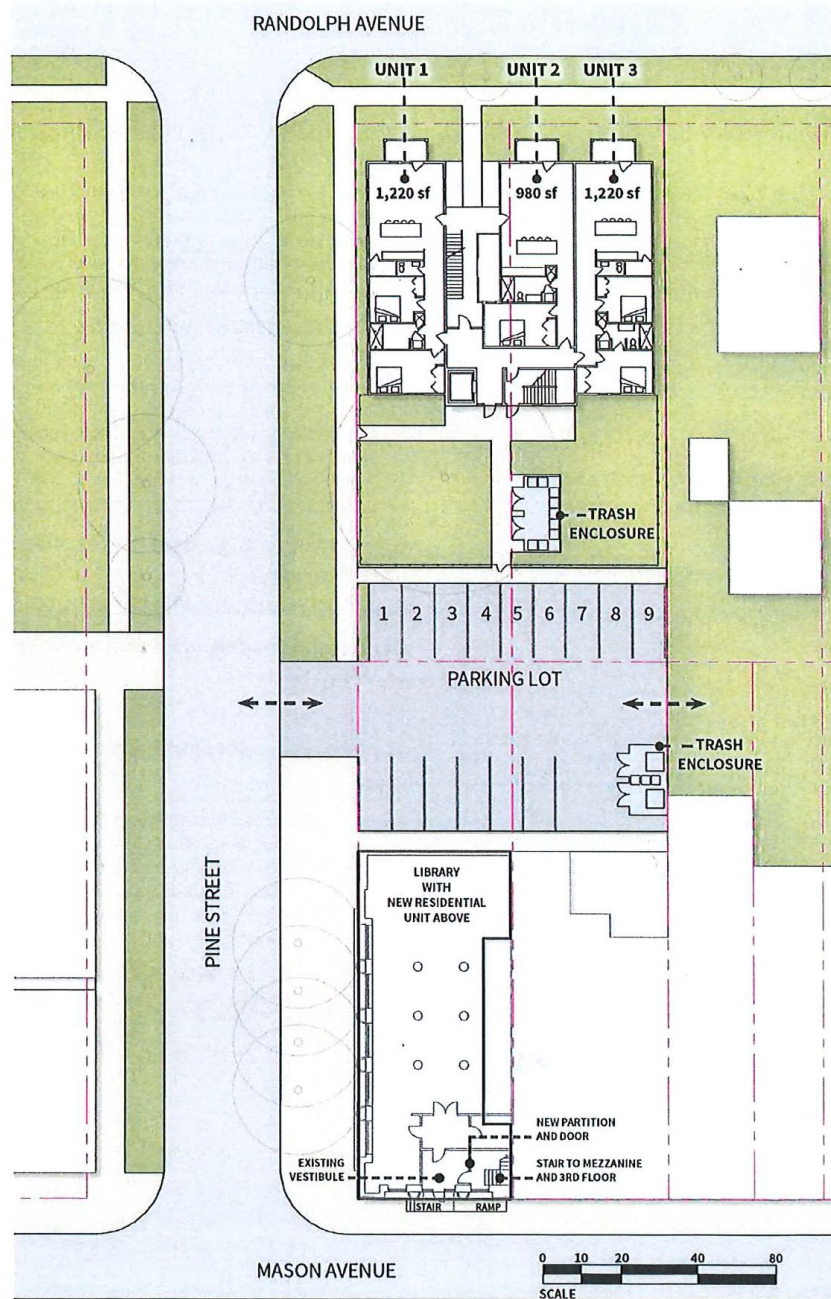
June 2, 2023

Library Redevelopment Proposals

<u>Summary</u>				
<u>Element</u>	<u>City & Guilds</u>	<u>Sandcastle</u>	<u>Waukeshaw</u>	<u>Winmar</u>
Use of third floor/front mezz.	1 residential	4 or 5 residential	offices	offices
Use of Randolph lots (now C-1)	9 residential, 3 story	1 residential, 1 reserved	20 residential, 2 story	multi residential, 3 story
Ownership structure, first floor & rear mezz.	condominium	condo or lease	10 year lease to developer, then library remains with town and residential with developer	lease
Purchase price, building & lots	\$1,500,000	\$850,000	\$0	\$1
Condo price, first floor/rear mezz.	\$600,000	\$400,000	N/A	N/A
Condo fee	\$500/month	\$412/month	N/A	N/A
Lease term, first floor/rear mezz.	N/A	10-yr with four 5-yr options	N/A	10-yr with two 5-yr options
Lease rent	N/A	\$2,850/month for 5 years, NTE +10% every add'l. 5-years	N/A	\$1/yr
Public easement & trash mgmt.	conforms to RFP	appears to conform	substantially conforms	undetermined

Other:

1. City & Guilds proposal appears to be market targeted residences. Sandcastle is workforce housing for the third floor & front mezzanine, market for the Randolph lots. Waukeshaw and Winmar are workforce housing for the Randolph lots.
2. Sandcastle has also submitted three additional proposals for workforce housing:
 - a. Purchase only the library building for \$500K. Four or five workforce housing units are guaranteed for a 10-year period. Same lease terms for the library space.
 - b. Purchase only the library building for \$500K. Four of five workforce housing units are guaranteed for a 10-year period. Library space condominium unit purchase price of \$400K. Same condo fee.
 - c. Purchase the library building and Randolph lots for \$600K. Everything developed for workforce housing (number and guarantee term unstated). Library space lease terms or condominium unit purchase price same as above.



Town of Cape Charles Library Redevelopment
Conceptual Site Plan April 27, 2023



North View from Street



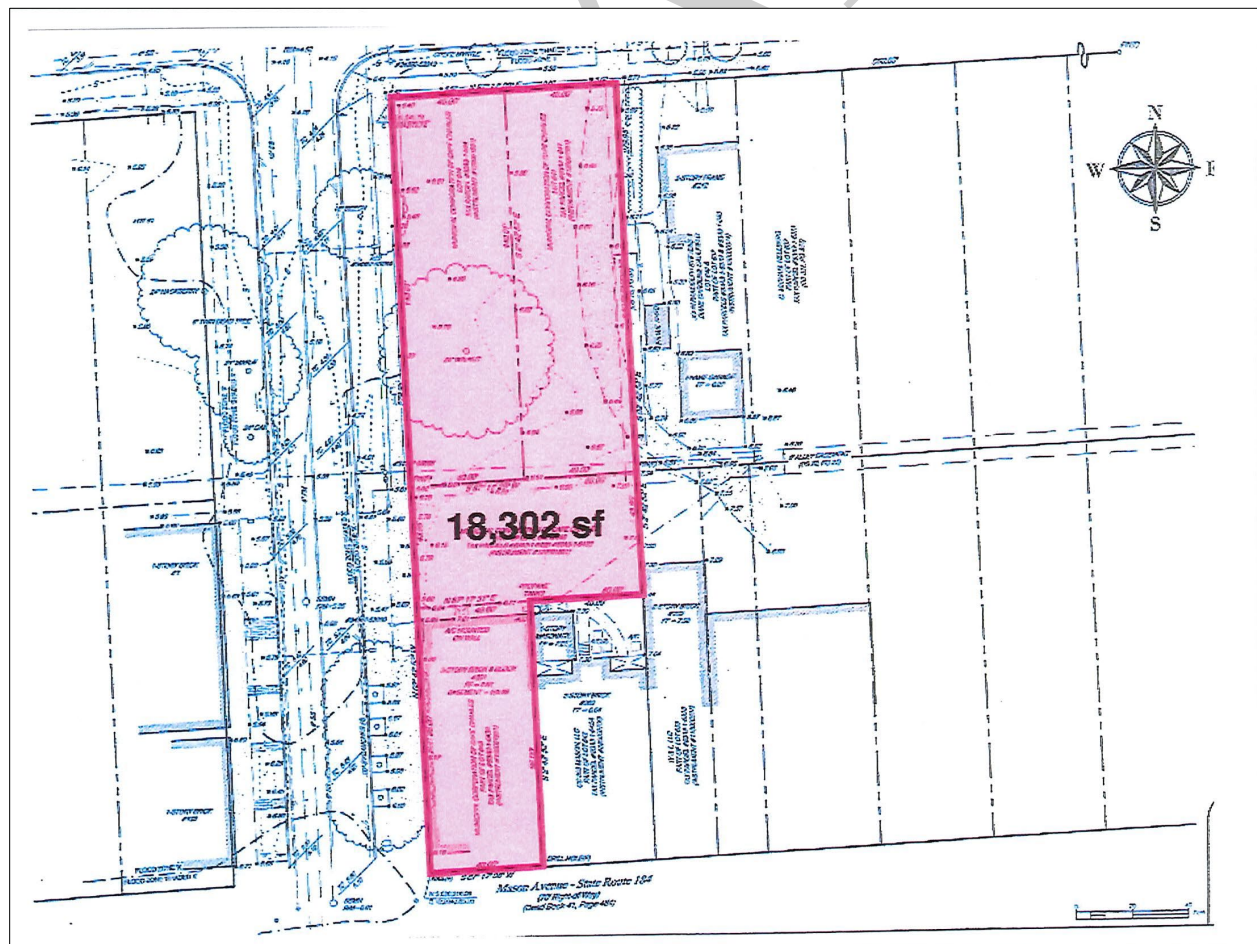
Northwest Aerial

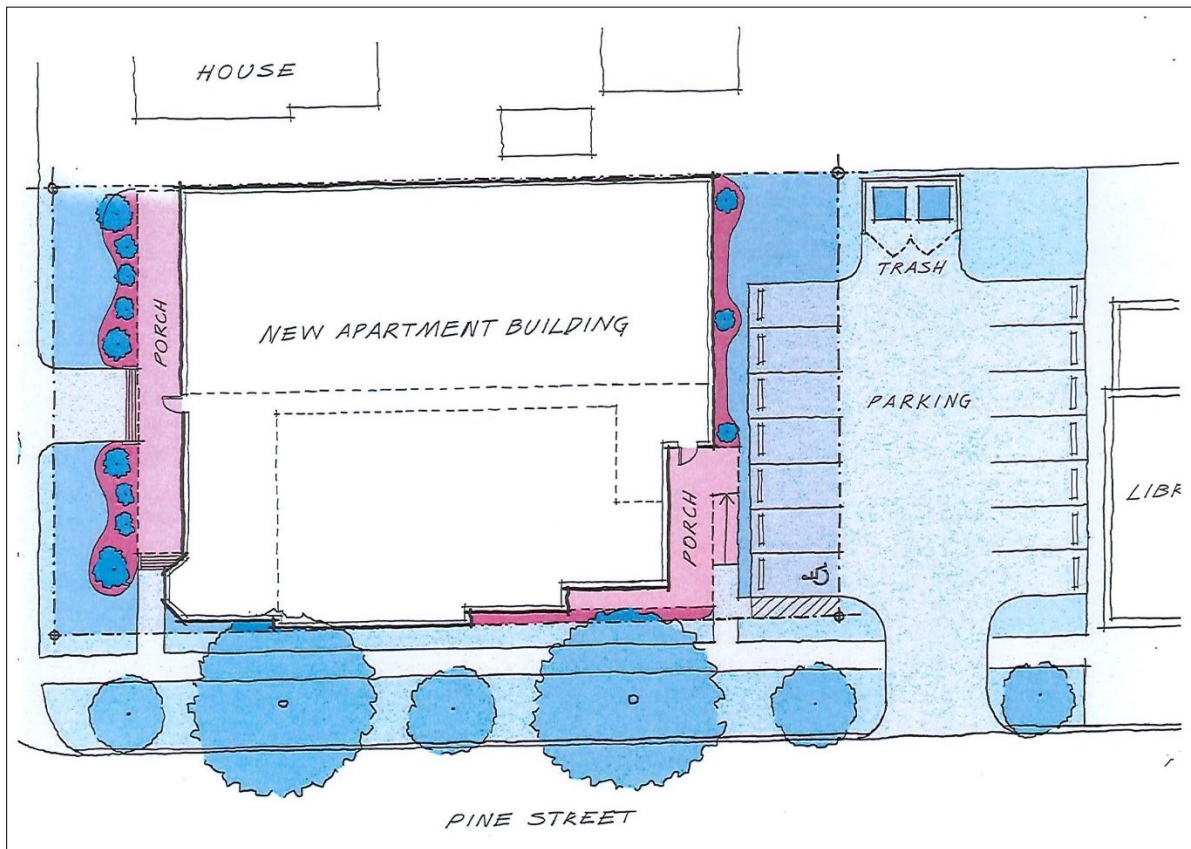


Parking Lot View

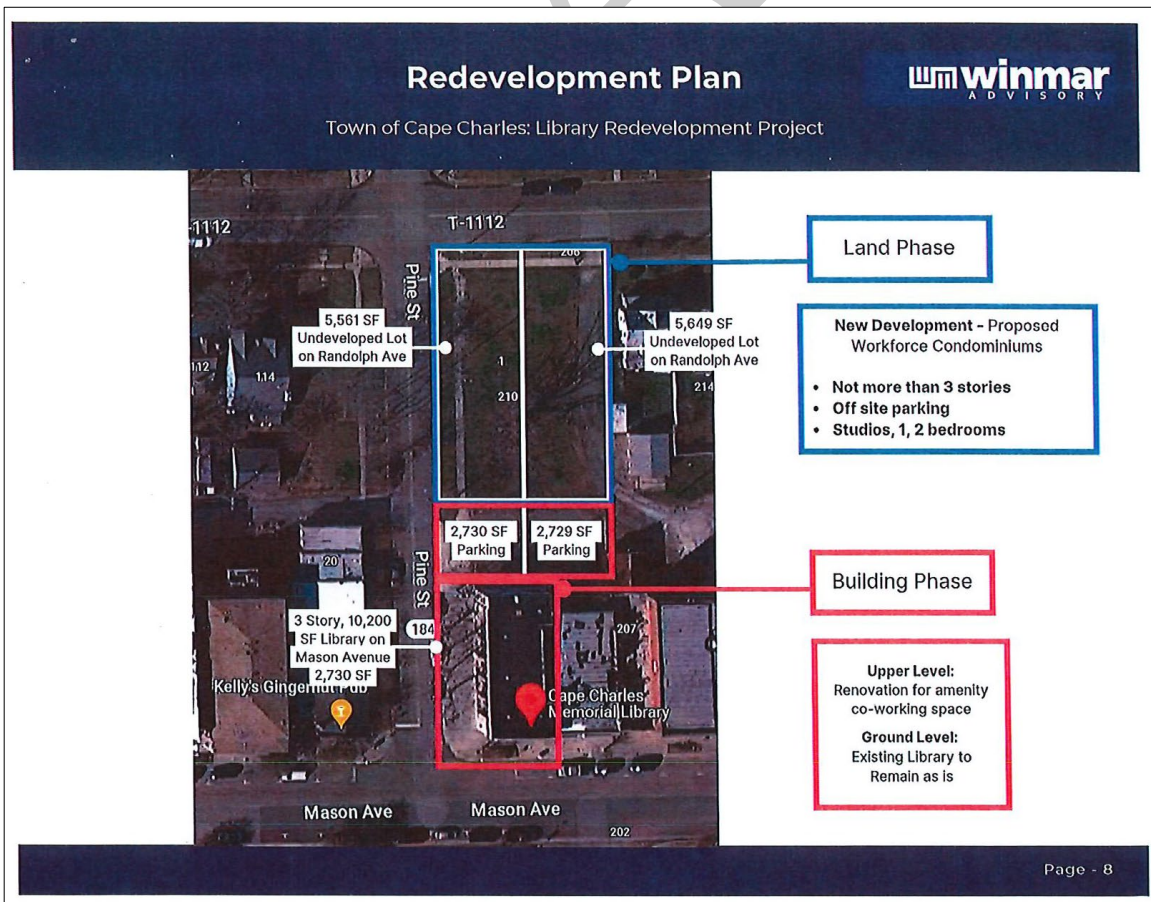


Southwest Aerial





Winmar



May 2023 Treasurer's Report

Page 1 – Cash Position

- The balance in the facility fees reserved account at the end of May was \$3,013,194.
- A transfer was made to the operating account from the ARPA cash fund to replace the expenditures that were made to date.
- A debt service payment of \$120,586 was made on the VRA interest free wastewater plant loan.

Page 2 – Revenue vs. Expenditures

- No comment.

Page 3 – Capital Projects

- A payment was made to HBA of \$22,098 for the new municipal center, the library and visitor center planning. Note that HBA lumps all three projects together on their invoices.

Page 4 – Tax Collection Rate

- Real property tax collection is at 101% of budget and 98% of what was billed.

Page 5 – Tax Revenue Trends

- Sales and use tax decreased 2.7% from May 2022.
- Transient occupancy tax revenue is 55% greater than last year.
- Meals tax has increased by 15.5%.
- Business license fees are 35.2% higher than last year at this time.
- Planning and Building fees show a 13.6% increase over year-to-date May 2022.
- Harbor dockage, which has been lagging behind previous year totals year to date, has caught up and surpassed FY2022 revenue.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
May 31, 2023

<u>Cash on Hand</u>	<u>4/30/2023</u>	<u>5/31/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$559,237	\$668,821	\$109,584
Atlantic Union Bank Money Market Account	\$497,304	\$647,550	\$150,246
LGIP Account 1 - Unrestricted	\$107,711	\$108,183	\$471
LGIP Account 2 - Unrestricted	\$312,328	\$313,825	\$1,498
Virginia Investment Pool Liquidity Unassigned	\$2,244,901	\$2,259,848	\$14,947
Virginia Investment Pool 1-3 Year Unassigned	\$1,015,876	\$1,013,405	-\$2,471
Total Cash On Hand	\$4,737,357	\$5,011,632	\$274,275

<u>Restricted and Reserved Cash Balances</u>	<u>4/30/2023</u>	<u>5/31/2023</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$30,033	\$30,033	\$0
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$10,745	\$11,211	\$466
US Bank - Reserved per VRA Interest Free Loan Requirements	\$262,189	\$257,581	-\$4,608
Wells Fargo 2010 Debt Service pass through account #300	\$3,037	\$3,048	\$12
Wells Fargo 2010 Debt Service pass through account #308	\$1,086	\$1,090	\$4
Atlantic Union Money Market # ARPA CRF #5847	\$886,248	\$594,738	-\$291,509
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$2,968,238	\$3,013,194	\$44,957
Virginia Investment Pool Liquidity Acct#2, Surety Bond Escrow Rsrvd	\$5,076	\$0	-\$5,076
Total Cash Held in Reserve	\$4,178,212	\$3,922,457	-\$255,755
Total Cash - All Accounts	\$8,915,569	\$8,934,089	\$18,520

DEBT SERVICE

Net Debt as of Current Reporting Month End
(Excludes USDA vehicle and equipment loans)

\$5,204,561

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

May 31, 2023

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY23</u>
GENERAL Fund						
REVENUE	\$207,654	\$3,726,912	\$4,292,571	\$565,659	\$4,545,819	94.43%
EXPENDITURES	\$257,130	\$2,744,720	\$3,403,446	\$658,726	\$4,545,819	74.87%
NET	(\$49,475)	\$982,191	\$889,125	(\$93,067)	\$0	
GENERAL Capital Fund						
REVENUE	\$5,523	\$57,875	\$1,146,884	\$1,089,009	\$2,213,543	51.81%
EXPENDITURES	\$22,098	\$117,639	\$444,261	\$326,622	\$2,213,543	20.07%
NET	(\$16,575)	(\$59,765)	\$702,623	\$762,388	\$0	
GENERAL Debt Service Fund						
REVENUE	\$0	\$242,756	\$222,440	-\$20,316	\$249,571	89.13%
EXPENDITURES	\$0	\$242,756	\$222,440	-\$20,316	\$249,571	89.13%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities Fund						
REVENUE	\$823	\$455,145	\$577,262	\$122,117	\$950,727	60.72%
EXPENDITURES	\$192	\$580,103	\$766,642	\$186,539	\$950,727	80.64%
NET	\$631	(\$124,958)	(\$189,380)	(\$64,422)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

May 31, 2023

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY23</u>
PUBLIC UTILITIES Fund						
REVENUE - Operating	\$175,033	\$1,254,363	\$1,885,408	\$631,046	\$2,709,736	69.58%
EXPENDITURES - Operating	\$56,415	\$455,328	\$1,173,620	\$718,292	\$1,692,817	69.33%
NET	\$118,618	\$799,035	\$711,789	(\$87,246)	\$1,016,919	
REVENUE - CAPITAL GRANTS, LOANS	\$0	\$502,910	\$0	-\$502,910	\$0	
REVENUE - FACILITY FEES	\$42,400	\$606,893	\$473,714	-\$133,179	\$466,400	101.57%
EXPENDED - FACIL FEES, CAPITAL PROJECTS,DEBT SVC	\$162,987	\$1,090,461	\$1,015,232	-\$75,228	\$1,016,919	99.83%
TOWN CONTRIB. & PENDING GRANTS	(\$120,587)	\$19,342	(\$541,518)	(\$560,861)	(\$1,016,919)	
HARBOR Fund						
REVENUE - Operating	\$216,268	\$763,814	\$899,916	\$136,103	\$1,042,545	86.32%
EXPENDITURES - Operating	\$138,200	\$663,481	\$726,196	\$62,716	\$992,438	73.17%
NET	\$78,068	\$100,333	\$173,720	\$73,387	\$50,107	
REVENUE - GRANTS & LOANS	\$0	\$30,754	\$0	-\$30,754	\$41,893	0.00%
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$0	\$102,954	\$103,499	\$546	\$104,950	98.62%
EXPENDED - Capital Projects, Debt Svc	\$0	\$143,054	\$212,091	\$69,037	\$196,950	107.69%
TOWN CONTRIB. & PENDING GRANTS	\$0	(\$9,346)	(\$108,591)	(\$99,245)	(\$50,107)	
SANITATION Fund						
REVENUE	\$23,701	\$225,345	\$258,645	\$33,300	\$457,258	56.56%
EXPENDITURES	\$24,022	\$219,891	\$411,224	\$191,333	\$457,258	89.93%
NET	(\$321)	\$5,453	(\$152,579)	(\$158,033)	\$0	

FY 2023 Capital Improvement Project Tracking Report

As of:
5/31/2023

	<u>FY23 Status or Start Date</u>	<u>Percent of Completion</u>	<u>FY23 Budgeted</u>	<u>QTR 1 Expended</u>	<u>QTR 2 Expended</u>	<u>QTR 3 Expended</u>	<u>QTR 4 Expended</u>	<u>FY23 YTD Expended</u>	<u>(Over)/Under Budget</u>
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	<u>Bid process</u>	2%	\$ 929,922	\$ 12,070	\$ -	\$ 813	\$ 1,684	\$ 14,567	\$ 915,356
Municipal Space Replacement Planning (ARPA) - HBA	<u>In process</u>	60%	\$ 550,000	\$ -	\$ 101,211	\$ 182,008	\$ 47,023	\$ 330,242	\$ 219,758
Welcome Center Design - HBA	<u>In process</u>	0%	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 110,000
Library Upgrade & Condo-ization - HBA	<u>In process</u>	0%	\$ 34,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 34,000
Mason Avenue Parking Lot Improvement	<u>Postponed</u>	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
South Beach Restroom Renovation	<u>Postponed</u>	0%	\$ 40,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40,000
Gator for Public Works Staff	<u>Application approved</u>	0%	\$ 26,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 26,500
Grounds Maintenance Equipment for PW	<u>Completed</u>	73%	\$ 33,270	\$ 24,228	\$ -	\$ -	\$ -	\$ 24,228	\$ 9,042
Central Park Game Area for Adults (CCP)	<u>Completed</u>	40%	\$ 29,000	\$ -	\$ 11,614	\$ -	\$ -	\$ 11,614	\$ 17,386
Storage Facility (3 x conexes + roofing)	<u>Completed for FY23</u>	100%	\$ 20,000	\$ -	\$ -	\$ 38,610	\$ -	\$ 38,610	\$ (18,610)
Capital Project Contingency		0%	\$ 75,040	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,040
Public Trash Can Replacements, late FY22 project	<u>Completed</u>	100%	\$ 25,000	\$ 25,000	\$ -	\$ -	\$ -	\$ 25,000	\$ -
subtotal	\$ -		\$ 1,892,732	\$ 61,298	\$ 112,825	\$ 221,431	\$ 48,707	\$ 444,261	\$ 1,448,471
Utility Fund - Water									
Keck Well Connection (Engineering)	<u>In Process</u>	76%	\$ 60,000	\$ 2,286	\$ 32,010	\$ 7,622	\$ 3,811	\$ 45,729	\$ 14,271
Utility Fund - Wastewater									
Deposit on Membrane Replacement (contingency)	<u>Completed (deposit)</u>	100%	\$ 26,192	\$ 26,192	\$ -	\$ -	\$ -	\$ 26,192.00	\$ -
Sewer Pod Controller Upgrades Phase 2 of 5	<u>Pending</u>	0%	\$ 14,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,500
subtotal	\$ -		\$ 100,692	\$ 28,478	\$ 32,010	\$ 7,622	\$ 3,811	\$ 71,921	\$ 28,771
Harbor Fund									
Fuel System-Relocate Emergency Stop Switches	<u>Not needed</u>	0%	\$ 10,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,500
Fuel Management System Replacement	<u>Completed</u>	109%	\$ 42,000	\$ -	\$ -	\$ 45,864	\$ -	\$ 45,864	\$ (3,864)
Inner Harbor King Pile & Waler Replacement Design	<u>In process</u>	91%	\$ 40,000	\$ -	\$ -	\$ 36,478	\$ -	\$ 36,478	\$ 3,523
Inshore Breakwater repair planning (from contingency)	<u>In process</u>	100%	\$ 10,500	\$ -	\$ -	\$ 10,500	\$ -	\$ 10,500	\$ -
subtotal	\$ -		\$ 103,000	\$ -	\$ -	\$ 92,841	\$ -	\$ 92,841	\$ 10,159
TOTAL	\$ -		\$ 2,096,424	\$ 89,777	\$ 144,835	\$ 321,893	\$ 52,518	\$ 609,023	\$ 1,487,401

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES

May 31, 2023

YTD 2022 Real Estate Tax Collections

Total Taxable Land Value	302,643,900	
Total Improvement Value	447,005,000	
Exemptions	(9,455,398)	
Additional Assessments (SCC Utility)	4,074,010	
Total Real Estate Value (taxable)	744,267,512	
 Total Budgeted	 1,559,242	
Total Tax Billed	1,606,830	
Total Adjustments	(158)	
Total Collected YTD (percent of billed)	<u>1,580,881</u>	98%
Amount Due per Accounts Receivable	25,792	

YTD 2022 Personal Property Tax, Machinery and Tools Tax & 2021 License Tax Collections

Total Personal Property Value	23,243,305	
2022 Reduction Due to Proration	(879,146)	
Personal Property Billable Valuation	22,364,159	
2022 PPTRA Valuation Reduction	(9,568,117)	
 2022 Supplemental Assessments	 -	
2022 Supplemental PPTRA & Exonerations	-	
Personal Property Value, billed	-	
Total Value for 2022 & 2022 Supplemental	22,364,159	
 Total Budgeted	 140,000	
Total Tax Billed less PPTRA	204,003	
2022 Supplemental Tax Billing	-	
Total Adjustments & Additional Exonerations	7,792	
Total Collected YTD (percent of billed)	<u>168,152</u>	79%
Amount Due per Accounts Receivable	28,059	

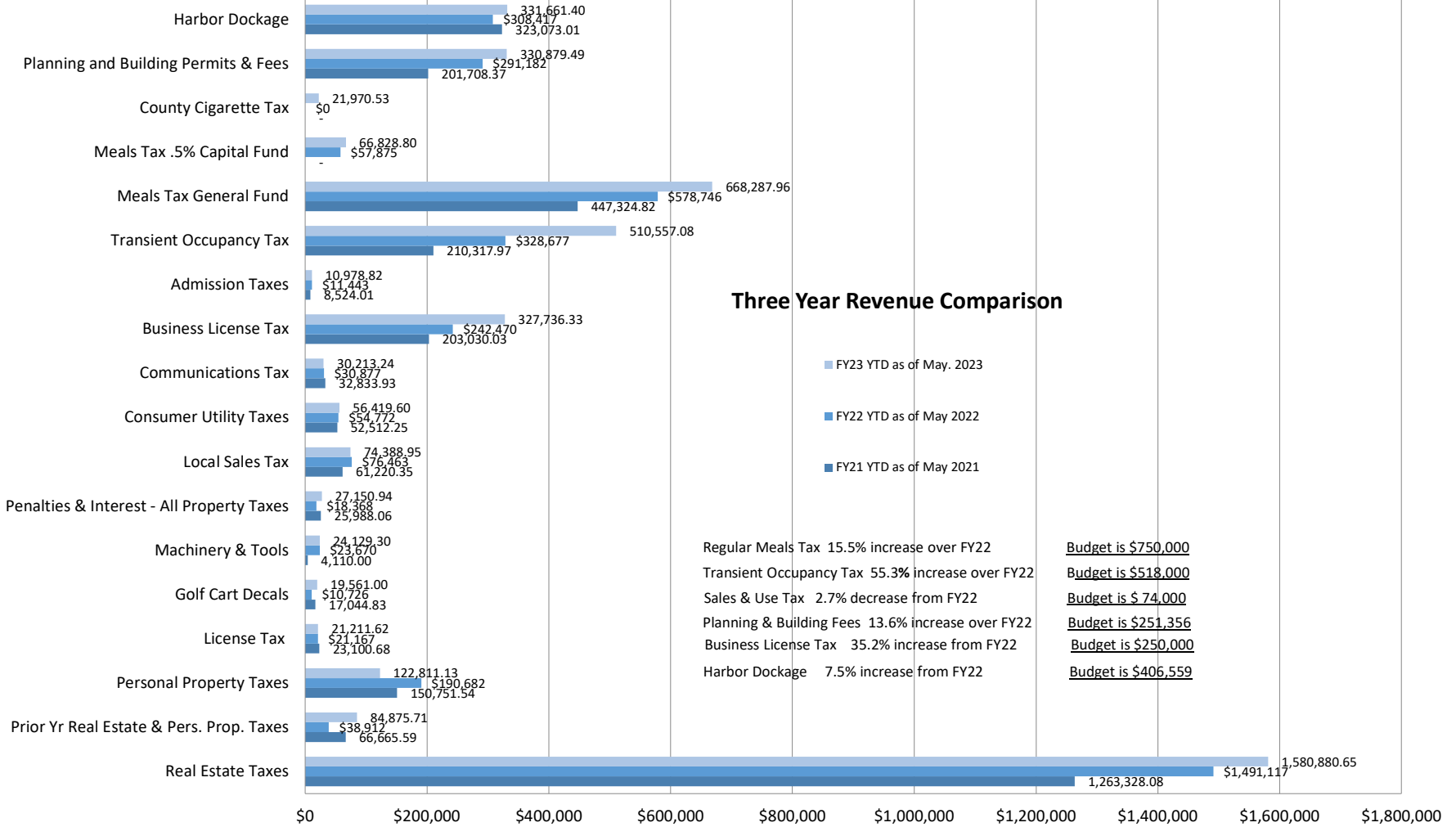
YTD Prior Year Real Estate Tax, Personal Property Tax, Interest and Penalty Collections

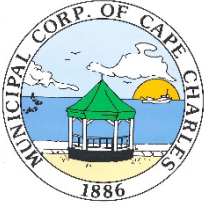
Total Budgeted	76,462	
Total Collected (percent of budget)	<u>112,027</u>	147%
Amount Due Per Budget	(35,565)	

Three Year Revenue Comparison

- FY23 YTD as of May. 2023
- FY22 YTD as of May 2022
- FY21 YTD as of May 2021

Regular Meals Tax 15.5% increase over FY22 Budget is \$750,000
 Transient Occupancy Tax 55.3% increase over FY22 Budget is \$518,000
 Sales & Use Tax 2.7% decrease from FY22 Budget is \$ 74,000
 Planning & Building Fees 13.6% increase over FY22 Budget is \$251,356
 Business License Tax 35.2% increase from FY22 Budget is \$250,000
 Harbor Dockage 7.5% increase from FY22 Budget is \$406,559



 TOWN OF CAPE CHARLES	AGENDA TITLE: Public Hearing – Zoning Map Amendment (ZMA) 2023-02 Application for 4 lots at corner of Harbor Avenue & Mason Avenue		AGENDA DATE July 20, 2023
	SUBJECT/PROPOSAL/REQUEST: ZMA 2023-02 for Tax Map Parcels 83A3-2-1-74, 75A, 75B, & 77 to rezone from Commercial-1 to Commercial-Residential (CR)		ITEM NUMBER: 3A & 8A
	ATTACHMENTS: Planning Commission Agenda Packet of 7-11-2023 with ZMA Applications & Staff Report; Ordinance 20230720A		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Planning & Zoning Administrator		REVIEWED BY: John Hozey, Town Manager

A zoning map amendment application was received on 5/26/2023 and the following legal ad was placed in the Eastern Shore Post as follows:

Zoning Map Amendment (ZMA) 2023-02 application from Nancy T. Rooney to rezone 107 Mason Avenue (Tax Map #83A3-2-1-74 & #83A3-2-1-75A) from Commercial-1 (C-1) Zoning District to Commercial Residential (CR) Zoning District for proposed use pursuant to CCZO Section 3.5.

Zoning Map Amendment (ZMA) 2023-02 application from RL & B Seaside Investments, LLC to rezone Tax Map #83A3-2-1-75B and #83A3-2-1-77 from Commercial-1 (C-1) Zoning District to Commercial Residential (CR) Zoning District for proposed use pursuant to CCZO Section 3.5.

BACKGROUND:

During the Comprehensive Plan update in 2022, we discussed these 4 lots and the possibility of rezoning them from Commercial-1 to Commercial Residential - 2 of the lots are under common ownership by RL & B Seaside Investments LLC and these lots are vacant; 2 of the lots are under common ownership by Nancy T. Rooney with one lot being vacant and one lot with a 3,300 square foot, one-story building.

As previously reported, over the last 5 or more years, the owners of the building at Tax Map #83A3-2-1-74 (Ms. Rooney and her family) have approached the Town on several occasions for this property to be permitted for residential use. Under the Commercial-1 zoning district, the only way to approve residential use is through a conditional use permit process with a key criteria that residential use would only be considered for second story or above, never on the first floor. The owners indicated that they were not in a position to consider an addition to the property to meet this requirement. The current owner has indicated that she would like to have the back half of the building utilized as a residence and the front half of the building used as commercial space.

I raised this matter with the Planning Commission in February 2023 to see if they would be the proponent/applicant on this matter and they indicated that they would rather this matter come from the two property owners that own the 4 lots in questions. I met with the two property owners and they agreed to submit the zoning map amendment application. Mr. Jones of RL & B Seaside Investments, LLC indicated during that meeting that his two lots have never been developed and may be better served with a transitional zoning designation with mixed commercial and residential use to blend the commercial district on Mason with the residential district at the end of Mason on Bay Avenue.

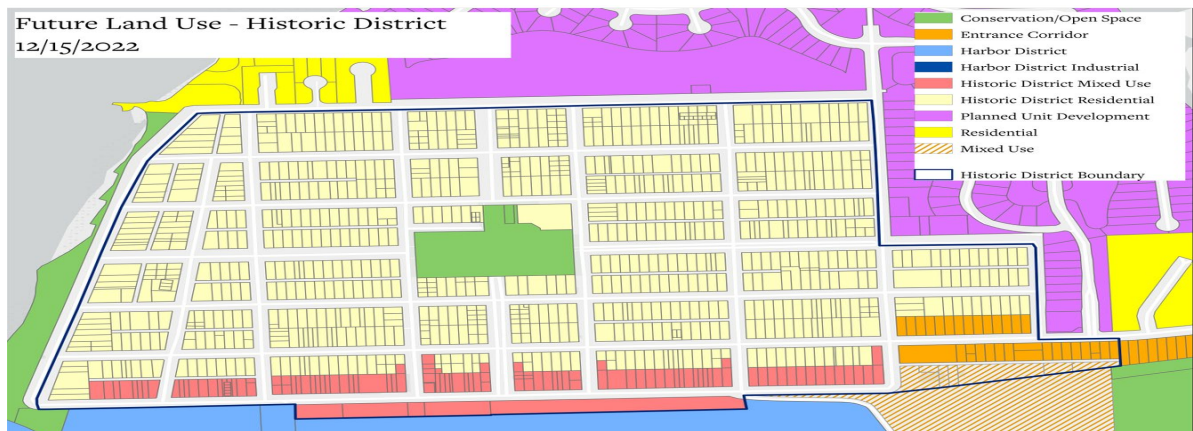


PLANNING COMMISSION PUBLIC HEARING:

A public hearing was held by the Planning Commission on Tuesday, July 11, 2023 and the staff report was presented.

- **REVIEW WITH RESPECT TO COMPREHENSIVE PLAN**

When the Town was putting together the Future Land Use Map, the whole of Mason Avenue is designated as Historic District Mixed Use and we indicated that it is possible that the blocks closer to the beachfront may move to a mixed zoning designation of Commercial-Residential (CR), especially this ½ block starting at the corner of Harbor and heading east along Mason Avenue, thus serving as a transition zone between the residential lots closer to the beach and the full commercial that starts in the adjacent building to Nancy Rooney's building which currently is being rented by Buskey Cider and continues with several establishments with the corner lot on Pine Street and Mason Avenue being occupied by Kelly's Gingernut Pub.



The applicant included the 1921 Sanborn Fire Insurance Map of Cape Charles which also documented that this corner block did not have any structures, even though the surrounding lots show structures which underscores the ambiguity of these lots and whether they are more inclined to residential development vs commercial development. Since the lots for the most part have never been developed, it supports a reconsideration of a zoning district that is blended between commercial and residential.

- **REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT**

The Cape Charles Zoning Ordinance provides a statement of intent for the current zoning district of Commercial -1 as follows:

The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

The proposed rezoning district of Commercial Residential (CR) provides the following statement of intent as follows:

The purpose of this district is to recognize the unique juxtaposition of the existing residential structures within the central business district and the future needs of Cape Charles commercial districts. It is the intent of this zone to promote the continued residential character of these areas while allowing commercial uses to be introduced.

The specific intent of this district is (1) to encourage retention of the existing residential buildings and character of the area and (2) to encourage compatible uses for these buildings.

NOTE: If the Town Council would like to see a comparison of uses between the two districts, I would refer you to the Planning Commission Staff Report where that is included.

There were no public comments and the hearing was closed.

PLANNING COMMISSION DISCUSSION:

The Planning Commission raised the following questions/requests for clarification on the application:

- Under CR, Permitted uses – it indicates that a Single Family Residence would be allowed by right. Would the existing building on the one lot be considered a single-family residence even if it is using only the back end of the building? YES
- Can similar type buildings be erected on the vacant lots? Yes, they could have a full residence or a building that is shared with a residence and a commercial storefront.
- Examples requested that have this shared concept. It was noted that the far end of Mason Avenue near the Town Hall to the corner of Fig and Mason are zoned CR – at the corner of Plum and Mason, this house had just reverted back to being only a residence when for several years prior it also housed a business, the Dacha Tea establishment. Ms. Nunez noted that some residential development has been allowed by the Town in property zoned Commercial-1 on the first floor, relying upon the Fair Housing Act and the need to address ADA compliance/residential units but she indicated that she felt the manner in which those properties were approved did not also ensure the proper protections through deed restrictions were put in place so that they remained designated as ADA units.

PLANNING COMMISSION RECOMMENDATION:

Commissioner Grossman motioned to recommend the rezoning of Tax Map Parcels # 83A3-2-1-74, 75A, 75B, & 77 from Commercial -1 to Commercial Residential and was seconded by Commissioner Holloway. The motion was carried unanimously.

TOWN COUNCIL:

Town Council is requested to hold the public hearing on ZMA 2023-02 and to consider the Planning Commission Recommendation on the matter. Staff is proposing the following motion for Town Council's consideration:

To adopt Ordinance #20230720A approving ZMA 2023-02 and rezoning Tax Map Parcels # 83A3-2-1-74, 75A, 75B, & 77 from Commercial -1 to Commercial Residential. Said vote is supported by the Comprehensive Plan and Future Land Use Map as detailed in Staff Report.

Attachment:

Attachment 1: Tax Map 83A3-2-1-74, 75B, 75A & 77 ZMA Application to Rezone C-1 to CR

Attachment 2: PC Staff Report for ZMA 2023-02 PC PH 2023-07-11

Attachment 3: Ordinance #20230720A



Zoning Map Amendment Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-2036

planner@capecharles.org

Revised 03/2023

Taxes

✓

Violations

Yes

Fee

\$

Decision

PART 1. APPLICATION NOTES

1. A pre-application conference is mandatory prior to submission of an application for a zoning map amendment.
2. A zoning map amendment application should be consistent with the Comprehensive Plan and therefore, may also require a Comprehensive Plan amendment, which should be approved prior to the zoning map amendment application.
3. The Town Council may not add conditions of approval to a zoning map amendment application.
4. If proffers are being offered, the proffer statements may not be less restrictive than the requested base zoning district standards.
5. If proffers are being offered, proffer statements may not be amended after the public notification of a public hearing to consider the application has been sent. The applicant may voluntarily offer proffered conditions as part of their application, which must be listed in a separate voluntary proffer statement using the template found on our website.
6. The fee associated with this process is \$500

PART 2: PROPERTY INFORMATION

Property Address: 4 lots on the NE corner of Mason and Harbor Ave. – see photo below and 1921 map at the end of this document.

Tax Map #s:

- 83A3-2-1-75A
- 83A3-2-1-74 ✓
- 83A3-2-1-77
- 83A3-2-1-75B ✓



Project name: Mason and Harbor Ave. (Rooney and Jones) Joint rezoning request

Current Zoning District: C-1

Does this application include proffers? ☒ No ☐ Yes, if so, attach separate form

Proposed Zoning District:
Commercial-Residential (CR)

PART 3: PROPERTY OWNER INFORMATION

Applicant Names:

Nancy Rooney (Tax Map #83A3-2-1-75A &v 83A3-2-1-74) and

RL & B Seaside Investments LLC (Tax Map #83A3-2-1-77 & 83A3-2-1-75B) POC: Will Jones

Mailing Addresses:

Nancy Rooney - 107 Mason Ave. Cape Charles VA 23310;

Will Jones - RL & B Seaside Investments PO Box 401, Cape Charles, VA 23310

Email address:

Nancy Rooney sakabaka@me.com

Will Jones wfjones7796@gmail.com

Phone:

Nancy Rooney 757- 323-4057

Will Jones 571-212-2525

If property is owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.

Will Jones - RL & B Seaside Investments, PO Box 401, Cape Charles, VA 23310

Email wfjones7796@gmail.com

Phone 571-212-2525

Zoning Map Amendment Application (also referred to as a Rezoning or Conditional Rezoning) may be submitted by a Cape Charles property owner and may be advanced to public hearing, after this application is submitted to Town Council who authorizes said applications to public hearings, first to the Planning Commission in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204.

The applicant will be required to make a presentation to fully explain the request and demonstrate the need for said request and how the Comprehensive Plan supports and maintains compliance with the goals and objectives of the Comprehensive Plan

Additionally, the Planning Commission or Town Council may prepare and apply for a zoning map amendment with either the Town Manager or the Zoning Administrator or Planning Director representing the application on behalf of the Town.

PART 4: Written Description of Request – Answer all questions in this section. Attach additional sheets as needed.

- A) Describe the existing conditions on the property including existing land uses and buildings as well as the land uses and zoning districts on the abutting properties.

The 2 Lots directly on the corner of Mason and Harbor Avenue are under common ownership of RL & B Seaside Investments LLC and are vacant – Tax Map #83A3-2-1-77 & 83A3-2-1-75B.

The 2 Lots adjacent to those are under the common ownership of Nancy Rooney with one lot being vacant and one lot with a 3,300 square foot, one story building (107 Mason Ave.) – Tax Map #83A3-2-1-75A and 83A3-2-1-74.

- B) Describe how existing conditions have changed, thereby making the proposed amendment needed.

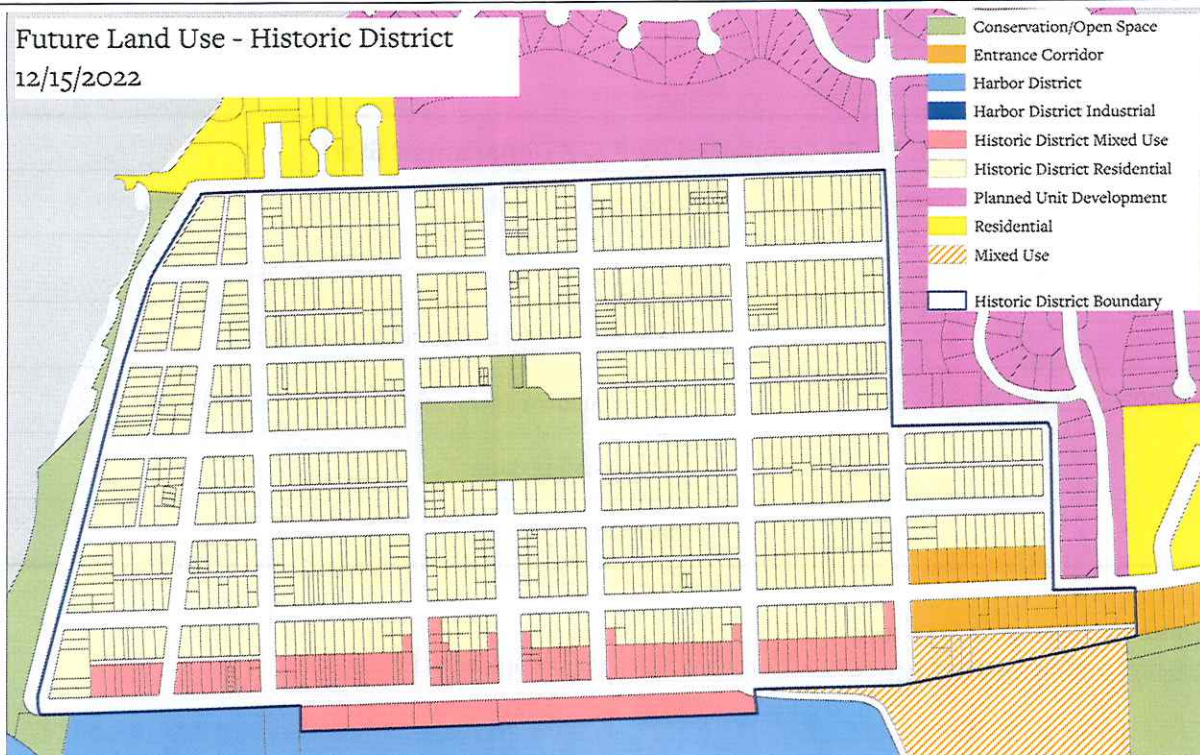
Consistent with the town's future mixed land use plan dated 12/15/22 for all of Mason Ave. (see map below), the applicants would like to have the capacity for both residential and commercial year-round use in all of these properties. Tax Map #83A3-2-1-75A and 83A3-2-1-74: These lots appear to have never been developed, per the 1921 map (inserted at the end of this application). The applicant seeks to develop them in the future.

Tax Map #83A3-2-1-74: By changing the zoning from C-1 to CR the property will be zoned historical, residential and commercial which pertains to the marketing best use of the town for function year-round economy as shown in the above future land use plan.

Tax Map #83A3-2-1-75A. This is a 20-foot wide, vegetated strip of land, which is part of the building property.

Future Land Use - Historic District

12/15/2022



C) Describe how the proposed amendment furthers the objectives of the Comprehensive Plan.

In the town's 1922 Future Land Use Map deliberations, the whole of Mason Avenue was designated as Historic District Mixed Use. The Zoning Administrator stated in her Staff Report dated 2/7/23 stated that it makes sense for the town to reconsider a different Land Use (zoning) designation for this particular ½ block on Mason Avenue for the following reasons:

- the block on Mason Avenue between Bay Avenue up to Harbor Avenue is mostly zoned Residential-1 (except the Northampton Hotel lots which the Town several years ago conditionally rezoned to Harbor).
- these 4 lots closer to the beachfront (½ block starting at the corner of Harbor and heading east along Mason Avenue) could move to the mixed zoning designation of Commercial-Residential (CR), thus serving as a transition zone between the residential lots (R-1) closer to the beach and the full commercial (C-1) that starts in the adjacent building, which currently occupied by Buskey Cider in the front and office space rentals behind Buskey Cider.

D) Describe why the proposed rezoning is necessary.

This rezoning of the empty lots (Tax Map #83A3-2-1-75A and 83A3-2-1-74) to CR would be in accordance and consistent with the town's future mixed-use plan along Mason Ave. as stated above.

Further, the current owner of 107 Mason Ave. building (Tax Map #83A3-2-1-74) and the green space on the south side (Tax Map #83A3-2-1-75A), could reside and work, i.e., business, on the property in accordance with the town's future land use plan, Historic District Mixed Use.

E) Describe the proposed use of the rezoned property including a site plan with the proposed types of site improvements and buildings.

There is no plan for additional development at this time, nor any changes proposed for the existing building as of today. However, this provides options for the owners in the future.

Applicant signatures:

Kenny L. Rooney

[Signature]

Date: _____

Zoning Administrator's Signature: _____

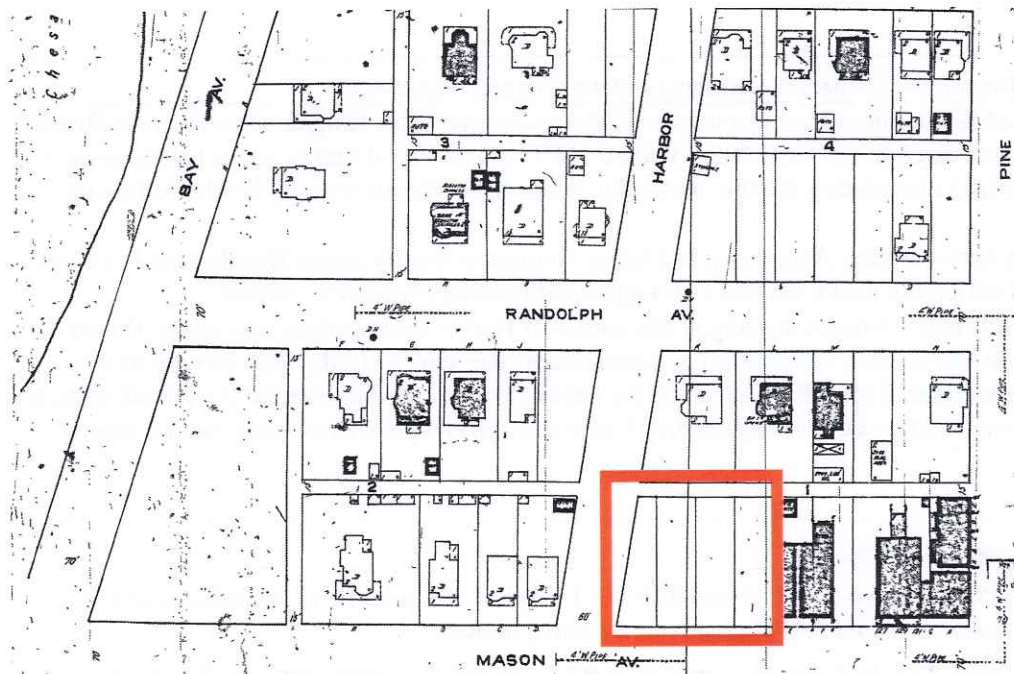
Date: _____

PART 5: To Be Completed by P & Z Department Staff

Date Application Received in Office:	Application #: ZMA
Planning Commission	Town Council
Date referred:	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date:	Public hearing date:
Decision:	Decision:

1921 Sanborn Fire Insurance Map of Cape Charles

<https://www.capecharles.org/files/documents/1921SanbornFireInsMap21468114830112717AM.pdf>





PLANNING COMMISSION PUBLIC HEARING STAFF REPORT

Meeting Date: July 11, 2023

Item #4A & 7A – ZMA-2023-02

Prepared by: Katie H. Nunez, Planning/Zoning Administrator

Date: July 3, 2023

APPLICANT: Nancy T. Rooney & RL&B Seaside Investments, LLC	TYPE OF APPLICATION: Zoning Map Amendment (ZMA) 2023-02
SITE ADDRESS: 4 Lots at corner of Mason Avenue & Harbor Avenue	SPECIFIC REQUEST: Rezone from C-1 to CR
TAX MAP: 83A3-2-1-74, 75A, 75B, & 77	ZONING ORDINANCE: CCZO Section 2.7.2
LOT SIZE: 13,833.79 sq. ft total	CURRENT ZONING: Commercial – 1 (C-1)
	PROPOSED ZONING: Commercial Residential (CR)

DATE RECEIVED: May 26, 2023

DATE DEEMED COMPLETE: June 1, 2023

LEGAL DEADLINE: 100 days from 1st Receiving Application: September 8, 2023

NARRATIVE OF PROPOSAL

During the Comprehensive Plan update in 2022, we discussed these 4 lots and the possibility of rezoning them from Commercial-1 to Commercial Residential - 2 of the lots are under common ownership by RL & B Seaside Investments LLC and these lots are vacant; 2 of the lots are under common ownership by Nancy T. Rooney with one lot being vacant and one lot with a 3,300 square foot, one-story building.

This matter was discussed further with the Planning Commission at your February 7, 2023 meeting to determine if you would carry this item forward as the applicant and it was decided at this meeting that you wished for the property owners to apply for this rezoning. I met jointly with the owners and they agreed to submit a joint application for the 4 lots in total to petition for rezoning from Commercial-1 to Commercial Residential (CR).

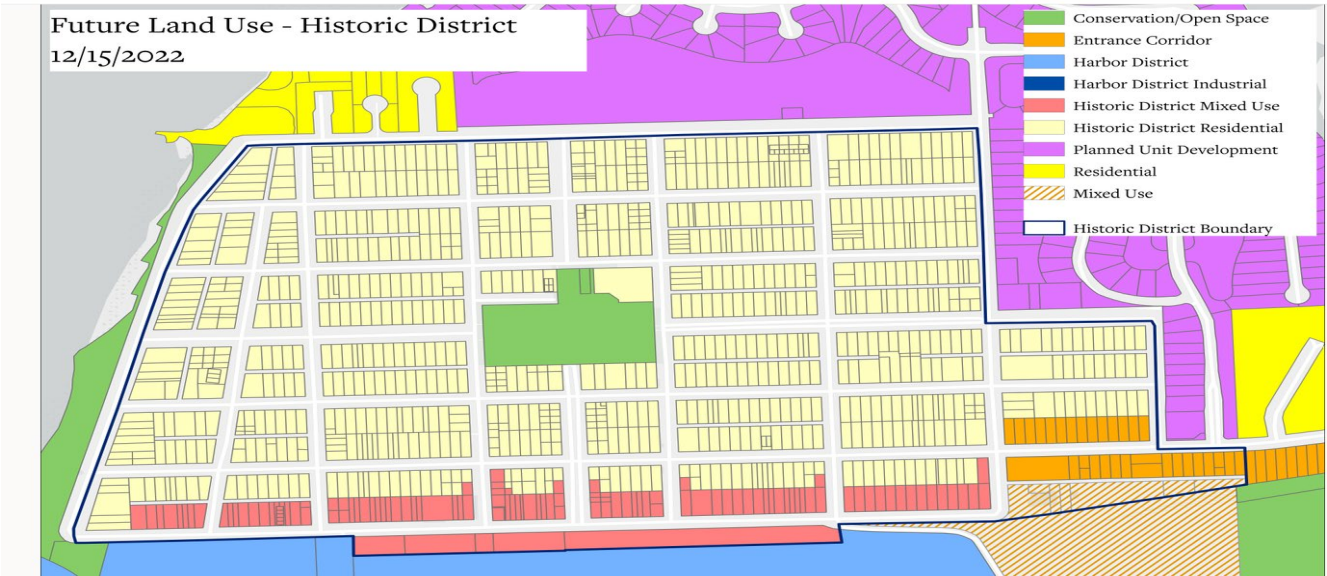
As previously reported, over the last 5 or more years, the owners of the building at Tax Map #83A3-2-1-74 (Ms. Rooney and her family) have approached the Town on several occasions for this property to be permitted for residential use. Under the Commercial-1 zoning district, the only way to approve residential use is through a conditional use permit process with a key criteria that residential use would only be considered for second story or above, never on the first floor. The owners indicated that they were not in a position to consider an addition to the property to meet this requirement. The current owner has indicated that she would like to have the back half of the building utilized as a residence and the front half of the building used as commercial space.

The adjacent property owner concurred that his two lots have never been developed and may be better served with a transitional zoning designation with mixed commercial and residential use to blend the commercial district on Mason with the residential district at the end of Mason on Bay Avenue.



REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

When the Town was putting together the Future Land Use Map, the whole of Mason Avenue is designated as Historic District Mixed Use and we indicated that it is possible that the blocks closer to the beachfront may move to a mixed zoning designation of Commercial-Residential (CR), especially this ½ block starting at the corner of Harbor and heading east along Mason Avenue, thus serving as a transition zone between the residential lots closer to the beach and the full commercial that starts in the adjacent building to Nancy Rooney’s building which currently is being rented by Buskey Cider and continues with several establishments with the corner lot on Pine Street and Mason Avenue being occupied by Kelly’s Gingernut Pub.



As we went through the Future Land Use Map deliberations, it made sense to reconsider this particular ½ block on Mason Avenue and discuss a different Land Use designation and possibly zoning designation, especially since 3 of the 4 lots have remained vacant and there has not been any interest expressed to bring full commercial development to these lots since the Town adopted zoning in 1992. Additionally, the block on Mason Avenue between Bay Avenue up to Harbor Avenue is mostly zoned Residential-1 with the exception of the Northampton Hotel who petitioned the Town several years ago to conditionally rezone to Harbor for those particular lots.

Therefore, when we were putting together the Future Land Use Map, the whole of Mason Avenue is designated as Historic District Mixed Use and we indicated that it is possible that the blocks closer to the beachfront may move to a mixed zoning designation of Commercial-Residential (CR), especially this ½ block starting at the corner of Harbor and heading east along Mason Avenue, thus serving as a transition zone between the residential lots closer to the beach and the full commercial that starts in the adjacent building to Nancy Rooney's building which currently is being rented by Buskey Cider and continues with several establishments with the corner lot on Pine Street and Mason Avenue being occupied by Kelly's Gingernut Pub.

The applicant included the 1921 Sanborn Fire Insurance Map of Cape Charles which also documented that this corner block did not have any structures, even though the surrounding lots show structures which underscores the ambiguity of these lots and whether they are more inclined to residential development vs commercial development. Since the lots for the most part have never been developed, it supports a reconsideration of a zoning district that is blended between commercial and residential.

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

The Cape Charles Zoning Ordinance provides a statement of intent for the current zoning district of Commercial -1 as follows:

The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.

The proposed rezoning district of Commercial Residential (CR) provides the following statement of intent as follows:

The purpose of this district is to recognize the unique juxtaposition of the existing residential structures within the central business district and the future needs of Cape Charles commercial districts. It is the intent of this zone to promote the continued residential character of these areas while allowing commercial uses to be introduced.

The specific intent of this district is (1) to encourage retention of the existing residential buildings and character of the area and (2) to encourage compatible uses for these buildings.

ANAYLSIS – Uses by Right and Conditional Use between the 2 Districts

<u>COMMERCIAL-1</u>	<u>COMMERCIAL RESIDENTIAL</u>
Permitted Uses by Right 1. Art or antique shops 2. Auditoriums, theaters, and assembly halls 3. Automobile repair and small engine repair 4. Automobile service stations 5. Bakeries, confectionaries, delicatessens, and catering services 6. Barber shops and beauty parlors 7. Bicycle and moped sales and rentals 8. Blueprinting shops 9. Boat sales 10. Business and vocational schools 11. Business studios, offices, and clinics 12. Childcare and childcare education centers 13. Commercial schools of instruction 14. Drug stores 15. Dressmaking, tailoring, and millinery shops, dry cleaning shops 16. Eating and drinking establishments 17. Financial institutions 18. Florists, gift shops, card shops, and stationery shops 19. Funeral homes 20. Furniture repair, sales and household appliance sales and repair, carpet and flooring sales 21. Greenhouses and plant nurseries 22. Grocery stores 23. Hotels and motels 24. Liquor stores 25. Libraries, museums, or galleries 26. Music stores 27. Medical or dental or other laboratories 28. Offices, office supply stores 29. Public facilities, public buildings 30. Restaurants 31. Pet shops and pet supply stores 32. Radio and television sales 33. Upholstering shops and fabric stores 34. Watch and jewelry stores 35. Any use allowable in the S-C District. 36. Any other commercial or professional use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission	Permitted Uses by Right 1. Accessory buildings 2. Antique shops 3. Art galleries 4. Athletic clubs 5. Beauty and barber shops 6. Bed and breakfasts 7. Camera shops 8. Candy stores 9. Clothing stores 10. Day spas 11. Dry goods stores 12. Florists 13. Gift shops 14. Leather goods 15. Newsstands 16. Offices 17. Real estate sales 18. Single-family dwellings 19. Tobacco stores 20. Video stores 21. Any other use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.

<u>CONDITIONAL USES</u> Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level.	<u>CONDITIONAL USES</u> 1. Bakeries 2. Bicycle shops 3. Cafes and coffee shops 4. Conference centers 5. Day care centers 6. Delicatessens 7. Ice cream parlors 8. Restaurant
--	---

Staff believes the Commercial Residential zoning district has a healthy balance of residential and low-impact commercial uses that better suits these 4 parcels and provides a better opportunity for development to occur on these lots that strikes a reasonable transition zone between the residences on the first block of Mason from Bay Avenue to the full commercial district on Mason Avenue ½ up the block from Harbor Avenue.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission to convene and hold the public hearing and consider all comments received and determine if there are additional issues raised that were not considered by staff which may need to be considered. Staff is recommending favorable consideration of the rezoning of Tax Map Parcels# 83A3-2-1-74, 75A, 75B, & 77 from Commercial -1 to Commercial Residential.

POSSIBLE PLANNING COMMISSION MOTION

I would recommend the following motion for the Planning Commission's consideration: ***Motion to recommend the rezoning of Tax Map Parcels # 83A3-2-1-74, 75A, 75B, & 77 from Commercial -1 to Commercial Residential.***

Attachments:

Attachment 1 – ZMA Packet

ORDINANCE 20230720A

AMENDING CAPE CHARLES ZONING FOR TAX MAP PARCELS #83A3-2-1-74, 83A3-2-1-75A, 83A3-2-1-75B, AND 83A3-2-1-77 FROM COMMERCIAL-1 (C-1) TO COMMERCIAL-RESIDENTIAL (CR)

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, on May 26, 2023 a zoning map amendment application was received from the owners of tax map parcels #83A3-2-1-74, 83A3-2-1-75A, 83A3-2-1-75B, and 83A3-2-1-77 all on Mason Avenue; and

WHEREAS, consistent with the town's future land use plan dated December 15, 2022 for all of Mason Avenue, the applicants would like to have the capacity for both residential and commercial year-round use in all of these properties; and

WHEREAS, in the town's adopted December 15, 2022 Comprehensive Plan, specifically the Future Land Use Map chapter, the whole of Mason Avenue was designated as Historic District Mixed Use. In the February 7, 2023 staff report, the zoning administrator stated that it makes sense to reconsider a different Land Use (zoning) designation for this particular half block of Mason Avenue since the block of Mason Avenue between Bay Avenue to Harbor Avenue is mostly zoned Residential-1, with the exception of the Northampton Hotel which was conditionally rezoned to Harbor several years ago, and these four lots could move to the mixed use designation of Commercial-Residential (CR) thus serving as a transition zone between the residential lots (R-1) closer to the beach and the full commercial (C-1) that starts with the adjacent building currently occupied by Buskey Cider; and

WHEREAS, the Planning Commission held their public hearing on July 11, 2023 with no comments received; and

WHEREAS, following their public hearing, the Planning Commission discussed the application and unanimously recommended approval of the rezoning of these parcels from Commercial-1 (C-1) to Commercial-Residential (CR); and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a public hearing was held by the Town Council; now

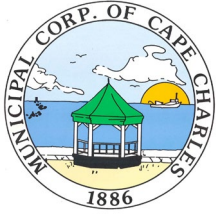
THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 20th day of July 2023, that the Cape Charles Zoning Map be amended to show Tax Map Parcels #83A3-2-1-74, 83A3-2-1-75A, 83A3-2-1-75B, and 83A3-2-1-77 in the Commercial-Residential (CR) Zoning District to become effective immediately.

Adopted by the Town Council of Cape Charles on July 20, 2023

By: _____
Mayor

ATTEST:

Town Clerk



**TOWN OF
CAPE CHARLES**

AGENDA TITLE: Real Property Disposal

AGENDA DATE:
July 20, 2023

SUBJECT/PROPOSAL/REQUEST: Sale of Monroe Avenue lot.

ITEM NUMBER:
8B

ATTACHMENTS: Proposed Ordinance #20230720B

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT:
Bob Panek, Project Manager

REVIEWED BY:
John Hozey, Town Manager

BACKGROUND:

The Town owned two contiguous lots zoned R-1 near the intersection of Monroe Avenue and Pine Street. The lot directly on the corner (83A3-1-419) contains the Pine Street Pump Station, which is part of our wastewater collection system. The lot to the east (83A3-1-418) is vacant. In preparation for the sale of the water and wastewater systems to Virginia American Water, we subdivided the corner lot so that only the area occupied by the pump station would convey with the sale. The catchment area for that pump station is almost fully built out and no additional area would be needed for any future improvements. The remainder of that lot was combined with the contiguous lot to create a parcel (83A3-1-418A) about 1.5X the size of a standard lot in the historic district. The subdivision plat has been recorded in the land records of Northampton County.

DISCUSSION:

As there is no current or future public need for this residential lot, it was advertised for competitive sale to generate both sales revenue and continuing real property tax revenue. Two bids were received. The winning bid was \$300,010. The Code of Virginia (Sec. 15.2-1800) allows a locality to dispose of real property by either public or private sale and requires that a public hearing be held prior to disposal. The public hearing was held earlier this evening. Adoption of the ordinance requires a simple majority vote, as opposed to $\frac{3}{4}$, since we are not selling "...waterfront, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges, or other public places, or its gas, water, or electric works...". The Town Manager will complete the closing on the sale after adoption of the ordinance. The deed conveying the property will be signed by the Mayor.

RECOMMENDATION:

Staff recommends that Council adopt the attached ordinance.

ORDINANCE 20230720B

SALE OF MONROE AVENUE PARCEL

WHEREAS, pursuant to an invitation to bid, dated April 5, 2023 (the “Invitation to Bid”), the Town of Cape Charles advertised for bids for the purchase of one (1) undeveloped lot owned by the Town of Cape Charles, approximately 8,585 +/- square feet or 0.197 acres in size, more or less, located on Monroe Avenue, and identified as Tax Parcel 83A3-1-418A, and shown as Lot 418A on that certain plat entitled “Boundary Line Adjustment of Lot 418 & 419 ‘Map of the Town of Cape Charles’,” dated January 16, 2023, and prepared by Shoreline Surveyors, Job No. 22081 (the “Parcel”).

WHEREAS, a total of two (2) bids to purchase the Parcel were received by the deadline set forth in the Invitation to Bid.

WHEREAS, a public hearing regarding the sale of the Parcel was held on July 20, 2023, as required by the Code of Virginia, Section 15.2-1800.

WHEREAS, a purchase and sale contract will be drafted to sell the Parcel for the sale price of Three Hundred Thousand Ten and 00/100 Dollars (\$300,010.00), based on the bid submitted by Katherine Wagner, Austin Wagner, and Lauren Wagner (collectively, the “Wagners”), dated May 2, 2023.

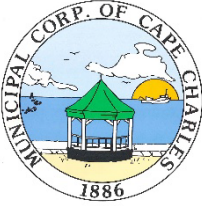
NOW, THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 20th day of July, 2023, that the Mayor and the Town Manager, each acting alone, be, and hereby are, separately and individually authorized, without the joinder of the other, to execute such documents and take such actions as are necessary or proper to complete the sale of the Parcel to the Wagners.

Adopted by the Town Council of Cape Charles on July 20, 2023.

By: _____
Mayor

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Tourism Zone Credit Payment		AGENDA DATE July 20, 2023
	SUBJECT/PROPOSAL/REQUEST: Approval of Tourism Zone Credit Application and Payment		ITEM NUMBER: 8C
	ATTACHMENTS: A) Certification of Administrator		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Adrian Oei, Deborah Pocock	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Ordinance number 20161117 established the entire area of the town as a tourism zone for the purpose of attracting new tourism-related business and investment to town. To this end, the ordinance provides tax credits, in the form of tax and permit rebates, to certain tourism-related businesses that make new investments in town.

ITEM SPECIFICS:

Since the council last approved payments for tourism zone credits on June 15th, one business, Cape Charles Mini Golf, has applied for the program. Cape Charles Mini Golf meets the qualification requirements of the program. With respect to credits for facility & connection fees and building permits only, the Town Code requires payment of credits once construction of the related improvements is complete. The amount of the credit currently due to Cape Charles Mini Golf is shown below.

Facility & Connection Fees	\$ 1,812.80
<u>Building Permits</u>	<u>\$ 2,249.00</u>
All credits	\$ 4,061.80

In addition, Cape Charles Mini Golf would be due additional payments of approximately \$3,735 (\$747 annually) over the five-year period. This number is based on revenue projections and estimated value of improvements provided by the business owner in his application and is subject to change when more exact figures are available.

RECOMMENDATION:

Staff recommends that Town Council approve the tourism zone payment for facility & connection fees and building permits to Cape Charles Mini Golf in the amount of \$4,061.80.

Exhibit A

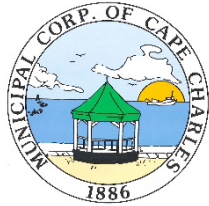
Certification of Administrator

Cape Charles Mini Golf has submitted an application and met the eligibility requirements to receive tourism zone credits under Chapter 24 of the Town Code of Cape Charles.

Namely, Cape Charles Mini Golf:

- 1) Created and maintained one new full time or two new part time jobs,
- 2) Made a verified capital investment of no less than \$2,000.00 in a building, building improvements, and/or in depreciable assets,
- 3) Holds a current town business license and is current in all tax obligations to the town and all tax obligations to Northampton County,
- 4) And, is in compliance with all town ordinances.

Adrian Oei
Tourism Zone Administrator



**TOWN OF
CAPE CHARLES**

AGENDA TITLE: Memorandum of Agreement with Cape Charles Main Street

AGENDA DATE
July 20, 2023

SUBJECT/PROPOSAL/REQUEST: Renewal of Memorandum of Agreement with Cape Charles Main Street

ITEM NUMBER:
8D

ATTACHMENTS: Memorandum of Agreement with Cape Charles Main Street

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
John Hozey, Town Manager

REVIEWED BY:
John Hozey, Town Manager

BACKGROUND:

The Town and Cape Charles Main Street (CCMS) entered into an initial Memorandum of Agreement (MOA) on July 1, 2018. This original agreement established the roles and responsibilities of each organization as the Town strived to become a Virginia Main Street Community. The initial term of the MOA was for five years, which expired on June 30, 2023.

ITEM SPECIFICS:

By most measures the initial MOA has been a success. Cape Charles has gone from being a Virginia Main Street Affiliate (as designated by the Virginia Department of Housing and Community Development), to a Virginia Advancing Main Street Community. The past five years have also seen strong economic growth within our business community, due in no small measure to the nurturing efforts of CCMS. CCMS has also taken on many successful events/programs, which grow in popularity each year.

The Town has contributed financially to CCMS from inception. While this support has decreased slightly over the years, it will likely never go away entirely. Economic development is a common and vital municipal function, that were it not for CCMS, the Town itself would have to fund internally at levels much higher than our current participation in CCMS. In other words, we get a significant “bang for our buck” under this arrangement, with documented positive results.

This renewal MOA is substantially similar to the original, updated to the current situation.

RECOMMENDATION:

Staff recommends approval of the Memorandum of Agreement with Cape Charles Main Street.

MEMORANDUM OF AGREEMENT
THE TOWN OF CAPE CHARLES
AND
CAPE CHARLES, VA. MAIN STREET, INC.

This MEMORANDUM OF AGREEMENT ("Agreement") is entered into as of the 1st day of July, 2023, by and between CAPE CHARLES, VA. MAIN STREET, INC. ("CCMS") and THE TOWN OF CAPE CHARLES ("ToCC") a political subdivision of the Commonwealth of Virginia, provides as follows:

RECITALS:

- A. ToCC is designated as a Virginia Advancing Main Street Community by the Department of Housing and Community Development of the Commonwealth of Virginia.
- B. CCMS is a Virginia Non-Stock Corporation which was granted tax exempt status under Internal Revenue Code Section 501 (c)(3) by the IRS on March 17, 2018.
- C. ToCC recognizes the importance of CCMS's successful start-up and desires to provide financial support CCMS so that the Main Street program will flourish.
- D. ToCC is authorized by the Code of Virginia Sections 15.2-940 and 1102 to provide such support for economic development efforts.
- E. The Town Council of the ToCC authorized the Mayor to enter into this Agreement at a duly called and noticed meeting held on July 20, 2023.

AGREEMENT

IN CONSIDERATION of the mutual covenants, benefits and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties for themselves, their successors and assigns agree as follows:

- 1. **Recitals Incorporated.** The foregoing Recitals are incorporated by reference.
- 2. **Term.** The term of this Agreement is for five years, commencing July 1, 2023 and expiring June 30, 2028. Unless specified otherwise, references to "year" in this Agreement shall mean the twelve month period beginning July 1 and ending June 30 of the following calendar year. This agreement will automatically renew for an additional 5 year term unless either party provides notice of non-renewal prior to 60 days before the term expires.
- 3. **Cancellation.** ToCC shall have the right at its option to unilaterally cancel the Agreement if CCMS breaches or fails to perform any term or condition of this Agreement and such breach or failure is not cured within 30 days after written notice.

4. **Budget.** CCMS shall propose a program budget request for the fiscal year beginning July 1 by the preceding March 1 and submit a final budget by June 1st preceding July 1 of the new fiscal year. Such budget will specify:
 - A. Program objectives, projects and expected outcomes for the fiscal year.
 - B. Staffing level and compensation.
 - C. Professional and other services required for each project.
 - D. Capital projects, i.e. items costing \$5,000 or more and having an anticipated useful life longer than one year.
 - E. Projected fund raising revenue from private sources.
 - F. Projected grant revenue from governmental sources other than ToCC.
 - G. Net funding amount, including but not limited to grants, requested from ToCC.

Each year, ToCC will determine the amount, if any, to be appropriated for the CCMS funding during its annual budget process. Funds may be derived from Transient Occupancy Tax, Meals Tax, or any other revenue source. The amount, if any, to be appropriated each year shall be determined in the sole discretion of the Council of the ToCC then in office.

5. **Funding Execution.** For each year in which funding is given by ToCC, ToCC will provide quarterly disbursement to CCMS for normal operating expenses, beginning July 1. ToCC will reimburse CCMS for capital items upon completion of the project. Advance or progress payments will be considered on a case by case basis. By mutual agreement, large and/or complex capital projects may be executed by ToCC. All disbursements by ToCC shall be in accordance with the then-current budget and funding approved by ToCC.
6. **Procurement and Property.** CCMS shall comply with Chapter 54 of the Town Code when contracting for goods and services. Contract award approval authority will be designated by the CCMS board of directors.

Capital items installed on public property shall become the property of ToCC and may be maintained by ToCC. As such, these items may be relocated or removed at the sole discretion of ToCC after notice is delivered to CCMS. The cost of maintenance, relocation or removal may be borne by either ToCC or CCMS. CCMS shall obtain ToCC's written approval of the plans, specifications, and design for any capital item prior to installation on public property. Such approval shall be in addition to any requirements imposed by law, regulation, or ordinance.

Office equipment and supplies shall become the property of CCMS. An inventory of such equipment and supplies shall be maintained by CCMS. Should CCMS disband, such items shall be transferred to ToCC to the extent not prohibited by the Internal Revenue Code or other applicable laws and regulations.

7. **Reporting.** Each year during the term, CCMS shall provide a quarterly financial report for the first, second and third quarters to ToCC, to include: income statement and balance sheet to the Town Treasurer. Reports shall be provided within one month of the close of each quarter. CCMS will present an in-person, semi-annual report to TOCC Town Council to include a narrative description of progress on program objectives, projects and outcomes. CCMS shall provide an annual report to ToCC, with the information described above, by September 30 of each year.

CCMS shall provide audited financial statements to ToCC by December 31 of each year.

CCMS's reporting obligations shall survive the expiration or termination of this Agreement, unless ToCC expressly waives a reporting requirement in writing.

8. **Indemnification and Insurance.** CCMS shall indemnify, defend, and hold harmless ToCC and its Council members, officers, and employees for, from, and against all claims, actions, liabilities, losses, fines, penalties, and expenses (including without limitation attorney's fees and expenses) arising out of or resulting CCMS's breach of this Agreement or the negligence or intentional misconduct of CCMS or its agents, employees, and/or contractors. CCMS shall maintain liability insurance with limits of at least \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate for personal injury, wrongful death, and property damage claims, including contractual liability for CCMS's obligations to ToCC under this Agreement. CCMS shall provide a certificate evidencing such coverage to ToCC upon request.
9. **Notices and Documentation.** Any notices and submission of documentation to ToCC shall be delivered to the Town Manager at 2 Plum Street, Cape Charles, VA 23310, and evidenced by the Town Manager's signed receipt, or sent postage prepaid and receipted for by USPS Certified or Registered Mail, return receipt requested. Any notices and submission of documentation to CCMS shall be delivered to the President of the Board and evidenced by a signed receipt or sent postage prepaid and receipted for by USPS Certified or Registered Mail, return receipt requested.
10. **Force Majeure.** If, by reason of *force majeure*, either party hereto shall be rendered unable, in whole or in part, to carry out its obligations under this Agreement, and if such party shall give notice and full details in writing of such *force majeure* to the other party within a reasonable time after the occurrence of the event or cause relied on, then the obligations of the party giving such notice, so far as it is affected by such *force majeure* shall be suspended during the continuance of the inability then claimed, but for no

longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "*force majeure*", as employed herein, shall mean acts of public enemy, orders of any kind of the government of the United States or the Commonwealth of Virginia or any civil or military authority, insurrections, riots, arrests, civil disturbances, labor unrest or strikes, inability to obtain necessary supplies, utilities or services, earthquakes, floods, fires, storms and any serious weather related casualty.

12. **No Partnership or Agency.** Except as provided in paragraph 8 above with respect to contracts entered into by ToCC on behalf of CCMS, nothing in this Agreement shall create a partnership, agency, or other relationship between ToCC and CCMS other than that of independent contractors. CCMS shall have no authority to represent ToCC or to bind ToCC to any agreement, obligation, or commitment unless such authority is in writing and granted pursuant to and in compliance with applicable law.
13. **Governing Law and Venue.** This Agreement shall be administered and interpreted in accordance with the laws of the Commonwealth of Virginia. Any actions arising out of this Agreement shall be filed in the General District Court or Circuit Court of Northampton County, Virginia.

The signatures of the authorized representatives of the parties are set out below in acknowledgement of this Agreement and to bind the parties in contract:

Cape Charles Main Street, Inc.

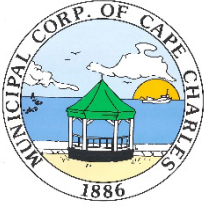
Title: _____

Date: _____

Town of Cape Charles

Title: _____

Date: _____

 TOWN OF CAPE CHARLES	AGENDA TITLE: Adopting and Enacting a new code for the Town of Cape Charles		AGENDA DATE July 20, 2023
	SUBJECT/PROPOSAL/REQUEST: Approval of Ordinance 20230720 adopting and enacting a new code for the Town of Cape Charles		ITEM NUMBER: 8E
	ATTACHMENTS: Ordinance 20230720C; Town Code published by Municode; Memoranda of substantive changes from Municode; Memoranda of substantive changes from Town attorney and staff		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Over the years, sections of the Town Code become obsolete as the State Code changes and local practices evolve. It is therefore prudent to update the entire Town Code periodically to ensure it remains relevant. It is expensive and time-consuming to update the entire code. Therefore, we only plan to do so every 4-5 years. The latest update began in 2021 when Municode was contracted to conduct a comprehensive review to include incorporating changes made by the General Assembly through 2021.

ITEM SPECIFICS:

There have been several significant delays in producing this update. Municode's initial contract was to go through the 2021 General Assembly regular session. That review could not begin until after the session was over. However, 2021 saw two additional General Assembly special sessions. So Municode's contract was amended to include these special sessions as well. We received the initial regular session review in January of 2022, and the special session supplement in October of 2022. Once received, this analysis had to then be reviewed by the Town Attorney and staff. Unfortunately, other town priorities contributed to additional delays.

During the staff review, the attorney and staff proposed additional revisions to reflect changes in local practice and/or procedures since the code was last updated. While most of these internal changes are mechanical or procedural in nature, there was one substantive change developed. Considerable time was spent working with the town attorney to update the town's noise ordinance. The previous noise ordinance was determined to be too subjective and unenforceable. Therefore, we worked to amend the existing ordinance to mirror a recently adopted ordinance in Virginia Beach. Our version is not as robust as VB's, but it represents a good faith step toward establishing a usable code provision.

Taken in total, there is an enormous amount of material associated with this update. Complicating the matter is that the update includes some reorganization and renumbering of many sections, making direct reference to the previous code version very challenging. To assist in this review, it is recommended that focus be given to the substantive change documents provided. The first comprises changes recommended by Municode. The second represents changes recommended by staff and reviewed by the attorney.

RECOMMENDATION:

Staff recommends approval of Ordinance 20230720C, adopting and enacting a new Town Code.

ORDINANCE 20230720C

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE TOWN OF CAPE CHARLES, VIRGINIA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

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

Section 1. The Code entitled "Code of the Town of Cape Charles, Virginia," published by Municode, consisting of chapters 1 through 30, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before August 18, 2022, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not more than \$2,500.00, or by confinement in jail for not more than 12 months, or by both such fine and confinement. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after August 18, 2022, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective immediately upon adoption.

Adopted by the Town Council of Cape Charles on this 20th day of July 2023.

By: _____

Mayor Adam Charney

ATTEST:

Clerk of Council

Roger D. Merriam
Senior Code Attorney, Municode
(Admitted to Practice in Florida)
rdm@municode.com 1-800-262-2633, ext. 7087 (1-850-692-7087)

MEMORANDUM

January 31, 2022

TO: MR. MICHAEL STERLING
TOWN ATTORNEY
TOWN OF CAPE CHARLES, VIRGINIA

Re: *Cape Charles Recodification--Substantive Changes*

This memorandum summarizes the substantive changes that will be made by adoption of the new town Code. The following changes are made throughout the Code and are not mentioned elsewhere in this memorandum except in special situations:

1. Title of state departments and agencies corrected.
2. State law references corrected.

CHAPTER 1. GENERAL PROVISIONS

Sec. 1-2. Definitions and rules of construction. (New Code § 1-2)

1. In the computation of time provision, added language substantially tracking Code of Virginia, § 1-210(E).

2. Delete the year "1950" from the state code definition. The year is not part of the title of the publication. See Code of Virginia, § 1-1.

Sec. 1-9. Copies of Code and supplements to be available for public inspection. Conformed to Code of Virginia, § 15.2-1433. (New Code § 1-9)

Sec. 1-11. Arrest procedure for violations. Deleted as covered by and in conflict with Code of Virginia, § 19.2-74.

CHAPTER 14. BEACHES AND WATERWAYS

Article V. General Boating Regulations

Sec. 14-27. Creation of loud, disturbing, etc., noise by persons aboard boat. Avoided constitutional problems by inserting a reasonable person standard. (New Code § 6-110)

CHAPTER 18. BUILDINGS AND BUILDING REGULATIONS

Article I. In General

Sec. 18-1. Building code enforcement and inspection department and building official generally. In accordance with the town's webpage, changed "building code enforcement and inspection department" to "building/code enforcement department." (New Code § 18-1)

Sec. 18-4. Establishment of fire district. Deleted as obsolete.

Article II. Building Code

Sec. 18-11. Enforcement. In accordance with the town's webpage, changed "building code enforcement and inspection department" to "building/code enforcement department." (New Code § 8-34)

Sec. 18-13. Appeals. In accordance with the town's webpage, changed "building code enforcement and inspection department" to "building/code enforcement department." (New Code § 8-36)

Sec. 18-7. Issuance of certificates. Per town's webpage changed "building code official" to "code official." (New Code § 8-6)

Article II. Building Code

Sec. 18-11. Enforcement. Per the town's webpage changed "building code official" to "code official" and "building code official enforcement and inspection department" to "building/code enforcement department." (New Code § 8-34)

Sec. 18-12. Violations; criminal and civil penalties. (New Code § 8-35)

1. Conformed subsection A to Code of Virginia § 36-106(A)(B).
2. Clarified that section only applies to this article (not this chapter) so as to avoid conflict with Code § 18-6.

Sec. 18-13. Appeals. Per the town's webpage changed "building code official enforcement and inspection department" to "building/code enforcement department." (New Code § 8-36)

CHAPTER 22. EROSION AND SEDIMENT CONTROL

Article I. In General

Sec. 22-3. Definitions. (New Code § 12-23)

1. Conformed definition of certified plan reviewer to the definition of same in Code of Virginia, § 62.1-44.15:51.
2. Deleted the definition of council as covered by Code § 1-2.
3. Conformed definition of department to the definition of same in Code of Virginia, § 62.1-44.15:51 (deleting the DCR abbreviation).
4. Conformed the definition of district or Eastern Shore Soil and Water Conservation District to the definition of district or soil and water conservation district in Code of Virginia, § 62.1-44.15:51.
5. Conformed the definition of land-disturbing activity to the definition of land-disturbing activity in Code of Virginia, § 62.1-44.15:51.
6. Deleted the definition of town as covered by Code § 1-2.

Sec. 22-4. Severability. Deleted as covered by Code § 1-12.

Sec. 22-6. Regulated land-disturbing activities; submission and approval of control plan. Conformed to Code of Virginia, § 62.1-44.15:55. (New Code § 12-25)

Sec. 22-9. Application for approval. Change DCR to department. See recommendation 3 for § 22-3, *supra*. (New Code § 12-28)

Sec. 22-10. Bond or other security for land-disturbing activities. Conformed to provisions of Code of Virginia, § 62.1-44.15:57 concerning the bond. (New Code § 12-29)

Sec. 22-11. Monitoring, reports, and inspections. Conformed to Code of Virginia, § 62.1-44.15:58. (New Code § 12-30)

Sec. 22-12. Penalties, injunctions, and other legal actions. Conformed to Code of Virginia, § 62.1-44.15:63. (New Code § 12-31)

Sec. 22-13. Appeals and judicial review. Altered subsection B to be consistent with Code of Virginia, § 62.1-44.15:62. (New Code § 12-32)

Article II. Control Plan for Land-Disturbing Activities

Sec. 22-30. Approval or disapproval. Per Code of Virginia, § 62.1-44.15:55(B), changed 45 days to 60 days. (New Code § 12-58)

Sec. 22-31. Changing approved plan. Conformed to Code of Virginia, § 62.1-44.15:55(C). (New Code § 12-59)

CHAPTER 26. FIRE PREVENTION AND PROTECTION

Article I. In General

Sec. 26-2. Participation by minors in activities of volunteer fire company. As worded, any person has to parental approval (regardless of age). Solved this technical issue by changing person to minor. (New Code § 14-2)

Article II. Fire Prevention Code

Sec. 26-26. Establishment of limits in which storage of explosives and blasting agents is prohibited. Deleted the reference to section F-2601.2. (New Code § 14-47)

Article III. Open Burning

Sec. 26-46. Severability. Deleted as covered by Code § 1-12.

CHAPTER 38. LICENSES

Article I. In General

Sec. 38-2. Definitions. Conform the definition of gross receipts to the definition of same found in Code of Virginia, § 58.1-3700.1, 58.1-3732--58.1-3732.4. Added the definitions in Code of Virginia, § 58.1-3700.1 that are not found in this section. (New Code § 18-38)

Sec. 38-4. General requirement. Conformed to Code of Virginia, § 58.1-3703.1(A)(1). (New Code § 18-40)

Sec. 38-5. Application. Deleted the last sentence of subsection (b) as inconsistent with Code of Virginia, § 58.1-3703.1(A)(2)d. (New Code § 18-41)

Sec. 38-6. Separate license for each place of business; one license for different types of business. Conformed to Code of Virginia, § 58.1-3703.1(A)(1). (New Code § 18-40)

Sec. 38-9. Tax imposed on privilege of doing business; applicability of chapter to persons with no regularly established place of business within the town. Deleted as not needed in light of the revisions to Code § 38-6.

Sec. 38-11. When tax due and payable. (New Code § 18-45)

1. Per Code of Virginia, § 58.1-3703.1 (A)(2)b, added that the tax shall be paid with the application in the case of any license not based on gross receipts.

2. Added the provisions of Code of Virginia, § 58.1-3703.1(A)(2)c.

Sec. 38-12. Penalty for late payment of tax. Added provisions from Code of Virginia, § 58.1-3703.1(A)(2)d, (A)(2)e. (New Code § 18-46)

Added language tracking Code of Virginia, § 58.1-3703.1(A)(3) (*situs of gross receipts*). (New Code § 18-48)

Added language tracking Code of Virginia, § 58.1-3703.1(A)(4) (*limitations and extensions*). (New Code § 18-49)

Added language tracking Code of Virginia, § 58.1-3703.1(A)(5) (*administrative appeals to commissioner of the revenue or other assessing official*). (New Code § 18-58)

Added language tracking Code of Virginia, § 58.1-3703.1(A)(6) (*administrative appeal to the tax commissioner*). (New Code § 18-59)

Added language tracking Code of Virginia, § 58.1-3703.1(A)(7) (*judicial review of determination of tax commissioner*). (New Code § 18-60)

Added language tracking Code of Virginia, § 58.1-3703.1(A)(8) (*rulings*). (New Code § 18-61)

Sec. 38-14. Licensee's records and reports generally. Conformed first sentence to Code of Virginia, § 58.1-3703.1(A)(9). (New Code § 18-50)

Sec. 38-16. Responsibility for obtaining license; assessment of tax upon failure to obtain license. Deleted as inconsistent with Code of Virginia, § 58.1-3703.1(A)(4), which provisions have been added.

Sec. 38-18. Computation of tax for beginners. Deleted as covered by various provisions recommended to be added herein from Code of Virginia, § 58.1-3703.1.

Article II. License Tax Schedule

Sec. 38-35. Contractors. Conformed the definition of contractor to Code of Virginia, § 58.1-3714. (New Code § 18-82)

CHAPTER 42. MOTOR VEHICLES AND TRAFFIC

Article I. In General

Sec. 42-5. Authority to remove vehicle involved in accident from street. Per Code of Virginia, § 46.2-1212, expanded to apply to “or other uniformed employee of the police

department who specifically is authorized to do so by the chief of police or his designee.” It is assumed that the town intentionally withheld authority "to have the vehicle removed to a storage area for safekeeping." Code of Virginia, § 46.2-1212 authorizes such authority to be granted. (New Code § 28-5)

Article III. License Tax on Unlicensed Motor Vehicles

Deleted. The tax which this article levied has been repealed (see Code § 42-43), thus making the remainder of the article obsolete.

Article IV. Stopping, Standing and Parking

Sec. 42-59. General prohibitions. Deleted subsections (2), (4) and (13) as covered by Code of Virginia, § 46.2-1239, adopted by reference in Code § 42-3. (New Code § 28-93)

Sec. 42-70. Parking in space reserved for handicapped persons. Deleted as covered by Code of Virginia, § 46.2-1242, adopted by reference in Code § 42-3.

Sec. 42-71. Procedure for parking violations. As certain provisions in this article are deleted as covered by statutes adopted by reference in Code § 42-2, made this section also apply to vehicles parked in violation of state law. (New Code § 28-99)

Sec. 42-74. Presumption in prosecution for parking violation. Deleted as covered by Code of Virginia, § 46.2-1220, adopted by reference in Code § 42-3.

Article V. Impoundment of Vehicles Constituting Traffic Hazard or Illegally Parked or Abandoned, Etc.

Sec. 42-85. Authorized. In subsection (a), conformed to appropriate part of Code of Virginia, § 46.2-1213(B) by adding after the word “officer” the words “or other uniformed employee of the police department who specifically is authorized to do so by the chief of police or his designee.” (New Code § 28-129)

Article VI. Bicycles

Sec. 42-101. Lamp and reflector. Deleted as covered by (and in conflict with), Code of Virginia, § 46.2-1015, adopted by reference in Code § 42-3.

Sec. 42-103. Brake. Deleted as covered by Code of Virginia, § 46.2-1066, adopted by reference in Code § 46-3.

Article VII. Inoperative Vehicles

Sec. 42-120. Restrictions on inoperative motor vehicles. Altered to be consistent with Code of Virginia, § 15.2-904 by restricting the prohibition to property zoned for residential or commercial or agricultural purposes. (New Code § 28-188)

Sec. 42-123. Costs; lien for same. Conformed subsection (a) to Code of Virginia, § 15.2-904(B)(iv) by deleting “and levies.” (New Code § 28-191)

CHAPTER 46. NUISANCES

Article II. Accumulations of Trash, Garbage, Debris, Etc.; Grass, Weeds and Other Foreign Growth

Per Code of Virginia, § 15.2-901, added an exemption for trash, garbage, refuse, litter, clutter, on land zoned for or in active farming operation. (New Code § 20-29)

Per Code of Virginia, § 15.2-901, added the word “clutter” after the word “litter” throughout this article. (New Code § 20-27 et seq.)

CHAPTER 50. OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

Sec. 50-3. [Curfew] required. Altered to avoid constitutional problems (see *Johnson v. City of Opelousas*, 658 F.2d 1065 (5th Cir. 1981)); *Nunex v. City of San Diego*, 114 F.3d 935 (9th Cir. 1997); *Qutb v. Strauss*, 11 F.3d 488 (5th Cir. 1993), *cert. den. sub. nom.* *Qutb v. Bartlett*, 511 U.S. 2134, 114 S. Ct. 2134, 128 L. Ed. 2d 864) (New Code § 22-3)

Sec. 50-4. Same—Frequenting poolrooms or billiard rooms. Deleted as obsolete.

Sec. 50-13. Calling ambulance or firefighting apparatus without cause; malicious activation of fire alarm in public building. Conformed to Code of Virginia, § 18.212. (New Code § 22-11)

Sec. 50-20. Dumping of trash prohibited. Conformed to Code of Virginia, § 33.2-802. (New Code § 22-18)

Article II. Weapons

Sec. 50-31. Carrying concealed weapon. As Code of Virginia, § 15.2-915 prohibits ordinances pertaining to purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute, conformed to portions of Code of Virginia, § 18.2-308 that do not deal with firearms and remove all references to firearms. (New Code § 22-40)

Sec. 50-32. Discharging firearm in street or other public place. Added the mandatory exemption found in Code of Virginia, § 15.2-1113. (New Code § 22-41)

Sec. 50-34. Discharge of high-powered rifle. Added the mandatory provisions found in Code of Virginia, § 15.2-1113. (New Code § 22-42)

Sec. 50-35. Sale, possession, etc., of certain weapons prohibited. Conformed to Code of Virginia, § 18.2-311. (New Code § 22-43)

Sec. 50-36. Pointing, holding or brandishing firearm or object similar in appearance. Deleted reference to firearms (but not the prohibition against objects similar in appearance to a firearm) as preempted by Code of Virginia, § 15.2-915, which statute prohibits ordinances pertaining to purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. (New Code § 22-44)

Article III. Gambling

Sec. 50-47. Definitions. Conformed to Code of Virginia, § 18.2-325. (New Code § 22-62)

Sec. 50-48. Illegal gambling generally. Conformed to Code of Virginia, § 18.2-326. (New Code § 22-63)

Sec. 50-53. Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise. Deleted as based upon repealed Code of Virginia, § 18.2-336.

Sec. 50-57. Same--Authorized bingo games and raffles. Conformed to Code of Virginia, § 18.2-334.2. (New Code § 22-71)

Sec. 50-58. Same—State lottery. Conformed to Code of Virginia, § 18.2-334.3. (New Code § 22-72)

Sec. 50-59. Same--Parimutuel wagering. Conformed to Code of Virginia, § 18.2-334.4. (New Code § 22-73)

Article IV. Obscenity

Sec. 50-73. Obscene items enumerated. Conformed to Code of Virginia, § 18.2-373. (New Code § 22-108)

Sec. 50-77. Indecent exposure. Conformed to Code of Virginia, § 18.2-387. (New Code § 22-112)

Article V. Sexual Offenses

Sec. 50-88. Adultery and fornication--Generally. Deleted as obsolete.

Sec. 50-90. Lewd and lascivious cohabitation. Deleted as based upon repealed Code of Virginia, § 18.2-345.

Sec. 50-91. Houses of assignation, bawdyhouses, etc. Conformed to Code of Virginia, § 18.2-

347. (New Code § 22-141)

Sec. 50-92. Soliciting for prostitution or immoral acts. Conformed to Code of Virginia, §18.2-346. (New Code § 22-142)

Sec. 50-93. Aiding prostitution or illicit sexual intercourse. Conformed to Code of Virginia, § 18.2-348. (New Code § 22-143)

Article V. Offenses Against the Peace

Sec. 50-104. Disturbing the peace generally. Altered to avoid constitutional problems by requiring that the language must be reasonably foreseeable to provoke an immediate breach of peace. (New Code § 50-104)

Sec. 50-107. Disorderly conduct in public places. Conformed to Code of Virginia, § 18.2-415, which action ungarbles this section. (New Code § 22-173)

Sec. 50-110. Consumption of alcoholic beverages in public. Conformed to Code of Virginia, § 4.1-308. (New Code § 22-176)

Sec. 50-111. Abusive language generally. Delete as covered by Code § 50-104.

Sec. 50-112. Use of profane, threatening or indecent language over telephone or CB radio. Conformed to Code of Virginia, § 18.2-427. (New Code § 22-177)

Sec. 50-114. Causing telephone to ring with intent to annoy. Conformed to Code of Virginia, § 18.2-429. (New Code § 22-179)

Sec. 50-115. Drinking alcoholic beverages, or tendering to another, in public place. Deleted reference to motor vehicle and covered by (and inconsistent with) Code of Virginia, § 18.2-323.1, which provision is added. (New Code § 11-180, 22-181)

Article VII. Offenses Against the Administration of Justice

Sec. 50-140. Obstructing justice by threats or force. Conformed to the misdemeanor portions of Code of Virginia, § 18.2-460. (New Code § 22-234)

Sec. 50-141. Removing, altering, etc., town records. Deleted as a felony under Code of Virginia, § 18.2-107.

Sec. 50-144. Resisting arrest. Conformed to the misdemeanor portions of Code of Virginia, § 18.2-460. (New Code § 22-234)

Sec. 50-147. False reports to police officers. Conformed to misdemeanor portions of Code of Virginia, § 18.2-461. (New Code § 22-239)

Sec. 50-148. Unauthorized wearing of police uniform, badge, etc. Conformed to Code of Virginia, § 18.2-175. (New Code § 22-240)

Article VIII. Offenses Against Property

Sec. 50-159. Petit larceny. Conformed to Code of Virginia, § 18.2-96. (New Code § 22-259)

Sec. 50-160. Shoplifting. Conformed subsection (a) to the petit larceny portion of Code of Virginia, § 18.2-103. (New Code § 22-260)

Sec. 50-161. Trespass generally. Conformed to Code of Virginia, § 18.2-119. (New Code § 22-261)

Sec. 50-164. Peeping or spying into dwelling. Conformed to Code of Virginia, § 18.2-130. (New Code § 22-265)

Sec. 50-165. Damaging, defacing, etc., property generally. Conformed to the misdemeanor portions of Code of Virginia, § 18.2-137, deleting subsection (b) of this Town Code section as it creates a potential affirmative defense. (New Code § 22-266)

Article IX. Offenses Involving Fraud

Sec. 50-180. Bad checks—Generally. Per Code of Virginia, § 18.2-181, changed \$200.00 to \$1,000.00. (New Code § 22-288)

Sec. 50-184. Defrauding hotels, motels, campgrounds, boardinghouse, etc. Conformed to Code of Virginia, § 18.2-188 (misdemeanor portions). (New Code § 22-292)

Sec. 50-185. Defrauding keeper of motor vehicles or watercraft. Conformed subsection (3) to Code of Virginia, § 18.2-189(3). (New Code § 22-293)

Article X. Offenses Regarding Animals

Sec. 50-193. Effective date. Delete as obsolete.

CHAPTER 58. SOLID WASTE

Article I. In General

Sec. 58-1. Definitions. Delete definition of town as covered by Code § 1-2. (New Code § 24-1)

Article II. Collection By Town

Sec. 58-37. Unacceptable wastes. Ungarble section by removing brackets from added language that is needed for clarity. (New Code § 24-56)

CHAPTER 62. STREETS AND SIDEWALKS

Sec. 62-3. Acceptance of public alleys. Deleted as not of a general and permanent nature. This section applied only to alleys in existence when this section was adopted. It is covered by provisions proposed to be added to Code chapter 1,

Sec. 62-6. Throwing or depositing hazardous material on street or sidewalk; removal of such material. Add the exemption found in the first sentence of the second paragraph of Code of Virginia, § 18.2-324. (New Code § 26-5)

CHAPTER 66. TAXATION

Article I. In General

Sec. 66-2. Tax on machinery and tools. Per Code of Virginia, § 58.1-3507(A—last sentence) exempted from this section idle machinery and tools as defined in Code of Virginia, § 58.1-3507(D). (New Code § 18-2)

Sec. 66-3. Implementation of changes to the Personal Property Tax Relief Act of 1998 (PPTRA). Deleted subsection (d) as obsolete. (New Code § 18-3)

Article II. Consumer Utility Taxes—Telephone Services

Deleted as obsolete. See Code of Virginia, § 58.1-645 et seq., 58.1-1730.

Article II-A. Consumer Utility Taxes—Electric Service

Sec. 66-26. Electric utility consumer tax. (New Code § 18-122)

1. In the introduction, deleted the effective date language as obsolete.
2. Delete subsection (3) as obsolete.

Article IV. Transient Occupancy Tax

Sec. 66-66. Date; effective. Deleted as obsolete.

Article V. Meal Tax

Sec. 66-81. Exemptions. Deleted this section and inserted a section incorporating the exemptions in Code of Virginia, § 58.1-3840 by reference. (New Code § 18-230)

Sec. 66-82. Application to tips and service charges. Deleted as covered by (and in conflict with) Code of Virginia, § 58.1-3840). The change for Code § 66-81, *supra* addresses the issues raised in this section.

Article VIII. Real Estate Tax Exemption for Certain Elderly or Handicapped Persons

Sec. 66-116. Definitions. (New Code § 18-297)

1. Remove the brackets from the introductory language.
2. In definition of exemption, altered to reference town taxes rather than county taxes.

Article VIII. Real Estate Tax Exemption for Rehabilitation

Sec. 66-134. Severability. Deleted as covered by Code ch. 1.

Sec. 66-135. Effective date. Deleted as obsolete.

Article IX. Short-Term Rental Tax

Sec. 66-140. Definitions. Delete all definitions covered by Code of Virginia, § 58.1-3510.4 and inserted language incorporating such definitions by reference (New Code § 18-347)

Sec. 66-142. Exemptions from daily rental tax. Revised to reference Code of Virginia, § 58.1-3510.7, deleting the exemptions. (New Code § 18-349)

Sec. 66-148. Penalty for failure or refusal to collect tax. Delete reference to repealed Code of Virginia, § 58.1-3510.1 (erroneously printed as 53.1-3510.1). (New Code § 18-355)

CHAPTER 70. WATER SUPPLY

Article I. In General

Sec. 70-7. Separability. Delete as covered by Code § 1-12.

CHAPTER 71. SEWERS AND SEWER USE

Article I. In General

Sec. 71-7. Separability. Delete as covered by Code § 1-12.

Article IX. Enforcement

Sec. 71-106. Penalties. Change class II misdemeanor to class 2 misdemeanor. See Code § 1-10. (New Code § 30-442)

Sec. 71-107. Falsifying information. Change class I misdemeanor to class 1 misdemeanor. See Code § 1-10. (New Code § 30-443)

CHAPTER 74. WETLANDS

Article II. Wetlands Zoning Ordinance

Division 1. Generally

Sec. 74-20. Definitions. Per Code of Virginia, § 28.2-1302(§ 2) changed governmental service to governmental activity. The term “governmental activity” (not governmental service) is used elsewhere in this chapter. (New Code § 12-77)

Sec. 74-21. Permitted uses of and activities on wetlands. Altered to be consistent with Code of Virginia, § 28.2-1302(§ 3). (New Code § 12-78)

Division 2. Permit to Use or Develop Wetlands

Sec. 74-31. Application generally. Conformed to Code of Virginia, § 28.2-1302(§ 4). (New Code § 12-100)

Sec. 74-32. Application and related data open for public inspection. Conformed to Code of Virginia, § 28.2-1302(§ 5). (New Code § 12-101)

Sec. 74-33. Hearing on application; grant or denial. Conformed to Code of Virginia, § 28.2-1302(§§ 6, 7, 10). (New Code § 12-102)

Sec. 74-35. Preservation and development. Conformed to Code of Virginia, § 28.2-1302(§ 9). (New Code § 12-104)

APPENDIX B. SUBDIVISIONS

Deleted. A renumbered and updated version of the subdivision ordinance appears as appendix A to the zoning ordinance.

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MEMORANDUM

October 4, 2022

TO: MR. MICHAEL STERLING
TOWN ATTORNEY
TOWN OF CAPE CHARLES, VIRGINIA

Re: *Cape Charles Recodification—Supplemental Legal Review*

This is a supplemental legal analysis of the Cape Charles Town Code, as supplemented through Supplement No. 24 and amended through Ord. No. 20210506, adopted May 6, 2021 (“Code”), in which the Code has been researched for in order to identify and eliminate conflicts, inconsistencies, and obsolete provisions in connection with the Code of Virginia, current through the end of 2022 Regular Session and including 2022 Sp. Sess. I, cc. 1 to 22.

Because a January 21, 2022, legal review embraced the Code of Virginia, current through the end of 2021 Regular Session and 2021 Special Session I and 2021 Special Session II, c. 1, conflicts with the Code of Virginia, as so amended have been excluded from this memorandum.

The legal analysis excludes the zoning ordinance. Parenthetical references to location of sections in the proofs submitted to the town are also provided.

CHAPTER 46. NUISANCES

Article II. Accumulations of Trash, Garbage, Debris, Etc.; Grass, Weeds and Other Foreign Growth

Sec. 46-16. Definitions. Per Code of Virginia, § 15-901, add the definition of clutter found in such statute (“Clutter” includes mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate.) (Proofs § 20-28)

CHAPTER 50. OFFENSES AND MISCELLANEOUS PROVISIONS

Article II. Weapons

Sec. 50-35. Sale, possession, etc., of certain weapons prohibited. Conform to Code of Virginia, § 18.2-311 by eliminating the reference to switchblade knife. (Proofs § 22-43)

Article III. Gambling

Sec. 50-47. Definitions. Conform to Code of Virginia, § 18.2-325. (Proofs § 22-62)

Article V. Sexual Offenses

Sec. 50-89. Same—By persons forbidden by law to marry. Add Code of Virginia, § 18.2-366(C). (Proofs § 22-140)

Article V. Offenses Against the Peace

Code of Virginia, § 18.2-323.1 was amended in 2022; therefore, conform Proofs § 22-181 to the amendment.

Article VIII. Offenses Against Property

Sec. 50-165. Damaging, defacing, etc., property generally. The typo in the state law reference following this section will be corrected. (Proofs § 22-269)

Sec. 50-168. Damaging, tampering with, etc., vehicles, boats, etc. As tampering with a catalytic converter or parts there is now a felony under Code of Virginia, § 18.2-146, the town may to add an exemption for same. Please advise. (Proofs § 22-269)

CHAPTER 66. TAXATION

Sec. 66-4. Payment of delinquent real estate taxes prior to issuance of any permits. The typo in the state law reference will be corrected. (Proofs § 18-4)

Cape Charles Town Code Update & Recodification Project

Page 4: Part I. CHARTER, last line of opening paragraph, link needs to be corrected to “<http://law.lis.virginia.gov/charters/cape-charles>.”

Page 16: § 2.-4 Absence of town manager.

Please change the language to read:

“During the absence, incapacity, death or resignation, of the town manager until his return to duty or until the appointment of his successor, if the Town has an ~~the~~ assistant town manager, the assistant town manager shall perform the duties of that office.”

Page 25: § 6-110. Creation of loud, disturbing, etc., noise by persons aboard boat.

It shall be unlawful and a class 4 misdemeanor for any person, while aboard any motorboat, vessel, barge or any other watercraft, whether under way, drifting, berthed or at anchor, to make or create any loud, disturbing or unreasonable noise of such character, intensity or duration as to be detrimental to the health or life of any person or to unreasonably disturb or annoy the quiet, comfort or repose of any person.

Page 30: § 8-36. Appeals.

Okay with the recommended changes, but have one additional change to the end of subparagraph (a): “...shall be appointed by the town council for a term of five years.”

Page 47: § 12-31. Penalties, injunctions, and other legal actions.

Sub-section (a) – notation re: adoption of a uniform schedule of civic penalties as permitted by Code of Virginia, § 62.1-44.15:54(G) should actually be “(K)”.

Page 70: § 18-7. Agents or canvassers for sale of books, magazines, etc.

Please change, in the second line, town “clerk” to “treasurer.”

Page 77: § 18-41. Application.

In subparagraph (a), please change the last word in the first sentence from “clerk” to “treasurer,” and the second word in the second sentence from “clerk” to “treasurer”

Page 81: § 18-50. Licensee’s records and reports generally.

Subsections (b) and (d):

In the second lines of each subsection, please change “clerk” to “treasurer”

Page 82: § 18-53. Transfer of license.

Subsection (c): Please change “clerk” to “treasurer” in the first line.

§ 18-55. Compliance with zoning regulations prerequisite to issuance; noncompliance as grounds for revocation.

Please change “clerk” to “treasurer” in the first line.

Page 104: § 18-201. Northampton County's transient occupancy tax.

Please change the language to read as follows:

"Northampton County also collects ~~two percent~~ a transient occupancy tax as established by the Northampton County Board of Supervisors. The report and payment of the county's ~~two percent~~ transient occupancy tax should be remitted directly to the county commissioner of revenue.

Page 109/110: *The sections on these two pages were updated by Council adoption of Ordinance 20220818 which is attached.*

§ 18-299. Eligibility for exemption.

Please update as follows:

- (1) The title to the property for which exemption is sought is held or partially held, on December 31, immediately preceding the taxable year by the person or persons seeking the exemption. If the ownership of the property for which application for exemption is made is not held solely by the applicant or jointly with the applicant's spouse, then the amount of the tax exemption hereunder, shall be in proportion to the applicant's ownership interest in the subject real property, as the ownership interest may appear.
- (2) The head of the household occupying the dwelling and owning title or partial title hereto is 65 years or older on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons seeking the exemption.
- (3) The total combined income of the owners during the year immediately preceding the taxable year shall be determined by the treasurer to be an amount not to exceed ~~\$25,000.00~~ \$50,000.00. Total combined income shall include from all sources of the owners, spouses, and of the owners' relatives living in the dwelling for which exemption is claimed; provided, however, that the first ~~\$3,000.00~~ \$6,000.00 of annual income of the owners' relatives living in the dwelling other than the spouses' shall be excluded in computing total combined income.
- (4) The net combined financial worth as of December 31 of the year immediately preceding the taxable year of the owners and of the spouse of any owner shall be determined by the treasurer to be an amount not to exceed ~~\$80,000.00~~ \$100,000.00. Net combined financial worth shall include the value of all assets, including equitable interest of the owners and the spouse of any owner, excluding the fair market value of the dwelling and the land, not to exceed one acre, upon which it is situated and for which exemption is claimed.

§ 18-300. Application for exemption.

Please update as follows:

- (a) Annually after January 1, and before April 15 of the taxable year, the person or persons claiming exemption shall file with the treasurer, on forms supplied by such treasurer, an affidavit setting forth the location and assessed value of the property, the names of all the related person(s) occupying such real estate; the total combined income of the person(s) as specified in section 66-118(3) above; and the net combined financial worth of the persons as specified in section 66-118(4) above. If such person is under 65 years of age, such form shall have attached thereto a confirmation by the social security administration, the veterans administration, or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in the commonwealth, to the effect that such person is permanently and totally disabled, as herein defined. The affidavit of at least one of such doctors shall be based upon a physical examination of such persons by said doctor.

(b) The affidavit of one of the doctors may be based upon medical information contained in the records of the civil services commission which is relevant to the standards for determining permanent and total disability as herein defined. The treasurer shall also make such further inquiry of persons seeking exemption requiring answers under oath, as may be reasonably necessary to determine qualification therefore, including qualifications as permanently and totally disabled. The treasurer is hereby authorized to require the reproduction of certified tax returns to establish the income or financial worth of any applicant for exemption from tax hereunder.

(c) If, after audit and investigation, the treasurer determines that the person or persons are qualified for exemption he or she shall so certify the same and shall determine the percentage of exemption allowable and issue non-negotiable exemption certificates in the amount of the exemption determined to be applicable to the claimant's real estate tax liability.

(d) Such exemption certificate shall apply only to the tax year for which issued. The person or persons to whom an exemption certificate has been issued shall, on or before the past due date established for payment of such real estate tax, present such exemption certificate to the treasurer or his or her duly authorized deputies or agents, together with payment of the difference between such exemption and the full amount of the tax payment then due on the property for which the exemption was issued. Any exemption certificate not presented in settlement of such taxes on or before the date specified for payment shall be null and void and unusable thereafter and the treasurer may not reissue a certificate for such tax year.

§ 18-301. Exemption schedule.

Please update as follows:

Where the person or persons seeking exemption conforms to the standards and does not exceed the limitation contained herein, the real estate tax exemption shall be as shown on the following schedule:

Total Combined Income from all Sources	Tax Exemption Net Worth <u>(not to exceed \$100,000)</u>
0-20,000	90%
20,001-30,000	80%
30,001-40,000	60%
40,001-50,000	40%

Provided, however, that the maximum annual exemption on any one property shall not exceed ~~\$300.00~~ \$600.00.

Page 111: § 18-329. Application procedure.

Sec. 18-329. Application procedure.

Please update as follows:

~~The procedure for the application and creation of exemptions under this article shall be as follows:~~

~~(+) Prior to the commencement of any construction, remodeling, reconstruction, rehabilitation or other like work on a qualified structure, the owner shall file with the town treasurer an application on a form approved by the town treasurer, and include evidence of all necessary town building and other permits, along with the appropriate assessment documentation from the Northampton County Commissioner of Revenue and the County's approval letter. This application shall be filed prior to January 1 of the year for which the exemption is claimed. A fee of \$25.00 as established by the town shall be paid to the town for processing the application.~~

~~(2) Upon the receipt of a completed application and satisfactory evidence that the applicant has obtained the necessary town building or other permits, the town treasurer or the designated agent shall visit, inspect, and photograph the qualified structure and make an assessment of the building's value prior to rehabilitation. Such inspection shall be at a reasonable time to be arranged with the applicant.~~

Page 125: § 20-3. Loud, disturbing, etc., noise.

Please update this section as follows:

(a) Administration and enforcement.

It shall be unlawful ~~and a class 4 misdemeanor~~ for any person to create any unreasonable loud, disturbing and unnecessary noise in the town or any noise of such character, intensity and duration as to be detrimental to the life or health of any person or ~~unreasonably to~~ disturb ~~or annoy~~ the quiet, comfort or repose of any reasonable person of ordinary sensibility.

Any of the following acts, or the causing or permitting thereof, is declared to be a civil violation without any requirement of scientific measurement of sound levels by a sound level meter or any similar device. This enumeration shall not be construed as exclusive:

- (1) The playing of any television set, radio, phonograph, device, or any musical instrument, or the creation of any vocal sounds, in such a manner or with such volume as to be heard above normal conversational levels (approximately 65 dBA) ~~annoy or disturb the quiet, comfort or repose of persons in~~ within any permanent dwelling, hotel, or other type of residence. Such volume levels shall not be noticeably discernable (approximately 45 dBA) within these structures between the hours of 10:00 p.m and 8:00 a.m.
- (2) The keeping of any animal which, by causing frequent or long-continued noise, disturbs the comfort and repose of any person in the vicinity to such an extent as to constitute a nuisance.
- (3) The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while the same is in session, or adjacent to any building used as a place of public worship, while being so used, or adjacent to any hospital, which unreasonably interferes with the workings of such school, institution, court, place of worship or hospital ~~or unduly annoys persons therein~~.
- (4) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (5) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show or sale or display of merchandise.
- (6) The use of vehicles, vessels, equipment, personnel, devices, or the movement of goods/materials associated with commercial activity that can be noticeably discernable (approximately 45 dBA) within any dwelling, hotel or other type of residence, between the hours of 9:00 p.m and 7:00 a.m.

(b) Procedure for Civil Violations.

- (1) If an authorized enforcement officer determines that a civil violation of this Section has occurred, the officer may cause a notice of the violation to be served on any or all persons committing, permitting, or assisting in such violation. The notice shall provide that the person charged with a violation may elect to make an appearance in person, or in writing by mail, to the treasurer of the town, and admit liability for or plead no contest to the violation, abate the violations, and pay the civil penalty established for the violation, all within the time period fixed in the notice.
- (2) If a person charged with a civil violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Northampton Circuit Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law.

(c) Violations and Penalties.

Any person who commits, permits, or assists in any violation of Section 20-3(a), whether by act or omission, shall be liable for a civil violation as follows:

- (1) The first violation by such person shall be punished by a civil penalty in the amount of \$250.
- (2) The second violation, and any subsequent violation, committed by such person within one year of any previous violation shall be punished by a civil penalty in the amount of \$500.
- (3) Each hour of a continued, repeated, or intermittent violation shall constitute a separate offense, under this Section.

In addition to and not in lieu of the penalties prescribed in this section, the town may apply to the Northampton Circuit Court for an injunction against the continuing, repeated, or intermittent violation of any of the provisions of this Section and may seek any other remedy or relief authorized by law.

(d) Exceptions.

The provisions of this Section shall not apply to:

- (1) Noise created by and as a result of events or activities sponsored by the Town.
- (2) Activities permitted by law for which a specific license or permit has been granted by the town, state, or federal government; including, but not limited to, noise generated by and necessary for the conduct of public festivals, parades, special events, and celebrations of recognized federal, state and local holidays.
- (3) Noise or sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.
- (4) Clocks, bells, and carillons between the hours of 7:00 a.m. and 10:00 p.m., provided such sounds do not occur for more than five (5) cumulative minutes in any one (1) hour.
- (5) Military activities of the Commonwealth of Virginia or of the United States of America.
- (6) Activities for which the regulation of noise has been preempted by state or federal law.

Page 138: § 22-42. Discharge of high-powered rifle.

Please update subsection (b) as follows:

(b) For the purposes of this section, the term "high-powered rifle" means any rifle of a caliber .22 or greater ~~than .22~~.

Page 161: § 22-321. Domestic animals in public places.

Please delete subparagraph (3) and adjust the number of the following subparagraphs accordingly.

~~(3) Be in the following public facilities at any time: town offices, public works and utilities facilities, Civic Center, library, tennis courts, children's playground.~~

Page 169: § 24-47. Collection charges.

Please update subparagraph (b) as follows:

(b) The occupant of any dwelling, mobile home, or any other structure or building, or, where such dwelling, mobile home, structure, or building is unoccupied may request removal of their collection

receptacle(s) and cancelation of service charges. If such service is reactivated within nine (9) months of cancelation, but available for occupancy, use or habitation, the owner shall be retroactively liable for the charges imposed by the town ~~council~~ for the collection of refuse and bulky refuse during that intervening time.

Page 174: § 26-6. Permit to use streets for charitable solicitations.

In subsection (a), the last line, please change “clerk” to “manager”

Page 178: § 28-7. Operation of vehicles on sidewalks, shared-use paths, etc.

Please add subparagraph (d), pursuant to Council adopted Ordinance 20220217 which is attached.

(d) Operation of roller skates, skateboards, personal delivery devices, bicycles, motorized skateboards or scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited in the following areas:

1. Sidewalks between Peach Street and Harbor Avenue on the north side of Mason Avenue.
2. Sidewalks between Peach Street and Pine Street on the south side of Mason Avenue.
3. Strawberry Street Plaza on the south side of Mason Avenue.

Violation of this section shall be subject to a civil penalty of \$50.00.

Page 185: § 28-161. Where operation permitted.

Please update as follows:

All bicycles shall be operated on the right-hand side of the street in single file only ~~and shall not be operated on the sidewalks or pedestrian paths, unless otherwise indicated or directed by the police department. Bicycles may be operated on the town community trail.~~

Page 181/182: § 28-92. General prohibitions.

At the beginning of intro paragraph, please add:

“In addition to items listed in Code of Virginia § 46.2-1239, no person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic control device, in any of the following places, whether signs prohibiting such parking, standing or stopping are erected or not:”

Page 183: § 28-96. Parking prohibited on portion of Fig Street.

Please capitalize the “F” and “S” for Fig Street in the section heading.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Cape Charles Community Trail, Phase 3		AGENDA DATE: July 20, 2023
	SUBJECT/PROPOSAL/REQUEST: Award contract for construction of Phase 3.		ITEM NUMBER: 8F
	ATTACHMENTS: None.		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Council adopted the Cape Charles Master Trail Plan on September 11, 2007. This multi-use trail is being constructed in phases as funding is available. Up to eighty percent of the cost is funded by Federal grants under the Transportation Alternatives Program (TAP), administered by the Virginia Department of Transportation (VDOT), and the remainder by the Town. We have been awarded about \$4.3M in grant funding. About \$1M was utilized for the Master Plan and for design, engineering, and construction of Phase 1 in Central Park, and about \$1.6M for Phase 2, North Peach Street and Washington Avenue. In April 2021, Council opted to return \$1.0M designated for Phase 4, Bay Avenue, in favor of funding higher priority items. About \$0.7M of grant funding remains available for Phase 3, South Peach Street.

DISCUSSION:

Phase 3 construction was previously bid in 2019. A contract was not awarded because the bids were high and the bidders did not submit the required Disadvantaged Business Enterprise utilization information. The project was redesigned to reduce costs, and after a lengthy period of review by VDOT was readvertised in May of this year. Only one bid was received on June 16 from Conrad Brothers of Virginia, Inc.

The bid of \$945,630, including the two bid alternates, substantially exceeds the engineer's estimate of \$653,494 **(+45%)**. It also greatly exceeds the amount Conrad Brothers bid in 2019 **(+74%)**. This is typical of the post-pandemic construction environment. At the bid opening, the contractor's representative said that recent bid openings in Virginia Beach and Norfolk have exceeded the estimate by 50% or more.

Breakdown of bid:

Base Bid	\$759,567
Alternate to Base Bid (light poles & fixtures)	\$ 80,867
Bid Alternate (park south entrance)	\$105,196

Base Bid – Even though the bid is higher than desired, award of the contract is possible if Council is willing to dedicate a reasonable amount of additional funding. Rebidding is unlikely to yield markedly different results, and we will almost certainly lose the Federal grant if the contract is not awarded. The grant was awarded in FY 2017. Breakdown of project costs and funding:

Base Bid - Conrad Brothers	\$759,567
5% Contingency	37,978
Utility Relocation – ANEC	10,000
Nutrient Credit Purchase - CBNLT	7,755
Inspection & Oversight - VDOT	173,154 (23%, yikes!)
Administration - Land Studio	<u>15,000</u>
Total	\$1,003,454
Federal TAP Grant	<u>-\$703,483</u>

Town Match Required	\$299,971
Budgeted	<u>-\$226,439</u>
Additional Funds Needed	\$ 73,532

Note that this should be the maximum amount needed. It is unlikely that all the 5% contingency will be required and VDOT expenditures for inspection and oversight could be less than estimated.

Alternate to Base Bid - The price for the light poles & fixtures (4 singles and 3 doubles) seems excessive. The Base Bid includes the conduit, wiring and concrete foundations. It is likely we could procure and install these for half that price. I have begun sourcing the material and installation costs. This could be deferred without any loss of functionality.

Bid Alternate - The price for improvements to the south entrance to Central Park, principally installation of a structural grid under the sod, also seems excessive and not worth the cost of improving the parking area. The recent removal of trees and broken concrete bollards by Citizens for Central Park should be sufficient.

While this bid came in higher than budgeted (not surprisingly), it should be noted that if we were to move forward with the base bid award, we would still be receiving \$2.35 of grant funding for every \$1.00 of town money spent. This is therefore still a worthwhile project.

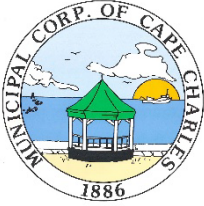
There is additional funding available to cover the current shortfall in the unappropriated fund balance of the CIP Fund. Accessing that money would require a minor budget amendment, which can be brought back for later consideration. For purposes of awarding this contract now, there are sufficient appropriated funds currently available to fund the shortfall between the existing capital projects contingency line item (\$50K) and the Library upgrade line item that was used as a place holder until that project's costs were better known. Note that the sale of the lots on Monroe Ave will also bring in \$50,000 more than was budgeted.

The bid package has been submitted to VDOT for review and approval, pending Council's decision to move forward with the contract award.

Award of the contract would be in alignment with objective c. under the Community Strategic Plan goal of maintaining our small-town character.

RECOMMENDATION:

If the above is considered acceptable and subject to VDOT approval, authorize the Town Manager, to award the base bid construction contract to Conrad Brothers of Virginia, Inc. in the amount of \$759,567.19, and any future contract change orders within the 5% contingency reserve.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Town Tourism Zone Recension		AGENDA DATE July 20, 2023
	SUBJECT/PROPOSAL/REQUEST: Approval of Ordinance 20230720 rescinding the Town Tourism Zone		ITEM NUMBER: 8G
	ATTACHMENTS: Ordinance 20230720D		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Back in 2016, Ordinance number 20161117 established the entire area of the town as a Tourism Zone for the purpose of attracting new tourism-related business and investment to town. To this end, the ordinance provides tax credits, in the form of tax and permit rebates, to certain tourism-related businesses that make new investments in town. The credits last for a five-year period following initial qualification. The ordinance requires an administrator to be appointed by the town manager.

ITEM SPECIFICS:

As a result of administrative burdens, since this program was created there has been a historical backlog of credits owed to businesses under the ordinance. With the exception of payments made this summer, payments were last issued in 2018.

About a dozen businesses have applied for the credit to date. Each business must meet certain criteria including compliance with the town code, timely payment of all town and county taxes and fees, and maintenance of a minimum number of employees. A business that fails to maintain all eligibility requirements is disqualified from the program and forfeits the economic stimulus credits in the current and all future years. Two businesses have been disqualified due to late tax payments; another was disqualified after ceasing to operate as a bed and breakfast to become a vacation rental.

The finance department is responsible for administering the credit. However, the finance department does not currently maintain all the records necessary to administer the credit. Some of the data can be compiled from existing files, pulled from financial management software, or requested from other departments. Other information must be collected from the Northampton County Treasurer's office. Still more information must be collected from the business owners themselves and cannot be independently verified. The ordinance further requires Council approval before credits are awarded.

While the initial intent of this program was well meaning, staff now questions its relevancy today. This is not the Cape Charles of 2016, and the meager amount of credit being offered under this program cannot be making any significant impact to ongoing investment in town. When also considering the amount of staff work required to administer this program, staff believes it is time for this program to be repealed (grandfathering in those businesses already in the program).

This potential repeal was discussed at the June 15, 2023 regular Town Council meeting, and staff was directed to bring back for consideration an ordinance that would repeal the code establishing the program.

RECOMMENDATION:

Staff recommends approval of Ordinance 20230720D, repealing the tourism zone program.

ORDINANCE 20230720D

REPEALING ORDINANCE 20161117 TOURISM ZONE ORDINANCE (ARTICLE XII, SECTIONS 18-414 THROUGH 18-420 OF CAPE CHARLES TOWN CODE ADOPTED JULY 20, 2023)

WHEREAS, Ordinance 20161117 – Tourism Zone Ordinance, as authorized by Code of Virginia § 58.1-3851, was adopted by the Cape Charles Town Council on November 17, 2016 to foster growth, maintenance and expansion of tourism-related businesses and investment to benefit the Town as a whole; and

WHEREAS, the Tourism Zone provided incentives, in the form of tax and permit fee rebates over a five-year period, to certain tourism-related businesses that meet criteria outlined in the ordinance; and

WHEREAS, since inception eleven businesses have applied for credits under this program; and

WHEREAS the Town does not currently maintain all the records necessary to administer the program; some information must be collected from the Northampton County Treasurer's office, and still other data must be collected from businesses themselves which cannot be independently verified; and

WHEREAS, while the justification for the economic impact of this program may have been appropriate in 2016, such justification is no longer applicable in 2023, and

WHEREAS, due to the relatively low number of businesses taking advantage of the program, the small amount of credit value issued over the years, and the significant staff time to administer the program; it appears that the program has lost its relevancy and does not significantly contribute to ongoing investment in the Town; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 20th day of July 2023, that Ordinance 20161117 be repealed, ending the Tourism Zone program; and

BE IT FURTHER ORDAINED that businesses currently participating in the Tourism Zone program be permitted to continue under said provisions until expiration of their original term or disqualification from the program.

Adopted by the Town Council of Cape Charles on July 20, 2023

By: _____

Mayor

ATTEST:

Town Clerk