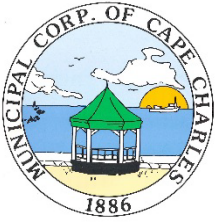


TOWN COUNCIL
Regular Meeting
June 16, 2022
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Recognition of Visitors / Presentations / Recognitions
 - A. Recognition of Employees Celebrating Significant Anniversaries
 - B. Best of Virginia Presentation – Cape Charles Beach
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of April 30, 2022 Financial Report](#)
6. Unfinished Business: None
7. New Business:
 - *A. [Adoption of Budget Management Policy](#)
 - *B. [Adoption of FY 2023 Budget](#)
 - *C. [Myrtle Landing Apartments Local Economic Development Authority Financing](#)
 - D. [Zoning Map Amendment Application – 238 Randolph Avenue](#)
 - *E. [Harbor Development Certificate Application – Gazebo at the Town Harbor](#)
 - *F. [Town Facilities Design and Engineering](#)
 - *G. [Code 42-3 – Adoption of State Law](#)
 - *H. [Purpose for Accessory Dwelling Units](#)
8. Town Manager Comments
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - June 20, 2022 – Town Offices Closed for Juneteenth (State Holiday)
 - July 4, 2022 – Parade, Street Fair, Fireworks
 - July 7, 2022 – Town Council Executive Session, 6:30 PM
 - July 12, 2022 – Joint Work Session with Planning Commission, 6:30 PM
 - July 21, 2022 – Town Council Regular Meeting, 6:30 PM
11. Adjournment



DRAFT
TOWN COUNCIL
Work Session
Cape Charles Civic Center
May 5, 2022
6:30 PM

At 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen O’Brien and Holloway. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock and Town Clerk Libby Hume. Interim Planner/Zoning Administrator Katie Nunez was in attendance for a portion of the meeting. There was one member of the public in attendance.

WORK SESSION ORDER OF BUSINESS:

FY 2023 Town Budget Review and Discussion:

Town Manager John Hozey stated that a series of work sessions were scheduled through the month of May and as long as needed to complete the budget review. The revenue was presented with the current real property tax rate and assessments, but for planning purposes a rebalanced rate plus 1% was used. This was the amount permitted by the state without having to hold an additional public hearing for a tax increase. The target date for the public hearing was June 9th. He went on to review the proposed FY 2023 budget items as follows:

A. *Potential Use of American Rescue Plan Act (ARPA) Funds:*

The Town received a total ARPA authorization of \$1,057,230. As of May 2022, the Town had already obligated \$121,380 for the repair of the inshore harbor breakwater, leaving \$935,850 available to additional allocation. Staff recommendation was to allocate i) \$584K for the design and engineering associated with the new municipal building and library projects for FY 2023. \$550K for the municipal building and \$34K for the library; and ii) \$42K for a new police vehicle in FY 2022. The Town had been purchasing a new police vehicle each year but skipped a year due to lack of funding, and with supply chain issues, were three cars behind. All three police vehicles were shown in the proposed FY 2023 budget to be purchased using USDA Rural Development grants/loans. The purchase of a vehicle this year was already approved, and the only change would be the revenue source if Council agreed. This would leave \$309,850 still to be allocated.

B. *Finalize the Capital Asset Management Program (CAMP) Schedule:*

General Fund: i) If the \$550K Municipal Building and \$34K Library projects were funded using ARPA funds, there was enough in the capital program to cover the expenses. Councilwoman Holloway stated that Cape Charles was a beach town and all the marketing and exposure focused on the beach. The beach restroom was in poor condition, and she asked that the renovation project be moved from FY 2024 to FY 2023 if possible. Councilman Follmer agreed that both restroom projects needed to be included in the FY 2023 CAMP.

Harbor Fund: i) \$105K of projects were included for FY 2023 but was probably not enough to repair and maintain everything unless ARPA funds were used; ii) There was some discussion regarding the Virginia Port Authority Aid to Localities grants, but the Town missed the application submittal deadline for FY 2023 funding. We would apply for funding for FY 2024. There was some further discussion regarding this grant and the process; iii) The projects shown in the CAMP for the Harbor were from the top priorities in the engineering analysis completed by Langley & McDonald.

Utilities Fund: i) The water plant projects were broken out into two projects – the connection of the Keck wells at \$25K and the expansion/refurbishment of the plant at \$35K. These system expansion projects could be funded from the facility fees; ii) The annual sewer pod replacement at \$14,500 was included. Our goal was to replace one sewer pod each year. The cost for this project had to be rolled into the rates; iii)

There was some discussion regarding the timing to connect the wells. We expected to receive the capacity study report within the next three to four weeks. We had an issue with our permit capacity and allocation. If the wells could be brought online, we could increase our permit capacity. Two studies were currently being performed. The Town was doing the capacity study and Bay Creek was doing the flow model study. The initial results from the flow model study were received last week and looked promising. Our consultant would review the study information to validate the results; iv) There was much discussion regarding new construction and the estimated number of houses being added to the system; v) The sewer line extension to the Keck properties was not included in the CAMP, but he was working with a potential developer regarding how the lines could be extended to those properties.

C. *Detail Review of Proposed FY 2023 Budget:*

General Fund Revenue: i) The projected revenue was based on the current tax rates and assessments. If the real property tax rate was reduced to an equalized rate plus the 1% allowable increase, the property real property revenue would decrease by about \$644,555; ii) Personal property was also reassessed so John Hozey recommended rebalancing that rate as well. He would like to see this tax eliminated eventually but recommended a reduction to the rate at a minimum to equal last year's revenue. Council could make the decision regarding the personal property tax (PPT) rate after completing the review of all materials. Councilman Follmer stated that he had polled citizens about the PPT, and most were opposed to any reduction citing that renters did not pay real property tax; iii) Councilwoman Holloway noted that transient occupancy tax (TOT) revenue would be levelling off in the future. John Hozey agreed that at some point, we would reach saturation in tourism. There was some discussion regarding the additional flat fee for short term rentals. Councilwoman Holloway suggested that the language related to the additional fee be changed to show short-term rental houses at \$4 per night and Bed & Breakfasts (B&B) at \$1 per night per room, since a four-room B&B paid \$4 per night. Councilwoman Holloway added that she had not received any questions or comments from her guests related to this added fee; iv) Rental Inspections: The Code Official currently performed annual inspections of accessory dwelling units (ADUs). If the new proposal being reviewed by the Planning Commission for ADUs was approved, this revenue would decrease. If a similar process was approved for short-term rentals, this revenue would be further impacted; v) There was some discussion regarding the projected revenue from Building Permits. The Code Official preferred to remain conservative in the projections since the economy could change at any time; vi) \$80K was proposed to be carried over from FY 2022 to FY 2023 from unused training, consulting and contingency items; vii) The projected funding from the USDA RD grant would be reduced if ARPA funds were used to purchase one police vehicle in this fiscal year; viii) The proposed Building and Zoning Fee changes were reviewed with no additional changes.

General Fund Expenditures: John Hozey stated that a 3% COLA has been factored into all salaries. He was working on an ongoing program to get salaries in line. He had proposed several additional salary adjustments which were presented to Council. Council expressed their agreement with the proposed adjustments. Council also agreed that the town manager should also receive the 3% COLA.

Legislative: Staff proposed an increase to the Mayor and Council stipends since the current amount had not increased since the 1970s. There was a general consensus of Council to omit the proposed stipend increases.

Town Manager: i) The former Recreation budget was moved into the Town Manager budget; ii) The number of concerts in Central Park was increased to 12, so \$2K was added to the budget, \$1K per concert; iii) Lines 100-4121-3410 and 3420 were combined into one line for Professional Services; iv) Last year, the Town cut back on all community support funding. This year, some items were added back in at the amounts traditionally funded. There was some discussion regarding the items and recommended funding. Councilman Follmer stated his preference for the \$10K allocated for new air packs for the Cape Charles Volunteer Fire Company to be funded by ARPA funds. The \$5K proposed allocation for the Cape Charles Museum was cut; v) There was much discussion regarding fireworks and its funding sources. Councilwoman Holloway stated that she was on the County's Tourism Grant Committee and would bring up the possibility of obtaining some funding from the county. Mayor Dize stated his preference to add fireworks on New Year's Eve. The majority of Council were not in favor of

having fireworks on New Year's Eve; vi) Support for Cape Charles Main Street was increased by \$10K to \$90K for an additional staff member to manage marketing; vii) Mayor Dize noted that two requests had been received from the Eastern Shore Library Heritage Center and the Eastern Shore Coalition Against Domestic Violence for ARPA funding. There was much discussion regarding these requests along with the other funding requests received as well as amounts previously funded. The general consensus was not to fund these two requests as they were also asking the county for funding; viii) Funding was increased for Program & Event Supplies and Event Departmental Equipment to expand the Halloween event possibly to an all-day festival. There were also plans to expand the Dropping of the Crab Pot. Tents, which could be used for multiple events, would be purchased. A dedicated storage container would be purchased for event equipment and supplies.

Police Department: The Vehicles & Equipment line included the costs for three vehicles. One would be removed as previously discussed.

Public Works: i) A new Public Works Foreman position was created when Ralph Bowen was moved from the Utility Department; ii) Grounds Maintenance was increased 8.3% for an increased scope of work and fuel charges. The Town would be taking over maintenance of Mason Avenue, Pine and Peach Streets; iii) The IT Services line included the new work order software; iv) Mosquito spraying would be done once a month beginning in June through October. September would be skipped due to the monarch butterfly migration; v) This year, the Town would receive sand from the Kings Creek dredging project, possibly in September or October.

Planning: The Management Consulting line included consulting services for the comprehensive plan, future land use map/zoning, harbor area, etc.

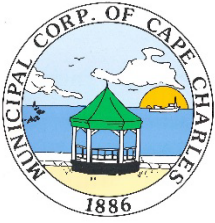
John Hozey stated that the next budget work session was scheduled for May 12th and would begin with the General Fund Capital Projects.

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

The meeting adjourned at 8:27 p.m.

Mayor Dize

Town Clerk



DRAFT
TOWN COUNCIL
Work Session
Cape Charles Civic Center
May 12, 2022
6:30 PM

At 6:36 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwoman Holloway. Councilwoman O’Brien was out of town. Vice Mayor Bennett arrived at 6:44 p.m. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock and Town Clerk Libby Hume. There were two members of the public in attendance.

WORK SESSION ORDER OF BUSINESS:

FY 2023 Town Budget Review and Discussion:

Town Manager John Hozey distributed a packet reflecting changes made at the May 5th meeting.

A. Review as Necessary:

Capital Asset Management Program (CAMP) Schedule: The South Beach Restroom Renovation was moved from FY 2024 to FY 2023.

General Fund Revenue: i) The carryover line item was increased, adding reappropriations for management consulting and engineering from the FY 2022 town manager budget; ii) The third police vehicle was removed from the USDA RD grant and loan proceeds lines.

General Fund Expenditures: Very little changed. Adjustments were made to several staff salaries, the legislative salary increase was omitted, the community support grant to the Cape Charles Museum was removed, and the \$10K to the Cape Charles Volunteer Fire Company was removed since we would be using ARPA funds for the new air packs. The General Fund Revenue less expenditures increased from \$881,500 to \$920,983. This number still had revenue using the current real property and personal property tax rates and assessments.

General Fund Capital: The beach restroom renovation was moved to FY 2023 at an estimated cost of \$40K.

Utilities Fund: Staff allocations were adjusted based on salary changes which increased the deficit slightly.

Harbor Fund: Staff allocations were adjusted based on salary changes. The difference was balanced by reducing the maintenance line by the same amount as the staff allocations line.

B. Detail Review of Proposed Budget (continued from May 5th Work Session):

General Fund Capital Projects: The Beach Restroom Renovation was moved to FY 2023 as discussed last week.

General Fund Debt Service: The debt service ratio for the General Fund was approximately 6.8% of core revenue if the tax rates were equalized. If we stayed within the 8% of revenue cap previously set for General Fund debt service, we could potentially take on an additional \$1M of new debt. In comparison, the debt service ratio for the Utilities Fund was approximately 25% of revenue.

General Special Activities Fund: The costs for one police vehicle and the air packs for the Cape Charles Volunteer Fire Company were removed as previously discussed.

Utilities Fund Revenue: i) There was much discussion regarding the projected revenue from connections fees. John Hozey would talk to the code official to see if the numbers could possibly be increased; ii) John

Hozey stated that this discussion was important since there was a deficit in the Utilities Fund budget and rates would need to be increased. Council needed to be comfortable of where things were.

Utilities Fund Expenditures: i) Councilman Grossman expressed his concern regarding the Contingency Fund with \$100K allocated when historically the Town had not used as much as budgeted. He suggested reducing the amount in the Contingency Fund to eliminate the need for a rate increase. There was much discussion about having funds in reserve if emergency repairs were needed. John Hozey noted that there was no money in the CAMP for any utility-related capital projects. If anything broke and needed repair or replacement, there would be no money available without the Contingency Fund. Any unused Contingency funding would be reallocated for the following year. John Hozey explained that there was a total of approximately \$600K in the fund balance, but after deducting the reserved funds for future plant expansion, approximately \$52K remained as undesignated. Rather than reduce the amount in the Contingency Fund line, John Hozey recommended reducing the undesignated amount in the fund balance to offset the rate increase; ii) There was some discussion regarding debt service in the Water Plant budget. \$5,004 was the debt service for the new truck that was purchased last year. The projects representing the remaining debt service could not be specified. John Hozey would look into the issue to determine the project(s); iii) The bottom line for the Utilities Fund currently has a deficit of 52,262.01. John Hozey recommended using the available \$52K from the fund balance to offset this deficit. Vice Mayor Bennett recommended reducing the Contingency Fund by \$262.01 to balance the budget so no rate increase would be needed.

Harbor Fund: i) John Hozey stated that the Harbor Fund budget was balanced at the expense of maintenance which was not sustainable; ii) The Mayor and Council questioned the lack of wharfage fees being collected this fiscal year. Treasurer Deborah Pocock would check the numbers; iii) There was some discussion regarding the future of the harbor management agreement; iv) There was much discussion regarding repair and maintenance at the harbor. There were a number of areas identified in the recent report from Langley & McDonald. They could not all be covered by harbor revenues. The harbor rates were increased considerably last year, so should not be raised again this year. It was possible to take on more debt service to spread out the cost, but it would have to be subsidized by the General Fund. A number of grants were identified. There would be further discussion regarding the harbor in the fall.

Sanitation Fund: The Sanitation Fund revenue showed the necessary rate of \$18.28 per receptacle to balance the sanitation budget. The Town was currently subsidizing the rate for FY 2022 by \$1.65 per receptacle. There was some discussion about continuing to subsidize the rates from the fund balance, but no consensus was reached.

Community Support Funding Requests: Council reviewed the funding applications received from various organizations, but no additional changes regarding funding were suggested.

C. *Town Manager Budget Authority Policy:*

Council reviewed the draft Budget Management Policy. John Hozey stated that the auditors reviewed the policy and recommended adoption of the policy as part of the budget resolution. Since this would be an ongoing policy, his suggestion was to adopt it separately by resolution, which could be done at the June 16, 2022 regular meeting. Council was in agreement. There were no changes to the draft policy that was presented.

D. *Strategic Revenue Planning:*

John Hozey reviewed the Strategic Revenue Program adding that before rebalancing the real property tax rate, a strategic revenue projection needed to be in place so that rebalancing could still achieve long-term goals. There was discussion regarding the following: i) John Hozey recommended using a long-term projected inflation rate of 2.5%. There was a consensus to use 2.5% for planning purposes; ii) The highest percentage of revenue came from real property, meals and transient occupancy taxes. Council asked Deborah Pocock to compile the amounts from meals tax and TOT going back to 2018 and 2019. There was much discussion regarding meals tax and TOT and projected increases in revenue in future years; iii) Each

penny of real property tax equated to about \$70K in revenue. The Potential Debt Service Needs was also reviewed.

E. Fund Balance Reserve Status:

John Hozey reviewed the Fund Balance Reserve Status. The fund balance reserves did well with a General Fund Balance of about \$2.1M as of June 2021. The Harbor Fund was not solvent and was subsidized by the General Fund. Subtracting the amounts of the required reserves from the \$2.1M still left about \$754K. The audited unrestricted Utility Fund Balance was \$668K. Subtracting core operating expenses and required reserves left a balance of about \$52K. Council discussed this item earlier and opted to use the \$52K to offset the utility rate increase.

F. Projected Revenue and Rebalancing:

There was discussion regarding the Virginia Port Authority Aid to Localities grant for harbor projects, and other possible grants that could assist in funding future projects. John Hozey commented that it took staff time to apply for and manage the grants. He added that USDA Rural Development had a 2.5% loan to finance 100% of the new municipal building for a 40-year term. This was a good option.

There was discussion as follows: i) Councilman Follmer stated that we could responsibly equalize the real property tax rate as discussed at 1% plus new construction and added that the reserve should be held for unexpected expenses; ii) Councilwoman Holloway stated that the Town was growing, and our needs and priorities were growing. Staffing support needed to be provided; iii) There was much discussion regarding the need to reorganize, add staff, improve the pay scale, etc. iv) John Hozey stated his preference was to treat the reserves as a savings account and not using it unless really necessary; v) If the real property tax rate was rebalanced to equalized plus 1% and new construction, the General Fund revenue would be reduced by \$644,555. John Hozey also recommended reducing the personal property tax (PPT) rate by 50%. It would be nice to provide additional tax relief to residents by lowering the PPT. There was a general consensus to reduce the PPT to \$1.00; vi) There was much discussion about staff compensation and the current economic situation; vii) There was a consensus to appropriate any additional revenue to the fund balance.

John Hozey informed Council that a new quote was received regarding the Town Code update to include the 2022 Virginia legislative session changes. The cost was \$3K for this service. In the past, we relied on the Virginia Municipal League and our attorney to bring legislative changes to our attention. With the cost being about \$3K, it might be a good policy to have Municode provide this service every two or three years to ensure that our Town Code was up to date on state legislation.

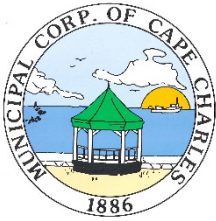
John Hozey stated that staff had all the necessary information to move forward with the public hearing for the FY 2023 proposed budget. Another work session was scheduled for May 26. Even though the budget work was completed, he would like to have the work session to discuss the potential utility sale and review information provided by Councilman Grossman.

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

The meeting adjourned at 8:53 p.m.

Mayor Dize

Town Clerk



DRAFT
TOWN COUNCIL
Public Hearing & Regular Meeting
Cape Charles Civic Center
May 19, 2022
6:30 PM

At approximately 6:30 p.m. Vice Mayor Steve Bennett, having established a quorum, called to order the Public Hearing & Regular Meeting of the Cape Charles Town Council. In addition to Vice Mayor Bennett, in attendance were Councilmen Buchholz and Grossman, and Councilwomen Holloway and O'Brien. Councilman Follmer arrived at 6:33 p.m. Mayor Dize was not in attendance. Also, in attendance were Town Manager John Hozey, Interim Planner/Zoning Administrator Katie Nunez, Police Chief Jim Pruitt, Assistant to the Town Manager Julie Pruitt, and Town Clerk Libby Hume. There were two members of the public physically in attendance, and 16 viewers on Facebook.

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

PUBLIC HEARING:

Mayor Dize opened the public hearing for comments relating to a proposed lease of a portion of the Harbor boardwalk to the west of and contiguous to the portion of tax parcel #83A3-OA-010 currently leased to The Hungry Crab, LLC for the purpose of expanding restaurant operations.

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

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to close the public hearing. The motion was approved by unanimous vote.

The public hearing portion of the meeting closed at 6:32 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no presentations or visitors to be recognized.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Laura Weigand, resident and business owner

Ms. Weigand addressed Council stating that she received a notice from a business on Mason Avenue of an outside event with live music beginning May 20 from 6:30 – 8:30 p.m. and asking that people refrain from parking in the first two parking spots on the south end of Strawberry Street, near Mason Avenue, in the afternoon. Ms. Weigand asked if Strawberry Street could be closed to through traffic between Randolph and Mason Avenues for safety purposes. In the past during events in the area, cars would go through creating an accident hazard.

Town Clerk Libby Hume read comments submitted in writing from Mr. Sam Jones. (Please see attached.)

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

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. April 21, 2022 Town Council Regular Meeting
 - ii. May 3, 2022 Planning Commission & Town Council Joint Public Hearing
- C. Approval of March 31, 2022 Financial Report

Motion made by Councilwoman Holloway, seconded by Councilman Grossman, 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. *Zoning Text Amendments - §§ 4.2(J) Accessory Dwelling Units and 2.9 Definitions:*

Interim Planner/Zoning Administrator Katie Nunez stated that the Planning Commission had been working on the proposed text amendments for accessory dwelling units (ADUs) since January 2022. A joint public hearing with the Planning Commission and Town Council was held on May 2, 2022 with one written comment received stating that it should be permissible for intermittent use as overflow space for family members and guests of the property owner. The proposed text amendments included i) Removal of the conditional use permit (CUP) requirement, which was a costly and lengthy process typically taking about four to five months to complete, and adding it as a component for a zoning permit application; ii) A Statement of Intent was added at the beginning of this section to help provide the proper context as to the discussions regarding the addition of ADUs to the zoning ordinance and to emphasize very specific conditions and criteria which were identified through the Comprehensive Plan to help bring additional housing units for long-term rental use; iii) Expansion and clarification of the physical characteristics of a kitchen area, bathroom, and sleeping area and bedroom; iv) Change to the length of stay from 30 to 60 consecutive days to help strengthen the Statement of Intent relating to longer-term rentals, such as work force housing, etc.; v) Addition of new criteria relating to separate trash receptacles, annual safety inspection checklist and zoning compliance affidavits.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt the zoning text amendments to Sections 4.2(J) and 2.9 as recommended by the Planning Commission.

There was much discussion as follows: i) Councilman Follmer expressed his agreement with removing the conditional use permit requirement for ADUs and prohibiting the use as a short-term rental; however, he felt that it was government overreach to prohibit the property owners from using their ADUs for overflow housing for visiting family and friends. He also stated that definitions needed to be standardized, adding that the definition of a kitchen as “a space within a structure designated for the preparation of food that includes a sink” was laughable and most bathrooms and laundry rooms would qualify as a kitchen under this definition; ii) Councilwoman Holloway expressed her agreement with Councilman Follmer, adding that tax-paying property owners should have a by-right use to permit their family and friends to stay in the ADU; iii) Councilman Grossman explained that the intended purpose of an ADU was to provide housing infill, not to be an extension of the main house; iv) Councilman Buchholz stated that the intent was for long-term if the property was being rented and he was okay with a minimum 60-day requirement, but family stays should not be restricted.

After some further discussion, Vice Mayor Bennett called for a vote.

The vote was 5-1 against; motion failed. Roll call vote: Bennett, no; Buchholz, no; Follmer, no; Grossman, yes; Holloway; no, O'Brien, no.

Vice Mayor Bennett acknowledged the amount of work done by the Planning Commission and asked for direction from Council regarding changes: i) The 60-day minimum stay did not pertain to family and non-renting guests; ii) Definition of kitchen needed further review. There was some discussion relating to parking. Vice Mayor Bennett recommended that if there were any other concerns, the Council member needed to attend the next Planning Commission meeting to make their concerns known.

B. *Conditional Use Permit After the Fact – 420 Randolph Avenue for Accessory Dwelling Unit:*

Katie Nunez stated that the applicant was seeking to obtain an after-the-fact permit for a 548 square foot ADU which was constructed in 2018/2019. Based upon a complaint to the Planning & Zoning Department, staff investigated and determined that the accessory structure met the definition of ADU and that it was being rented on a weekly basis in conjunction with the main house on the property. A corrective action plan was developed to have the owners apply for a CUP to bring the property into compliance with the elements of the Zoning Ordinance. The accessory structure was constructed during the transition time when the Town was crafting and adoption the ADU ordinance. The applicant responded swiftly in cooperation with staff to correct this violation. Ms. Nunez added that there was no parking available on this lot, but this structure was permitted to be built on this lot by the Town so the parking requirement, after the fact, was not being imposed. The focus was to get the use approved. A joint public hearing with the Planning Commission and Town Council was held on May 2, 2022 and no public comments were received.

Motion made by Councilman Grossman, seconded by Councilwoman O'Brien, to approve the Conditional Use Permit for an Accessory Dwelling Unit After-the-Fact at 420 Randolph Avenue on an application filed by Cynthia Emrich and Charles van Dyck pursuant to Zoning Ordinance Section 4.2(J).

There was discussion as follows: i) Councilman Follmer spoke in support of the application adding his concern that the property owners had to go through this process after having received approval from the Town and Town Manager to build the structure. This process went well with the applicants cooperating with Ms. Nunez but he preferred not having any future cases similar to this having to come to Council; ii) Katie Nunez responded to Councilman Follmer's comments adding that at the time, the town manager stated in the staff report to the Historic District Review Board that the accessory structure would not be an ADU, since ADUs were not permitted at that time.

The motion was approved by unanimous vote.

C. *Update re: Conditional Rezoning Request from Cape Charles Ventures, LLC – 238 Randolph Avenue:*

Katie Nunez began by informing Council that this item was provided for informational purposes only, then proceeded as follows: i) A joint public hearing with the Planning Commission and Town Council was held on May 2, 2022, with 12 comments received – 6 in support of the application and 6 opposed; ii) The Planning Commission voted to table the decision regarding the application and directed staff to explore whether there was a way to retain the property as Residential-1 zoning while providing a narrow allowance for trash and propane service to continue, possibly as a legal, non-conforming use. This item would be on the June 7, 2022 Planning Commission meeting agenda for further review. If the Planning Commission were to reach a decision, their recommendation would be provided to Council at the next available meeting for consideration and possible action.

D. *Proposed Lease of a Portion of the Harbor Boardwalk to The Hungry Crab, LLC:*

Town Manager John Hozey stated that this item was the subject of tonight's public hearing, with no public comment was received. The Shanty would like to continue to use the area provided to them during the COVID pandemic but through a formal lease. This area of the boardwalk was included in the initial part of the network of trails but there were no plans to expand the trail to that area at this time. The lease was drafted with the flexibility to cancel when the time comes. The current best use of the area for the public and the Town would be to move forward with the short-term lease.

Motion made by Councilman Grossman, seconded by Councilman Follmer, to adopt Ordinance 20220519A Granting Lease of Town Property to The Hungry Crab, LLC as presented.

Jon Dempster, the owner of The Shanty, was permitted to speak as follows: i) He stated that the lease was for the best interest of the Town, and he felt the rental amount was reasonable; ii) This additional space represented additional revenue for the restaurant and the Town; iii) He understood that he would eventually lose this land and asked that he be notified in advance of lease cancellation so plans could be made; iv) He had not considered using this land until the COVID pandemic and the need for social distancing and outside dining. He thanked the Town for allowing use of the land adding that people were enjoying this additional seating option; v) He stated that a gated perimeter would be added to comply with ABC requirements and proper signage would be installed.

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

E. *Adoption of 2021 Eastern Shore of Virginia Hazard Mitigation Plan:*

John Hozey stated that certain funding opportunities through FEMA required localities to write and adopt a Hazard Mitigation Plan. In 2017, the Eastern Shore Hazard Mitigation Plan was written by localities on the Eastern Shore and the Accomack-Northampton Planning District Commission. The plan was required to be updated every five years to maintain FEMA approved status. The Eastern Shore Hazard Mitigation Committee updated the plan which was accepted by FEMA. All localities must approve the plan prior to July 1, 2022.

Motion made by Councilman Grossman, seconded by Councilman Follmer, to adopt Resolution 20220519 adopting the Eastern Shore Hazard Mitigation Plan as submitted. The motion was approved by unanimous vote. Roll call vote: Bennett, yes, Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

F. *ARPA Funding for New Police Car:*

John Hozey stated that the Town would receive American Rescue Plan Act (ARPA) funding of \$1,057,230 and the Town elected to use the funds for revenue replacement enabling the use of funds for a wide variety of purposes. One of the uses was to support first responders and emergency services. The Town typically purchased one replacement police department vehicle each year under the USDA Rural Development grant/loan program. For FY 2022, there was insufficient grant funding available to purchase the budgeted police vehicle prior to June. The next grant pool would begin in January 2023 for purchase in spring of 2023. This delay created difficulty in keeping operable police vehicles in service. Staff requested Council approval to obligate \$42K of the appropriated ARPA grant funding for the immediate purchase and outfitting of a replacement police vehicle per the FY 2022 budget in lieu of waiting for next round of the USDA Rural Development grant/loan.

Motion made by Councilman Follmer, seconded by Councilman Grossman, to use \$42K of ARPA grant funding for the immediate purchase and outfitting of a replacement police vehicle. The motion was approved by unanimous vote.

G. *Cape Charles Public Hearing Procedures:*

John Hozey stated that Mayor Dize requested the development of procedures/guidelines to standardize public hearings for Town Council and all Town boards and commissions. John Hozey proceeded to review his recommended procedures adding that if approved, the procedures would be published as an addendum to the Town of Cape Charles Code of Ethics and Meeting Rules of Order. (Please see attached.)

Motion made by Councilman Grossman, seconded by Councilman Follmer, to adopt the public hearing procedures as presented.

There was some discussion regarding the procedures. Councilman Follmer stated that the public hearing would be the only opportunity for members of the public to speak on the particular issue

and suggested adding language where an individual who may have arrived late or was unaware of the sign-up requirement would also be given the opportunity to speak if so desired. John Hozey agreed that not everyone knew that they had to sign up to speak, adding that he would include a statement for the presiding officer to ask the public if everyone wanting to speak had signed the roster offering one last opportunity for anyone in attendance to sign up.

Councilman Follmer amended the motion to add the presiding officer's statement confirming that everyone wanting to speak had signed the roster. Councilman Grossman seconded. The amended motion was approved by unanimous vote.

The original motion to adopt the public hearing procedures was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) The comprehensive plan working group met with the consultant to get the project moving forward. At the last joint work session with the consultant, Planning Commission and Town Council set a timeline. It was decided not to engage the public during the tourist season, but we were at the point where another joint work session was necessary to review the draft plan and seek input from the Council and Planning Commission. The clerk would be contacting everyone to schedule the joint work session in mid-June or July; ii) He thanked everyone for their time spent participating in the budget process. He hoped to put together a summary for the public prior to the public hearing.

VICE MAYOR AND COUNCIL COMMENTS

Councilmen Buchholz did not have any additional comments.

Councilwoman Holloway commented as follows: i) Cape Charles Main Street submitted eight Northampton County Infrastructure grant applications. Although she could not announce anything to the public at this time, everyone would be very excited about the money received; ii) The Eastern Shore of Virginia Tourism Commission would be paying for additional porta potty units for five months. It was great to have their support; iii) Next Tuesday (May 24), the Board of Supervisors would be meeting regarding assessments, and she encouraged everyone to attend. Everyone should either submit their comments in writing in advance or attend the meeting to voice their concerns. Councilman Grossman stated that the Board of Supervisors would hold one public hearing for the equalized rate plus 1% and a separate public hearing would be held for the increased rate, and suggested that the Town submit a letter to the county for the records. John Hozey responded that he had spoken to Mayor Dize and would work with him to get an official letter to the County.

Councilwoman O'Brien asked who needed to be contacted about issues with streetlights. John Hozey stated that the Town received complaints about streetlights all the time, but they were installed and maintained by ANEC. Unfortunately, citizens could not contact ANEC directly. The public works manager was the liaison. Councilwoman O'Brien added that she had a streetlight outside her house and had blackout curtains. Her entire house was illuminated when she opened her curtains. Councilwoman Holloway suggested that anyone with streetlight issues submit a Report a Concern so it could be directed to the public works manager to contact ANEC.

Councilman Grossman commented as follows: i) He thanked Code Official Jeb Brady for his work on the Hazard Mitigation Plan; ii) There was an article in the Eastern Shore Post regarding affordable housing in areas in Accomack and Northampton Counties. More information would be coming; iii) A work session was scheduled for May 26 regarding utilities. He had been culling information from State Corporation Commission (SCC) filings and sent his material to John Hozey earlier this afternoon to provide to Council. John Hozey added that the consultant would also be in attendance at the work session.

Councilman Follmer commented that since last month's meeting, he had only received positive feedback on the Town's staff. He thanked the public works department for repairing the silver bullet

(portable restroom on Mason Avenue). He thanked Jeb Brady, Katie Nunez and the police department for their helpful attitudes, adding that he even heard complimentary feedback when dealing with violations.

Vice Mayor Bennett stated that there was much negativity in this current climate and added that it was nice to hear positive comments.

Vice Mayor Bennett read the announcements. Councilwoman Holloway added that the Eastern Shore Master Gardeners was holding the Cape Charles Garden Tour on June 5 from noon to 4:00 p.m. and her house was on the tour this year.

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

The Regular Meeting adjourned at 7:33 p.m.

Vice Mayor Bennett

Town Clerk

**May 19, 2022 Town Council Public Hearing & Regular Meeting
Comments and Information Provided in Writing**

Sam Jones, resident

Subject: New Language; Accessory Dwelling Unit

Dear Town Council members:

I am Sam Jones and my wife and I live at 538 Monroe Avenue.

Thank you for your work to clarify issues regarding accessory dwelling units (ADU) in Town. In reviewing the proposed language, it does not appear to adequately address the personal use of ADU's by the property owner.

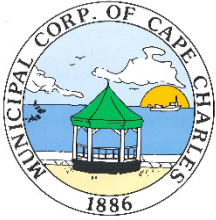
To address this issue I suggest the following language be added at the end of the proposal:
"Nothing in this ordinance shall prevent or restrict the "by right" use of an Accessory Dwelling Unit by the homeowner to house family members or family guests at the homeowners discretion and with no time requirements."

Thank you for considering this additional language.

Sam Jones
538 Monroe Avenue

Public Hearing procedures:

1. Members of the public wishing to speak will sign up on a roster to be provided prior to the public hearing being called to order; those wishing to have comments read into the record will provide written comments to the clerk of the body no later than one hour prior to the scheduled start of the hearing
2. All public comments will conform to the *Guidelines for Citizen Participation* document as approved by the Town Council
3. The presiding officer of the body will call the public hearing to order and read the public hearing notice(s)
4. The presiding officer will ask the public assembled if everyone who wanted to speak has signed the roster and offer one last opportunity for anyone who has not, to do so.
5. The responsible staff liaison will brief the public on the subject of the hearing
6. The members of the body will not ask questions about the staff liaison report or engage in any discussion regarding the subject of the hearing
7. The presiding officer will invite members of the public who signed up, to speak
8. When all in-person testimony is heard, the clerk of the body will read all written comments into the record
9. The members of the body will not ask questions of the public or directly respond to any comments offered
10. If there was more than one topic advertised for public hearing, the subsequent topics will be heard repeating the procedure above
11. When all topics have been heard, the presiding officer of the body will request a motion to close the public hearing(s)



DRAFT
TOWN COUNCIL
Work Session
Cape Charles Civic Center
May 26, 2022
6:30 PM

At 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwomen O’Brien and Holloway. Vice Mayor Bennett was not in attendance. Also, in attendance were Town Manager John Hozey, Town Clerk Libby Hume, Police Officer Juana Diaz, and representatives from NewGen Strategies and Solutions, LLC, and Virginia American Water. There were eight members of the public in attendance.

WORK SESSION ORDER OF BUSINESS:

Mayor Dize stated that this was a work session for the members of the Town Council to discuss the items being presented relating to the potential utility sale. There would be no public comments accepted during the work session. There were agenda packets available on the back table for the members of the public and if anyone had any comments, they could be expressed during the public comment period at the regular meeting on June 16th.

A. *Due Diligence Review of Potential Utility Sale*

Town Manager John Hozey stated that the Council and staff were in the process of additional due diligence prior to beginning the negotiations. The Town received the base documents from Virginia American Water (VAW) but more due diligence was needed. Councilman Grossman performed his research and would present the materials he developed. After Councilman Grossman’s presentation, we would hear from the Town’s consultants, New Gen Strategies and Solutions, and Virginia American Water, followed by discussion and Council questions.

Councilman Grossman reviewed a number of documents and information including i) Big Picture for VAW; ii) Review of VAW Rate Increases for the City of Hopewell, Prince William County, the City of Alexandria, and the Eastern District; iii) Comparison of Rates – Commercial Water for Cape Charles, Alexandria, Hopewell, Eastern District, and Waverly, and Commercial Wastewater for Cape Charles and Prince William County; iv) Personal Observations in Review of SCC Filing Material; v) What Can We Expect for Acquisition? Based on the Waverly Case; vi) Thoughts for Retaining Our Utilities; vii) Excerpts from the 33rd Annual Virginia Water and Wastewater Rate Report 2021 compiled by Draper Aden Associates. (Please see attached.)

Councilman Grossman concluded by stating that he performed this research to i) find some answers on whether or not the Town should retain the utility systems; ii) to determine what the barriers were; iii) the focus was on rates and what it would take to run the plants the way they needed to be run.

John Hozey stated his agreement with Councilman Grossman that the Town was not currently in dire straits but added that we were barely hanging on in relation to the utility systems. The issues with the systems kept him up at night. The Town currently had \$100K in a contingency fund but found out yesterday that, while the membranes were still operating, the stress on the structure that held the membranes together was wearing it out. Staff was trying to repair three membranes with broken components. The lead time on the components was twelve months and the cost was about \$95K, so that contingency fund was now gone. The capital improvement plan only included funding to replace one sewer pod and some engineering. We needed to go through the details, and it was possible that the Town could keep the utility systems, but we could not compete with the rates proposed by VAW.

NewGen Strategies and Solutions presented their proforma titled Town of Cape Charles Estimated Water and Sewer Fund Balance Forecast. (Please see attached.)

John Hozey noted that this spreadsheet included new debt that was not included in the initial presentation. There was some discussion regarding the projected rates shown in the graphs.

Virginia American Water began by stating that the in depth due diligence performed was impressive and commended Councilman Grossman on his work. They went on to present a spreadsheet with several rate scenarios comparing a residential property in Cape Charles if the Town retained our utilities versus VAW taking ownership, projecting out 20 years. (Please see attached.)

Additional discussion followed: i) The information covered provided a pretty good picture of the financials, but other issues such as hiring and retaining professional management of the systems had not yet been discussed. This was a huge issue for small towns and would not get any easier; ii) There would be other issues related to local control such as water quality and smell, and what it would take to get the wastewater plant and its collection system to the condition it needed to be. These issues were not included in the analysis from NewGen presented this evening. Council should consider whether it would be worth having higher rates to maintain local control; iii) Local control was always a key issue but was an illusion. In this case, local control was a negative for the rate payers who would bear all the fixed costs of operating and maintaining the systems.

John Hozey thanked Councilman Grossman for his energy and effort researching this information adding that there could never be too much due diligence for something so important.

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

The meeting adjourned at 8:26 p.m.

Mayor Dize

Town Clerk

Documentation Reviewed During the May 26, 2022 Town Council Work Session

Big Picture for Virginia American Water:

Paul Grossman
May 18, 2022

Big Picture for VAWC Coverage of Services

Districts

- Hopewell Water
- Eastern Districts Water (comprises 18 separate and unique public water systems supplied by groundwater wells from which water is pumped, treated, and distributed)
- City of Alexandria Water
- Prince William Water and Wastewater
- *Town of Waverly Water (future acquisition)*

Note: To provide water to its customers, in Alexandria and Prince William the Company purchases water from the Fairfax Water. This purchase of water became a necessity when the production facilities, including reservoirs, of a predecessor of Virginia-American were condemned and eventually taken over by a predecessor to Fairfax Water. This is referred to as the Purchased Water Surcharge **PWS**.

Rates

- In accordance with Virginia Code §56-235.11 (2017), the statute requires the Commission to order gradual adjustments to water utility's rates over an appropriate period in order to implement the establishment of rates in a water utility network. As such, VAWC is moving towards consolidated tariff pricing (CTP) across its districts in Virginia. Later referred to STP (Single Tariff Pricing).
- The filing under PUR-2018-00175 (**2018**) was to move towards CTP in steps over 3 years (3 step plan). Actual individual district rates sheets were provided for each of the years. At the end of this period, all minimum rates for water would have had the same minimum rate applied (up to 2,000 gallons/month) and the same single volumetric rate applied (>2000 gallons per month).
- SCC ruling under PUR-2018-00175
 - Wastewater rates only pertain to Prince William district. SCC ruled on a new volumetric rate (which decreased).
 - SCC ruled that 'gradual' would mean over separate rate filings and approved rate sheets for each district for Step 1 to CTP.
 - SCC ruled that Alexandria and Prince William Purchase Water Surcharge (PWS) charges could be spread across all districts according to a formula.
 - SCC ruled that an Alexandria pilot program identified as Water and Wastewater Infrastructure Surcharge (**WWISC**) previously agreed to in a rate case could be continued but would not be expanded to all districts. WWISC is to aid in acceleration of infrastructure renewal and would address underperforming mains and reduce the impact of main breaks in the areas served by such mains. More data from the pilot is needed by SCC before any further evaluation/ decisions are made.
- VAWC has filed PUR-2021-00255 (**2021**) which could be considered Step 2 to achieving CTP. Waverly acquisition (asset transfer) was acknowledged as already proceeding under filing PUR-2021-00090 and given that this filing freezes rates for two years, any rate structure changes or blending into CTP would be handled under a later filing. Under PUR-2021-00255, only Step 2 water rates are proposed, along with rates changes for wastewater (i.e., no final, or step 3, CTP was submitted).
- Actual residential rate history under VAWC for each district is provided as a separate attachment. Also depicted are comparisons to Cape Charles Rates for three residential users. Note that VAWC breaks down rates by meter size for minimum rate. Cape Charles typically uses 5/8" meters so that was what was used in the comparison tables.
- VAWC has established lower rates (than Cape Charles) for minimum charges and uses one higher single rate (than Cape Charles) for volumetric usage over 2000 gallons/month. This tends to have higher volume users 'pay for their fair share' and provides mechanism for promoting conservation. Cape Charles has a tiered rate structure over 2000 gallons/month.
- VAWC's Eastern District resembles Cape Charles in that this district has high minimum rates. Through the SCC current filings as shown in the attached rate table, it is evident that as VAWC moves towards CTP, Eastern's minimum rate is dropping and to offset, the volumetric rate is increasing. Eventually all district rates will be blended together.

Review of Virginia American Water Rates Increases:

Review of VAWC Rates Increases

VAWC Docketing Date	4/5/2010	3/2/2012	11/30/2015	1/30/2019 PUR-2018-00175 Consolidated Tariffs 11/6/2020	12/21/2021 PUR-2021-00255
Case Identifier	PUE-2010-00001	PUE-2011-00127	PUE-2015-00097		
SCC Order Date	11/19/2011	12/12/2012	5/24/2017	Year 1 Year 2 Year 3	Pending New Step 2
Hopewell Water Residential					
Minimum Requested VAWC 5/8"	\$ 16.25	\$ 17.78	\$ 15.00	\$ 15.00	\$ 15.00
Volumetric Requested VAWC	\$ 0.12999	\$ 0.51070	\$ 0.87580 (1)	\$ 0.88189	\$ 1.01773
Projected change for 4000 gal/mon, CBR-5-R Revised from previous SCC app'd					0%
Projected change for 4500 gal/mon, Schedule 43			32.93%	8.4%	-4.9%
Projected change for 5775 gal/mon, Schedule 43				-5.7%	-6.0%
Residential Revenue for VAWC, Schedule 42	\$ 2,403,422	\$ 3,002,537	\$ 2,725,593	\$ 3,236,536	\$ 3,045,608
Total all Residential monthly meter billings in year, Schedule 42	102327	108754	103212	104989	104989
Projected all Residential Revenue with requested new rates VAWC, Schedule 42	\$ 3,201,116	\$ 3,542,499	\$ 3,491,151	\$ 3,527,579	\$ 3,155,846
Change in Requested Revenue for all Residential Category, Minimum plus Volumetric VAWC Schedule 42	33%	18%	28%	9.0%	-5.6%
SCC Minimum Approved	\$ 12.87	\$ 15.05	\$ 15.00	\$ 15.00	\$ 15.00
SCC Volumetric Approved	\$ 0.10295	\$ 0.43221	\$ 0.76734 (4)	\$ 0.73125	\$ 0.73125
Change from Previous app'd rate				Not approved	Pending
Minimum	16.9%	0.0%	-0.3%	0%	
Volumetric	320%	0%	78%	-5%	
Revenue per meter billings	\$ 23.49				\$ 33.20
			4/5/2010	12/21/2021	\$ 9.71 Change 41% % Change 11 Year Span 3.76% Ave/Year

Comparison to 506 Randolph actual monthly usage (Average usage 2744 gallons/month) - 12 months WATER	Hopewell District Current Future Request	Change from 506
\$428.74	\$ 262.49	-39%
	\$ 294.80	-31%
Comparison to 4500 gal/month user		
\$477.82	\$ 399.38	-16%
	\$ 485.32	2%
Comparison to 403 Randolph actual monthly usage (Average usage 9371 gallons/month) - 12 months WATER	Hopewell District Current Future Request	Change from 403
\$791.96	\$ 784.97	-1%
	\$ 1,033.73	31%

Review of VAWC Rates Increases

VAWC Docketing Date	4/5/2010	3/2/2012	11/30/2015	1/30/2019 PUR-2018-00175 Consolidated Tariffs 11/6/2020	12/21/2021 PUR-2021-00255
Case Identifier	PUE-2010-00001	PUE-2011-00127	PUE-2015-00097		
SCC Order Date	11/19/2011	12/12/2012	5/24/2017	Year 1 Year 2 Year 3	Pending New Step 2
Prince William Water Residential					
Minimum Requested VAWC 5/8"	\$ 11.52	\$ 12.77	\$ 15.00	\$ 15.00	\$ 15.00
Volumetric Requested per 100 gal	\$ 0.49101	\$ 0.54478	\$ 0.52990	\$ 0.63649	\$ 0.8231
Projected change for 4500 gal/mon, Schedule 43					56%
Residential Revenue for VAWC, Schedule 42	\$ 5,548,779	\$ 6,098,305	\$ 6,570,867	\$ 7,106,927	\$ 7,285,985
Total all Residential monthly meter billings in year, Schedule 42	223981	230721	233853	236701	236701
Projected all Residential Revenue with requested new rates VAWC, Schedule 42	\$ 7,060,927	\$ 7,612,248	\$ 7,542,951	\$ 8,446,710	\$ 9,033,899
Change in Requested Revenue for all Residential Category, Minimum plus Volumetric VAWC Schedule 42	27.3%	24.8%	14.8%	18.9%	3.4%
Minimum Approved	\$ 9.05	\$ 10.23	\$ 11.76	\$ 15.00	\$ 15.00
Volumetric Approved	\$ 0.38593 (2)	\$ 0.49644 (2)	\$ 0.50190 (2)	\$ 0.46278	\$ 0.52661
Change from Previous rate				Not approved	Pending
Minimum		15%	28%	0%	
Volumetric		15%	-8%	14%	
Revenue va projected per meter billings over span of time	\$ 24.77				\$ 30.40
			4/5/2010	12/21/2021	\$ 5.62 Change 23% % Change 11 Year Span 2.06% Ave/Year

Comparison to 506 Randolph actual monthly usage (Average usage 2744 gallons/month) - 12 months WATER	Hopewell District Current Future Request	Change from 506
\$428.74	\$ 239.40	-44%
	\$ 272.85	-36%
Comparison to 4500 gal/month user		
\$477.82	\$ 337.98	-29%
	\$ 426.93	-11%
Comparison to 403 Randolph actual monthly usage (Average usage 9371 gallons/month) - 12 months WATER	Hopewell District Current Future Request	Change from 403
\$791.96	\$ 607.27	-23%
	\$ 864.72	9%

VAWC Docketing Date	4/5/2010	3/2/2012	11/30/2015	1/30/2019	12/21/2021		
Case Identifier	PUE-2010-00001	PUE-2011-00127	PUE-2015-00097	PUR-2018-00175 Consolidated Tariffs 11/6/2020	PUR-2021-00255		
SCC Order Date	11/19/2011	12/12/2012	5/24/2017	Year 1	Year 2	Year 3	Pending New Step 2
Alexandria Water Residential							
Minimum Requested VAWC 5/8"	\$ 11.51	\$ 12.18	\$ 15.00	\$ 15.00	\$ 15.00	\$ 15.00	\$ 15.00 0%
Schedule 41, CBR-4R Revised	\$ 0.19113	\$ 0.20230	\$ 0.20300	\$ 0.45247	\$ 0.55377	\$ 0.68488	\$ 0.73972 112%
Volumetric Requested per 100 gal, Schedule 41, CBR-4R Revised							
Projected change for 4500 gal/month, Schedule 43 from previous SCC app'd	16.86%	12.17%	22.44%	32%	12%	11%	41.25%
With existing rates, Current all Residential Revenue for VAWC, Schedule 42, CBR-3R Revised	\$ 4,047,295	\$ 4,576,887	\$ 5,324,858	\$ 6,081,437	\$ 7,675,085	\$ 8,598,610	\$ 7,003,859
Total all Residential monthly meter billings in year, Schedule 42	\$ 266,784	\$ 269,124	\$ 302,880	\$ 281,354	\$ 281,354	\$ 281,354	\$ 284,620
Projected all Residential Revenue with requested new rates VAWC, Schedule 42, CBR-3R Revised	\$ 4,729,992	\$ 5,134,102	\$ 6,542,376	\$ 7,897,722	\$ 8,598,610	\$ 9,519,369	\$ 9,533,581
Change in Requested Revenue for all Residential Category , Minimum plus Volumetric VAWC Schedule 42, CBR-3R Revised	17%	12%	23%	30%	12%	11%	36%
SCC Minimum Approved	\$ 9.85	\$ 10.86	\$ 11.59	\$ 15.00	\$ 15.00	\$ 15.00	\$ 15.00
SCC Volumetric Approved	\$ 0.16352	\$ 0.18030	\$ 0.19251	\$ 0.196440	\$ 0.34933	Not approved	Pending
Change from Previous rate							
Minimum 5/8 meter	10%	7%	29%	29%	29%	29%	29%
Volumetric	10%	7%	2%	77%			
Actual vs Projected Revenue per meter billings over span of time	\$ 15.17						\$ 33.50 \$ 18.33 Change 62% % Change 11 Year Span 5.66% Ave/Yr

Comparison to 506 Randolph actual monthly usage (Average usage 2744 gallons/month) - 12 months WATER	Alexandria District Current:		Change
\$428.74	Future Request	219.29	-49%
		263.44	-39%
Comparison to 4500 gal/month user			
\$477.82	\$	284.50	-40%
		401.92	-16%
Comparison to 403 Randolph actual monthly usage (Average usage 9371 gallons/month) - 12 months WATER	Alexandria District Current:		Change
\$791.96	Future Request	452.47	-43%
		792.32	0%

VAWC Docketing Date	4/5/2010	3/2/2012	11/30/2015	1/30/2019	12/21/2021		
Case Identifier	PUE-2010-00001	PUE-2011-00127	PUE-2015-00097	PUR-2018-00175 Consolidated Tariffs 11/6/2020	PUR-2021-00255		
SCC Order Date	11/19/2011	12/12/2012	5/24/2017		Pending		
				Year 1	Year 2	Year 3	New Step 2
Eastern District Water Residential							
Minimum Requested VAWC 5/8"	\$ 64.76	\$ 54.78	\$ 45.00	\$ 30.00	\$ 15.00	\$ 30.00	-33%
Volumetric Requested per 100 gal	\$ 0.77959	\$ 1.45200	\$ 1.45388	\$ 1.25510	\$ 0.71395	\$ 1.73148	89%
Projected change for 4000/4500 gal/mon, CBR-SR Revised from previous SCC app'd	33.82%	36.57%	-3.9%	-24.5%	-16.5%	2.10%	
Residential Revenue for VAWC, Schedule 42	\$ 1,686,474	\$ 1,921,433	\$ 2,211,606	\$ 1,977,964	\$ 1,392,826	\$ 1,892,183	
Total all Residential monthly meter billings in year, Schedule 42	31166	31762	32930	32930	32930	35671	
Projected all Residential Revenue with requested new rates VAWC, Schedule 42	\$ 2,256,764	\$ 2,292,959	\$ 1,977,964	\$ 1,416,946	\$ 846,887	\$ 1,614,703	-14.7%
Change in Requested Revenue for all Residential Category, Minimum plus Volumetric VAWC Schedule 42	33.8%	19.3%	-10.6%	-28.4%	-38.8%		
SCC Minimum Approved	\$ 48,400	\$ 54,780	\$ 54,780	\$ 45,000			
SCC Volumetric Approved	\$ 0.58258	\$ 0.65948	\$ 1.19572	\$ 0.91486	Not approved	Pending	
Change from Previous rate							
Minimum	13.2%	0.0%	-17.9%				
Volumetric	13.2%	81.3%	-23.5%				
Actual vs Projected Revenue per meter billings over span of time	\$ 54.11					\$ 45.27	(8.85) Change -16.3% % change 9 Year Span -1.82% Ave/Year
				3/2/2012	12/21/2021		

Comparison to 506 Randolph actual monthly usage (Average usage 2744 gallons/month) - 12 months WATER \$428.74	Hopewell District Current Future Request \$ 643.20 \$ 555.31	Change from 506 50% 30%
Comparison to 4500 gal/month user \$477.82	\$ 814.46 \$ 879.44	70% 84%
Comparison to 403 Randolph actual monthly usage (Average usage 9371 gallons/month) - 12 months WATER \$791.96	Hopewell District Current Future Request \$ 1,244.40 \$ 1,803.50	Change from 403 57% 128%

Review of VAWC Rates Increases

VAWC Docketing Date	4/5/2010	3/2/2012	11/30/2015	1/30/2019	12/21/2021
Case Identifier	PUE-2010-00001	PUE-2011-00127	PUE-2015-00097	PUR-2018-00175 Consolidated Tariffs 11/6/2020	PUR-2021-00255
SCC Order Date	11/19/2011	12/12/2012	5/24/2017	Year 1	Year 2
				Year 3	Pending New Step 2

Prince William Waste Residential
Minimum Requested VAWC 5/8" Volumetric Requested per 100 gal
Projected change for 4500 gal/mon, Schedule 43 from previous SCC app'd
Residential Revenue for VAWC, Schedule 42
Total all Residential monthly meter billings in year, Schedule 42
Projected all Residential Revenue with requested new rates VAWC, Schedule 42
Change in Requested Revenue for all Residential Category, Minimum plus Volumetric VAWC Schedule 42

SCC Minimum Approved
SCC Volumetric Approved
Change from Previous rate
Minimum
Volumetric

Actual vs Projected Revenue per meter billings over span of time

VAWC acquires Dale Services wastewater utility November 2013	\$ 20.00 0.6112	\$ 20.00 0.52000	\$ 20.00 0.75338	0%
	4.13%	-3.03%	23.82%	
	\$ 7,953,249	\$ 9,205,928	\$ 7,920,805	
	234846	236564	238321	
	\$ 9,362,270	\$ 8,882,220	\$ 9,994,093	
	17.7%	-3.5%	26.2%	
Charged by Usage Low \$86.40 Average \$101.65 High \$116.89 NA	\$ 20.00 0.56130	\$ 20.00 0.45457		Pending
NA	NA	0%		
NA	NA	-19%		
	\$ 33.87		\$ -41.94	
			\$ 8.07	
			23.83% % Change	
			6 Year Span	
			3.97% Ave/Year	

Comparison to 506 Randolph actual monthly usage (Average usage: 2744 gallons/month) - 12 months WATER	Hopewell District		
	Current		Change from 506
	Future Request	\$ 291.28	-64%
		\$ 324.98	-59%
Comparison to 4500 gal/month user			
	\$ 875.14	\$ 376.37	-57%
		\$ 466.01	-47%
Comparison to 403 Randolph actual monthly usage (Average usage: 9371 gallons/month) - 12 months WATER	Hopewell District		
	Current		Change from 403
	Future Request	\$ 834.96	-31%
		\$ 1,133.32	-7%

Review of VAWC Rates increases

VAWC Docketing Date	4/5/2010	3/2/2012	11/30/2015	1/30/2019	12/21/2021
Case Identifier	PUE-2010-00001	PUE-2011-00127	PUE-2015-00097	PUR-2018-00175 Consolidated Tariffs 11/6/2020	PUR-2021-00255
SCC Order Date	11/19/2011	12/12/2012	5/24/2017	Year 1	Year 2
				Year 3	Pending New Step 2

- (1) up to 13,000, and then \$0.62000/100 gals up to 2,229,000 gallons/month
(2) volumetric rate over 6,000 gallons/month
(3) volumetric rate over 4,000 gallons/month
(4) volumetric rate up to 13,000 gallons/month

Comparison of Rates – Commercial:

Comparison of Rates - Commercial

5/25/2022

Location	Current	Proposed	Estimate of billing by usage (PROPOSED)
COMMERCIAL		Proposed 2023 CC Budget	2500 gal/mon 4500 gal/mon 9000 gal/mon 12500 gal/mon
Cape Charles WATER	0-2000 gal \$33.46 2001-10000 0.250 per 100 10001-15000 0.375 per 100 >15000 0.500 per 100	0-2000 gal \$33.46 2001-10000 0.250 per 100 10001-15000 0.375 per 100 >15000 0.500 per 100	\$34.71 \$39.71 \$55.96 \$72.21
Alexandria WATER	5/8" meter 0-2000 gal \$15.00 > 2000 0.22163 per 100	0-2000 gal \$15.00 > 2000 0.347966 per 100	\$16.74 \$23.70 \$39.36 \$51.54 -52% -40% -30% -29%
Hopewell WATER	5/8" meter 0-2000 gal \$15.00 > 2000 0.491340 per 100	0-2000 gal \$15.00 > 2000 0.53466 per 100	\$17.67 \$28.37 \$52.43 \$71.14 -49% -29% -6% -1%
Pr William WATER	5/8" meter 0-2000 gal \$15.00 > 2000 0.40851 per 100	0-2000 gal \$15.00 > 2000 0.481997 per 100	\$17.41 \$27.05 \$48.74 \$65.61 -50% -32% -13% -9%
Eastern District WATER			
Waverly - In Town Commercial WATER	5/8" meter 0-5000 gal \$23.00 > 5000 0.2600 per 100	NA NA NA NA	Using existing rates \$23.00 \$23.00 \$33.40 \$42.50 -34% -42% -40% -41%
Cape Charles WASTE	0-2000 gal \$63.12 2001-10000 0.390 per 100 10001-15000 0.585 per 100 >15000 0.780 per 100	0-2000 gal \$63.12 2001-10000 0.390 per 100 10001-15000 0.585 per 100 >15000 0.780 per 100	\$64.37 \$69.37 \$98.22 \$123.57
Pr William WASTE	5/8" meter 0-2000 gal \$20.00 > 2000 0.45457 per 100	0-2000 gal \$20.00 > 2000 0.75338 per 100	\$23.77 \$38.83 \$72.74 \$99.10 -63% -44% -26% -20%
Example 403 Tazewell Water	Actual 12 months Residential Cape Charles \$791.96	Actual 12 months calculated as Commercial Cape Charles \$690.76	Alexandria Commercial Comparison \$501.77 Hopewell Commercial Comparison \$674.42 Pr William Commercial Comparison \$625.72 -27% -2% -9%
Wastewater	\$1,217.60	\$1,208.65	\$1,248.15 3%

Personal Observations in review of SCC filing material

1. Rate increases or decreases can be viewed at a global level, i.e., rolling up rates across all customer classes and is the easiest number to flash around. What is important to people and businesses is the determination as to what any new rate will do to them personally. This requires the application of the specific minimum and volumetric rates that apply to their situation. Yes, global rates by classification can be made that will provide the general direction and magnitude rates will go, but customer volumetric usage is critical in determining final individual impact.
2. SCC review of filings is extremely detailed and I have confidence that they are looking out for the best interest of the public. However, negotiations do occur and stipulations agreed to by all parties (company, SCC staff, attorney general's office, town/city to the degree that they intervene) in order to bring a filing to a conclusion, sometimes without the concurrence of the intervenor.
3. Small towns and citizens will have little to no say during rate proceeding. If assets are sold, the town would have to hire financial and legal entities to review filed material or remain silent. Citizen letters are filed with the SCC, but those I reviewed mostly limited their protests to the % impact (increases) the new rates will have on them personally.
4. VAWC is moving to a consolidated/single rate structure across their network. All revenues and O&M and capital costs are shared across the network. One district could require the highest percentage of capital expenditures that are spread across the network based on company priorities. For example, in the latest rate filing, Hopewell investment projects (those >\$250k) total \$56.9M out of investment projects of \$77.2M (74%), within the overall capital investment of \$137M.
5. The amount of long-term debt taken on to fund capital programs is an important factor to company stability and investors, in addition to dividends. Therefore, to gain attraction to investors, VAWC, like other utilities, will try to get as high a ROE as they can get, which ultimately impact rates. These are subjects that the SCC gets heavily involved in.
6. The capital projects list is essentially endless with priorities being assigned in the network by the company in a five-year plan, barring emergencies that will further take precedent. There is no assurance in what the town considers a priority will raise up to any high level when competing against other network needs.
7. Trying to guess what future rates will be is essentially impossible. For example, in Alexandria, for residential 5/8" meter, the original Step 3 final CTP volumetric rate (\$0.68488/100 gallons) is now exceeded by the rate being proposed as Step 2 in the current rate filing (\$0.73972/100 gallons). The amount of capital investment undertaken is a prime factor. Which leads me to believe the next final Step 3 rate may be even higher given that the capital program continues. Who knows? I do believe that once consolidated/single tariffs are achieved, rates will never go down, and filings will occur every 2-3 years.
8. The company has introduced additional capital programs such as WWISC and Lead Service Line Replacements requesting additional rate charges in order to cover them. This can be viewed as an extension of their capital investment program. These rates are proposed as being outside the volumetric rates structure. (For Alexandria, a customer is charged \$0.010025 for each 100 gallons of water used, rather insignificant in the grand scheme of things). What other programs will crop up in the future, outside the rate structure?

What can we expect for acquisition?

Based on Waverly Case

PUR-2021-00090

Water Only (Wastewater owned and operated by Sussex Service Authority)

What you can expect to see	What you will not see (not available or considered confidential)
Scope of SCC filing Limited to the acquisition of public water and wastewater systems and the folding in of this new acquisition into their overall Virginia enterprise. Essentially a transfer of assets.	

Fair Market Value (FMV) for Acquisition - Town, Company and SCC staff will propose FMVs. SCC may propose a weighted averaging favoring SCC if town and company utilize the same underlying engineering report. (Compromise in Waverly's case resulted in Stipulation agreement to strictly use averaging.) - Company may propose to purchase at the lesser of \$X or the FMV so long as the FMV is more than \$Y (a floor). This approach is made in initial filing (Waverly). - SCC specified that any paid amount over FMV will not go into rate base. - Transaction Costs: reasonable transaction costs will be included in FMV.	Any details surrounding the development of FMV or underlying engineer's report used by town and company is considered confidential. [Therefore, will need to rely on the strength of our hired experts.] Transaction costs are confidential. Note: While parties agreed to the Waverly Stipulation (agreement on FMV), staff essentially stated that they only agreed to it to settle the case for Waverly. Leading me to believe fair game in future? Staff's FMV was much lower than company/ town's in Waverly.
Asset Purchase Agreement Detailed listing of assets to be transferred along with identified liabilities	Annexation Agreement is a large unknown. We can pass along the future liability without determining the \$ amount involved, and there is no further control that the town will have in ensuring cost for expansion is provided by Preserve Communities other than through rate filings. Nor will we know whether the payment is applied to our plant or rolled into general revenue for the VAWC network, just like the expansion costs would be spread across all. Once consolidated tariffs take effect, all revenue and expense are shared across all districts.
Improvements - Company 'intends' to complete a Comprehensive Planning Study within the first 12-18 months and 'commits' to invest at least \$X million over the next Y years to improve the water system. [Waverly info captured in Hearing Officer's Report] - Company 'intends' to install specific improvements in testimony.	Any expected capital improvements will eventually be recovered through rates over a period of time. Not sure of the 'commitment' provided in Hearing Officer's Report under heading Summary of the Record as to actual commitment the company has to follow through (i.e., how binding is this commitment?). This commitment should not be difficult in delivering upon considering their overall 5-year capital plan's size for the network.
Rates Current rates maintained for two years. - Company will move rates towards one of their district's (Hopewell) consolidated rate structure through separate rate filing following the expiration of two-year period. - An increase is anticipated of approximately 30% for most customers over a five-year period following closure (Waverly). - SCC argued that moving Waverly eventually into Hopewell district would be approximately 45 – 54% increase for residential and 49 – 50% commercial.	You will not see a projected five-year rate projection curve (confidential). - For Waverly, VAW has stated that rates should not be considered within the purview of SCC staff given that they are frozen at current levels and since they will have the opportunity to review during subsequent rate filings. - Note that water rate consolidation will eventually occur within Hopewell, Eastern, Pr William, Alexandria, Waverly and Cape Charles. Wastewater consolidation will occur between Pr William and Cape Charles.
Franchise Agreement (ordinance passed) allows for agreements to be made between town and company. Can include <u>such things as</u>: - Allowing company to expand to other unincorporated areas by means of existing distribution system. - Water for municipal purposes at its current rates, but company will not charge for fire fighting - Notification of any treatment technique changes	Uncertain as to extent of allowances provided to the town is possible. Expect none being tied to any rate limitations. Uncertain today whether town's municipal water supplies are metered but rest assure that we will be paying for water usage.

• Company to meet with town annually to answer questions on operation of system • Rights and privileges continue for 40 years.	
Timetable for SCC decision (Waverly) • VAWC files petition to acquire 6/24/21 • Filing docketed 8/11/21 (+2 months) • Public Hearing Officer Report 3/3/22 (+7 months) • SCC final decision?	

Recommendations

1. Have VAWC review and comment on this document.
2. Have NewGen review and comment on this document.

Thoughts for Retaining our Utilities

What possibilities would I consider to further evaluate retention?

- Re-review our current long-term debt financing. Could we re-finance with new 20 or 30 year loan? Frees up money for capital projects and/or added engineering management costs or staff engineering.
 - 2010 VA Resource Authority w/\$240k payment/year -ends May 2032 (**interest 0%**)
 - Note: Two payments are required to be reserved and \$257k is held in US Bank VRA Reserve Fund
 - 2010 VML/VaCo w/\$77k payment/year – ends Feb 2030 (interest 3.5 – 6.5%)
 - 2016A Pinnacle Public w/\$13k payment/year – ends August 2026 (interest 2.1%)
 - 2016B Pinnacle Public w/\$137k payment/year – ends Feb 2034 (interest 2.5%)
 - Current payment \$469k/year principal and interest
 - Refinancing difficulties since many bonds are used for mixed purposed: general, utilities and harbor.
- Future Treatment Plan Expansion
 - Unknown cost for expansion
 - Reserve account for future plant expansion currently at \$1,640,457 – rededicate a portion for enterprise operations/engineering?
 - Unknown settlement with Preserve Communities from Annexation Agreement
- Could we obtain the necessary management expertise to engage in utilities (not operations)
 - Hire engineering service company with expertise in water/wastewater to cover capital planning, engineering resources, project management resources, GIS mapping, etc.
 - Hire town civil engineer familiar with utilities and project management. (Range: \$54k - \$101k+) (\$85-115K) (%75-95K) 5-10 year experience level. Majority of salary covered by enterprise fund. Can also be involved with other town capital projects.
 - Combination of the above. ✓
- Searching for Grant opportunities (by utility engineering company hired or added inhouse staff). (longer term)

CAUTION: Entering into any grants will complicate or negate purchase by another company. Potential sources;

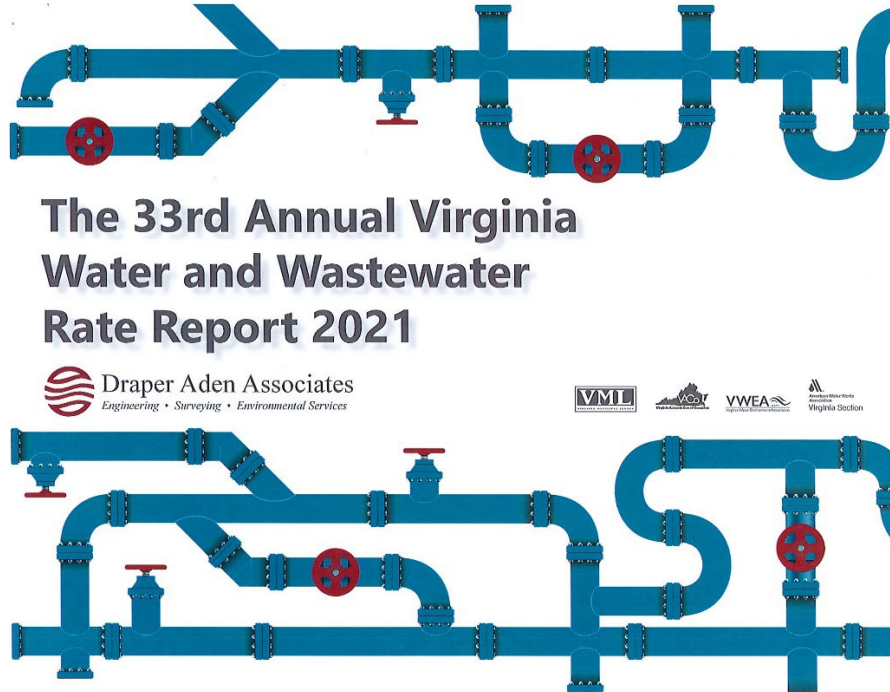
 - USDA
 - VDH Drinking Water
 - Just expanded ARPA funds available (closing deadline May 6, 2022 to VDH)
 - DWSRF – Drinking Water State Revolving Fund
 - Financial & Construction Assistance Program
 - Correcting public health issues and ensuring compliance with the SDWA and the Virginia Waterworks Regulations
 - Replacing aging infrastructure and critical assets
 - Providing below market rate loans to public waterworks for both new construction and replacement project
 - Capacity Development
 - Enhancing the long-term capacity to produce safe drinking water
 - Providing program administration, courses, scholarships, planning and design funds, direct technical assistance
 - Bipartisan Infrastructure Law (BIL)
 - EPA
 - DEQ

- Pursue the possibility of purchasing synergies by exploring large purchases (membranes, water tanks) through Hampton Roads Sanitation District, others
- Would there be a reason to change the minimum rate and volumetric rate structure? (long term)

Recommendation

1. Reorient focus of NewGen, or equivalent, to determine what it would take to retain our utility system.
2. Until sale of utilities decision is made, budget for town engineer and engineering services of 2022, using money from plant expansion accumulated funds. Anticipate Fall 2022 start.

Excerpts from The 33rd Annual Virginia Water and Wastewater Rate Report 2021 published by Draper Aden Associates:



About Our Survey

For 33 years, Draper Aden Associates has provided the Annual Virginia Water and Wastewater Rate Report as a service to our clients and to water and sewer providers across the Commonwealth. Earlier this year, Draper Aden Associates conducted a survey to request water and wastewater rate information from 259 water and sewer providers; data from fifty-one percent (51%), or 132 utilities is included in this report. The information summarized herein includes:

- approximate number of residential and non-residential connections
- billing frequency (monthly, bi-monthly, or quarterly)
- the charge for residential customers using 3,000, 4,000, and 5,000 gallons of water per month
- the charge for non-residential customers using 1,000,000 gallons per month
- the current residential connection fee and capital recovery charge
- the year that rates and fees were last changed.

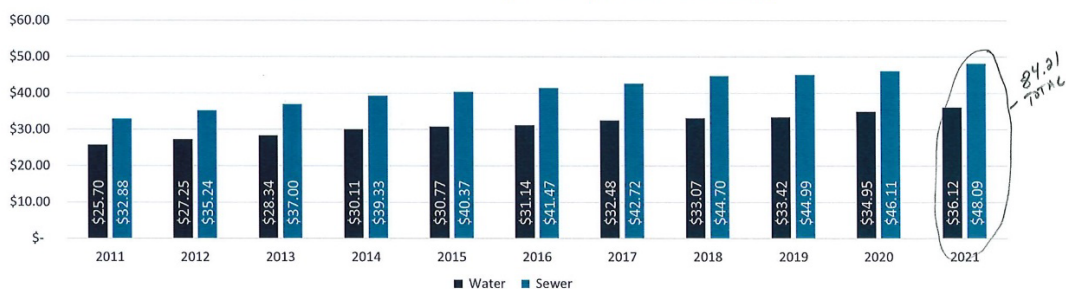
We are pleased to share these results and express our gratitude to all who participated in this effort.

Control Group Data

For over 20 years, Draper Aden's survey has tracked a select group comprised of 20 water and wastewater providers who represent a cross section of utilities across the Commonwealth. We have consistently tracked the monthly residential charges of these 20 utilities to provide an indication of trends in water and wastewater rates in Virginia – and to provide an indication of average increases over time.

The average water rate increased by 3.3% in 2021 and the average sewer rate increased by 4.3%. Since 2011, water rates have increased by approximately 3.5% per year and wastewater rates have increased by approximately 3.9% per year.

AVERAGE WATER AND SEWER BILLS (BASED ON 5,000 GALLONS OF USAGE)



The 33rd Annual Virginia Water and Wastewater Rate Report 3

Information Provided by NewGen Strategies and Solutions, LLC (the Town's consultant):

Town of Cape Charles Estimated Water and Sewer Fund Balance Forecast

May 26, 2022

Developed by: NewGen Strategies and Solutions, LLC

Fiscal Year	Budget 2023	Forecast 2024	Forecast 2025	Forecast 2026	Forecast 2027	Forecast 2028	Forecast 2029	Forecast 2030	Forecast 2031
Beginning Unrestricted Fund Balance	\$ 668,758	\$ 617,286	\$ 894,374	\$ 1,211,874	\$ 1,528,902	\$ 1,707,245	\$ 2,081,173	\$ 2,227,749	\$ 2,525,694
Operating Revenues									
Water Sales	\$ 650,000	\$ 799,500	\$ 903,435	\$ 930,538	\$ 958,454	\$ 987,208	\$ 1,016,824	\$ 1,047,329	\$ 1,078,749
Sewer Charges	1,170,000	1,439,100	1,626,183	1,674,968	1,725,218	1,776,974	1,830,283	1,885,192	1,941,748
Connection Fees - All	77,000	107,459	85,360	82,441	51,542	83,663	52,805	77,969	54,155
Other Revenues	61,624	62,918	66,693	70,027	72,828	75,742	78,771	81,922	85,199
Total Operating Revenues	\$ 1,958,624	\$ 2,408,976	\$ 2,681,671	\$ 2,757,975	\$ 2,808,042	\$ 2,923,586	\$ 2,978,684	\$ 3,092,412	\$ 3,159,851
Operating Expenses									
Utility Admin	\$ 278,949	\$ 289,709	\$ 299,536	\$ 308,222	\$ 317,201	\$ 326,482	\$ 336,078	\$ 345,999	\$ 356,258
Utility Billing	60,528	62,868	65,006	66,896	68,850	70,870	72,958	75,117	77,349
Water O&M	677,009	689,352	701,927	714,737	727,787	741,081	754,625	768,424	782,481
Sewer O&M	909,490	964,060	1,012,263	1,052,753	1,094,863	1,138,658	1,184,204	1,231,573	1,280,835
Existing Debt - Replacement	476,019	468,113	468,207	469,823	467,819	495,638	498,378	496,390	392,003
New Debt - Replacement	-	32,162	94,801	94,801	94,801	94,801	94,801	109,518	124,234
PAYGO CIP - Replacement	74,500	75,945	57,964	51,588	17,314	-	50,000	50,000	50,000
Total Operating Expenses	\$ 2,476,496	\$ 2,582,209	\$ 2,699,703	\$ 2,758,820	\$ 2,788,635	\$ 2,867,531	\$ 2,991,045	\$ 3,077,020	\$ 3,063,161
Operating Surplus / (Deficit)	\$ (51,472)	\$ 277,087	\$ 317,500	\$ 317,028	\$ 178,344	\$ 373,928	\$ 146,575	\$ 297,945	\$ 255,626
Ending Unrestricted Fund Balance	\$ 617,286	\$ 894,374	\$ 1,211,874	\$ 1,528,902	\$ 1,707,245	\$ 2,081,173	\$ 2,227,749	\$ 2,525,694	\$ 2,781,320
Rate Revenue Increase		23.0%	13.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Beginning Restricted Fund Balance	\$ 1,640,457	\$ 2,046,857	\$ 3,746,614	\$ 3,139,061	\$ 2,596,284	\$ 2,910,003	\$ 433,483	\$ 755,531	\$ 1,230,367
Restricted Revenues									
Facility Fees - Bay Creek	360,400	540,600	402,800	381,600	190,800	381,600	190,800	339,200	190,800
Facility Fees - Historic	106,000	110,800	115,156	118,970	122,920	127,010	131,248	135,637	140,183
Potential Developer Contributions*	-	1,157,630	-	-	-	2,985,131	-	-	-
Total Restricted Revenues	\$ 466,400	\$ 1,809,030	\$ 517,956	\$ 500,570	\$ 313,720	\$ 3,493,741	\$ 322,048	\$ 474,837	\$ 330,983
Restricted Expenses									
PAYGO CIP - Expansion	\$ 60,000	\$ 109,273	\$ 1,125,509	\$ 1,043,347	\$ -	\$ 5,970,261	\$ -	\$ -	\$ -
Restricted Fund Surplus / (Deficit)	\$ 406,400	\$ 1,699,757	\$ (607,553)	\$ (542,777)	\$ 313,720	\$ (2,476,520)	\$ 322,048	\$ 474,837	\$ 330,983
Fund Balance After Restricted Contributions	\$ 2,046,857	\$ 3,746,614	\$ 3,139,061	\$ 2,596,284	\$ 2,910,003	\$ 433,483	\$ 755,531	\$ 1,230,367	\$ 1,561,350

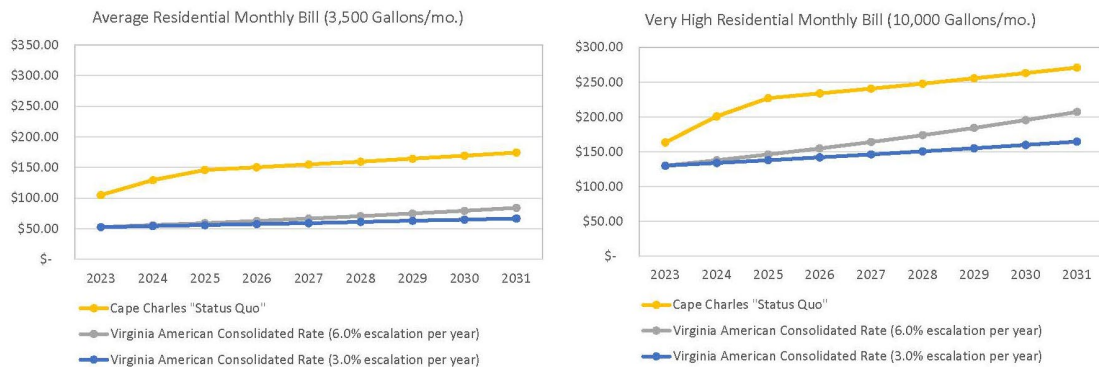
* This is a rough estimated place holder

This forecast is based on the latest available information as well as various assumptions and estimations. Actual results will materially vary from the forecast based on currently unknown future impacts.

Town of Cape Charles Estimated Water and Sewer Fund Balance Forecast

May 26, 2022

Developed by: NewGen Strategies and Solutions, LLC



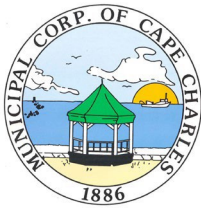
This forecast is based on the latest available information as well as various assumptions and estimations. Actual results will materially vary from the forecast based on currently unknown future impacts.

Information Provided by Virginia American Water:

Rate Scenarios Provided by Virginia American Water, May 26, 2022

506 Randolph 2,572 Gallons Average Per Month

Scenario 1	YEARS	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Cape Charles	0.00%	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205	1,205
VAW	3.70%	599	621	644	668	693	718	745	773	801	831	862	893	926	961	996	1,033	1,071	1,111	1,152	1,195	1,239
\$\$\$ Saved	6,777	606	584	561	537	512	487	460	433	404	374	344	312	279	245	209	172	134	94	53	10	1,239
Scenario 2		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Cape Charles	1.00%	1,205	1,217	1,229	1,242	1,254	1,267	1,279	1,292	1,305	1,318	1,331	1,345	1,358	1,372	1,385	1,399	1,413	1,427	1,442	1,456	1,471
VAW	3.70%	599	621	644	668	693	718	745	773	801	831	862	893	926	961	996	1,033	1,071	1,111	1,152	1,195	1,239
\$\$\$ Saved	9,476	606	596	585	574	561	548	534	520	504	487	470	451	432	411	389	366	342	316	290	261	232
Scenario 2		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Cape Charles	2.00%	1,205	1,229	1,254	1,279	1,305	1,331	1,357	1,384	1,412	1,440	1,469	1,499	1,529	1,559	1,590	1,622	1,655	1,688	1,721	1,756	1,791
VAW	5.00%	599	629	660	693	728	765	803	843	885	929	976	1,025	1,076	1,130	1,186	1,245	1,308	1,373	1,442	1,514	1,589
\$\$\$ Saved	9,677	606	600	593	586	576	566	554	541	527	511	493	474	453	429	404	377	347	315	280	242	201



DRAFT
TOWN COUNCIL
Public Hearing
Cape Charles Civic Center
June 9, 2022
6:30 p.m.

At 6:30 p.m., Vice Mayor Steve Bennett, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Vice-Mayor Bennett, present were Councilmen Buchholz and Grossman, and Councilwomen Holloway and O'Brien. Mayor Dize and Councilman Follmer were not in attendance. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock, Assistant to the Town Manager Julie Pruitt and Town Clerk Libby Hume. There was one member of the public physically in attendance, and six viewers on Facebook.

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

Vice Mayor Bennett read the public hearing notice.

Town Manager Hozey provided an overview stating that the Town was in very good fiscal shape. Policies were established to maintain minimum fund balances and all goals were met. The number of Funds were increased last year to increase public transparency. The amounts budgeted for each Fund included \$1.9M for the General Capital Projects Fund; \$250K for General Debt Service Fund; \$119K for the General Special Activities Fund; \$2.6M for the Public Utilities Fund; \$1.15M for the Harbor Fund; and \$442K for the Sanitation Fund. Revenue was strong this year. The Town Council proposed to rebalance the real property tax rates to 1% plus new construction for a rate decrease from \$.31 per \$100 to \$.22 per \$100. Town Council also recommended reducing the personal property tax rate by 50% from \$2.00 per \$100 to \$1.00 per \$100. The only proposed increase, which was out of the Town's control due to a contract with the vendor, was a \$1.60 per month increase to the trash collection fee making it \$18.28 per month per receptacle.

Vice Mayor Bennett noted a correction to the General Special Activities Fund which was actually \$919K versus \$119K as stated by John Hozey. Vice Mayor Bennett went on to open the floor for comments.

PUBLIC HEARING PUBLIC COMMENTS:

There were no comments to be heard from the members of the public in attendance. Town Clerk Libby Hume read a letter submitted by Loraine Huchler, a property owner. (Please see attached.)

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

There was no further discussion.

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

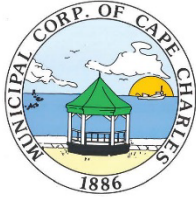
The public hearing was adjourned at 6:37 p.m.

Mayor Dize

Town Clerk

June 9, 2022 Town Council Public Hearing Comments and Information Provided in Writing

FY 2023 Proposed Budget Public Hearing Notice



NOTICE OF PUBLIC HEARING MUNICIPAL CORPORATION OF CAPE CHARLES FISCAL YEAR 2023 PROPOSED BUDGET

Following are the estimated receipts and expenditures of the Municipal Corporation of Cape Charles for the Fiscal Year 2023. **The Town Council will hold a Public Hearing on June 9, 2022 at 6:30 p.m. at the Cape Charles Civic Center, 500 Tazewell Avenue,** to receive verbal and written comments on all proposed disbursements, as well as all tax and utility rate changes. Written comments can be submitted prior to the hearing via email to clerk@capecharles.org or hand delivered to Town Hall, 2 Plum Street. Verbal comments can be provided during the public hearing. The proposed Fiscal Year 2023 budget and all tax and rate changes will be discussed and brought to a vote at the Town Council Regular Meeting on June 16, 2022. For additional detail and explanation please visit the Town website at www.capecharles.org, under Agendas and Minutes / Town Council.

GENERAL FUND		PUBLIC UTILITIES FUND	
Revenue	\$4,030,694	Revenue	\$2,603,420
Expense	\$4,030,694	Expense	\$2,603,420
Revenue less expenditures	\$0	Revenue less expenditures	\$0
GENERAL CAPITAL PROJECTS FUND		HARBOR FUND	
Revenue	\$1,950,314	Revenue	\$1,154,388
Expense	\$1,950,314	Expense	\$1,154,388
Revenue less expenditures	\$0	Revenue less expenditures	\$0
GENERAL DEBT SERVICE FUND		SANITATION FUND	
Revenue	\$249,571	Revenue	\$442,253
Expense	\$249,571	Expense	\$442,253
Revenue less expenditures	\$0	Revenue less expenditures	\$0
GENERAL SPECIAL ACTIVITIES FUND (Grants & Pass-thru transactions)			
Revenue	\$919,350		
Expense	\$919,350		
Revenue less expenditures	\$0		

Following are the proposed tax rates and user fees which are part of the fiscal plan: Rates that have changed are in bold print.

Vehicle Tax:	Vehicle License Tax: \$31.00 per vehicle subject to Virginia State Registration. (Trailers \$18.00) and Golf Cart Decal is \$31.00.
Real Estate Tax:	\$0.2159 per \$100 ; Equalized rate at 101% of previous year's assessed value.
Personal Property Tax:	\$1.00 per \$100 ; This is reduced from \$2.00 per \$100. Boat Tax \$0.01 per \$100
Transient Occupancy Tax:	4.0% plus flat fee of: \$1 per night per room (Hotels/B&Bs) or \$4 per night (Residential Units)
Water Rate:	<i>Residential</i> 0-2,000 gal.: \$33.46 minimum; 2,001 to 5,000 gal.: \$2.63 per 1,000; 5,001 to 10,000: \$3.75 per 1,000; 10,001 to 15,000 gals: \$5.00 per 1,000; Over 15,000 gals: \$7.50 per 1,000; <i>Commercial</i> 0-2,000 gal.: \$33.46 minimum; 2,001-10,000 gal.: \$2.50 per 1,000; 10,001-15,000 gals: \$3.75 per 1,000; Over 15,000 gals: \$5.00 per 1,000
Wastewater Rate:	<i>Residential</i> 0-2,000 gal.: \$63.12 minimum; 2,001 to 5,000 gal.: \$4.11 per 1,000; 5,001 to 10,000 gals: \$5.85 per 1,000; 10,001 to 15,000: \$7.80 per 1,000; Over 15,000 gals: \$11.70 per 1,000; <i>Commercial</i> 0-2,000 gal.: \$63.12 minimum; 2,001-10,000 gals: \$3.90 per 1,000; 10,001-15,000 gals: \$5.85 per 1,000; Over 15,000 gals: \$7.80 per 1,000
Trash Collection Fee:	\$18.28 per month (increase of \$1.60)

There are proposed changes to the Building, Planning and Zoning fee schedule, which may be viewed at the Town website under Proposed Budget Details.

William "Smitty" Dize, Mayor

Lorraine Huchler, property owner

2022 06 10 Town of Cape Charles Budget Meeting

Lorraine Huchler, P.E., CMC®, FIMC

I don't understand the financial rationale for this budget.

This budget shows a request to use ARPA Covid money to design a new municipal building (\$550K) and the 3rd floor of the library to allow a developer to create condominiums (\$34K). Some people might argue that ARPA funding is "found money." But there's a catch. The capital budget plan shows that in the next year, the town will spend over \$4.5M for construction of the new town hall. And once you start the planning for a capital project – it's hard to stop it – because to the average citizen – it looks like the town council and manager messed up. During at least one past council meeting and again at the Town Hall, the town manager said that the reason to sell the water and wastewater plants is to "get rid of the debt." Why is the debt for the water plants so bad, but the debt for a new municipal building OK?

This budget is asks for \$584K of ARPA Covid funds and there's no information about grants. How will the town pay for this \$5.4M project in 2024? Property taxes increases won't work. Is the town planning to use the proceeds from the sale of the water plants to pay for the new town hall? And what's the rush to build a new town hall? Our economy is headed for a long period of stagflation – now is not the time to take on additional debt and risk.

During the last 18 months, this council has worked very hard to understand some very complex issues. The decision about the water plants has a much greater impact on the quality of life than a new town hall. The PPEA consultant finally provided a budget forecast for keeping the plants. Councilman Grossman provided an excellent analysis that contradicted the PPEA consultant's rate forecast for selling the plants. This period of due diligence is still in progress and the council – not the town manager – must decide if VAW is the right entity to purchase the plants. There are numerous other options to improve the water and wastewater operations should the council decide to keep the plants.

Thank you for listening.

DRAFT

April 2022 Treasurer's Report

Page 1 – Cash Position

- Funds were transferred from the Money Market account to the operating account for the debt service payment of \$120,587 on the VRA interest free wastewater plant loan.

Page 2 – Revenue vs. Expenditures

- No comment.

Page 3 – Capital Projects

- The sewer pod controller parts were purchased in the Fall but had been coded to repairs. The error was discovered and moved to the capital project account this month.
- A progress payment on the municipal center replacement was made.

Page 4 – Tax Collection Rate

- Real property tax collection is at 97% of billed and 100% of budgeted amount.

Page 5 – Tax Revenue Trends

- No comment.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
April 30, 2022

<u>Cash on Hand</u>	<u>3/31/2022</u>	<u>4/30/2022</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$422,175	\$402,542	-\$19,633
Atlantic Union Bank Money Market Account	\$4,021,896	\$3,946,995	-\$74,901
LGIP Account 1 - Unrestricted	\$104,301	\$104,334	\$33
LGIP Account 2 - Unrestricted	\$295,709	\$295,815	\$106
Total Cash On Hand	\$4,844,081	\$4,749,685	-\$94,395

<u>Restricted and Reserved Cash Balances</u>	<u>3/31/2022</u>	<u>4/30/2022</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$35,810	\$35,810	\$0
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$7,314	\$7,468	\$154
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,587	\$257,588	\$1
Wells Fargo 2010 Debt Service pass through account #300	\$2,899	\$2,899	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$762	\$762	\$0
Atlantic Union Money Market # ARPA CRF #5847	\$528,712	\$528,725	\$13
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$1,737,038	\$1,737,610	\$572
Virginia Investment Pool Liquidity Acct#2, Surety Bond Escrow Rsrvd	\$595,245	\$388,323	-\$206,922
Total Cash Held in Reserve	\$3,176,929	\$2,970,747	-\$206,181
Total Cash - All Accounts	\$8,021,009	\$7,720,433	-\$300,576

DEBT SERVICE

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

\$5,798,735

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

April 30, 2022

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 FY22</u>
GENERAL Operations						
REVENUE	\$298,906	\$2,973,524	\$3,558,192	\$584,668	\$3,536,507	100.61%
EXPENDITURES	\$229,941	\$2,515,929	\$2,516,445	\$516	\$3,536,507	71.16%
NET	\$68,965	457,596	\$1,041,747	\$584,152	\$0	
GENERAL Capital						
REVENUE	\$3,151	\$378,282	\$52,408	-\$325,874	\$1,197,762	4.38%
EXPENDITURES	\$21,429	\$378,282	\$64,554	-\$313,728	\$1,197,762	5.39%
NET	(\$18,278)	\$0	(\$12,146)	(\$12,146)	\$0	
GENERAL Debt Service						
REVENUE	\$0	\$121,110	\$222,069	\$100,959	\$258,614	85.87%
EXPENDITURES	\$0	\$121,110	\$222,069	\$100,959	\$258,614	85.87%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities						
REVENUE	\$86,723	\$0	\$455,145	\$455,145	\$948,115	48.01%
EXPENDITURES	\$98,150	\$0	\$458,259	\$458,259	\$948,115	48.33%
NET	(\$11,427)	\$0	(\$3,114)	(\$3,114)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

April 30, 2022

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 FY22</u>
PUBLIC UTILITIES						
REVENUE - Operating	\$161,778	1,498,060	\$1,588,917	\$90,857	\$1,825,021	87.06%
EXPENDITURES - Operating	\$35,899	455,596	\$459,599	\$4,003	\$993,224	46.27%
NET	\$125,879	1,042,463	\$1,129,317	\$86,854	\$831,797	
REVENUE - CAPITAL GRANTS, LOANS, DEBT SVC	\$0	\$0	\$0	\$0	\$104,751	0.00%
REVENUE - FACILITY FEES	\$63,600	\$419,860	\$511,493	\$91,634	\$254,400	201.06%
EXPENDED - FACIL FEES, CAPITAL PROJECTS,DEBT SVC	\$184,187	\$887,539	\$995,061	\$107,521	\$936,548	106.25%
TOWN CONTRIB. & PENDING GRANTS	(\$120,587)	(\$467,680)	(\$483,567)	(\$15,887)	(\$831,797)	
HARBOR						
REVENUE - Operating	\$103,292	\$740,817	\$631,115	-\$109,702	\$833,500	75.72%
EXPENDITURES - Operating	\$119,329	\$595,391	\$540,819	-\$54,571	\$772,500	70.01%
NET	(\$16,037)	\$145,426	\$90,295	(\$55,131)	\$61,000	
REVENUE - GRANTS & LOANS	\$0	\$10,586	\$30,754	\$20,167	\$0	#DIV/0!
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$0	\$0	\$102,954	\$102,954	\$102,657	100.29%
EXPENDED - Capital Projects, Debt Svc	\$0	\$240,067	\$143,054	-\$97,013	\$163,657	87.41%
TOWN CONTRIB. & PENDING GRANTS	\$0	(\$229,481)	(\$9,346)	\$220,135	(\$61,000)	
SANITATION						
REVENUE	\$20,701	\$169,779	\$183,959	\$14,179	\$390,595	47.10%
EXPENDITURES	\$42,460	\$171,812	\$176,120	\$4,308	\$390,595	45.09%
NET	(\$21,758)	(\$2,033)	\$7,838	\$9,871	\$0	

FY 2022 Capital Improvement Project Tracking Report

As of:
4/30/2022

	FY22 Status or Start Date	Percent of Completion	FY22 Budgeted	QTR 1 Expended	QTR 2 Expended	QTR 3 Expended	QTR 4 Expended	FY22 YTD Expended	(Over)/Under Budget
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	<u>Pending Fall 2022</u>	1%	\$ 929,922	\$ 848	\$ 5,876	\$ -	\$ -	\$ 6,724	\$ 923,198
Mason Avenue Parking, Planning & Construction	<u>Suspended</u>	0%	\$ 34,240	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 34,240
Storm Sewer Video-Mapping, Phase 2	<u>Suspended</u>	0%	\$ 30,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 30,000
Municipal Center Replacement	<u>In process</u>	44%	\$ 130,000	\$ -	\$ -	\$ 36,401	\$ 20,718	\$ 57,118	\$ 72,882
Central Park Gazebo Upgrades	<u>Pending</u>	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Central Park Fountain	<u>In process</u>	2%	\$ 36,000	\$ -	\$ -	\$ -	\$ 711	\$ 711	\$ 35,289
Public Trash Cans	<u>Pending</u>	0%	\$ 25,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,000
Final Installation of Zipline	<u>Completed</u>	42%	\$ 2,600	\$ 1,100	\$ -	\$ -	\$ -	\$ 1,100	\$ 1,500
subtotal	\$ -		\$ 1,197,762	\$ 1,948	\$ 5,876	\$ 36,401	\$ 21,429	\$ 65,654	\$ 1,132,108
Utility Fund -Water									
Water Tank Mixer/Power Vent (FY2021 carryover)	<u>Suspended</u>	0%	\$ 55,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,000
Remote Read Water Meters - starter setup carryover	<u>Suspended</u>	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,985
(AMI)/AMR Auto Read Water Meters - Phase 2	<u>Suspended</u>	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Utility Fund - Wastewater									
Washington Avenue Pump Station Rehab Phase	<u>Suspended</u>	0%	\$ 39,151	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 39,151
Sewer Pod Controller Upgrades Phase 1 of 5	<u>Completed</u>	100%	\$ 14,500	\$ 14,500	\$ -	\$ -	\$ -	\$ 14,500.00	\$ -
subtotal	\$ -		\$ 180,636	\$ 14,500	\$ -	\$ -	\$ -	\$ 14,500	\$ 166,136
Harbor Fund									
Harbor Capital Evaluation Plan	<u>Completed</u>	0%	\$ 40,100	\$ -	\$ -	\$ 40,100	\$ -	\$ -	\$ 40,100
Structural Piling Repair	<u>Deferred</u>	#DIV/0!	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
In-Shore Breakwater Repair	<u>Pending</u>	0%	\$ 121,380	\$ -	\$ -	\$ 68	\$ -	\$ 68	\$ 121,312
subtotal	\$ -		\$ 161,480	\$ -	\$ -	\$ 40,168	\$ -	\$ 68	\$ 161,412
TOTAL	\$ -		\$ 1,539,878	\$ 16,448	\$ 5,876	\$ 76,569	\$ 21,429	\$ 80,222	\$ 1,459,656

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES

April 30, 2022

YTD 2021 Real Estate Tax Collections

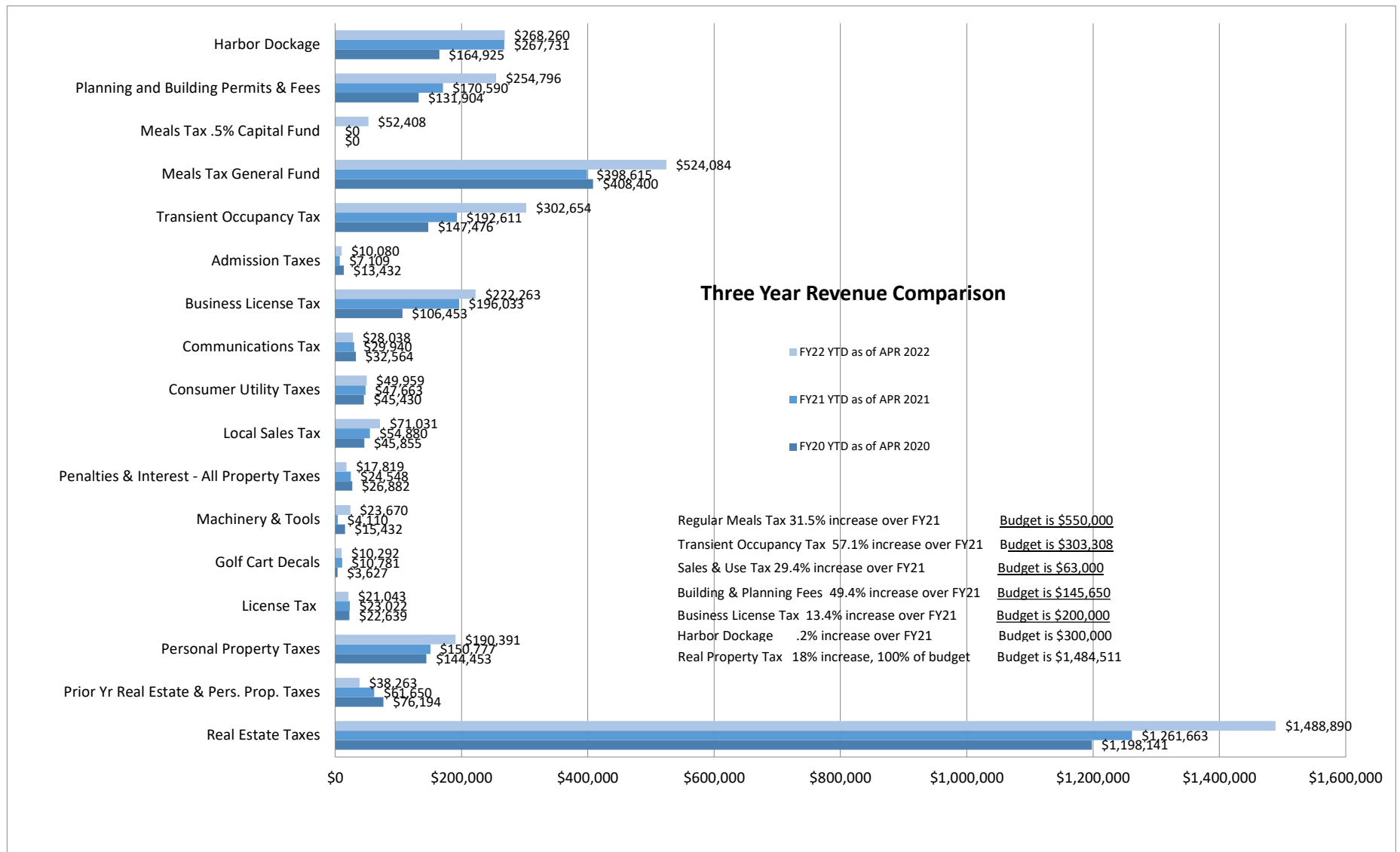
Total Taxable Land Value	179,657,188	
Total Improvement Value	306,863,500	
Exemptions	(4,196,393)	
Additional Assessments (SCC Utility)	3,702,099	
Total Real Estate Value (taxable)	486,026,394	
Total Budgeted	1,484,511	
Total Tax Billed	1,527,451	
Total Adjustments	(8,854)	
Total Collected YTD (percent of billed)	<u>1,488,890</u>	97%
Amount Due per Accounts Receivable	29,706	

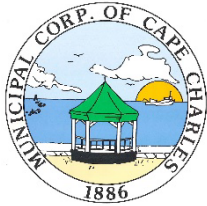
**YTD 2021 Personal Property Tax, Machinery and Tools Tax
& 2021 License Tax Collections**

Total Personal Property Value	23,415,700	
2021 Initial Assesement Exonerations & Proration	(424,083)	
Personal Property Value, billed	22,991,617	
2021 Supplemental Assessments	-	
2021 Supplemental PPTRA & Exonerations	-	
Personal Property Value, billed	-	
Total Value for 2021 and 2021 supplemental	22,991,617	
Total Budgeted	153,000	
Total Tax Billed less PPTRA	303,178	
2021 Supplemental Tax Billing	-	
Total Adjustments & Additional Exonerations	(52,209)	
Total Collected YTD (percent of billed)	<u>235,104</u>	94%
Amount Due per Accounts Receivable	15,865	

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

Total Budgeted	86,150	
Total Collected (percent of budget)	<u>56,082</u>	65%
Amount Due Per Budget	30,068	





**TOWN OF
CAPE CHARLES**

AGENDA TITLE: Budget Management Policy

AGENDA DATE
June 16, 2022

SUBJECT/PROPOSAL/REQUEST: Establish a budget management policy

ITEM NUMBER:
7A

ATTACHMENTS: Resolution 20220616

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
John Hozey, Town Manager

REVIEWED BY:
John Hozey, Town Manager

BACKGROUND:

During the budget development process for FY23, it was noted that there was no formal guidance from the Town Council delegating responsibility to the Town Manager regarding his authority to manage funds within the budget once the budget has been adopted and appropriated.

ITEM SPECIFICS:

Draft management policies were developed for review during the FY23 budget work sessions. The policy allows the Town Manager some discretion within set parameters to move money within funds to react in real time to unanticipated needs of the Town. The procedures were also reviewed by the Town's auditors who agreed that these were reasonable and prudent policies.

RECOMMENDATION:

Staff recommends approval of Resolution 20220616 establishing a budget management policy.

RESOLUTION 20220616

ESTABLISHING A BUDGET MANAGEMENT POLICY

WHEREAS, Municipal budgets are more than just allocations of authorized expenditures; they are also policy documents from the governing body which outline an expected service level and capital investment for the time period covered; and

WHEREAS, only the Town Council has the authority to approve annual budgets/policies and to appropriate the funds necessary to support them; however, it is the responsibility of the Town Manager to implement and manage these budgets/appropriations; and

WHEREAS, it is not possible to accurately anticipate all operational conditions or external influences that may occur throughout the budgeted period when the budget documents are developed. Therefore, it is necessary to allow the Town Manager some level of discretion to react to actual circumstances in real time; and

WHEREAS, clear guidance is needed from the governing body to its management personnel, that provides for the needed discretion without subverting the policy goals of the document.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Cape Charles hereby establishes a budget management policy as follows:

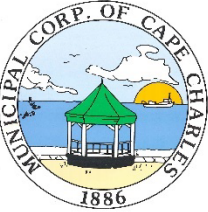
1. Appropriations to specific accounting Funds will remain within those Funds unless transferred to another Fund by the Town Council via budget resolution
2. Creation of new line items within any accounting Fund requires Town Council approval
3. Transfers between line items within an accounting Fund may be made by the Town Manager subject to the following limitations:
 - a. Transfers of greater than \$20,000 will be reported to the Town Council at their next regular meeting
 - b. Transfers between capital project line items of greater than \$10,000 will be reported to the Town Council at their next regular meeting
 - c. Transfers between capital project line items of greater than \$20,000 or 10% of total budgeted amount, whichever is smaller, requires Town Council approval
 - d. Transfers will not be artificially divided into smaller amounts to circumvent the limits of this policy
4. For purposes of this policy, accounting Funds are defined as the General Fund, the Special Activities Fund, the Capital Projects Fund, the Debt Service Fund, the Harbor Fund, the Utility Fund, and the Sanitation Fund.

This resolution shall become effective upon approval.

Adopted by the Town Council of Cape Charles on this 16th day of June 2022

Mayor

ATTEST: _____
Clerk of the Council

 TOWN OF CAPE CHARLES	AGENDA TITLE: Fiscal Year 2023 Proposed Budget & Appropriation		AGENDA DATE: June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: Approve the Proposed FY 2023 Budget & Appropriate Funds		ITEM NUMBER: 7B
	ATTACHMENTS: Ordinance 20220616 – Approving the Budget for Fiscal Year 2023 and Building, Planning and Zoning Fee Schedule, and Making Appropriations for the Fiscal Year, Revenue & Expense Summary by Fund Report, Summary of Capital Projects by Fund Report, Building/Zoning fee schedule		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Last year, in an effort to improve transparency and accountability in the budget, the Town increased the number of accounting Funds from four to seven – the General Fund, the Harbor Fund, Sanitation Fund, Special Activities Fund, the Capital Projects Fund, the Debt Service Fund, and the Utility Fund. The Harbor, Sanitation and Utility Funds are Enterprise Funds and should be self-sustaining through fees for services and other charges. All other Funds are supported by real estate taxes, other taxes, or other revenues.

DISCUSSION:

Pursuant to Section 15.2-2503 of the Code of Virginia, the town manager and staff held meetings to prepare the budget for Fiscal Year (FY) 2023. At the May 12, 2022 Town Council budget work session, it was determined that projected revenues were in excess of current and strategic requirements, and there was consensus to reduce the following tax rates:

- Real Estate Tax decrease of \$.0984 per \$100 for a total of \$.2159 per \$100
- Personal Property Tax decrease of \$1.00 per \$100 for a total of \$1.00 per \$100

An updated scheduled of building/zoning fees (see attached) are included in this budget authorization. Additionally, contract support for trash collection has increased over last year, requiring the following increase to the Sanitation Fund:

- Trash collection increase of \$1.60 per month for a total of \$18.28 per month

All other proposed rates/fees (to include utility fees) remain unchanged from FY 2022.

The attached resolution includes the summary of estimated revenues and expenditures by Fund for the proposed budget. The Public Hearing on the proposed FY 2023 budget was held on June 9, 2022, pursuant to Section 15.2-2506 of the Code of Virginia.

RECOMMENDATION:

Staff recommends adoption of Ordinance 20220616 – Approving the Budget for Fiscal Year 2023 and Building, Planning and Zoning Fee Schedule, and Making Appropriations for the Fiscal Year by roll call vote.

ORDINANCE 20220616

APPROVING THE BUDGET FOR FISCAL YEAR (FY) 2022/2023 AND BUILDING, PLANNING AND ZONING FEE SCHEDULE, AND MAKING APPROPRIATIONS FOR THE FISCAL YEAR

WHEREAS, the Council of the Town of Cape Charles has prepared a budget for FY 2022/2023 pursuant to Section 15.2-2503 of the Code of Virginia; and

WHEREAS, the budget has been advertised and a public hearing has been held pursuant to Section 15.2-2506 of the Code of Virginia; and

THEREFORE, BE IT RESOLVED, by the Town Council of Cape Charles, this 16th day of June 2022 that the budget for FY 2022/2023 be approved as follows:

GENERAL FUND		PUBLIC UTILITIES FUND	
Revenue	\$4,030,694	Revenue	\$2,603,420
Expense	\$4,030,694	Expense	\$2,603,420
Revenue less expenditures	\$0	Revenue less expenditures	\$0
GENERAL CAPITAL PROJECTS FUND		HARBOR FUND	
Revenue	\$1,950,314	Revenue	\$1,154,388
Expense	\$1,950,314	Expense	\$1,154,388
Revenue less expenditures	\$0	Revenue less expenditures	\$0
GENERAL DEBT SERVICE FUND		SANITATION FUND	
Revenue	\$249,571	Revenue	\$442,253
Expense	\$249,571	Expense	\$442,253
Revenue less expenditures	\$0	Revenue less expenditures	\$0
GENERAL SPECIAL ACTIVITIES FUND (Grants & Pass-thru transactions)			
Revenue	\$919,350		
Expense	\$919,350		
Revenue less expenditures	\$0		

The following tax rates and user fees are established:

- Vehicle Tax: \$31.00 per vehicle subject to Virginia State Registration (Trailers \$18.00) and Golf Cart Decal is \$31.00.
- Real Estate Tax: \$.2159 per \$100; Equalized rate at 101% of previous year's assessed value.
- Personal Property Tax: \$1.00 per \$100 (This is reduced from \$2.00 per \$100); Boat Tax \$0.01 per \$100
- Transient Occupancy Tax: 4.0% plus flat fee of: \$1 per night per room (Hotels/B&Bs) or \$4 per night (Residential Units)
- Meals Tax: 5.5% Monthly
- Admissions Tax: 3% Quarterly
- Short Term Rental Tax: 1% Quarterly
- Water Rate –Residential 0-2,000 gal.: \$33.46 minimum; 2,001 to 5,000 gal.: \$2.63 per 1,000; 5,001 to 10,000 gal: \$3.75 per 1,000; 10,001 to 15,000 gal: \$5.00 per 1,000; over 15,000 gal: \$7.50 per 1,000; Commercial 0-2,000 gal: \$33.46 minimum; 2,001-10,000 gal: \$2.50 per 1,000; 10,001-15,000 gal: \$3.75 per 1,000; over 15,000 gal: \$5.00 per 1,000

- Wastewater Rate –Residential 0-2,000 gal.: \$63.12 minimum; 2,001 to 5,000 gal.: \$4.11 per 1,000; 5,001 to 10,000 gal: \$5.85 per 1,000; 10,001 to 15,000 gal: \$7.80 per 1,000; over 15,000 gal: \$11.70 per 1,000; Commercial 0-2000 gal: \$63.12 minimum: 2,001-10,000 gal: \$3.90 per 1,000; 10,001-15,000 gal: \$5.85 per 1,000; over 15,000 gal: \$7.80 per 1,000
- Trash Collection Fee: \$18.28 per month (increase of \$1.60); and

BE IT FURTHER RESOLVED, that pursuant to Section 15.2-2506 of the Code of Virginia, funds are appropriated from all sources of revenue for expenditures during the period July 1, 2022 through June 30, 2023 as follows:

General Fund:	\$4,030,694
General Capital Fund:	\$1,950,314
General Debt Service Fund:.....	\$249,571
General Special Activities Fund:	\$919,350
Public Utilities Fund:	\$2,603,420
Harbor Fund:.....	\$1,154,388
Sanitation Fund:.....	\$442,253

and that the Town Manager is authorized to transfer funding pursuant to the Cape Charles Budget Management Policy established by the Cape Charles Town Council by adoption of Resolution 20220616.

Adopted by the Town Council of Cape Charles on June 16, 2022.

By: _____
Mayor William Dize

ATTEST:

Town Clerk

Town of Cape Charles
Fiscal Year 2023
Budget Prep Worksheet

As of:
6/9/2022

2022/2023
Proposed
Budget

100. GENERAL OPERATIONS FUND

Total General Fund Revenue	\$4,030,694.33
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* Total Core Operating Revenue	\$3,597,183.33
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NOTE: An amount equal to 20% of the operating expenditures will be transferred from General Fund Balance to Committed Reserve on the Balance Sheet.

An amount equal to 10% of the operating expenditures will be transferred from General Fund Balance to Contingency Reserve (Assigned) on the Balance Sheet.

Expense

4110. LEGISLATIVE	\$49,872.64
4112. TOWN CLERK	\$111,367.59
4121. TOWN MANAGER	\$1,424,535.35
4124. FINANCE	\$418,229.36
4310. POLICE	\$668,885.81
4340. CODE ENFORCEMENT	\$181,587.25
4430. PUBLIC WORKS	\$695,845.18
4730. LIBRARY	\$180,859.78
4811. PLANNING	\$299,511.37
Total General Fund Expense	\$4,030,694.33

100. GENERAL FUND REVENUE LESS EXPENDITURES	\$0.00
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Town of Cape Charles

Fiscal Year 2023

Budget Prep Worksheet

2022/2023
Proposed
Budget

110. GENERAL CAPITAL PROJECTS FUND

Total General Capital Fund Revenue	\$1,950,313.99
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Total General Capital Projects Fund Expense	\$1,950,313.99
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GENERAL CAPITAL FUND REVENUE LESS EXPENDITURES	\$0.00
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120. GENERAL DEBT SERVICE FUND

Total General Debt Service Fund Revenue	\$249,571.15
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4121. TOWN MANAGER, includes Harbor debt service	\$224,542.15
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4310. POLICE	\$21,149.45
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4340. CODE ENFORCEMENT	\$658.78
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4430. PUBLIC WORKS	\$3,220.77
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Total General Debt Service Fund Expense	\$249,571.15
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GENERAL DEBT SVC FUND REV LESS EXPENDITURES	\$0.00
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130. GENERAL SPECIAL ACTIVITIES FUND

Total Revenue Special Activities Fund	\$919,350.00
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Special Activities Fund Expense

4121. TOWN MANAGER	\$913,350.00
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4730. LIBRARY	\$6,000.00
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Total Special Activities Fund Expense	\$919,350.00
---------------------------------------	--------------

130. GEN SPECIAL ACTIVITIES FUND REV LESS EXPENDITURES	\$0.00
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Town of Cape Charles
Fiscal Year 2023
Budget Prep Worksheet

2022/2023
Proposed
Budget

501. PUBLIC UTILITIES FUND

Total Utility Fund Revenue	<u>\$2,603,419.56</u>
Expense	
4500. UTILITY ADMIN.	\$278,948.54
4501. WATER	\$858,301.71
4502. SEWER	\$1,405,640.95
4503. UTILITY BILLING	\$60,528.36
Total Utility Fund Expense	<u>\$2,603,419.56</u>
UTILITY FUND REVENUE LESS EXPENDITURES	<u><u>\$0.00</u></u>

510. HARBOR FUND

Total Harbor Fund Revenue	<u>\$1,154,388.25</u>
Total Harbor Fund Expense	<u>\$1,154,388.25</u>
HARBOR FUND REVENUE LESS EXPENDITURES	<u><u>\$0.00</u></u>

520. SANITATION FUND

Total Sanitation Fund Revenue	<u>\$442,253.12</u>
Total Sanitation Fund Expense	<u>\$442,253.12</u>
SANITATION FUND REVENUE LESS EXPENDITURES	<u><u>\$0.00</u></u>

MUNICIPAL CORPORATION OF CAPE CHARLES
FY 2023 Summary of Capital Projects

FINAL

CAPITAL PROJECTS	BUDGET Requested	GRANT PROCEEDS or DONATION	USDA RD FINANCE 35%Grant/65% loan	REAPPRO- PRIATION FROM FUND BALANCE	TOWN FY23 COST
<u>GENERAL FUND OPERATING FUND</u>					
POLICE					
FY 2023 Police Vehicle, including outfitting new	42,000	14,700	27,300	0	0
FY 2023 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>					
PUBLIC WORKS					
Multi-Use Trails, Phase 3 Construction	929,922	703,483	0	226,439	0
Municipal Space Replacement Planning (ARPA)	550,000	550,000	0	0	0
Library Upgrade & Condo-ization	34,000	34,000	0	0	0
Mason Avenue Parking Lot Improvement	20,000	0	0	0	20,000
Mason Avenue Restroom	110,000	0	0	0	110,000
South Beach Restroom Renovation	40,000	0	0	0	40,000
Gator for Public Works Staff	26,500	9,275	17,225	0	0
Grounds Maintenance Equipment for PW	33,270	11,645	21,626	0	0
Central Park Game Area for Adults (CCP)	29,000	21,750	0	0	7,250
Storage Facility (3 x conexes + roofing)	20,000	0	0	0	20,000
Capital Project Contingency	75,040	0	0	75,040	0
TOTAL GENERAL CAPITAL FUND	1,867,732	1,330,153	38,851	301,479	197,250
<u>UTILITY FUND</u>					
WATERWORKS					
Water Tank Mixer/Power Vent (FY2021 carryover)	0	0	0	0	0
(AMI/AMR Auto Read Water Meters - Phase 2)	0	0	0	0	0
Water Plant Upgrade Analysis (Engineering)	0	0	0	0	0
Keck Well Connection (Engineering)	60,000	0	0	60,000	0
WASTEWATER					
Sewer Pod Controller Upgrades Phase 1 of 5	14,500	0	0	0	14,500
TOTAL UTILITY FUND	74,500	0	0	60,000	14,500
<u>HARBOR FUND</u>					
Fuel System-Relocate Emergency Stop Switches	10,000	0	0	0	10,000
Fuel Management System Replacement	42,000	0	0	0	42,000
Inner Harbor King Pile & Waler Replacement Design	40,000	0	0	0	40,000
TOTAL HARBOR FUND	92,000	0	0	0	92,000
TOTAL BUDGETED CAPITAL EXPENDITURES	2,034,232	1,330,153	38,851	361,479	303,750

	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
BUILDING FEES	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			
	Permit Fees	Based on use, construction type, and square footages. Please contact Building Official.		
	Certificates of Occupancy	Included in cost of permit		
	1. Permanent Certificant of Occupancy			
	2. Certificate of Occupancy when no permit is issued	\$100		
	3. Temporary Certificate of Occupancy	\$400 (per issuance) max. of 2 issuances		
	4. Rental Certificate of Occupancy	\$100 (includes inspection)		
	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	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
ZONING FEES	5. Zoning Clearance			
	a. As part of a building permit or a Certificate of Appropriateness application	\$0	\$0	This fee is included in the Building Permit Application fee & the Historic District Review Board Certificate of Appropriateness application fee.
	b. All other approved by administrative review		\$150	When there is no building permit application or Certificate of Appropriateness application being submitted, need to state what is the established fee for this - this is the same fee as included in the Building Permit Application fee calculations.
	c. Trees/Landscaping			
	1.) Tree Removal Permit		\$10/tree	No fee currently for anything regarding tree permits
	2.) Landscaping Plan for full lot	\$100	\$100	Was residing within the Building Permit Fee as part of its total calculation. This should come out from under the building permit fee since it needs to be approved thru separate zoning permit which will be inspected within 6 months from issuance of Certificate of Occupancy for compliance with approved.
	3.) PENALTY - Tree removal without a permit	\$300	\$300	
	d. Appeals Variance Application to Board of Zoning Appeals	\$750	\$500**	Reducing the fee to reflect the average cost for staff processing of applications; the advertising costs will be charged on actual costs.
	e. Signage - All affixed and free-standing signage greater than ten (10) sq. ft.	\$50	\$50	

	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
HISTORIC DISTRICT REVIEW BOARD FEES	6. Historic District Review Board Application Fee			
	a. New Construction up to 2,000 sq. ft - Residential	\$300	\$500	Proposing to change to a flat fee for new construction by type and not a fee structure based on square footage.
	b. New Construction >2,000 sq. ft - Commercial or Commerical/Residential Mixed Use		\$750	Proposing to change to a flat fee for new construction by type and not a fee structure based on square footage.
	c. Renovation			
	1) All Other Minor Work authorized by CCZO Section 8.17, residential and/or commercial	\$150	\$150	Clarify that this fee is for Minor Work/Administrative Approval
	2) Substantial alterations - Residential		\$500	Create new fee category for residential substantial alterations; moving away from a square footage fee to flat fee based upon type of work (commercial vs residential)
	3) Substantial alterations - Commercial		\$750	Create new fee category for commercial substantial alterations; moving away from a square footage fee to flat fee based upon type of work (commercial vs residential)
	4) Demolition of structure		\$400	Create new fee category for demolition application
	d. Extension of approved Certificate of Appropriateness		\$50	New fee to reflect if the Town has to inspect, extend and issue a revised C of A beyond the 12 month time frame,
	f. Modification to an approved and active Certificate of Appropriateness (CoA)	\$250	\$250	

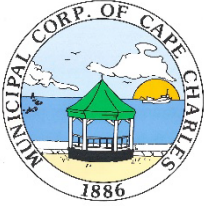
	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
APPEALS FEES	7. Board of Zoning Appeals (Variance) APPEALS			
	a. Single Family Detached Residential/All Others Appeals Application to Board of Zoning Appeals	\$450 / 750	\$500*	General Fee for any appeals based upon average staff time/cost to process; advertising costs associated with appeal will be charged at cost.
	b. Certificate of Appropriateness Appeals to Town Council		\$500**	I did not find that there was a fee for appeals to Town Council of HDRB Votes so establishing this fee. Any required aAdvertising costs will be charged at cost.
	c. Add for Each Additional Variance Request on Same Application Appeals Application to Building Code Board of Appeals		\$250**	Fee was listed on the appeals application but not listed on the Town's Adopted Fee Schedule. Any required advertised will be charged at cost.

	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
HARBOR AREA REVIEW BOARD FEES	8. Harbor Area Review Board Certificate of Appropriateness			
	a. Development Certificate	\$300/ application base fee + \$70 per acre	\$750 / application base fee + \$100 per acre**	Recommend increase based upon staff time/costs; Any required advertised will be charged at cost.
	b. Extension of approval	\$100	\$100	
	b. Appeals		\$500	Move under Appeals Fees section
	f. Modification to an approved and active Certificate of Appropriateness (CoA)		\$250	New fee based upon Town experience with Cert. of Appropriateness thru HDRB

	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
ENVIRONMENTAL PERMITS	9. Environmental Permits			
	a. Wetlands Permit		\$500	Increase based upon the review/staff time
	b. Site evaluation fee - RPA (except non-tidal)	\$350	\$150	New fee - this is a service the department is providing but there is time and site visit required.
	c. Structures in & across dunes		\$200	New fee - this is a required oversight function and approval that the Town must provide
	d. CBPA Encroachment or Exemption		\$200	New fee - this is a required oversight function and approval that the Town must provide
	e. CBPA Administrative Waiver for Maintenance Work of Vegetation in the RPA		\$50	New fee - this is a required oversight function and approval that the Town must provide
	f. Erosion & Sediment Control Permit	\$500 + \$10/acre not to exceed \$1000	\$500 + \$10/acre not to exceed \$1000	
	g. Erosion & Sediment Agreement in lieu of plan	\$150	\$150	
	h. Erosion & Sediment Inspection fees	\$40/hr with 1 hour minimum	\$40/hr with 1 hour minimum	
	i. Erosion & Sediment Control Plan Review Fee	\$350	\$350	
SITE PLAN FEES	10. Final Plan Review Fees			
	a. Residential	\$150/site	\$150/site	
	b. Commercial	\$250/site + 3rd party fees	\$250/site + 3rd party fees #^	Need to provide list of Town accepted 3rd party reviewers and applicable fees
	c. Misc		\$150/site #^	space type development

	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
PLANNING FEES	11. Planning/ Zoning Requests			
	a. Regular Rezoning	\$1,000		
	1) Non-PUD		\$500 + \$50/acre**	Based upon zoning ordinance, creating fee structure to delineate between the types of rezoning envisioned: to any zoning district but the PUD District and then a rezoning
	2) PUD		\$1000 + \$50/acre**	
	a) Amendment to Town Comprehensive Plan; Concept Approvals		\$550/application	Included a fee if PUD Rezoning may require a Comp Plan Amendment
	b. Conditional Rezoning	\$1,000	\$1000 + \$50/acre**	
	c. Zoning Text Amendment Application - for consideration only by Town Council and/or Planning Commission to determine if they will assume ZTA for public hearing purposes		\$200/application	Clarifying the fee description and provide a format to allow ZTA to come thru system for consideration by the Town Council and/or Planning Commission to determine if there is merit to the request and willingness to accept and become the applicant, in compliance with state law.
	d. Conditional Use Permit	\$600 for single family detached residential \$850 all other	\$600	Propose flat fee for all Conditional Use permit applications.

	Type of Permit or Review	Current TOCC Fees	Proposed TOCC Fees & Charges	COMMENTS FROM KHN regarding proposed changes
SUBDIVISION FEES	12. Subdivision through recordation	Residential \$450/application + \$50/lot Commercial \$600/application + \$70/lot		Change the fee structure based upon each type and level of review through the subdivision process
	1) Concept or sketch plan review		\$100 + \$10/parcel	
	2) Preliminary plat review			
	a) 3 lots or less		\$250 + \$50/lot #^	
	b) 4 lots or more		\$500 + \$100/lot #^	
	3) Final plat review			
	a) 3 lots or less		\$125	
	b) 4 lots or more		\$250	
	4) Subdivision modification		\$75	
	5) Administrative Plat/Lot line adjustment		\$200	Adding new fees to reflect the other types of lot changes that can be sought under Code of Virginia and need to be approved by the Town
	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)	\$50	\$200	Combine these fees into only one fee and only if the matter has been set for public hearing and advertised.
	if public hearing has been set	\$200		
LEGEND with GENERAL NOTES				
*				
**	Advertising Costs, Actual			
#	Advertising Costs, Actual + Adjacent Property Owner Notfication Mailin 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			

 TOWN OF CAPE CHARLES	AGENDA TITLE: Myrtle Landing Renewal LLC Local Economic Development Authority Financing		AGENDA DATE June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: Adopt Resolution 20220616B approving local Economic Development Authority financing for Myrtle Landing Renewal LLC		ITEM NUMBER: 7C
	ATTACHMENTS: Resolution 20220616B; Letter from the Economic Development Authority of Northampton County and Towns; Certification of the Public Hearing and Action Taken by the EDA and Attachments		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Myrtle Landing Apartments (formerly Heritage Acres Apartments) is a housing complex providing affordable housing for elderly and disabled residents in Cape Charles. There are approximately 93 units and related facilities located on approximately 8.40 acres of land at 815 Randolph Avenue.

ITEM SPECIFICS:

Myrtle Landing Renewal LLC submitted an application requesting assistance from the Economic Development Authority of Northampton County and Towns (EDA) by the issuance of the EDA's revenue bonds in an amount not to exceed \$10,250,000 to assist in financing or refinancing certain costs of acquisition, construction, rehabilitation, renovation and equipping of the Myrtle Landing Apartments. The EDA conducted a public hearing on April 19, 2022 regarding the request and adopted a resolution authorizing the issuance of up to \$10,250,000 revenue bonds for the benefit of Myrtle Landing Renewal LLC as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia (Industrial Development and Revenue Bond Act).

RECOMMENDATION:

Staff recommends adoption of Resolution 20220616B approving the Economic Development Authority financing for Myrtle Landing Renewal LLC.

RESOLUTION 20220616B

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CAPE CHARLES, VIRGINIA WITH RESPECT TO ECONOMIC DEVELOPMENT AUTHORITY FINANCING FOR MYRTLE LANDING RENEWAL LLC

WHEREAS, the Economic Development Authority of Northampton County and Towns (the “Authority”) has considered the application of Myrtle Landing Renewal LLC, a Virginia limited liability company (the “Borrower”) requesting the issuance of the Authority’s revenue bonds in an aggregate amount not to exceed \$10,250,000 (the “Bonds”) to assist the Borrower in (a) financing or refinancing certain of the costs of acquisition, construction, rehabilitation, renovation and equipping of a multifamily residential rental housing project consisting of approximately 93 units representing approximately 55,559 net rentable square feet known as Myrtle Landing Apartments and related facilities located on approximately 8.40 acres of land at 815 Randolph Avenue, Cape Charles, Virginia (the “Project”) and (b) financing bond issuance costs and other eligible expenditures (collectively, the “Plan of Finance”) and has held a public hearing in connection therewith on April 19, 2022; and

WHEREAS, on April 19, 2022, the Authority hold a public hearing on the issuance of the Bonds and adopted a resolution requesting the Town Council (the “Town Council”) of the Town of Cape Charles, Virginia (the “Town”) to approve the issuance of the Bonds to comply with Section 147(F) of the Internal Revenue Code of 1986, as amended (the “Code”) and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, as amended (the “Act”); and

WHEREAS, a copy of the Authority’s resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement with respect to the issuance of the Bonds have been filed with the Town Council.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Cape Charles, Virginia that:

1. The Town Council approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended, to permit the Authority to assist in the financing of the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds or the creditworthiness of the Bonds or the Borrower.

3. The issuance of the revenue bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the Town, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Town, will be pledged to the payment of the Bonds or the interest thereon or other costs incident thereto. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the Town and the Authority, shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto, except from the revenues and money pledged therefor.

4. This resolution shall take effect immediately upon its adoption.

Adopted by the Town Council of Cape Charles on this 16th day of June 2022.

By: _____
Mayor William “Smitty” Dize

ATTEST:

Clerk of Council

CERTIFICATION OF ADOPTION OF RESOLUTION

The undersigned Clerk of the Town Council of the Town of Cape Charles, Virginia hereby certifies that Resolution 20220616B set forth above was adopted during an open meeting on June 16, 2022 by the Town Council, the votes being recorded as follows:

<u>Member Name</u>	<u>Voting</u>				
	<u>Present</u>	<u>Absent</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstaining</u>
William Dize, Mayor					
Steve Bennett					
Andy Buchholz					
Andrew Follmer					
Paul Grossman					
Tammy Holloway					
Ellen O'Brien					

Signed this 16th day of June 2022

By: _____
Clerk of Council
Town of Cape Charles, Virginia

April 19, 2022

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

**Economic Development Authority of
Northampton County and Towns
Proposed Financing for the benefit of Myrtle Landing Renewal LLC**

Myrtle Landing Renewal LLC, a Virginia limited liability company (the "Borrower"), has requested that the Economic Development Authority of Northampton County and Towns (the "Authority") recommend approval by the Town Council of the Town of Cape Charles, Virginia (the "Town Council") of the issuance of the Authority's revenue bonds (the "Bonds"), in one or more series, in an aggregate amount not to exceed \$10,250,000, to assist the Borrower in (a) financing or refinancing certain of the costs of acquisition, construction, rehabilitation, renovation and equipping of a multifamily residential rental housing project consisting of approximately 93 units representing approximately 55,559 net rentable square feet known as Myrtle Landing Apartments and related facilities located on approximately 8.40 acres of land at 815 Randolph Avenue, Cape Charles, Virginia (the "Project") and (b) financing bond issuance costs and other eligible expenditures (collectively, the "Plan of Finance").

As set forth in the resolution of the Authority attached hereto, the Authority has agreed to issue the Bonds as requested. The Authority has conducted a public hearing on the proposed Plan of Finance and has recommended that you approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code").

Attached hereto are: (1) a certificate evidencing the conduct of the public hearing and the action taken by the Authority; (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907; and (3) the form of resolution suggested by counsel to evidence your approval.



Secretary, Economic Development Authority of
Northampton County and Towns

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of Northampton County and Towns (the "Authority") certifies as follows:

1. A meeting of the Authority was duly called and held on April 19, 2022, at 4:00 p.m. in the Second Floor Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia 23347, pursuant to proper notice given to each Director of the Authority before such meeting. The meeting was open to the public. The time of the meeting and the place at which the meeting was held provided a reasonable opportunity for persons of differing views to appear and be heard.
2. The Chair announced the commencement of a public hearing on the application of Myrtle Landing Renewal LLC and that a notice of the hearing was published once a week for two successive weeks in a newspaper having general circulation in the Town of Cape Charles, Virginia (the "Notice"), with the second publication appearing not less than six days nor more than twenty-one days prior to the hearing date. A copy of the Notice, as published, has been filed with the minutes of the Authority and is attached as Exhibit A.
3. A summary of the statements made at the public hearing is attached as Exhibit B.
4. Attached as Exhibit C is a true, correct and complete copy of a resolution (the "Resolution") adopted at such meeting of the Authority by a majority of the Directors present at such meeting. The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on this date.

WITNESS my hand and the seal of the Authority, this 19th day of April, 2022.



Secretary, Economic Development Authority of
Northampton County and Towns

[SEAL]

Exhibits:

- A - Copy of Certified Notice from Newspaper
- B - Summary of Statements
- C - Inducement Resolution

EXHIBIT A TO CERTIFICATE

Copy of Certified Notice from Newspaper

Advertising Receipt

Eastern Shore News
Classifieds
25 Market Street
Onancock, VA 23417

Phone: 410-860-6900
Fax: 410-341-6709

This is not an invoice

MCGUIRE WOODS LLP
MCGUIRE WOODS LLP
800 E CANAL ST
RICHMOND, VA 23219
ATTN: Clerissa Marie Santiago- Sanchez

Acct: WIL-Y11755
Order # 0005202862
P O #
Phone: 8047751026
Date: 4/4/22

Ad Taker: Arbeitman

Classification: Legals

Description	Start	Stop	Ins.	Size	Rate	Total
EASTERN SHORE NEWS	4/9/22	4/13/22	2	2 col x 70 lines	\$0.00	\$691.60

Affidavit of Publication Charge \$0.00

Tearsheet Charge \$0.00

Net Total Due:

\$691.60

Ad Text:

NOTICE OF PUBLIC HEARING BEFORE THE ECONOMIC DEVELOPMENT
AUTHORITY OF NORTHAMPTON COUNTY AND TOWNSHIP
PROPOSED PRIVATE ACTIVITY BOND FINANCING FOR MYRTLE LA
NDIN

MCGUIRE WOODS LLP
MCGUIRE WOODS LLP
800 E CANAL ST
RICHMOND, VA 23219
ATTN: Clerissa Marie Santiago- Sanchez

Certificate of Publication

This is to certify that the attached notice has been published in
EASTERN SHORE NEWS, a biweekly paper of general circulation in Accomack County, published in
Accomac, VA in issues dated:

04/09/22, 04/13/22, 04/20/22,



Legals Representative

Ad Number: 0005202862

Description: NOTICE OF PUBLIC HEARING BEFORE THE ECONOMIC DEVELOPMENT AUTHORITY OF NORTHAMPTON COUNTY AND T

Ocean Pines Independent
11021 Nicholas Lane, Suite 10,
Ocean Pines, Maryland 21811

Worcester County Times
11021 Nicholas Lane, Suite 10,
Ocean Pines, Maryland 21811

Chincoteague Beacon
25 Market St.

Delaware Wave
33000 Coastal Highway,
Bethany Beach, Delaware 19930

Somerset Herald
115 S. Division Street
Salisbury, MD 21801

Wilcomico Weekly
115 S. Division Street

Eastern Shore News
25 Market St.
Onancock, VA 23417

Delaware Coast Press
33000 Coastal Highway,
Bethany Beach, Delaware 19930

The Daily Times
115 S. Division Street

**NOTICE OF PUBLIC HEARING BEFORE THE
ECONOMIC DEVELOPMENT AUTHORITY
OF NORTHAMPTON COUNTY AND TOWNS
ON PROPOSED PRIVATE ACTIVITY BOND FINANCING
FOR MYRTLE LANDING RENEWAL LLC**

The Economic Development Authority of Northampton County and Towns (the "Authority"), whose mailing address is 16404 Courthouse Road, Eastville, Virginia 23347, hereby provides notice that it will hold a public hearing on the request of Myrtle Landing Renewal LLC, a Virginia limited liability company (the "Applicant") that the Authority issue up to \$10,250,000 in original aggregate principal amount of its multifamily housing revenue bonds (the "Bonds") and loan the proceeds of the Bonds to the Applicant. The Applicant will own and operate a multifamily residential rental housing project called "Myrtle Landing Apartments," which consists of approximately 93 units and is located at 815 Randolph Avenue, Cape Charles, Virginia (the "Project"). The Applicant's principal place of business is located at 11810 Grand Park Avenue, Suite 600, North Bethesda, Maryland 20852.

The Applicant has requested that the Authority loan the proceeds of the Bonds to the Applicant to finance or refinance all or a portion of the costs of acquiring, constructing, renovating, rehabilitating and equipping the Project, and, if and as needed, capitalized interest on the Bonds, costs of issuance related to the issuance of the Bonds, pre-construction expenses related to the Project, working capital, routine capital expenditures at the Project and other related costs.

The Project will meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended.

The Bonds will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia (the "Commonwealth") or any political subdivision thereof, including the Authority, the Town of Cape Charles, Virginia, or the County of Northampton, Virginia. Neither the Commonwealth nor any political subdivision thereof, including the Authority, the Town of Cape Charles, Virginia, and the County of Northampton, Virginia, shall be obligated to pay the Bonds, or the interest thereon, or the costs incident thereto, except from the revenues and monies received from the Applicant and pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth nor any political subdivision thereof, including the Authority, the Town of Cape Charles, Virginia, and the County of Northampton, Virginia, will be pledged to the payment of the principal of or interest on such Bonds or other costs incident thereto.

The public hearing, which may be continued or adjourned, will be held at 4:00 o'clock p.m. on April 19, 2022, before the Board of Directors of the Authority at the Second Floor Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia 23347. Any person interested in the issuance of the Bonds or the proposed financing may appear at the hearing and present his or her views.

ECONOMIC DEVELOPMENT AUTHORITY

EXHIBIT B TO CERTIFICATE

Summary of Statements

Representatives of Myrtle Landing Renewal LLC and McGuire Woods LLP, bond counsel, appeared before the Authority to explain the proposed financing. No one appeared in opposition to the proposed bond issue.

EXHIBIT C TO CERTIFICATE

Resolution of the Authority

**RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF
NORTHAMPTON COUNTY AND TOWNS AUTHORIZING THE ISSUANCE OF UP
TO \$10,250,000 REVENUE BONDS FOR THE BENEFIT OF
MYRTLE LANDING RENEWAL LLC**

WHEREAS, the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act") empowers industrial development authorities such as the Economic Development Authority of Northampton County and Towns, a political subdivision of the Commonwealth of Virginia (the "Authority") created by municipalities whose housing authorities have not been activated pursuant to the Housing Authorities Law, Chapter 1, Title 36 of the Code of Virginia of 1950, as amended (the "Virginia Code") to issue bonds to make loans for the purpose of financing certain facilities used primarily for single and multifamily residences in order to promote safe and affordable housing in the Commonwealth of Virginia (the "Commonwealth") and to benefit thereby the safety, health, welfare and prosperity of the inhabitants of the Commonwealth; and

WHEREAS, the Authority has received a request from Myrtle Landing Renewal LLC, a Virginia limited liability company (the "Borrower"), requesting that the Authority issue its revenue bonds to assist the Borrower in (a) financing or refinancing certain of the costs of acquisition, construction, rehabilitation, renovation and equipping of a multifamily residential rental housing project consisting of approximately 93 units representing approximately 55,559 net rentable square feet known as Myrtle Landing Apartments and related facilities on approximately 8.40 acres of land at 815 Randolph Avenue, Cape Charles, Virginia (the "Project") and (b) financing bond issuance costs and other eligible expenditures (collectively, the "Plan of Finance"); and

WHEREAS, the Borrower has represented that the estimated cost of the Project, including, but not limited to, all expenses of issue, will not exceed \$10,250,000, thus requiring one or more issues of revenue bonds to finance the Plan of Finance in an aggregate principal amount not to exceed \$10,250,000 (the "Bonds"); and

WHEREAS, the Authority's assistance in financing the Plan of Finance will induce the Borrower to acquire, construct, rehabilitate, renovate, equip and maintain the Project in the Commonwealth and benefit the inhabitants of the Town of Cape Charles, Virginia (the "Town"), and the Commonwealth, either through the increase of their commerce or through the promotion of their safety, health, welfare, convenience or prosperity; and

WHEREAS, the Project will be established and maintained as "qualified residential rental project" within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, preliminary plans for the Project have been described to the Authority and, on April 19, 2022, a public hearing has been held as required by Section 147(f) of the Code and Section 15.2-4906 of the Act; and

WHEREAS, the issuance of the Bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth or the Town, and neither the faith and

credit nor the taxing power of the Commonwealth or any political subdivision thereof will be pledged to the payment of the Bonds; and

WHEREAS, (a) no member of the Board of Directors of the Authority is an officer or employee of the Town, (b) each member has, before entering upon his or her duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended, and (c) at the time of their appointments and at all times thereafter, including the date hereof, all of the members of the Board of Directors of the Authority have satisfied the residency requirements of the Act; and

WHEREAS, no member of the Board of Directors of the Authority has any personal interest or business interest in the Borrower or the proposed Bonds or has otherwise engaged in conduct prohibited under the State and Local Government Conflict of Interests Act, Chapter 31, Title 2.2 of the Virginia Code in connection with this resolution or any other official action of the Authority in connection therewith.

After careful consideration and in furtherance of the public purposes for which the Authority was created, **NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF NORTHAMPTON COUNTY AND TOWNS:**

1. It is hereby found and determined that the Project will constitute facilities used primarily for multifamily residences as described in the Act.

2. It is hereby found and determined that the financing of the Plan of Finance will further the purposes of the Act by promoting safe and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare and prosperity of the inhabitants of the Commonwealth and the Town.

3. To induce the Borrower to acquire, construct, rehabilitate, renovate, equip and maintain the Project in the Commonwealth, and particularly in the Town, the Authority hereby agrees to assist the Borrower in financing the Plan of Finance by undertaking the issuance of the Bonds, and authorizes and approves the issuance of the Bonds in an aggregate principal amount not to exceed \$10,250,000 upon terms mutually agreeable to the Authority and the Borrower. The Bonds will be issued pursuant to documents satisfactory to the Authority. The Bonds may be issued in one or more series at one time or from time to time.

4. It having been represented to the Authority that it is necessary to proceed immediately with the financing of the Plan of Finance, and the planning therefor, the Authority agrees that the Borrower may proceed with plans for the financing of the Plan of Finance, enter into contracts for land, construction, materials, equipment and services for the construction, renovation and equipping of the Project, and take such other steps as it may deem appropriate in connection with the Plan of Finance, provided, however, that nothing in this resolution shall be deemed to authorize the Borrower to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Plan of Finance or any portion thereof. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

5. At the request of the Borrower, the Authority approves McGuireWoods LLP, Tysons, Virginia, as Bond Counsel ("Bond Counsel") in connection with the issuance of the Bonds.

6. All fees, costs and expenses in connection with the Plan of Finance, including the Authority's administrative fees and the fees, costs and expenses of Bond Counsel, counsel to the Authority and counsel to the purchaser of the Bonds, shall be paid by the Borrower or, to the extent permitted by applicable law, from the proceeds of the Bonds. If for any reason the Bonds are not issued, it is understood that all such costs and expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefor. Neither the Authority (including its officers, directors, employees and agents) nor the Town shall be liable, and each hereby disclaims all liability to the Borrower and all other persons or entities, for any damages, direct or consequential, resulting from the failure of the Authority to issue the Bonds for any reason.

7. In adopting this resolution the Authority intends to take "official action" toward the issuance of the Bonds and to evidence its "official intent" to reimburse from the proceeds of the Bonds any expenditures paid by the Borrower to finance or refinance the construction, renovation and equipping of the Project before the issuance of the Bonds, all within the meaning of regulations issued by the Internal Revenue Service pursuant to Sections 103 and 141 through 150 and related sections of the Code.

8. The Borrower, by acceptance of this resolution, agrees to indemnify and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with (a) the Project and the Plan of Finance, (b) any application submitted by the Borrower or (c) the issuance of the Bonds.

9. The Authority recommends and requests that the Town Council of the Town (the "Town Council") approve the issuance of the Bonds.

10. The officers of the Authority are hereby authorized and directed to deliver to the Town Council (a) a reasonably detailed summary of the comments expressed at the public hearing held with respect to the issuance of the Bonds, (b) fiscal impact statements concerning the Project, and (c) a copy of this resolution, which constitutes the recommendation of the Authority that the Town Council approve the financing of the Plan of Finance and the issuance of the Bonds by the Authority.

11. Each of the Chair, the Vice Chair or the Secretary of the Authority, either of whom may act alone, is hereby authorized to request an allocation or allocations of the State Ceiling (as defined in Section 15.2-5000 of the Virginia Code) in accordance with the applicable provisions of the Virginia Code and any regulations or executive orders issued thereunder. All costs incurred by the Authority, if any, in connection with such proceeding shall be paid for by the Borrower.

12. No Bonds may be issued pursuant to this resolution until such time as (a) the issuance of the Bonds has been approved by the Town Council, (b) the Bonds have received an allocation or allocations of the State Ceiling in accordance with the applicable provisions of the Virginia Code and any regulations or executive orders issued thereunder and (c) the final terms and details of the Bonds have been approved by subsequent resolution of the Authority.

13. Neither the Directors of the Authority nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof. No director, member, officer, employee or agent of the Authority shall incur any personal liability with respect to any other action taken by such person pursuant to the Bonds, the documents related to the Bonds or the Act or any of the transactions contemplated thereby.

14. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds or the creditworthiness of the Plan of Finance or the Borrower. The issuance of revenue bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth or the Town, and neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision of the Commonwealth, including the Town, will be pledged to the payment of the Bonds. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the Town, and the Authority, shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto, except from the revenues and money pledged therefor.

15. This resolution shall take effect immediately upon its adoption.

ADOPTED this 19th day of April, 2022.

CERTIFICATE

The resolution set forth above was adopted during an open meeting at a regular meeting of the Economic Development Authority of Northampton County and Towns (the "Authority") all in accordance with law, by the following votes:

Aye: Josh Lettmore Kerry Binwood Steve Sturgis
 John Buddis Paul Grossman

Absent: X

Nay: X

Abstentions: X

The undersigned Secretary of the Authority certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority present and voting during an open meeting at a meeting duly called and held on April 19, 2022, at which a quorum was present, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on this date.

WITNESS the following signature and seal of the Authority this 19th day of April, 2022.

[SEAL]

Paul Grossman
Secretary of the Economic Development Authority
of Northampton County and Towns

**FISCAL IMPACT STATEMENT
FOR PROPOSED BOND FINANCING**

Date: April 19, 2022

Name of Applicant: Myrtle Landing Renewal LLC
Facility: Affordable Housing Facility located at 815 Randolph Avenue,
Cape Charles, Virginia

- | | |
|--|----------------------|
| 1. Maximum amount of financing sought | \$ <u>10,250,000</u> |
| 2. Estimated taxable value of the facility's real property to be constructed in the municipality | \$ <u>2,069,000*</u> |
| 3. Estimated real property tax per year using present tax rates | \$ <u>N/A**</u> |
| 4. Estimated personal property tax per year using present tax rates | \$ <u>0</u> |
| 5. Estimated merchants' capital tax per year using present tax rates | \$ <u>0</u> |
| 6. (a) Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality | \$ <u>25,000***</u> |
| (b) Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality | \$ <u>40,578***</u> |
| (c) Estimated dollar value per year of services that will be purchased from Virginia companies within the locality | \$ <u>37,755***</u> |
| (d) Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality | \$ <u>0***</u> |
| 7. Estimated number of regular employees on year round basis | <u>3</u> |
| 8. Average annual salary per employee | \$ <u>44,164</u> |



Chairman, Economic Development Authority of
Northampton County and Towns

*Based on current assessed value.

** The Applicant expects to apply for available property tax exemptions.

***The estimates provided represent operations only and do not reflect construction.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Zoning Map Amendment Application – 238 Randolph Avenue		AGENDA DATE June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: ZMA 2022-001: 238 Randolph Avenue – Conditionally Rezone from Residential -1 (R-1) to Commercial -1 (C-1)		ITEM NUMBER: 7D
	ATTACHMENTS: Supplemental Staff Report dated June 1, 2022; revised Site Plan and Material Images; Amended Proffer Statement submitted 05-03-2022		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

A joint public hearing was held on May 3, 2022 at which the applicant submitted a revised Proffer Statement prior to the start of said public hearing and also submitted a revised Site Plan with Images.

At the close of the public hearing, the Planning Commission requested clarification about the businesses and/or properties that are referenced in the Proffer Statement as to which would be allowed propane delivery/access vs. trash collection/servicing which the applicant provided. Members of the Commission indicated that some resolution is needed to continue to allow the essential services to be provided and serviced for these businesses, particularly to see if there is a way to leave the lot as Residentially Zoned but provide a narrow and limited allowance for trash collection and servicing as well as propane delivery but nothing further and requested staff to conduct research to see if there is a possibility to do this, such as a legal non-conforming consideration.

ITEM SPECIFICS:

The Town adopted its Zoning Ordinance on July 14, 1992 and within that document, it defines “legal, non-conforming” as ***Any legal use, building, or structure existing at the time of adoption of this ordinance or any amendment thereto may be continued even though such use, building, or structure may not conform with the provisions of this ordinance for the district in which it is located. Such use, building, or structure shall be deemed a “Non-Conforming Use.”***

If a determination is made to classify either a use and/or lot/parcel as legal, non-conforming, the Cape Charles Zoning Ordinance further stipulates in Section 2.5.1 thru 2.5.5 that the legal, non-conforming use may continue under certain conditions:

- 1. No such non-conforming use, building, or structure shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this ordinance, unless said enlargement does not result in an increase in nonconformity or result in a change to a use permitted in the district.***
- 2. No such non-conforming use, building, or structure shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use, building, or structure at the effective date of adoption of this ordinance or amendment of this chapter, unless such move results in decreasing the degree of nonconformity with the requirements of this district.***
- 3. No additional structures which do not conform to the requirements of this ordinance shall be erected in connection with such non-conforming use of land. No additional uses of a nature which would be prohibited generally in the district involved shall be permitted.***
- 4. Any non-conforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance.***

5. ***When any non-conforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no non-conforming use shall thereafter be resumed with the exception of existing duplexes specifically designed as such.***
6. ***If any such non-conforming use or structure ceases for any reason for a period of more than two years, except when government action impedes access to the premises, any subsequent use of such land or structure shall conform to the regulations specified by this chapter for the district in which such land or structure is located with the exception of existing duplexes specifically designed as such.***

Staff conducted a title review of both the residential lot as well as the hotel lot in front of this parcel only as far back as just prior to July 14, 1992 when the Town adopted its zoning ordinance. In 1983, Mustang Agreement purchased both the hotel lot on Mason Avenue and the residential lot behind it that fronts on Randolph from Margaret Dickson. While these properties sold several times in the intervening years, both the hotel and residential lot were sold in tandem and remained in common ownership from 1983 thru July 29, 2010. It is relevant to point out that the 8 ft easement across the residential lot has been part of all deed transaction for the hotel property itself (for full history on the easement/alley across this residential lot, see Supplement Staff Report to the Planning Commission dated June 1, 2022).

At that time, the hotel property was sold as a result of a bank default to Cape Charles Ventures, LLC; however, the residential lot did not sell at the same time as the hotel lot and was not sold until 12/18/2014 to Cape Charles Ventures, LLC. I consider this a break in service under the CCZO Section 2.5.1 (6) and removes the residential lot and any usage by the hotel as being classified as Legal, Non-Conforming. Therefore, I have determined that the Residential Lot at 238 Randolph Avenue and the uses currently occurring on the lot by the Hotel, with the exception of the established easement for water/sewer utilities and the delivery of propane to the propane tank which was allowed to be placed on the residential lot and service the hotel building when the hotel obtained a building permit for renovations to the hotel, are not legal, non-conforming uses and are uses occurring in violation of the Zoning Ordinance.

Commissioner Grossman indicated that he does not agree with this Zoning Determination and felt that it was possible that the uses were still occurring by the hotel property from 2010 to 2014 on the residential lot, even though the residential lot was owned by a different party than the owner of the Hotel Lot. I stated that I have no information to confirm or contradict his assumption but I did not find it necessary to know that since the two lots had different owners and unless there was a signed agreement from the owners of the residential lot to allow that lot to be used by the owners of the Hotel Lot then any use on the residential lot by the Hotel Lot during that time frame would not be legal and I stand by my Zoning Determination.

Therefore, the consideration before the Planning Commission was to either recommend the Conditional Rezoning Application as presented, recommend a rezoning but with further revisions or conditions using the Proffer Statement as a jumping off point in their deliberations, or to not recommend the rezoning application.

At this point, the Planning Commission went through the Proffer Statement section by section and the affiliated Site Plan and offered the following comments:

- 1) Section II (Land Use) (B – Permitted Uses) (1) Deliveries: Need clarification regarding “other service related deliveries”. As currently written, this is too broad and uncertainty about what falls under that umbrella. Does this mean the Sysco Food Truck? Or John Doe Electrician coming for 3 full days of repairing the electricity in the building? How does the use of the designated loading zone differ from this Proffer Condition to allow other service related deliveries for the Hotel Parcel and the listed properties?
- 2) Section II (Land Use) (B – Permitted Uses) (2) Waste Management: Staff indicated that in conversations with applicant, there was a discussion about the # of Town Issued Trash Receptacles (which is shown as 15 on the Site Plan and to be surrounded by a fence with gate enclosure for screening purposes) and should we consider a dumpster placed on the site a better option which would be serviced by a third party vendor paid by the Hotel and thus eliminating the large # of trash

receptacles and bringing them out to the street on a weekly basis for Town trash removal, especially since 15 trash bins is not typical for a residential lot anywhere else on Randolph Avenue. This would eliminate any concerns about the timing of placement of the trash bins onto the sidewalk on pick-up day as well as removal of the emptied bins back onto the hotel property. If the dumpster approach is amenable to both parties, then the site plan would need to be revised accordingly and some sort of screening, such as a fence around the dumpster, would need to be part of this condition.

Additionally, if this is an amenable approach, there may need to be consideration of considering the frequency of emptying of the dumpster beyond once a week, especially during the summer season. The summer season should be considered March to November.

Lastly, if the hotel expansion is pursued, possibly through the acquisition of 7 Strawberry Street, then an increase to at least 2 dumpsters should be an acknowledged stipulation or an increase in the frequency of the weekly emptying of the one trash dumpster to reflect the increase in the # of hotel rooms and the increased trash generation that would come from an increase in the # of hotel rooms.

- 3) Section II (Land Use) (B – Permitted Uses), (3) Golf Carts: Staff indicated that golf carts were not deemed essential in the provision of services needed for the operation and management of the hotel and was actually an expansion of the services that historically were provided from the rear of the hotel property (i.e., propane deliveries, trash collection and storage). The Planning Commission members indicated consensus that they do not view the offering of golf carts and providing a charging station for said golf carts (and the screening noted for such) are not essential to the hotel and support the removal of this condition of use on the lot (238 Randolph Avenue) as well as the associated screening in Section III (D).
- 4) Section III (Landscaping & Screening) (C): Staff was unable to fully explain the term “convenience containers” and the PC members stated that if we don’t fully understand and can’t state clearly what this is then the term should be deleted from this condition.
- 5) The Commission members wanted clarification regarding the addresses listed in the Proffer Statement and what businesses were associated/located at those addresses. I stated that these addresses reflected businesses located in real estate owned by Cape Charles Ventures II, LLC which is the corporate entity for Hotel Cape Charles. So, the businesses that would be benefiting from this zoning application are the Hotel itself, subsidiary businesses of the hotel’s LLC entity operating within space of the hotel building or that the hotel’s LLC entity has leased to third parties to operate a business (such as the Credit Union or the Almeta Coffee Shop).

Commissioner Butta stated that he is not supportive of approving this application, even with the points raised during the discussion, since he believed the design and construction of the hotel created this issue, specifically the courtyard which is at the back of the building where the zoning is Commercial-1 and where the trash receptacles used to be stored. Additionally, he felt that the courtyard should be relocated to the residential lot and the other uses be moved to operate from the portion of the Commercial-1 Zoned Lot that the hotel sits on and he does not think the rezoning is supported by the Comprehensive Plan. Commissioner Strub also indicated that he did not think this application was supported by the Comprehensive Plan.

As I have previously stated, Proffer Statements are voluntary offers by an applicant to place specified conditions or stipulations to either restrict by-right usage of the Zoning Ordinance or to increase or supplement any named improvements above the minimum requirements of the ordinance. The Proffer Statement needs to be submitted prior to the convening of the public hearing (which these were submitted timely) and may be further tweaked as long as they are not materially changed from what was part of the public hearing process and are fully and voluntarily offered by the applicant.

PLANNING COMMISSION RECOMMENDATION:

Commissioner Grossman motioned to recommend approval of the Rezoning of Tax Map 83A3-1-625A, further identified as 238 Randolph Avenue, from Residential-1 (R-1) to Commercial-1 (C-1), but with the following

revisions/conditions to the terms of the Proffer Statement, with the understanding and proviso that the Town can not require the Applicant to amend the Proffer Statement:

- 1) Section II (Land Use) (B – Permitted Uses) (1) Deliveries: Provide clarification regarding “other service related deliveries” to eliminate ambiguity and clearly specific type and purpose of “other service related deliveries; if unable to craft said language, then this phrase “other service related deliveries” should be stricken.
- 2) Section II (Land Use) (B – Permitted Uses) (2) Waste Management: All trash should be collected and stored in a dumpster (not the trash receptacle supplied by the Town) on the site and said dumpster shall be serviced by a third party vendor at expense of the property owner/applicant and said dumpster shall be serviced at least twice a week during the summer season of March to November). Revise the site plan to show the location of the dumpster and provide appropriate screening of dumpster through a fence. If the hotel expands its # of rooms from the acquisition of 7 Strawberry Street expansion, then this site plan will be amended to either accommodate 2 dumpsters or the property owner/applicant will increase the frequency of weekly servicing of the trash dumpster.
- 3) Section II (Land Use) (B – Permitted Uses), (3) Golf Carts: Remove any mention or allocation of land on this lot for the storage, charging or holding of golf carts for the hotel and any associated screening and /or landscaping for golf carts.
- 4) Section III (Landscaping & Screening) (C): Fully explain/ define the term “convenience containers” to be reviewed and determined if acceptable by the Town; otherwise, this term should be removed.

The motion was seconded by Commissioner Holloway and the motion carried with a vote of three in favor (Grossman, Holloway and McCoy) and two against (Butta and Strub).

TOWN COUNCIL INFORMATION:

I have spoken with the applicant and informed him of the various items raised by the Planning Commission and provided him a copy of this report. I have indicated that the Town is fully aware that they can not require he incorporate any of the items raised by the Planning Commission into his Proffer Statement and that, if he is willing to consider and revise his Proffer Statement to try and address the issues raised by the Planning Commission, then that would be appreciated and acceptable to make such revisions to the Proffer Statement since that would not materially change the Proffer Statement conditions that were part of the public hearing process.

He did indicate that he would review this information thoroughly and provide a response to the Town but may not have a response submitted prior to the Town Council meeting on June 16, 2022. I indicated that I would be providing this as Information Only to the Town Council for the 6/16/2022 meeting and would provide a place marker for potential action by the Town Council on their July 21, 2022 meeting agenda. He also indicated his initial reaction to the Planning Commission’s position regarding the golf carts is total disagreement but will reserve any further comments until he has fully read my report regarding the Planning Commission’s actions and recommendation to the Town Council.



PLANNING COMMISSION & TOWN COUNCIL JOINT PUBLIC HEARING STAFF REPORT

Meeting Date: May 3, 2022

Item #: 4B – ZMA 2022-001

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

Date: April 26, 2022

APPLICANT : Cape Charles Ventures, LLC

TYPE OF APPLICATION: Zoning Map
Amendment (ZMA) 2022-01

SITE ADDRESS: 238 Randolph Avenue

SPECIFIC REQUEST: Conditionally rezone parcel
from Residential-1 to Commercial-1

TAX MAP: 83A3-1-625A

ZONING ORDINANCE: Section 2.7

LOT SIZE: 5,600 sq ft

CURRENT ZONING: Residential (R-1)

PROPOSED ZONING: Commercial-1 (C-1)

DATE RECEIVED: March 4, 2022

DATE DEEMED COMPLETE: March 16, 2022

LEGAL DEADLINE: 100 days from 1st Receiving Application: July 14, 2022

NARRATIVE OF PROPOSAL

Cape Charles Ventures, LLC, on March 4, 2022, filed a conditional rezoning map amendment application to rezone 238 Randolph Avenue (Tax Map # 83A3-1-625A) from Residential-1 to Commercial-1 with proffers to limit the commercial activity of said proposed rezoning but to legally allow for the support services to be located on this lot and continue as the applicant has been utilizing this lot for the last few years and has expanded some services, such as golf carts for guest usage which are parked and charged on this lot. Additionally, the trash receptacles serving Hotel Cape Charles are stored on this lot and this lot is the entry point for limited utility deliveries, including propane for the Hotel as well as adjacent commercial properties which have been specifically listed in the Proffer Statement from the applicant.

This application was forwarded to the Town Council and on March 17, 2022, the Town Council adopted Resolution of Intent 20220317B to accept the application and forwarded to the Planning Commission who then scheduled this matter for joint public hearing with Town Council on May 3, 2022.

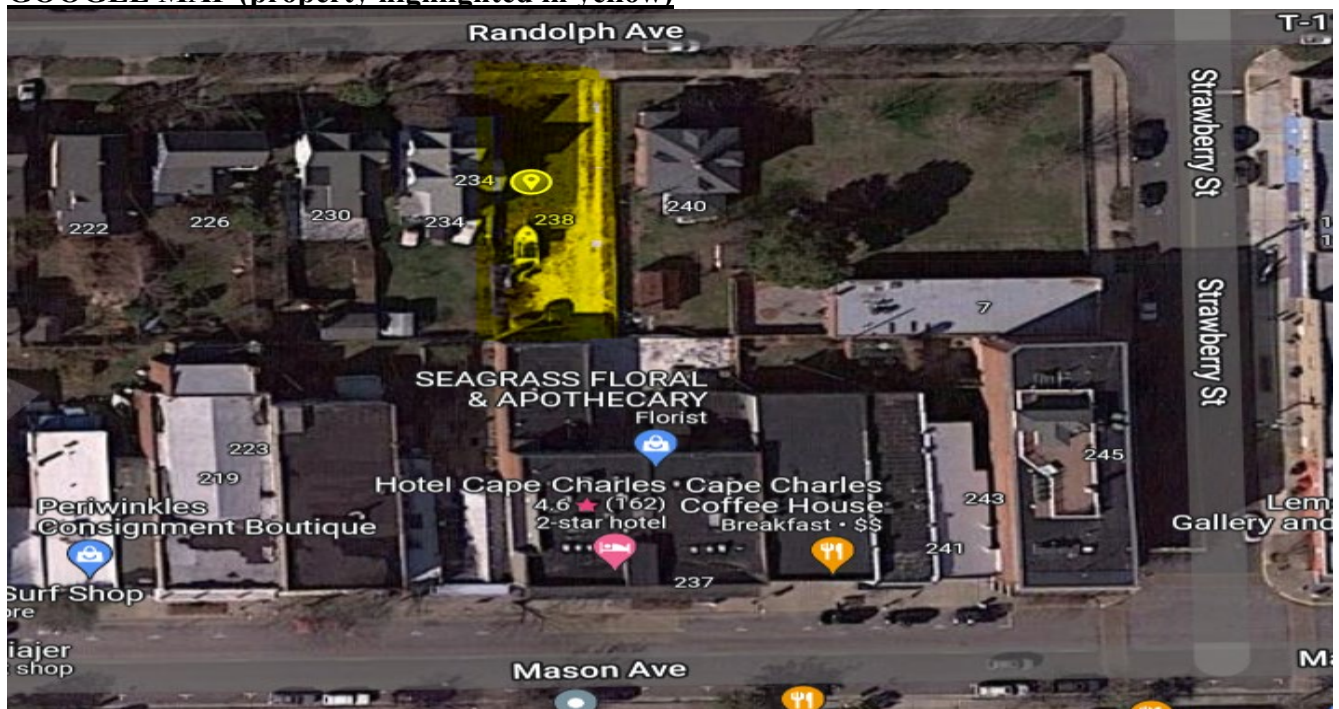
Staff has continued to work with the applicant regarding his site plan and proffers to the Town and has included an updated proffer statement and site plan, but it is possible that there may be additional adjustments to these two documents submitted prior to the 6:00 p.m. start time of the 5/3/2022 meeting, based upon my conversations with the applicant and his agent.

AERIAL MAP: Property outlined in blue - & Surrounding Land Use

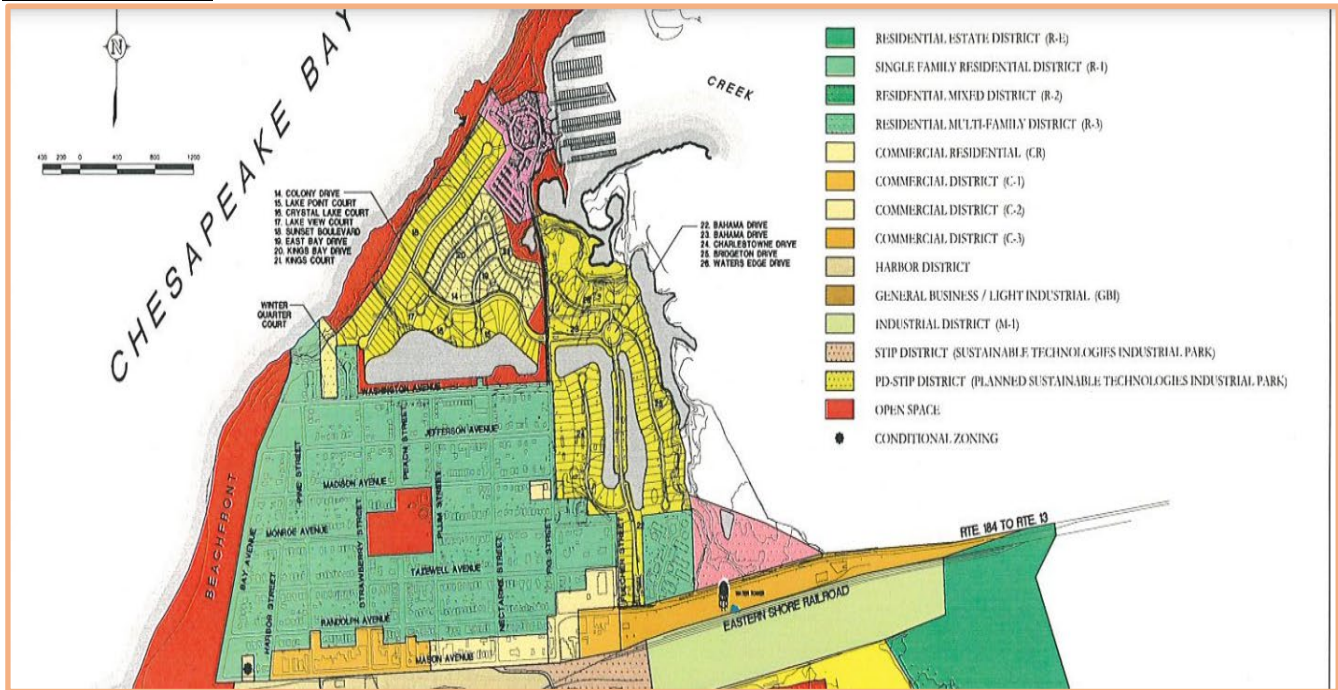
On Mason Avenue, the adjacent lots to the east and west are zoned Commercial-1. The lots located behind this row of Commercially zoned lots to the north are zoned Residential-1. It is important to note that the side streets of Pine Street and Strawberry Street between Mason Avenue and Randolph Avenue are zoned Commercial-1 for the first row of lots.



GOOGLE MAP (property highlighted in yellow)



ZONING MAP



BACKGROUND

I met with the property owner in late summer/early fall 2021 to discuss his desire and intent to submit an expansion plan for the Hotel Cape Charles on the subject property itself. At that time, I informed the property owner that my office had received a complaint about activities occurring on the residential lot located directly behind the hotel, which is owned by Cape Charles Ventures, LLC, that are not in keeping with allowable residential uses pursuant to the zoning district. It was clear that the lot was being utilized by the hotel to handle the support functions for the hotel (locating the multiple trash collection containers there, using the lot as parking for the hotel golf carts which are utilized by staff and guests as a hotel amenity, and the lot was being used for employee parking). All of these uses are clearly supportive and incidental to the hotel operations and the Residential-1 Zoning District does not include, either by right or by conditional use permit, the ability to have this type of commercial activity on the lot.

I indicated to him that these violations (which were not being actively enforced by the department due to staffing shortage) would need to be resolved as part of any expansion concept.

In February, Cape Charles Ventures, Inc. submitted an application for a variance to the height requirements of the C-1 zoning district regarding 7 Strawberry Street (aka The Betis Building), indicating that they were under a purchase agreement to acquire this lot and would seek their expansion of hotel rooms by renovating and adding floors to this building. As part of the staff review of this application, I again noted that he had not sufficiently addressed the use of the residential lot at 238 Randolph Avenue and to move all of these activities onto commercially zoned property under his control. The applicant did withdraw this application before the public hearing could be held by the

Board of Zoning Appeals and subsequently filed the Conditional Zoning Map Amendment application to rezone the residential lot from Residential-1 to Commercial-1 and included a proffer statement limiting the type of commercial activity that would occur on this property.

I have continued to speak with the applicant to review the proffers provided and he has submitted a revised proffer statement in a format recommended by staff. I continue to discuss the proposed proffers with the applicant and his representative and believe that an additional revision to the proffer statement will be submitted prior to the start of the public hearing.

PLEASE NOTE that my discussions with the applicant regarding operational issues re: trash, landscaping, golf cart charging area, etc are intended to provide a complete and comprehensive application package with site plan and proffers, if the Town is favorably inclined toward approving the rezoning application; this assistance does not convey staff support for the rezoning application.

I indicated that he may wish to consider some other items to incorporate as proffers to address compatibility of this lot within the residential neighborhood it is located within, such as (1) language committing to the submitted landscaping plan on the proposed site plan, including a replacement commitment if the trees/shrubs should not survive, and (2) consideration of a seasonal commitment to increasing the frequency of trash collection at his expense to reduce the collection of a high volume of trash on the lot; and (3) if an expansion of the hotel is still under consideration, possibly through acquiring the commercial property at 7 Strawberry Street, then this would need to be reflected in the lots have been identified in the proffers to date, but making it conditional for inclusion only if he acquires 7 Strawberry Street as part of the hotel. I indicated that the Planning Commission may also raise issues or concerns with this rezoning application that I have not considered which may be able to be resolved, potentially through a proffer. He did indicate that he would be pursuing his hotel expansion plan through the acquisition of 7 Strawberry Street in the near future but wanted to first address a full resolution of the violations that the Town had indicated concerning his business. It is important to note that the Town has delayed the full pursuit of enforcement action of the violations at 238 Randolph Avenue while the property owner has been pursuing these applications (both the variance application and now zoning map amendment application) since Town action on these applications could resolve or alleviate the violations at this lot.

I did stress to him that the Town fully understands that proffers can not be required by the Town from the applicant and that proffers are extended by the property owner to modify the regulations for the zoning district or to establish additional conditions for the uses sought based upon the zoning district regulations. Specifically, the law is as follows:

Conditional Rezoning is authorized by Virginia Code §15.2-2296 and more specifically authorized for the Town of Cape Charles thru §15.2-2303 and allows the ability of the petitioner to submit reasonable conditions (referred to as proffers) governing the use of the property, where the conditions are in addition to, or the modification of, the regulations provided for in a particular zoning district. Proffers are more specifically defined as an offer by a landowner during the rezoning process to perform an act or donate money, a product, or services to justify the propriety of a proposed rezoning. If the rezoning and proffers are accepted and approved by the Town, said proffers become part of the Zoning Ordinance.

REVIEW WITH RESPECT TO COMPREHENSIVE PLAN

The Cape Charles Comprehensive Plan notes and stresses the Town's historic layout pattern and the primary intent to preserve the Town's historic character as noted in Section II.9 below.

Section II (Settings): II.9 Land Use and Community Character

Cape Charles is distinguished by its historical residential and commercial areas, access to the Chesapeake Bay, the railroad, new planned communities, and a great deal of natural beauty and shoreline scenery. The most desirable future development will respond conscientiously to the town's established character and natural setting. The Historic District's late nineteenth and early twentieth century character is a key element in the town's interest and attractiveness to residents and tourists. It is important that the town's historic character be protected, not only for its intrinsic value, but also to continue to attract and expand tourism in Cape Charles.

The Future Land Use Map maintains the Residentially Zoned Districts as mapped on the Zoning Map and also retains the Commercial-1 (C-1) Zoning District as mapped on the Zoning Map.

This application is not consistent with the Comprehensive Plan relative to land use designations. The Comprehensive Plan does emphasize the role of tourism and tourism supported businesses as a key component of its Economic Component which the Hotel Cape Charles clearly embodies.

REVIEW WITH RESPECT TO ZONING ORDINANCE: ZONING DISTRICTS – INTENT

CCZO Section 3.2 Single Family Residential District R-1

- A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states "These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments," and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.

CCZO Section 3.6 Commercial District C-1

- A. Statement of Intent. 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.

ANAYLSIS

Impacts to Adjacent Property

The support services that typically occur “behind the scenes” are needed for this establishment which has been successful and providing a needed service in our community. However, I think there was an inadequate analysis of what site planning and requirements are needed to host and operate a full-scale hotel operation.

Clearly, there has been an impact on the adjacent residential properties where there is a row of trash receptacles that is appropriate for a commercial establishment but out of scale for a residential use. The same can be said for the # of golf carts and the staging and charging of said golf carts as well as the frequency of propane deliveries and utilizing this residential lot as a “quasi-alley” to service not only the hotel but adjacent other commercial businesses.

There are visual and noise impacts that have fully intruded into the residential neighborhood on Randolph Avenue of a commercial nature and are noticeable and impactful to the two existing residences on either side of the lot in question. The proffers offered by the applicant are attempting to respond and mitigate some of this impact, including addressing and installing appropriate landscaping to shield and screen visually this lot from the rest of the neighborhood, to propose screening for the golf cart parking/staging/charging area and the proposed trash receptacle areas. But the amount of space proposed to dedicate for these services is substantial and will be evident to the adjacent residential landowners and will be constant during the summer season and possibly throughout the entire year as more people choose to visit and/or vacation in Cape Charles and have need of hotel lodging. There has been insufficient exploration of alternative ways to reduce some of this “behind the scenes” support services, such as increased trash collection, thus reducing the # of trash receptacles; discrepancy from the original application narrative/property to the latest revised site plan which has already increased the # of golf carts being indicated for placement on the property.

STAFF RECOMMENDATION

Staff is requesting the Planning Commission and Town Council 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 not recommending approval of this rezoning since the Comprehensive Plan does not support the expansion of the Commercial-1 Zoning District into the Residential -1 Zoning District but states very clearly the need to retain the historic development pattern of the Town and the proffers and site plan, as presented, does not fully address and mitigate the impact to the adjacent residential properties.

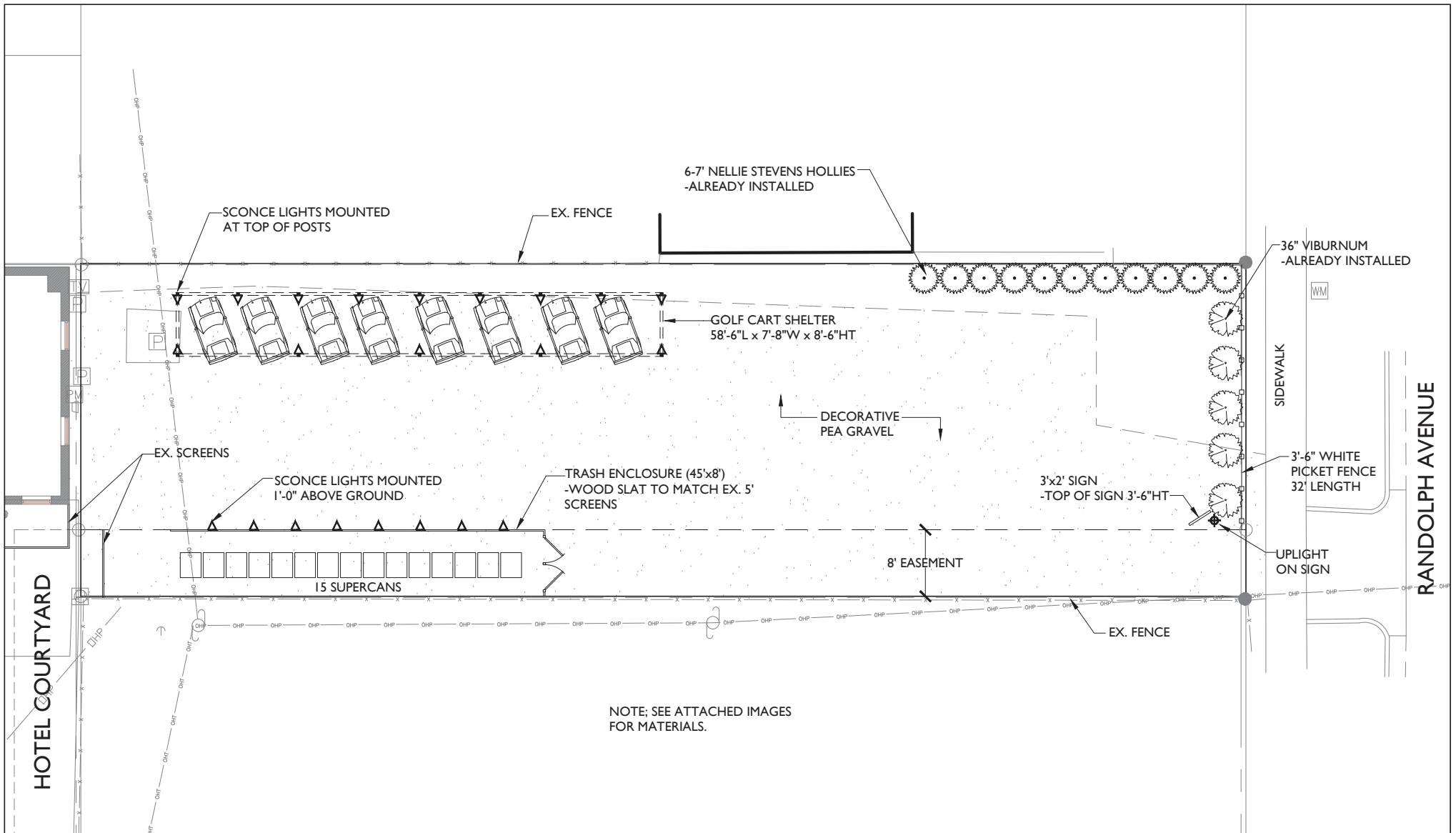
The continued growth of the Town’s commercial corridor must be studied further by the Town and the Planning Commission and we may wish to create a new zoning district that can be applied to address this type of situation in a uniform and comprehensive manner relative to trash, deliveries, utilities, enhanced guest services (such as golf cart rentals), lighting, hours of operations, landscaping as a restricted, lower-level type commercial zoning for support activities only. However, such a concept would need to be fully discussed and debated through public input sessions and public hearings with the Town citizens and the Comprehensive Plan should be amended to reflect this type of zoning district creation and applicability on identified land parcels.

Staff is prepared to work with the Planning Commission on a motion regarding a recommendation on ZMA 2022-01 from Cape Charles Ventures, LLC to conditionally rezone Tax Map #83A3-1-625A, located at 238 Randolph Avenue, from Residential-1 to Commercial-1, including the proffer statement as currently submitted and which may be further amended by the applicant up to the start of the public hearing.

Just as a point of information, the Code of Virginia (Sections 15.2-2297 & 2303) does state that the governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Therefore, if the public hearing process and input identifies additional items or concerns that the staff or the Planning Commission have not considered, then those items can be considered and included in the Planning Commission recommendation on the application, which may result in the applicant choosing to amend the proffer statement, in compliance with the requirements of the Code of Virginia.

Attachments:

- Attachment 1 – ZMA Application Packet
- Attachment 2 - Amended Site Plan
- Attachment 3 – Amended Proffer Statement
- Attachment 4 – Cape Charles Zoning Ordinance Sections



SITE PLAN - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC

SCALE: 3/32" = 1'-0"



HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 20, 2022

GOLF CART SHELTER

Newport | Bike Shelter

SPECIFICATIONS

Newport is a flexible and economical bike shelter that offers a variety of parking options. Small enough to be installed in a parking spot, Newport is accessible from all sides and can easily provide coverage for existing bike racks. High density bike parking is achieved by using the models designed for our 2-sided MaxRack System. Newport is also modular and can be made to any length. Class 2 Bike Shelter: Canopy style

- Can fit in 1 parking space
- Gable, Barrel or Flat roof styles
- Covers new or existing bike racks
- Accessible from all sides



Newport (Barrel Roof)

GENERAL INFORMATION

Frame: 6063-T52 Alloy Aluminum fabricated with Integrated Water Drainage

Finish: Anodized ■ Dark Bronze or ■ Clear (Silver)

Posts: 4" x 4" Tubing

Roof Styles/Materials: **GABLE ROOF** | **BARREL ROOF:** 6 mm Twinwall Polycarbonate, UV Coated **FLAT ROOF:** 1/4" Endurax 300

Installation: Prefabricated roof for quick assembly. Anchor securely to level, concrete pad

Bike Racks: Not included

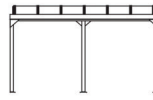
VIEWS



TOP



ISOMETRIC



FRONT



SIDE

DIMENSIONS/CAPACITY*

Newport 7/8	Length	Width	Roof Height	Bikes (Max.)
Newport 7- Clear height 7'				
Newport 8- Clear height 8'				
 = Fits in 1 parking space				
Newport 7-10	14' 11"	7' 8"	9' 4" GABLE ROOF 8' 10" BARREL ROOF 9' 10" FLAT ROOF	7' 6" 10
Newport 7-20	29' 5"	7' 8"	9' 4" 8' 10" 9' 10"	7' 6" 20
Newport 7-30	44'	7' 8"	9' 4" 8' 10" 9' 10"	7' 6" 30
Newport 8-16	14' 11"	7' 8"	10' 4" 9' 10" 8' 6"	8' 6" 16
Newport 8-40	29' 5"	7' 8"	10' 4" 9' 10" 8' 6"	8' 6" 40
Newport 8-60	44'	7' 8"	10' 4" 9' 10" 8' 6"	8' 6" 60

*Bike capacity varies with rack style



Gable Roof



Barrel Roof



Flat Roof

Newport for Parking Lots
1 Space = 10 to 16 Bikes
Newport 7-10 and Newport 8-16 fit in one standard parking space.

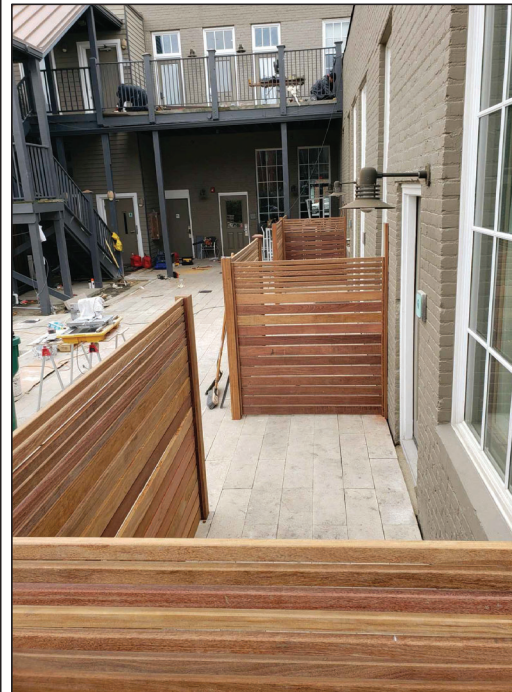


BIKE PARKING SOLUTIONS Bike Shelters | Bike Racks | Bike Storage Systems

973-264-9100
32 Ann Street Clifton, NJ 07013
info@velodomesshelters.com
www.velodomesshelters.com

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TRASH ENCLOSURE SCREEN



PICKET FENCE ALONG RANDOLPH



MATERIALS - 238 RANDOLPH

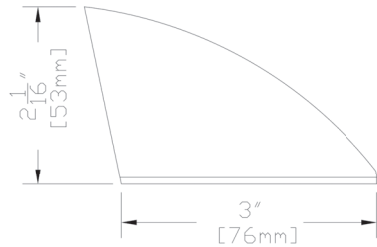
KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC

SCALE: 3/32" = 1'-0"

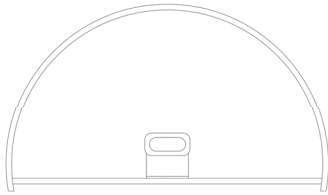


HOTEL CAPE CHARLES
CAPE CHARLES, VIRGINIA
APRIL 06, 2022

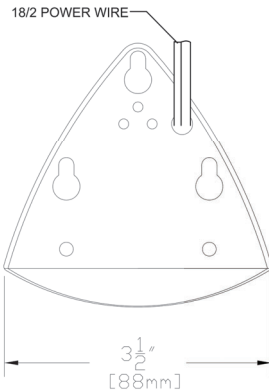
SCONCE LIGHT



SIDE VIEW WITH DIMENSIONS



FRONT VIEW



BOTTOM VIEW

FEATURES:

- SOLID COPPER CONSTRUCTION
- PORCELAIN BI-PIN OR MINI WEDGE SOCKET WITH 6R 18/2 POWER LEAD

FINISHES:

- NATURAL COPPER
- ANTIQUE COPPER
- VERDE
- ANTIQUE RUST

LAMPS:

- 12V 10 & 20 WATT BI-PIN, 20 WATT MAXIMUM
- 7, 11 & 18 WATT MINI WEDGE BASE, 18 WATT MAXIMUM

STANDARD MOUNTING:

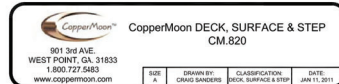
- FLUSH MOUNT WITH 3 SCREWS & ANCHORS

ACCESSORIES:

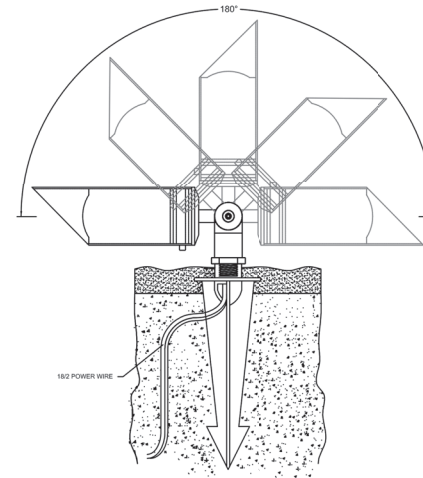
- 25R & 50R 16/2 LEADS AVAILABLE



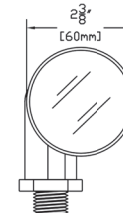
SHOWN IN ANTIQUE FINISH



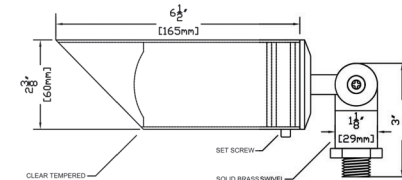
UPLIGHT ON SIGN



SIDE VIEW WITH ROTATION



FRONT VIEW



SIDE VIEW WITH DIMENSIONS

FEATURES:

- Solid Copper and Brass Construction
- Solid Copper 45 Degree Shroud for Glare Minimization
- High Heat Silicone O-Rings
- Beryllium Socket with 3ft 18/2 Power Lead

FINISHES:

- Natural Copper
- Antique
- Dark Antique
- Black
- Verde
- Rust

LAMPS:

- 12 Volt MR-16 in 10, 20, 35 & 50 Watts with a 12, 24, 36 & 60 Degree Spread (EXCEPTION: 10 watt only available in 32 degree spread)
- LED MR-16's
- 50 Watt Maximum

LENS:

- 3mm CLEAR FORGED BOROSILICATE GLASS

MOUNTING:

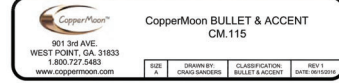
- Black ABS Ground Stake 8 1/2" Long with Female 1/2" NPT (STANDARD)
- Brass Threaded (Female 1/2" NPT) or Non-Threaded Ground Stake 9 1/2" Long
- Brass Threaded (Female 1/2" NPT) or Non-Threaded Flush Mount (Deep or Shallow Housing)
- Aluminum Tree Mount (Female 1/2" NPT) with Brown Powder Coat Finish
- Copper Stem Risers-1" Diameter (Female 1/2" NPT) or 3/4" Diameter (Female 1/2" NPT)
- Available in custom heights

ACCESSORIES:

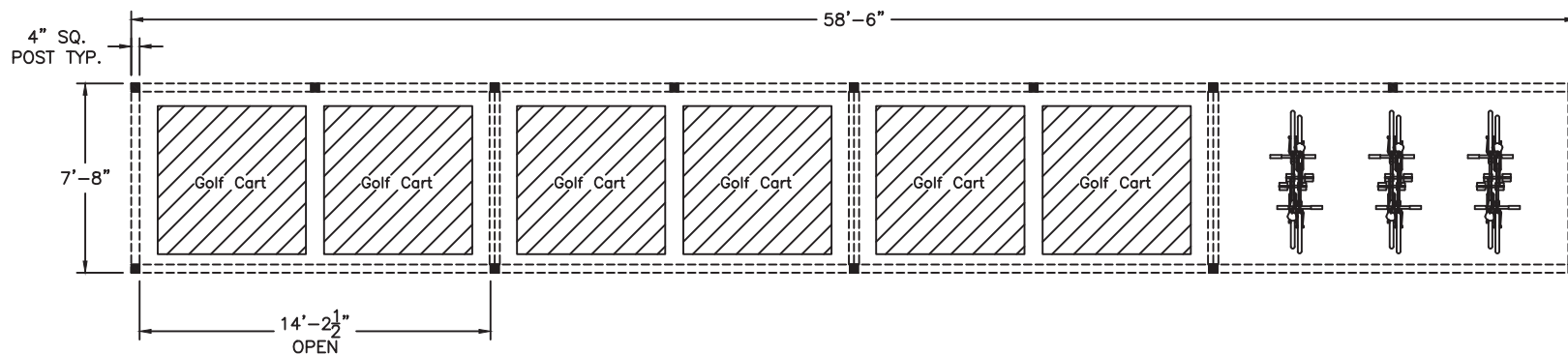
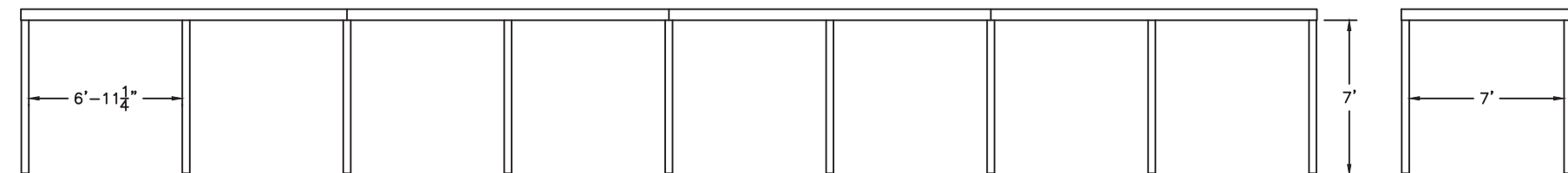
- MR-16 Honeycomb Louver
- MR-16 Lamp Clip
- MR-16 Clear Spread Lens
- MR-16 Prismatic Lens
- MR-16 Colored Lens (Ice Blue, Lavender, Amber, MV Green, Red & Rose)
- 25ft. & 50 ft. 16/2 Leads Available



SHOWN IN ANTIQUE FINISH



MATERIALS - 238 RANDOLPH



NEWPORT 7-40

ALUMINUM: 6063-T52
 AVAILABLE FINISHES: DARK BRONZE ANODIZE
 CLEAR ANODIZE
 CUSTOM COLOR POWDER-COAT
 GLAZING: 1/4" CLEAR TEMPERED GLASS
 ROOF PANELS: 1/4" ENDUREX 300 PANELS
 BLACK OR SILVER
 BENCH/BACKREST: EXTRUDED ALUMINUM

Handi-Hut®
 PHONE: 973-614-1800

Prepared by:

Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998

After recording return to:
Town of Cape Charles
Department of Planning & Zoning
2 Plum Street
Cape Charles, VA 23310

Tax Map #: 83A3-1-625A

VOLUNTARY PROFFER STATEMENT

Applicant & Owner: Cape Charles Ventures LLC (the “**Applicant**”)

Representative: Christopher M. Mackenzie, Esquire (VSB# 84141)
Sands Anderson PC
2400 Bank of America Center
1111 East Main Street (23219), P.O. Box 1998
Richmond, Virginia 23218-1998
Phone: 804-783-7280
Email: CMackenzie@SandsAnderson.com

Subject Property: Northampton County Tax Parcel 83A3-1-625A, with a street address of 238 Randolph Avenue, Cape Charles, Virginia, consisting of approximately 1 acre (the “**Property**”)

Benefited Properties: Northampton County Tax Parcel 83A3-1-623, with a street address of 235 Mason Avenue, Cape Charles, Virginia (the “**Hotel Parcel**”);
227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia; and
7 Strawberry Street, Cape Charles, Virginia if acquired by Applicant

Date: May 3, 2022

Site Plan: Entitled “Site Plan – 238 Randolph”, prepared by Kendra Taylor
Landscape Architecture, LLC, dated April 6, 2022, as revised, attached
hereto as **Exhibit A** (the “**Site Plan**”)

Rezoning Request: From R-1 to C-1

Rezoning File No.: ZMA 2022-001

RECITALS

- A. Applicant is the owner of the Property and has initiated the conditional amendment to the zoning map of the Town of Cape Charles, Virginia, by petition addressed to the Town of Cape Charles, a municipal corporation of the Commonwealth of Virginia (the “**Town**”).
- B. The purpose of this Voluntary Proffer Statement (the “**Proffers**”) is to rezone the Property from the R-1 Zoning District to C-1 Zoning District.
- C. The Town’s policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.
- D. Applicant desires to offer the Town the following conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- E. The conditions outlined in this Agreement have been proffered by Applicant and allowed and accepted by Town as a part of the amendment of the Town Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of the Town.

CONDITIONS

I. General Information.

The Applicant, and its successors and assigns, hereby agrees that the use and development of the Property, subsequent to the Town’s approval of the rezoning application to which these Proffers are attached, will be in conformance with the Site Plan and the below proffered conditions pursuant to §§ 15.2-2303 and 15.2-2303.4, et al. of the *Code of Virginia* (1950, as amended), and Section 2.7 of the Zoning Ordinance of the Town, as amended. The Proffers are the only conditions offered in this rezoning application, and any prior proffers affecting the Property are hereby superseded by these Proffers, and thus are void and of no further force and effect upon said approval. The Proffers will be effective only upon the Town’s full and final approval of rezoning application # ZMA 2022-001, submitted by the Applicant to reclassify the Property from R-1 to C-1.

These Proffers are made voluntarily and without any requirement by or exaction from the Town or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, and covenants and agrees that these Proffers shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Applicant, its heirs successors and assigns, grantees and other successors in interest or title to the Property.

II. Land Use.

A. General Development. The Property will be developed in general conformance with the Site Plan. Notwithstanding the foregoing, all parcel lines, parcel sizes, improvement sizes and locations, private driveway and travelway locations, landscaping and lighting locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the Site Plan may be reasonably adjusted for purposes of the final site plans to allow the Applicant to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and compliance with the requirements of the Town's development regulations and design standards manual.

B. Permitted Uses. The use of the Property shall be limited to uses in support of and in association with the permitted uses for which the Hotel Parcel is utilized, and namely the following:

- 1. Deliveries.** Propane and other service related deliveries for the Hotel Parcel and the properties located at 227, 231, 237, 239, and 241 Mason Avenue, Cape Charles, Virginia.
- 2. Waste Management.** Storage and use of Town waste management receptacles for the Hotel Parcel and the properties located at 237, 239 Mason Avenue, Cape Charles, Virginia and 7 Strawberry Street, Cape Charles, Virginia, if acquired by the Applicant or an entity associated with the Applicant.
- 3. Golf Cart and Bicycle Storage.** Parking, storage, charging, and use of golf carts, bicycles, and similar recreation equipment owned and operated by the Applicant in association with the Hotel Parcel.

III. Landscaping & Screening.

The Applicant agrees to install, maintain, and, if necessary, replace, the landscaping and screening improvements shown on the Site Plan in conformance with the following:

A. The landscaped buffer areas shown on the Site Plan shall be maintained in good, healthy state by the owner of the Property. Fallen, diseased, and dead plant growth shall be removed and replaced with comparable (at maturity) healthy plant materials.

B. The Property may include additional plantings, signage, and/or fencing, as otherwise permitted under the Town's Zoning Ordinance.

C. Dumpsters and/or trash cans, not including convenience containers, shall be reasonably screened from public view at ground level.

D. Golf carts and bicycles shall be stored overnight in the locations designated on the Site Plan, with a maximum of six (6) golf carts stored therein and with the bicycles stored at the end of the shelter closer to Randolph Avenue, as shown on the diagram entitled “Newport 7-40” included in Exhibit A.

III. Lighting. Any lighting of the Property shall be directed in a way to minimize glare on public roads and adjacent structures.

[Signature pages follow]

The Applicant makes these proffers voluntarily, in support of its rezoning application.

WITNESS the following signatures:

APPLICANT & OWNER:

Cape Charles Ventures LLC,
a Virginia limited liability company

By: [Signature]

Name: David M. Gammino

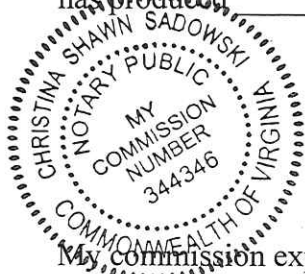
Title: Manager

Date: 5/3/22

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Richmond

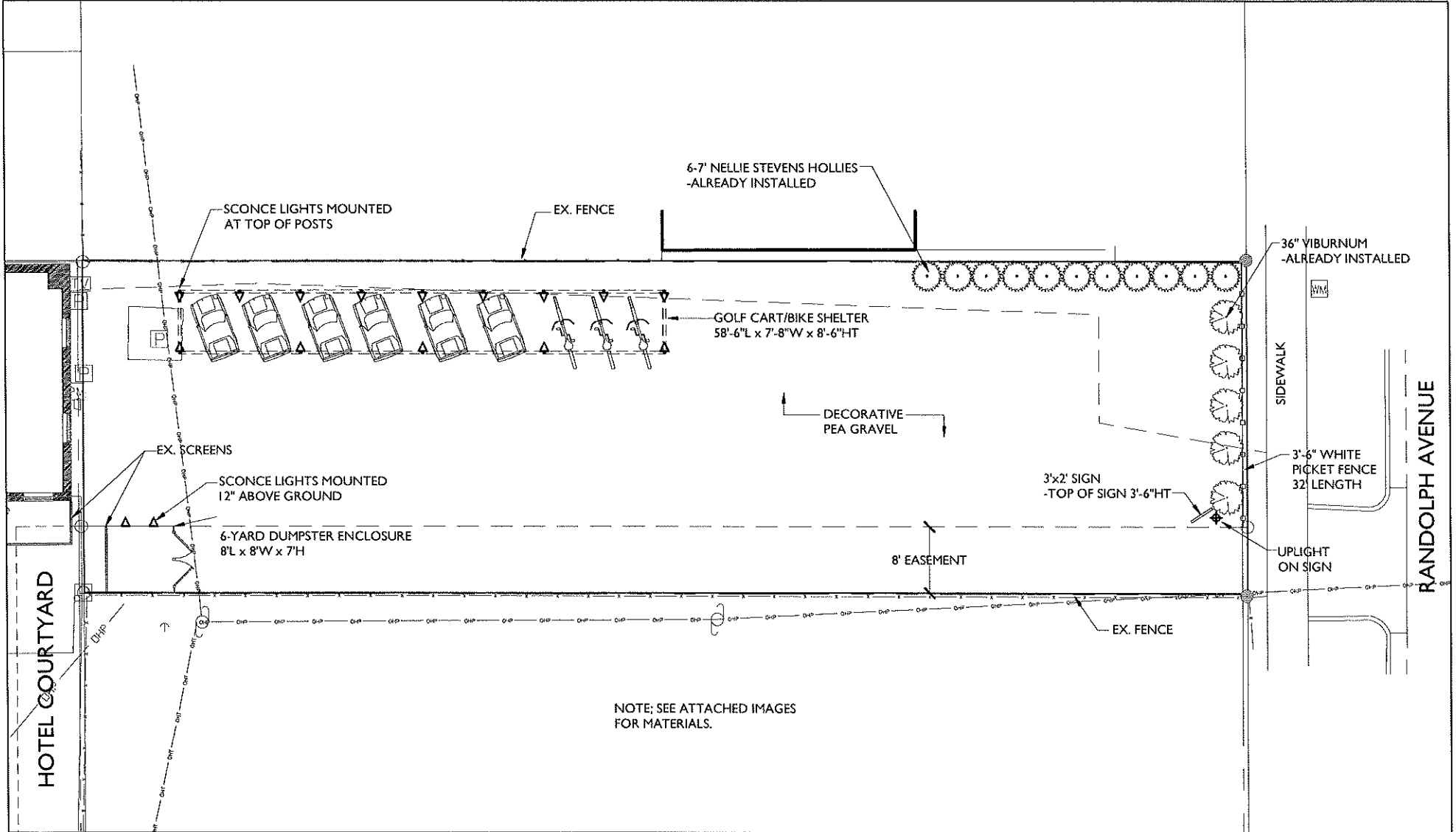
The foregoing was subscribed, sworn to and acknowledged before me this 3rd day of May, 2022 by that David M. Gammino, whose name is signed to the foregoing instrument as (title) owner of Cape Charles Ventures LLC, a Virginia limited liability company, on behalf of said company. He/she ☒ is personally known to me or ☐ has produced N/A as identification.



[Signature]
Notary Public

My commission expires: 6/30/2024
Registration No. 344346

Exhibit A
Site Plan



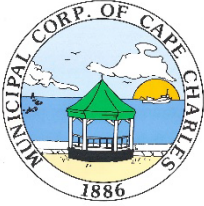
SITE PLAN - 238 RANDOLPH

KENDRA TAYLOR LANDSCAPE ARCHITECTURE, LLC



SCALE: 3/32" = 1'-0"

HOTEL CAPE CHARLES
 CAPE CHARLES, VIRGINIA
 MAY 03, 2022

 TOWN OF CAPE CHARLES	AGENDA TITLE: Harbor Development Certificate Application – Gazebo at Town Harbor		AGENDA DATE June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: Harbor Development Certificate Application from Town for Gazebo at East End of Harbor on Marina Road		ITEM NUMBER: 7E
	ATTACHMENTS: Application and Survey & Harbor Area Review Board Staff Report		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning & Zoning Administrator	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

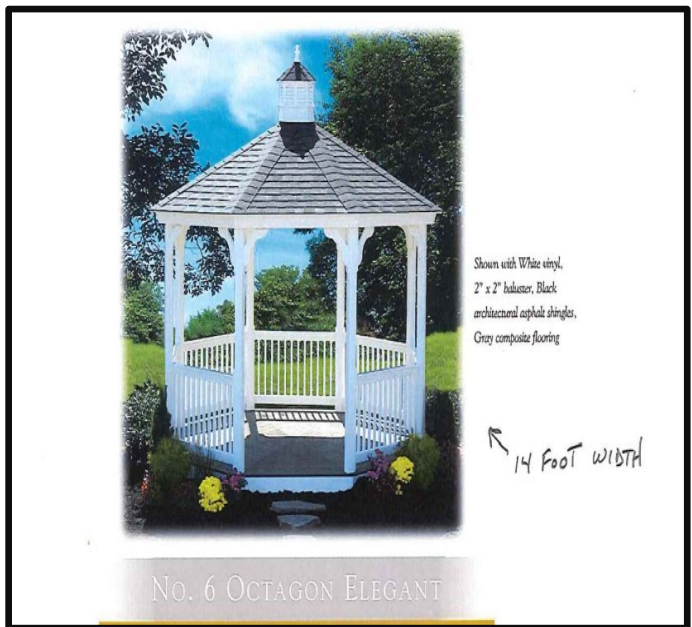
An application was submitted by John Hozey, Town Manager, on behalf of the Cape Charles Town Council, to the Harbor Area Review Board for placement of a gazebo on the Town property (Tax Map #83A3-A-10) at the far east end of the harbor just as you enter Marina Road, adjacent to the Coast Guard station. The applicant indicated that he is getting this portion of the Town parcel (as one enters Marina Road and drives around the initial curve of the harbor) cleaned up. Most recently, it has been used as an undesignated parking area without any structure as a parking area and has led to many boats and boat trailers being parked there for extended periods of time. The Town is desirous of getting all boats, trailers and other equipment and material removed from this section of the parcel and to place a pergola on the lot for visitors to the harbor area to have a place to sit and gather and to also allow visitors of the town to drive and park and utilize a gazebo that is more attractive and well-maintained.



ITEM SPECIFICS:

The proposed size of the gazebo is 14 ft wide and 16 ft tall and will be placed on blocks and will be tied down, in compliance with the Building Code. It will be located approximately at the mid-way point of the lot frontage (132 ft) with the lot frontage at a total of 260 ft. The pergola will then be placed approximately 10 feet from the yellow bumpers at the side of the lot closest to the water. If a handicapped ramp is required per Building Code, then it will be placed on the side closest to Marina Road.

The lot will be improved with associated landscaping in compliance from the approved list of plant material for the Chesapeake Bay Preservation Act, (CBPA) even though this parcel is in the designated Intensely Developed Area of the CBPA and does not require further compliance with the CBPA and does not have to meet the zoning setbacks for the Harbor Zoning District. There will be designated and marked parking spaces at the side of the lot closest to the Coast Guard property



ORDINANCE REQUIREMENTS:

The property is located in the Harbor Zoning District but is not located in the Historic Harbor Area Overlay District. The property is subject to the Chesapeake Bay Preservation Act Ordinance (Article VII); however, the Town has classified this lot as an Intensely Developed Area (IDA) located within the Resource Protection Area (RPA) of the Chesapeake Bay Act and Section 7.7 (A) states that *“Development in RPAs may be allowed only if it: (1) is water dependent; (2) constitutes redevelopment or development within IDAs, or (3) constitutes redevelopment.”*

Regarding the proposed use and structure, pursuant to CCZO Section 3.9, the use proposed qualifies under several sections of the ordinance as a by-right use:

Section 3.9 (D)

- (1) Accessory uses customarily associated and clearly incidental and subordinate to a principal use.
- (5) Recreational, cultural, and entertainment uses of the following types:
 - (g) Outdoor recreational uses
 - (h) Parks

Further, the total lot of 13.31 acres meets the lot requirements of Section 3.9 (F) (1); the gazebo height of 16 ft. is within the height requirements of Section 3.9 (F) (2); the indicated placement on the lot meets the setback requirements of Section 3.9 (F) (3)(a)(2); and meets the Open Space requirements of Section 3.9 (G).

Lastly, any use and/or structure proposed in the Harbor Zoning District is subject to the process outlined in Section 3.9 (I) Harbor Development Certificate Required. This states that *“no zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued. Submission of a Harbor Development Certificate Application and approval by the Town Council shall be required to obtain a Harbor Development Certificate.”*

In general, the Harbor Area Review Board (HARB) needs to meet, review and provide a recommendation to Town Council and Town Council must then review application and recommendation from HARB and either approve, approve with conditions, table for further information and review, or deny the Harbor Development Certificate application with Findings of Fact to support any decision.

RECOMMENDATION from the HARBOR AREA REVIEW BOARD:

The Harbor Area Review Board met on May 27, 2022 and reviewed this application. They requested clarification regarding if the gazebo will require electricity and if so, for what purpose. The applicant indicated that the intent is to provide electricity eventually to provide a modicum of low lighting within the gazebo itself and does not envision lighting of the full portion of this component of the lot and to possibly have some speakers/limited sound system for use as a small venue space.

Board Member Thom motioned to recommend to Town Council favorable consideration of the Town application for a gazebo for placement at the far east area of the lot, closest to the entrance to the Coast Guard Station and as presented and contained in the application packet, for a Harbor Development Certificate and was seconded by Board Member Harris. The motion was approved unanimously.

TOWN COUNCIL ACTION:

Town Council is requested to review this application and the staff report which has indicated that the application is in full compliance with the Zoning Ordinance and to favorably consider and vote to issue the Harbor Development Certificate, as requested in the application.

Application for Harbor Development Certificate

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

Date May 23, 2022

Permit No.: _____

Fee: WAVIED - Municipal Applicant

Proposed Use: Pergola and Associated Marked Parking Spaces

Present Zoning: Harbor

Location Address: Marina Road (adjacent to Coast Guard Station)

Tax Map ID: 83A3-A10

Acreage: TOTAL LOT ACREAGE: 13.31 acres

Portion of Lot designated for this project

Acreage: 679 sq. ft

I (We) hereby petition the Cape Charles Town Council for a Harbor Development Certificate to provide the above use on the above mentioned property.

I (We) acknowledge the fact that all pertinent information required by the Harbor Area Review Board and Zoning Office must be submitted in a timely manner so that required public meetings can be scheduled and advertised (Zoning Ordinance §3.9.I). Applicant or representative must be present in the public meetings.

Land Owner/Lessee Name: Town of Cape Charles

Land Owner/Lessee Signature: _____

Address: 2 Plum Street, Cape Charles VA

Phone Number: 757-331-2919

Email Address: john.hozey@capecharles.org

Harbor Area Review Board Meeting

Date: May 27, 2022 Time: 10:00 am

Meetings will be held at the Cape Charles Civic Center unless otherwise noted.

Harbor Development Certificate Application Checklist

1. ☐ completed application
2. ☐ payment of fees (\$300.00 + \$70.00 per acre)
3. ☐ letter of application stating in general terms: (a) the proposed use of the property, (b) the effect of the changes on the surrounding area, and (c) the reason for the request
4. ☐ plot plan in accordance with the Site Plan Ordinance

Detailed application information shall be added per §3.9.I.1.b of the Zoning Ordinance when required.

NOTES:

1. "CAPE CHARLES CITY HARBOR WAS ORIGINALLY IMPROVED TO A DEPTH OF 10 TO 12 FEET IN 1885 BY THE NEW YORK, PHILADELPHIA AND NORFOLK RAILROAD, A SUBSIDIARY OF THE PENNSYLVANIA RAILROAD. THE FIRST FEDERAL IMPROVEMENT WAS A DEPTH OF 14 FEET AUTHORIZED BY R&H ACT OF 1890. THE PROJECT WAS PRIMARILY MAINTAINED AFTER THAT BY THE PENNSYLVANIA RAILROAD. IT WAS RECOMMENDED FOR DEAUTHORIZATION IN 1915 BY H.D. 924 (64TH CONGRESS, 1ST SESSION). THIS RECOMMENDATION WAS NOT ACTED ON. A MODIFICATION WAS AUTHORIZED BY R&H ACT OF 1938 FOR A SMALL BOAT HARBOR (10 FEET DEEP) AT MUD CREEK. THE MODIFICATION HEREINAFTER REFERRED TO AS INNER HARBOR AS OPPOSED TO THE ALREADY COMPLETED 14 FOOT DEPTH OF THE APPROACH CHANNEL AND OUTER HARBOR. THE MODIFICATION WAS COMPLETED IN 1940. A NEW MODIFICATION WAS REQUESTED TO DEEPEN THE APPROACH CHANNEL AND OUTER HARBOR TO 18 FEET BY REPORT DATED MAY 1942. BEFORE THE PROJECT COULD BE AUTHORIZED IT WAS COMPLETED BY THE WAR DEPARTMENT IN 1943 UNDER AUTHORITY OF THE EMERGENCY WAR EFFORT WITH MILITARY FUNDING. THE PROJECT WAS MODIFIED AGAIN IN 1966 WITH THE ADDITION OF THE HARBOR OF REFUGE. THIS WORK WAS COMPLETED IN 1967 UNDER AUTHORITY OF SECTION 107 OF R&H ACT OF 1960." FROM USACE MEMO DATED 12 DEC 1978 (REF NAORE-M, "INSPECTION OF ITEMS OF LOCAL COOPERATION - NOVEMBER 1978".
- AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE TOWN OF CAPE CHARLES, DATED 15 JANUARY, 1987, REGARDING THE MAINTENANCE OF THE HARBOR OF CAPE CHARLES, STATES THAT "THE TOWN SHALL, IN CONSIDERATION OF THE GOVERNMENT MAINTAINING SUCH PROJECT, FULFILL THE REQUIREMENTS OF CONTINUING NON-FEDERAL COOPERATION SPECIFIED IN SUCH LEGISLATION, TO-WIT: (A) FURNISH, FREE OF COST TO THE UNITED STATES, NECESSARY RIGHT-OF-WAY AND SUITABLE DREDGED MATERIAL DISPOSAL AREAS AS MAY BE REQUIRED FOR THE MAINTENANCE OF THE OUTER HARBOR AND ITS CHANNEL AS WELL AS THE BASIN AT THE HEAD OF MUD CREEK AND ITS ENTRANCE CHANNEL;" (F) THE TOWN IS ACQUIRING LANDS, EASEMENTS, RIGHTS-OF-WAY AND DREDGED MATERIAL DISPOSAL AREAS FOR PROJECT CONSTRUCTION, OPERATION AND MAINTENANCE WILL COMPLY WITH THE PROVISIONS OF THE "UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, PUBLIC LAW 91-646 APPROVED 2 JANUARY 1971;" ALTHOUGH EASEMENTS WERE GRANTED FOR DREDGED MATERIAL DISPOSAL AREAS AND PIPELINE ROUTES, NO RECORD OF DEDICATIONS OF PERPETUAL EASEMENTS OR RIGHT-OF-WAYS TO THE UNITED STATES OF AMERICA WERE FOUND WITHIN THE LAND RECORDS OF THE NORTHAMPTON COUNTY CIRCUIT COURT PERTAINING TO THE CHANNEL LINES OF THE OUTER HARBOR.
2. "WITH SPECIAL WARRANTY, PROVIDED, HOWEVER, THAT THIS COVENANT SHALL NOT BE CONSTRUED TO EXTEND OR APPLY TO THAT PORTION OF THE PARCEL OF LAND HEREINAFTER DESCRIBED CONTAINING 39.0 ACRES+/-, LYING BETWEEN THE HIGH AND LOW WATER LINES OF THE CHESAPEAKE BAY AND BETWEEN THE HIGH WATER LINE AND THE PROPOSED DEDICATION LINE OF CAPE CHARLES CITY HARBOR...." (DB 144 PG 205)
- "ALSO ALL THE ESTATE, RIGHT, TITLE AND INTEREST OF THE SAID PARTY OF THE FIRST PART HEREIN OF, IN AND TO THE MUDS, FLATS AND ALND UNDER THE WATERS OF CAPE CHARLES CITY HARBOR AND CHESAPEAKE BAY ABUTTING THE PARCEL HEREINBEFORE DESCRIBED, TOGETHER WITH RIPARIAN RIGHTS APPERTAINING THERETO, BUT TO THE EXTENT ONLY, HOWEVER, THAT THE SAID PARTIES OF THE SECOND PART REQUIRE SUCH ESTATE, RIGHT, TITLE AND INTEREST IN CON- NECTION WITH THE EXCERCISE OF SUCH RIPARIAN RIGHTS;" (PG 205)
3. "ALSO ALL THE ESTATE, RIGHT, TITLE AND INTEREST OF THE PARTY OF THE FIRST PART HEREIN OF, IN AND TO THE MUDS, FLATS AND LAND UNDER THE WATERS OF CAPE CHARLES CITY HARBOR ABUTTING THE PARCEL OF LAND HEREINBEFORE DESCRIBED AND EXTENDING AS FAR INTO THE SAID CAPE CHARLES CITY HARBOR AS SUCH ESTATE, RIGHT, TITLE AND INTEREST EXTENDS OR SHOULD EXTEND BY LAW OR CUSTOM AND ALL RIPARIAN RIGHTS APPERTAINING THERETO; (DB 148 PG 426; PENNDL TO VA. MENHADEN PRODUCTS, INC. WITH SPECIAL WARRANTY)
- "THERE IS EXCEPTED FROM THE EFFECT OF THE COVENANT OF SPECIAL WARRANTY, THAT PORTION OF THE PARCEL OF LAND HEREINBEFORE DESCRIBED LYING BETWEEN THE HIGH WATER LINE AND THE PROPOSED DEDICATION LINE OF CAPE CHARLES CITY HARBOR; IT BEING EXPRESSLY UNDER- STOOD AND AGREED THAT THE PARTY OF THE FIRST PART, BY EXECUTION AND DELIVERY OF THIS DEED ONLY QUITCLAIMS UNTO THE SAID PARTY OF THE SECOND PART, ITS SUCCESSORS AND ASSIGNS, ALL ITS RIGHT, TITLE AND INTEREST OF, IN AND TO SAID PORTION." (PG 427)
4. THAT PORTION OF STATE ROUTE NO. 1108 NORTH OF WYE TRACK CROSSING WAS ACCEPTED INTO THE VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION SECONDARY SYSTEM AS A 40' RIGHT OF WAY JUNE 20, 1977 PER REQUEST OF TOWN COUNCIL RESOLUTION OF OCTOBER 12, 1976. PHYSICAL ALIGNMENT OF ROADWAY RESULTS IN A VARIABLE WIDTH RIGHT OF WAY (40' MINIMUM WIDTH).
5. DEED FROM TOWN OF CAPE CHARLES TO THE UNITED STATES OF AMERICA (DB 160 PG 259), "ALONG THE LOW WATER MARK OF THE NORTH SIDE OF CAPE CHARLES HARBOR". LINES L14 AND L15 REPRESENT TIE-LINES ALONG THE APPROXIMATE LOCATION OF THE THE MEAN LOW WATER LINE AT TIME OF TRANSFER OF PROPERTY (1967).
6. DEEDED CURVE DATA (DB 158 PG 144) (C1 THROUGH C9 INCL) SET 20 FEET OFF CENTERLINE OF EXISTING WYE TRACK WITH CURVE DATA FOR CURVE C9 ADJUSTED TO INTERSECT WITH BOUNDARY OF PARCEL DEEDED TO TOWN OF CAPE CHARLES IN DB 99 PG 148. CURVE C10 AND LINE L10 SET 10 FEET OFF CENTERLINE OF WYE TRACK (REF DB 99 PG 148).
7. 0.8 MILE OF A 35' WIDE RIGHT OF WAY WAS ACCEPTED INTO THE VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION SECONDARY SYSTEM PRIOR TO THE IMPROVEMENTS CREATING THE HARBOR OF REFUGE. STATE MAINTAINED PAVEMENT ENDS BEFORE REACHING 70' WIDE MAINTENENCE EASEMENT ADJACENT TO HARBOR OF REFUGE DREDGE LIMITS.
8. TOTAL AREA OF TWO PARCELS (FROM DB99 PG 148 AND DB 158 PG 144) EQUALS 849,427 SQ.FT. OR 19.5002 AC. SOUTHERN PARCEL (MUD CREEK TRACT, DB 99 PG 148) EQUALS 389,603 SQ.FT. OR 8.9441 AC. NORTHERN PARCEL (DB 158 PG 144) EQUALS 459,824 SQ.FT. OR 10.5561 AC. (INCLUDING 8,058 SQ.FT. RESIDUAL PORTION SOUTH OF THE U.S. COAST GUARD TRACT, (TAX PARCEL 083A3--((OA))--00-010A).

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


ROBERT M. KENNEDY, L.S.

1-3-08
DATE

APPROVED FOR RECORDATION:

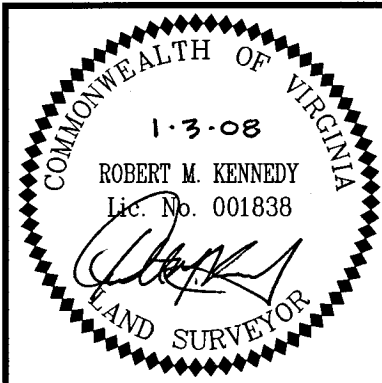
SIGNED: _____ DATE _____

TITLE: _____, TOWN OF CAPE CHARLES

VIRGINIA:
IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE
COUNTY OF NORTHAMPTON, VIRGINIA, ON THE _____
DAY OF _____, A.D. 200__, AT
_____ AM/PM.
THE FOREGOING PLAT OF OWNER WAS ADMITTED TO
RECORD BY ME IN MY SAID OFFICE THIS DAY AT THE
REQUEST OF _____

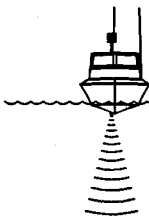
TESTE: _____

BY: _____



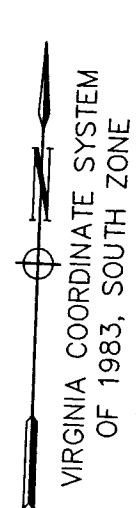
SURVEYED:	RMK,KLE,GMW
PROCESSED:	RMK
DRAWN:	RMK,RJK
REVIEWED:	RMK

BOUNDARY SURVEY
OF PARCELS OF LAND ACQUIRED FROM THE
NEW YORK, PHILADELPHIA AND NORFOLK RAILROAD COMPANY
(DB 99 PG 148)
AND THE
PENNDL COMPANY
(DB 158 PG 144)
ENCOMPASSING THE
HARBOR OF REFUGE AND THE MUD CREEK CHANNEL
TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
FOR THE
TOWN OF CAPE CHARLES
DATE: 11-8-07 SHEET 2 OF 2 SCALE: 1"=100'

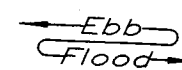


**EAST COAST
HYDROGRAPHIC**
SURVEYORS • CONSULTANTS
633 KINGS GRANT ROAD
VIRGINIA BEACH, VIRGINIA 23452

PROJECT No. 07135-02 DISK No. 07135 DWG. No. 07135BS2



CAPE CHARLES HARBOR



N/F
TIDEWATER-RAYMOND-KIEWIT
REF. DB 144 PG 205
SEE NOTE 2

N/F
TIDEWATER-RAYMOND-KIEWIT
REF. DB 144 PG 205

N/F
CANONIE ATLANTIC
REF. DB 55 PG 152

N/F
CANONIE ATLANTIC
DB 496 PG 669
DB 218 PG 432
REF. DB 41 PG 522

N/F
TOWN OF CAPE CHARLES
DB 158 PG 144
083A3-((0A))-00-010

EASEMENT TO
UNITED STATES OF AMERICA
DB 158 PG 403

N/F
UNITED STATES OF AMERICA
DB 160 PG 259
083A3-((0A))-00-011

N/F
HARBOUR DEVELOPMENT GROUP, LLC
REF. DB 148 PG 426
SEE NOTE 3

USACE CHANNEL TOE, SEE NOTE 1

N/F
HARBOUR DEVELOPMENT GROUP, LLC
REF. DB 148 PG 426

N/F
HARBOUR DEVELOPMENT GROUP, LLC
REF. DB 148 PG 426
SEE NOTE 3

N/F
TOWN OF CAPE CHARLES
REF. DB 186 PG 597

N/F
CANONIE ATLANTIC
DB 218 PG 432
REF. DB 55 PG 152

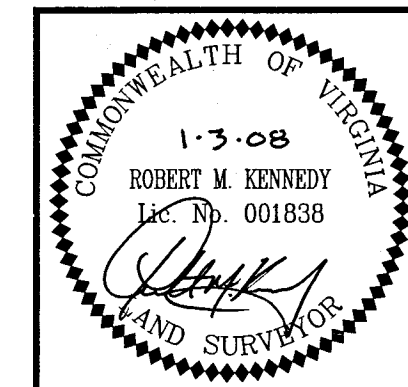
CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	541.07'	193.91'	192.87'	S88°24'57"E	20°32'02"
C2	362.54'	191.52'	189.30'	S60°32'55"E	30°16'04"
C3	405.13'	96.17'	95.94'	S38°36'52"E	13°36'03"
C4	386.41'	287.97'	281.35'	S11°09'21"E	42°41'58"
C5	344.34'	95.56'	95.25'	S19°35'30"W	15°54'02"
C6	613.11'	194.76'	193.94'	S33°04'56"W	18°12'02"
C7	427.91'	96.34'	96.14'	S50°44'07"W	12°53'59"
C8	427.91'	34.00'	33.99'	S54°54'33"W	04°33'07"
C9	815.23'	59.91'	59.90'	S57°37'05"W	04°12'39"
C10	945.37'	111.91'	111.85'	S64°33'31"W	06°46'58"
C11	427.91'	62.34'	62.29'	S48°27'34"W	08°20'51"
C12	125.00'	68.41'	67.56'	S15°46'08"W	31°21'21"
C13	349.69'	176.02'	174.16'	S01°54'45"W	28°50'23"
C13A	349.69'	140.99'	140.04'	S00°57'25"E	23°06'02"
C14	475.00'	130.92'	130.51'	S20°24'13"E	15°47'33"
C15	365.13'	52.03'	51.99'	S41°19'56"E	08°09'54"
C16	322.54'	170.39'	168.42'	S60°32'55"E	30°16'04"
C17	501.07'	179.58'	178.62'	S88°24'57"E	20°32'02"

LINE TABLE

LINE	BEARING	DISTANCE
L1	S10°08'09"E	40.00'
L2	N79°51'51"E	73.95'
L3	S12°30'27"E	34.42'
L4	S25°30'59"W	50.86'
L5	S31°26'48"W	117.56'
L6	S31°26'48"W	42.00'
L7	S19°15'48"W	14.93'
L8	N27°13'28"W	2.55'
L9	S62°46'29"W	24.57'
L10	S70°02'45"W	97.14'
L11	N21°41'59"E	50.70'
L12	N79°51'51"E	73.95'
L13	S14°59'59"W	35.00'
L14	S55°06'55"E	131.02'
L15	S59°47'00"E	255.83'

GRAPHIC SCALE



SURVEYED:
RMK,KLE,GMW
PROCESSED:
RMK
DRAWN:
RMK,RJK
REVIEWED:
RMK

BOUNDARY SURVEY
OF PARCELS OF LAND ACQUIRED FROM THE
NEW YORK, PHILADELPHIA AND NORFOLK RAILROAD COMPANY
(DB 99 PG 148)
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TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VIRGINIA
FOR THE
TOWN OF CAPE CHARLES

DATE: 11-8-07 SHEET 1 OF 2 SCALE: 1"=100'

EAST COAST HYDROGRAPHIC
SURVEYORS • CONSULTANTS
633 KINGS GRANT ROAD
VIRGINIA BEACH, VIRGINIA 23452

PROJECT No. 07135-02 DISK No. 07135 DWG. No. 07135BS1



Shown with Ivory vinyl, 2" x 2" balusters, Cedar Shake-look roofing tiles, Redwood composite flooring, Almond roll-formed aluminum screens

NO. 17 OCTAGON HERITAGE

The Octagon Heritage is a classic gazebo form, shown here with screens and door to add more options for your lifestyle enjoyment. With screens you enjoy the fresh clean outdoor environment without insect nuisance. What could be better?



Shown with White vinyl, 2" x 2" baluster, Black architectural asphalt shingles, Gray composite flooring

↖ 14 FOOT WIDTH

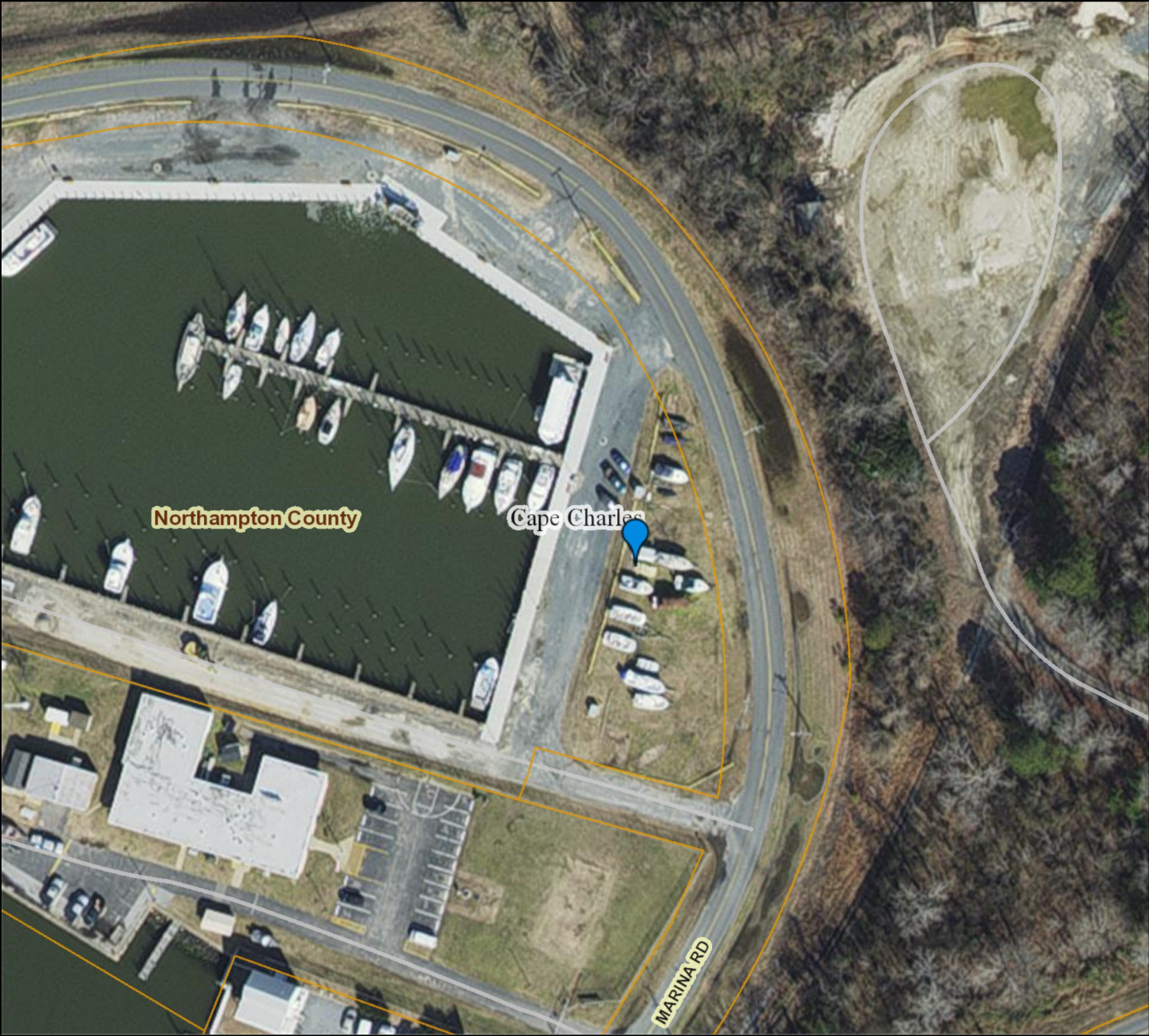
NO. 6 OCTAGON ELEGANT

The Octagon Elegant is the entry level maintenance-free gazebo that will add appeal and value to any property.

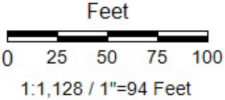
Northampton County, Virginia

Legend

- County Boundaries
- Town Names
- Route Numbers
- Road Labels
- Parcels
- Driveways



Map Printed from Northampton
<https://parcelviewer.geodecisions.com/Northampton/>



Title: Cape Charles Town Harbor

Date: 5/23/2022

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.



HARBOR AREA REVIEW BOARD STAFF REPORT

Meeting Date: May 27, 2022

Item #: 6A – Town of Cape Charles Lot

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

Date: May 23, 2022

APPLICANT: Cape Charles Town Council

SITE ADDRESS: Marina Road

TAX MAP: 83A3-A-10

LOT SIZE: 17.31 acres (total lot)
679 sq. ft (specific area on lot affected)

TYPE OF APPLICATION: Harbor Development Certificate

WORK TO BE PERFORMED: Pergola, Lot Clean-up and marked parking spaces

CURRENT ZONING: Harbor District

PROPOSED ZONING USES: CCZO Section 3.9 (1) & (5) (g) and (h) – By-Right Uses

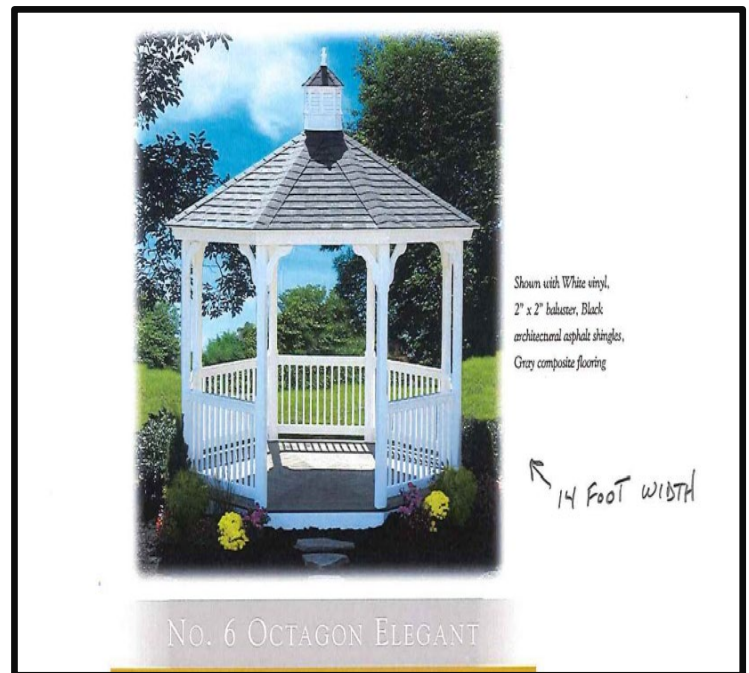
DATE APPLICATION RECEIVED: May 23, 2022

HARB APPLICATION MTG: May 27, 2022

Proposed Development: John Hozey, Town Manager, on behalf of the Cape Charles Town Council, is cleaning up a portion of the lot as one enters Marina Road and drives around the initial curve of the harbor. Most recently, it has been used as an undesignated parking area without any structure and has led to many boats and boat trailers being parked there for extended periods of time. The Town is desirous of getting all boats, trailers and other equipment and material removed from this section of the parcel and to place a pergola on the lot for visitors to the harbor area to have a place to sit and gather and to also allow visitors of the town to drive and park and utilize a gazebo that is more attractive and well-maintained.

The proposed size is 14 ft wide and 16 ft tall and will be placed on blocks and will be tied down, in compliance with the Building Code. It will be located approximately at the mid-way point of the lot frontage (132 ft) with the lot frontage at a total of 260 ft. The pergola will then be placed approximately 10 feet from the yellow bumpers at the side of the lot closet to the water. If a handicapped ramp is required per Building Code, then it will be placed on the side closest to Marina Road.

The lot will be improved with associated landscaping in compliance from the approved list of plant material for the Chesapeake Bay Preservation Act, even though this parcel is in the designated Intensely Developed Area of the CBPA and does not require further compliance with the CBPA and does not have to meet the zoning



setbacks for the Harbor Zoning District. There will be designated and marked parking spaces at the side of the lot closest to the Coast Guard property.

AERIAL VIEW OF TOTAL MAP with Proposed Insert Map of Specific Area of Project Request



STAFF ANALYSIS

ZONING COMPLIANCE

The proposed pergola is within the height requirements and the lot as a whole as the required lot frontage, lot depth and lot area and meets the 25% Open Space requirement. Pursuant to Cape Charles Zoning Ordinance Section 3.9 (3) (2), this lot is exempt from the setback requirements since the lot is designated as Intensely Developed Area of the Chesapeake Bay Preservation Act Overlay District.

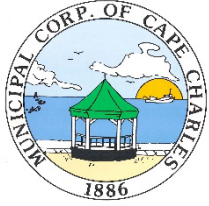
Any property within the Harbor District is required to submit a Harbor Development Certificate application that requires review and recommendation of the Harbor Area Review Board which is then in turn provided to the Town Council who takes final action regarding the issuance of the Harbor Development Certificate.

STAFF RECOMMENDATION:

Staff is requesting the HARB to review the application material submitted by the applicant and determine if this is in compliance and consistent with the intent of the Harbor District. Staff is recommending waiver of the second review meeting as outlined in the Ordinance and determine that the applicant is sufficient and complete and that the HARB would recommend favorable consideration of this application to the Town Council.

Attachments:

Attachment 1 – Application & Survey

 TOWN OF CAPE CHARLES	AGENDA TITLE: Town Facilities Design & Engineering		AGENDA DATE June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: Approve contract change order for design and engineering phase		ITEM NUMBER: 7F
	ATTACHMENTS: Proposed HBA contract change order		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Bob Panek, Project Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

With the assistance of HBA, we have completed an analysis of alternatives to address the many deficiencies of the current Town facilities housing the administrative, police, library, and council chamber functions. Council selected Option 5 to advance to the design and engineering phase. This option would construct a new building for all functions except the library. The library would remain at the current location and be renovated. The Municipal and Civic Center buildings and third floor of the Library building would be sold. Additionally, Council has directed that planning be initiated to construct a public restroom in the downtown business district.

DISCUSSION:

HBA has provided a proposed scope and fee, attached, for design and engineering of the new municipal building, library renovation and public restroom. The fee of \$509,950.10 would take the project through construction bidding. HBA has also provided a preliminary estimate of \$118,000 for construction administration. This is not included in the proposed contract change order and will be contracted for after a construction decision is made. The estimated total of \$627,950 compares favorably with the \$823,650 for design, engineering, construction administration and contingency included in the Option 5 estimate, which did not include the public restroom.

The proposed FY 2023 budget includes \$584,000 for design and engineering of the new municipal building and library renovation, as well as \$110,000 for the public restroom. The proposed fee of \$509,950.10 is well within these amounts.

The work is estimated to take 315 days to complete.

The Town Manager has approval authority for professional services contracts up to \$30,000. Contracts above that amount require approval of Council.

RECOMMENDATION:

Staff recommends that Council authorize the Town Manager to execute the attached change order.

Change Order No.1

This is **Change Order No. 1** to the **Agreement** dated September 17, 2021 between the **Town of Cape Charles** (Owner) and **HBA** (contractor) for **Architectural Services**.

Scope of Work: Revised per HBA Scope Document for Phase 2 dated May 25, 2022, attached.

Price. The lump sum price for the work is increased by **\$509,950.10**.

All other provisions of the Agreement and contract documents remain unchanged.

Owner

Contractor

Date

Date

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES OFFICE SPACE EXPANSION PHASE 2 SCOPE DOCUMENT

May 25, 2022

PURPOSE:

Based upon the results of the Phase 1 Study previously performed by HBA, the Town of Cape Charles wishes to satisfy the needs indicated in the study by constructing a new Municipal Building, new Public Restroom Building, and by completing renovations to the portions of the existing Library Building which the Library currently utilizes.

The Municipal Building will be a 2 story, approximately 15,000sf building to be located on Town owned property on Cassatt Parkway. The project will consist of the building and associated site work. The Town will extend public water and sewer to the site.

The Public Restroom Building will be a 1 story, approximately 700sf building located on Town leased property just south of the 200 Block of Mason Avenue. The project will consist of the building and limited site work. Public water and sewer are currently available.

Renovations to the Library Building will consist of:

- Modifying the existing entrance ramp to achieve ADA compliance;
- Reconfiguring the two existing restrooms near the main entrance to achieve ADA compliance;
- Replacement of the electrical and HVAC systems in the Library occupied spaces of the building only; it is understood that future work in the remainder of the building will require separate electrical and HVAC systems.
- Repair to finishes in the Library mezzanine space.

PROPOSED CONSULTANTS:

Civil Engineering:	MSA
Structural Engineering:	Speight, Marshall Francis, PC
PME Engineering:	PACE Collaborative
Geotechnical Engineering:	GET
Cost Estimating:	Osmundson & Associates

SCOPE:

1.0 SCOPING AND PROJECT MANAGEMENT

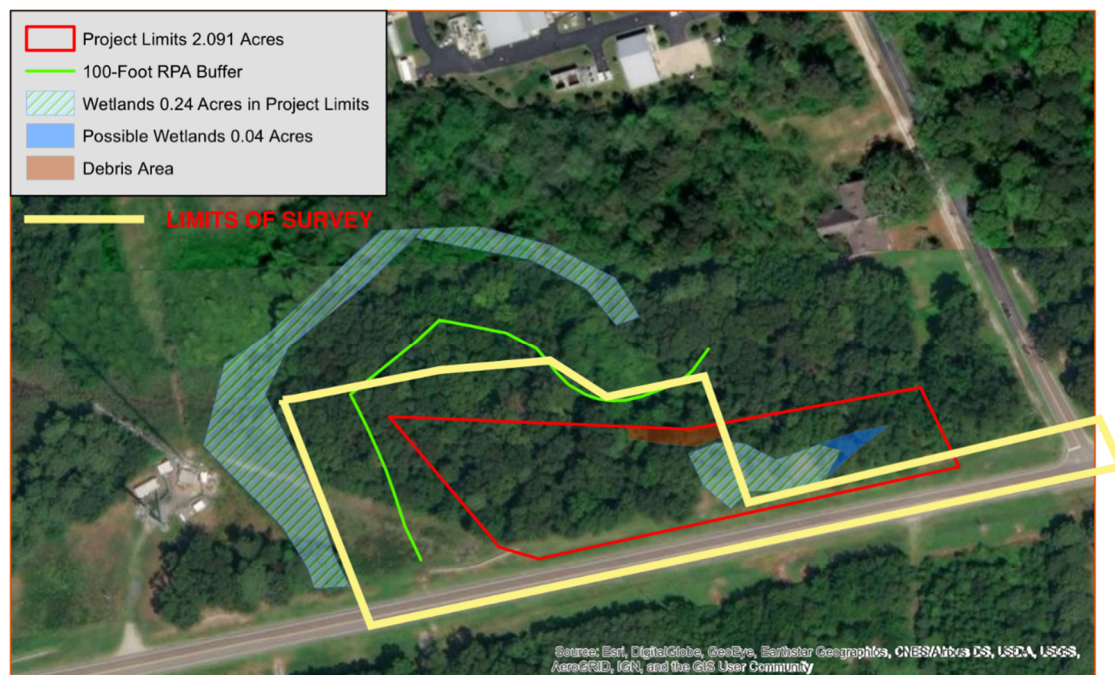
2.0 FIELD VERIFICATION / SCHEMATIC DESIGN

- The ARCHITECT will investigate the site and existing conditions for coordination of the design requirements.
- The ARCHITECT will prepare Schematic Design site plans and floor plans for all three buildings, and exterior building elevations for the Municipal Building and Public Restroom Building, for approval by the OWNER.
- The ARCHITECT will meet with the OWNER to review the Schematic Design documents, gather input and feedback, revise the document. Two revisions to the Schematic Design documents are included.
- The ARCHITECT will prepare final schematic design documents for OWNER approval.

3.0 SURVEY

- The ARCHITECT (and/or his consultant) will prepare a topographic survey of the portion of the subject properties generally shown below:

Municipal Building:



Restroom Building:



4.0 GEOTECHNICAL EXPLORATION

- The ARCHITECT (and/or his consultant) will perform geotechnical exploration within the new building footprint for the Municipal Building and the Public Restroom Building to provide recommendations for foundation design.
- The ARCHITECT (and/or his consultant) will perform geotechnical exploration within the parking areas for the Municipal Building to provide recommendations for pavement design.
- The ARCHITECT (and/or his consultant) will perform geotechnical exploration within the BMP footprints for the Municipal Building and the Public Restroom Building to provide recommendations for BMP design.

5.0 DESIGN DEVELOPMENT DOCUMENTS (60%)

- Preparation of Design Development drawings and specifications for approval by the OWNER. Design Development documents will be based on the approved Schematic Design Documents described herein.
- The Design Development documents consist of drawings and specifications to fix and describe the size and character of the project, including architectural, civil (site) structural, plumbing, mechanical, and electrical systems, materials and other such elements as appropriate.

6.0 CONSTRUCTION DOCUMENTS (100%)

- Preparation of architectural, civil (site), structural, plumbing, mechanical, and electrical construction drawings and specifications (on drawings) for bidding and construction based on the OWNER approved Design Development documents.
- The site plans will be submitted to DSC for their review and comment. Upon the completion of the City's review, the ARCHITECT (and/or his consultant) will address their comments and resubmit the site plans. No more than three (3) submittals to DSC are included.
- The Final Design Documents consist of drawings, specifications setting forth in detail the requirements for bidding and construction of the project.

7.0 COST ESTIMATION

- The ARCHITECT (and/or his consultant) will submit to the OWNER an estimate of the Cost of the Work based on the Construction Documents at 90% completion for the Municipal Building, Public Restroom Building, and Library Renovations.
- The Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the ARCHITECT (and/or his consultant(s)) and shall include contractors' general conditions costs, overhead and profit. Evaluations of the Owner's budget for the Cost of the Work, the estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect (or his consultant), represent the Architect's (or his consultant's) judgment as a design professional. It is recognized, however, that neither the Architect (nor his consultant) nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect (or his consultant) cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect (or his consultant). We will include the costs of all Hard Construction Costs. Soft Cost and FF&E cost to be provided by others. We exclude any HAZMAT abatement cost analysis. We exclude Value Engineering however would be happy to provide an estimate for the service if required.

8.0 Bidding Phase

- During the bidding phase, the ARCHITECT will assist the OWNER in obtaining bids and awarding the contract for construction.
- Bidding assistance consists of attendance at a pre-bid conference, response to questions from bidders and clarification by addendum if necessary.

PROPOSED COMPLETION SCHEDULE

- | | |
|--------------------------------|---|
| • Schematic Design Phase | 60 Days After Notice to Proceed |
| • OWNER Review | 15 Days Estimated for OWNER Review |
| • Design Development Phase | 60 Days After Receipt of OWNER Comments |
| • OWNER Review | 15 Days Estimated for OWNER Review |
| • Construction Documents Phase | 90 Days After Receipt of OWNER Comments |
| • OWNER Review | 30 Days Estimated for OWNER Review |
| • Bidding Phase | 45 Days After Receipt of OWNER Comments |

Total Estimated Work Order Proposed Completion is 315 Days from Notice to Proceed

9.0 Construction Administration Phase

- During the Construction Administration phase, the ARCHITECT will provide to the OWNER the services necessary for administration of the construction contract as set forth in the General Conditions of the contract.
- Construction Administration services will include
 - Processing and review of submittals.
 - Review and certification of the Contractor's monthly application for payment.
 - One (1) visit to the site to facilitate a preconstruction conference with the Contractor.
 - Twenty (10) visits to the site to observe construction to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents. This is based on an assumed construction duration of 10 months and two progress meetings per month.
 - One (1) visit to the site for substantial completion and preparation of a punch list.
 - One (1) visit to the site for final completion review.
 - Preparing related reports and communications.
 - Coordination and review of closeout documents from the Contractor.

10.0 SPECIAL INSPECTIONS

- Agent One and Two services will be performed, as required by the statement of special inspections for jurisdictions having authority.

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES
OFFICE SPACE EXPANSION
PHASE 2 FEE PROPOSAL
May 25, 2022

Task 1 - Scoping and Project Management						TOTAL	\$19,800.00
<u>Architectural</u>				Fee	Total	Markup	TOTAL
PIC	40	hours @	\$255	=	\$10,200.00	\$10,200.00	
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00	
Project Architect	40	hours @	\$195	=	\$7,800.00	\$7,800.00	
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00	
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00	
Senior Architectural Staff	0	hours @	\$145	=	\$0.00	\$0.00	
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00	
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00	
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00	
Interior Designer	0	hours @	\$100	=	\$0.00	\$0.00	
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00	
Architectural Staff Level 2	0	hours @	\$95	=	\$0.00	\$0.00	
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00	
Interior Design Staff	0	hours @	\$80	=	\$0.00	\$0.00	
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00	
Administration	40	hours @	\$45	=	\$1,800.00	\$1,800.00	
				\$19,800.00	\$19,800.00	\$0.00	\$19,800.00

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES OFFICE SPACE EXPANSION PHASE 2 FEE PROPOSAL May 25, 2022

Task 2 - Field Verification / Schematic Design TOTAL \$80,096.50

<u>Architectural</u>					Fee	Total	Markup	TOTAL
PIC	12	hours @	\$255	=	\$3,060.00	\$3,060.00		
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00		
Project Architect	112	hours @	\$195	=	\$21,840.00	\$21,840.00		
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00		
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Senior Architectural Staff	0	hours @	\$145	=	\$0.00	\$0.00		
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00		
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00		
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00		
Interior Designer	0	hours @	\$100	=	\$0.00	\$0.00		
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00		
Architectural Staff Level 2	276	hours @	\$95	=	\$26,220.00	\$26,220.00		
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00		
Interior Design Staff	0	hours @	\$80	=	\$0.00	\$0.00		
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00		
Administration	8	hours @	\$45	=	\$360.00	\$360.00		
					\$51,480.00	\$51,480.00	\$0.00	\$51,480.00
<u>Structural</u>					Fee			
Principal Eng	4	hours @	\$175	=	\$700.00	\$700.00		
Staff Eng	19	hours @	\$135	=	\$2,565.00	\$2,565.00		
Prof Construction Admin		hours @	\$125	=	\$0.00	\$0.00		
Special Inspector	0	hours @	\$110	=	\$0.00	\$0.00		
CADD Tech	26	hours @	\$110	=	\$2,860.00	\$2,860.00		
Specification Writer	2	hours @	\$100	=	\$200.00	\$200.00		
Clerical	4	hours @	\$60	=	\$240.00	\$240.00		
					\$6,565.00	\$6,565.00	\$656.50	\$7,221.50
<u>Civil</u>					Fee			
Project Manager	10	hours @	\$160	=	\$1,600.00	\$1,600.00		
Civil Engineer	40	hours @	\$130	=	\$5,200.00	\$5,200.00		
Civil Draftsperson	10	hours @	\$110	=	\$1,100.00	\$1,100.00		
Landscape Arch	0	hours @	\$120	=	\$0.00	\$0.00		
Environmental Scientist	0	hours @	\$120	=	\$0.00	\$0.00		
Survey Project Manager	0	hours @	\$130	=	\$0.00	\$0.00		
Survey Crew	0	hours @	\$130	=	\$0.00	\$0.00		
Survey Tech	0	hours @	\$90	=	\$0.00	\$0.00		
					\$7,900.00	\$7,900.00	\$790.00	\$8,690.00
<u>PME</u>					Fee			
Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Mech Engineer	18	hours @	\$125	=	\$2,250.00	\$2,250.00		
Electrical Engineer	18	hours @	\$125	=	\$2,250.00	\$2,250.00		
Plumb Design	14	hours @	\$125	=	\$1,750.00	\$1,750.00		
Design Tech	0	hours @	\$100	=	\$0.00	\$0.00		
Modeling Tech	56	hours @	\$90	=	\$5,040.00	\$5,040.00		
Drafting Tech	0	hours @	\$80	=	\$0.00	\$0.00		
Clerical	4	hours @	\$65	=	\$260.00	\$260.00		
					\$11,550.00	\$11,550.00	\$1,155.00	\$12,705.00

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES
OFFICE SPACE EXPANSION
PHASE 2 FEE PROPOSAL
May 25, 2022

Task 3 - Survey						TOTAL	\$11,110.00
<u>Architectural</u>						Fee	Total
PIC	0	hours @	\$255	=	\$0.00	\$0.00	
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00	
Project Architect	0	hours @	\$195	=	\$0.00	\$0.00	
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00	
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00	
Senior Architectural Staff	0	hours @	\$145	=	\$0.00	\$0.00	
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00	
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00	
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00	
Interior Designer	0	hours @	\$100	=	\$0.00	\$0.00	
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00	
Architectural Staff Level 2	0	hours @	\$95	=	\$0.00	\$0.00	
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00	
Interior Design Staff	0	hours @	\$80	=	\$0.00	\$0.00	
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00	
Administration	0	hours @	\$45	=	\$0.00	\$0.00	
						\$0.00	\$0.00
							\$0.00
<u>Civil</u>						Fee	Total
Project Manager	0	hours @	\$160	=	\$0.00	\$0.00	
Civil Engineer	0	hours @	\$130	=	\$0.00	\$0.00	
Civil Draftsperson	0	hours @	\$110	=	\$0.00	\$0.00	
Landscape Arch	0	hours @	\$120	=	\$0.00	\$0.00	
Environmental Scientist	0	hours @	\$120	=	\$0.00	\$0.00	
Survey Project Manager	2	hours @	\$130	=	\$260.00	\$260.00	
Survey Crew	48	hours @	\$130	=	\$6,240.00	\$6,240.00	
Survey Tech	40	hours @	\$90	=	\$3,600.00	\$3,600.00	
						\$10,100.00	\$10,100.00
							\$1,010.00
							\$11,110.00

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES OFFICE SPACE EXPANSION PHASE 2 FEE PROPOSAL May 25, 2022

Task 4 - Geotechnical Exploration TOTAL \$11,797.50

<u>Architectural</u>					Fee	Total	Markup	TOTAL
PIC	0	hours @	\$255	=	\$0.00	\$0.00		
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00		
Project Architect	0	hours @	\$195	=	\$0.00	\$0.00		
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00		
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Senior Architectural Staff	0	hours @	\$145	=	\$0.00	\$0.00		
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00		
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00		
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00		
Interior Designer	0	hours @	\$100	=	\$0.00	\$0.00		
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00		
Architectural Staff Level 2	0	hours @	\$95	=	\$0.00	\$0.00		
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00		
Interior Design Staff	0	hours @	\$80	=	\$0.00	\$0.00		
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00		
Administration	0	hours @	\$45	=	\$0.00	\$0.00		
					\$0.00	\$0.00	\$0.00	\$0.00

Geotechnical Consultant

Lump Sum \$10,725.00

\$0.00 \$10,725.00 \$1,072.50 **\$11,797.50**

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES
OFFICE SPACE EXPANSION
PHASE 2 FEE PROPOSAL
May 25, 2022

Task 5 - Design Development Documents (60%) TOTAL \$117,322.50

<u>Architectural</u>					Fee	Total	Markup	TOTAL
PIC	12	hours @	\$255	=	\$3,060.00	\$3,060.00		
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00		
Project Architect	94	hours @	\$195	=	\$18,330.00	\$18,330.00		
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00		
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Senior Architectural Staff	32	hours @	\$145	=	\$4,640.00	\$4,640.00		
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00		
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00		
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00		
Interior Designer	40	hours @	\$100	=	\$4,000.00	\$4,000.00		
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00		
Architectural Staff Level 2	356	hours @	\$95	=	\$33,820.00	\$33,820.00		
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00		
Interior Design Staff	40	hours @	\$80	=	\$3,200.00	\$3,200.00		
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00		
Administration	8	hours @	\$45	=	\$360.00	\$360.00		
					\$67,410.00	\$67,410.00	\$0.00	\$67,410.00

<u>Structural</u>					Fee	Total		
Principal Eng	5	hours @	\$175	=	\$875.00	\$875.00		
Staff Eng	26	hours @	\$135	=	\$3,510.00	\$3,510.00		
Prof Construction Admin	0	hours @	\$125	=	\$0.00	\$0.00		
Special Inspector	0	hours @	\$110	=	\$0.00	\$0.00		
CADD Tech	36	hours @	\$110	=	\$3,960.00	\$3,960.00		
Specification Writer	4	hours @	\$100	=	\$400.00	\$400.00		
Clerical	4	hours @	\$60	=	\$240.00	\$240.00		
					\$8,985.00	\$8,985.00	\$898.50	\$9,883.50

<u>Civil</u>					Fee	Total		
Project Manager	10	hours @	\$160	=	\$1,600.00	\$1,600.00		
Civil Engineer	40	hours @	\$130	=	\$5,200.00	\$5,200.00		
Civil Draftsperson	30	hours @	\$110	=	\$3,300.00	\$3,300.00		
Landscape Arch	0	hours @	\$120	=	\$0.00	\$0.00		
Environmental Scientist	0	hours @	\$120	=	\$0.00	\$0.00		
Survey Project Manager	0	hours @	\$130	=	\$0.00	\$0.00		
Survey Crew	0	hours @	\$130	=	\$0.00	\$0.00		
Survey Tech	0	hours @	\$90	=	\$0.00	\$0.00		
					\$10,100.00	\$10,100.00	\$1,010.00	\$11,110.00

<u>PME</u>					Fee	Total		
Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Mech Engineer	36	hours @	\$125	=	\$4,500.00	\$4,500.00		
Electrical Engineer	36	hours @	\$125	=	\$4,500.00	\$4,500.00		
Plumb Design	18	hours @	\$125	=	\$2,250.00	\$2,250.00		
Design Tech	0	hours @	\$100	=	\$0.00	\$0.00		
Modeling Tech	140	hours @	\$90	=	\$12,600.00	\$12,600.00		
Drafting Tech	24	hours @	\$80	=	\$1,920.00	\$1,920.00		
Clerical	8	hours @	\$65	=	\$520.00	\$520.00		
					\$26,290.00	\$26,290.00	\$2,629.00	\$28,919.00

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES OFFICE SPACE EXPANSION PHASE 2 FEE PROPOSAL May 25, 2022

Task 6 - Construction Documents (100%) TOTAL \$216,536.00

<u>Architectural</u>					Fee	Total	Markup	TOTAL
PIC	40	hours @	\$255	=	\$10,200.00	\$10,200.00		
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00		
Project Architect	134	hours @	\$195	=	\$26,130.00	\$26,130.00		
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00		
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Senior Architectural Staff	160	hours @	\$145	=	\$23,200.00	\$23,200.00		
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00		
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00		
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00		
Interior Designer	40	hours @	\$100	=	\$4,000.00	\$4,000.00		
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00		
Architectural Staff Level 2	550	hours @	\$95	=	\$52,250.00	\$52,250.00		
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00		
Interior Design Staff	40	hours @	\$80	=	\$3,200.00	\$3,200.00		
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00		
Administration	8	hours @	\$45	=	\$360.00	\$360.00		
					\$119,340.00	\$119,340.00	\$0.00	\$119,340.00

<u>Structural</u>					Fee			
Principal Eng	6	hours @	\$175	=	\$1,050.00	\$1,050.00		
Staff Eng	33	hours @	\$135	=	\$4,455.00	\$4,455.00		
Prof Construction Admin	0	hours @	\$125	=	\$0.00	\$0.00		
Special Inspector	0	hours @	\$110	=	\$0.00	\$0.00		
CADD Tech	42	hours @	\$110	=	\$4,620.00	\$4,620.00		
Specification Writer	4	hours @	\$100	=	\$400.00	\$400.00		
Clerical	6	hours @	\$60	=	\$360.00	\$360.00		
					\$10,885.00	\$10,885.00	\$1,088.50	\$11,973.50

<u>Civil</u>					Fee			
Project Manager	69	hours @	\$160	=	\$11,040.00	\$11,040.00		
Civil Engineer	104	hours @	\$130	=	\$13,520.00	\$13,520.00		
Civil Draftsperson	104	hours @	\$110	=	\$11,440.00	\$11,440.00		
Landscape Arch	30	hours @	\$120	=	\$3,600.00	\$3,600.00		
Environmental Scientist	20	hours @	\$120	=	\$2,400.00	\$2,400.00		
Survey Project Manager	0	hours @	\$130	=	\$0.00	\$0.00		
Survey Crew	0	hours @	\$130	=	\$0.00	\$0.00		
Survey Tech	0	hours @	\$90	=	\$0.00	\$0.00		
					\$42,000.00	\$42,000.00	\$4,200.00	\$46,200.00

<u>PME</u>					Fee			
Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Mech Engineer	54	hours @	\$125	=	\$6,750.00	\$6,750.00		
Electrical Engineer	54	hours @	\$125	=	\$6,750.00	\$6,750.00		
Plumb Design	27	hours @	\$125	=	\$3,375.00	\$3,375.00		
Design Tech	0	hours @	\$100	=	\$0.00	\$0.00		
Modeling Tech	80	hours @	\$90	=	\$7,200.00	\$7,200.00		
Drafting Tech	136	hours @	\$80	=	\$10,880.00	\$10,880.00		
Clerical	8	hours @	\$65	=	\$520.00	\$520.00		
					\$35,475.00	\$35,475.00	\$3,547.50	\$39,022.50

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES OFFICE SPACE EXPANSION PHASE 2 FEE PROPOSAL May 25, 2022

Task 7- Cost Estimation						TOTAL	\$40,458.60
<u>Architectural</u>				Fee	Total	Markup	TOTAL
PIC	0	hours @	\$255	=	\$0.00	\$0.00	
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00	
Project Architect	24	hours @	\$195	=	\$4,680.00	\$4,680.00	
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00	
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00	
Senior Architectural Staff	0	hours @	\$145	=	\$0.00	\$0.00	
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00	
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00	
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00	
Interior Designer	0	hours @	\$100	=	\$0.00	\$0.00	
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00	
Architectural Staff Level 2	0	hours @	\$95	=	\$0.00	\$0.00	
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00	
Interior Design Staff	0	hours @	\$80	=	\$0.00	\$0.00	
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00	
Administration	0	hours @	\$45	=	\$0.00	\$0.00	
				\$4,680.00	\$4,680.00	\$0.00	\$4,680.00
<u>Cost Estimating Consultant</u>							
Lump Sum					\$32,526.00		
				\$0.00	\$32,526.00	\$3,252.60	\$35,778.60

HBA ARCHITECTURE & INTERIOR DESIGN

TOWN OF CAPE CHARLES OFFICE SPACE EXPANSION PHASE 2 FEE PROPOSAL May 25, 2022

Task 8 - Bidding Phase TOTAL \$9,995.00

<u>Architectural</u>					Fee	Total	Markup	TOTAL
PIC	0	hours @	\$255	=	\$0.00	\$0.00		
Senior Project Architect	0	hours @	\$225	=	\$0.00	\$0.00		
Project Architect	24	hours @	\$195	=	\$4,680.00	\$4,680.00		
Senior Architect	0	hours @	\$175	=	\$0.00	\$0.00		
Senior Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Senior Architectural Staff	0	hours @	\$145	=	\$0.00	\$0.00		
Architect Level 3	0	hours @	\$140	=	\$0.00	\$0.00		
Architect Level 2	0	hours @	\$125	=	\$0.00	\$0.00		
Architect Level 1	0	hours @	\$100	=	\$0.00	\$0.00		
Interior Designer	0	hours @	\$100	=	\$0.00	\$0.00		
Architectural Staff Level 3	0	hours @	\$125	=	\$0.00	\$0.00		
Architectural Staff Level 2	32	hours @	\$95	=	\$3,040.00	\$3,040.00		
Architectural Staff Level 1	0	hours @	\$80	=	\$0.00	\$0.00		
Interior Design Staff	4	hours @	\$80	=	\$320.00	\$320.00		
Architectural Intern	0	hours @	\$60	=	\$0.00	\$0.00		
Administration	8	hours @	\$45	=	\$360.00	\$360.00		
					\$8,400.00	\$8,400.00	\$0.00	\$8,400.00

<u>PME</u>					Fee			
Project Manager	0	hours @	\$180	=	\$0.00	\$0.00		
Mech Engineer	3	hours @	\$125	=	\$375.00	\$375.00		
Electrical Engineer	3	hours @	\$125	=	\$375.00	\$375.00		
Plumb Design	2	hours @	\$125	=	\$250.00	\$250.00		
Design Tech	0	hours @	\$100	=	\$0.00	\$0.00		
Modeling Tech	0	hours @	\$90	=	\$0.00	\$0.00		
Drafting Tech	4	hours @	\$80	=	\$320.00	\$320.00		
Clerical	2	hours @	\$65	=	\$130.00	\$130.00		
					\$1,450.00	\$1,450.00	\$145.00	\$1,595.00

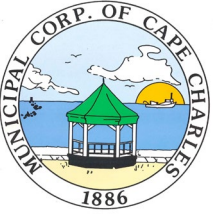
Totals	HBA	\$271,110.00
	Structural	\$29,078.50
	Civil	\$77,110.00
	PME	\$82,241.50
	Cost Estimating Consultant	\$35,778.60
	Geotechnical Consultant	\$11,797.50
		<u>\$507,116.10</u>

Reimbursable Expenses TOTAL \$2,834.00

Fees						\$2,000.00
Estimated Building Permit Fee	1	EA @	\$500.00	x	1.00 =	\$500.00
Estimated Site Plan Review fee	1	EA @	\$1,500.00	x	1.00 =	\$1,500.00
Printing and Reproduction						\$750.00
Estimated printing of drawings (if required for review submissions, 10 sets of drawings at \$75 per set)	10	EA @	\$75.00	x	10.00 =	\$750.00
Local Travel Mileage						\$84.00
Approx. 150 miles at \$0.56/mile	150	@	\$0.56	x	150.00 =	\$84.00
(2 trips to Cape Charles @ 75 miles round trip)						

Note: All reimbursable expenses to be invoiced at actual cost, with no markup, in accordance with the agreement..

TOTAL FEE \$509,950.10

 TOWN OF CAPE CHARLES	AGENDA TITLE: Code 42.3 – Adoption of State Law		AGENDA DATE: June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: Adopt Ordinance 20220616B To Adopt Amendments to the Code of Virginia §46.2 and Title 16.1, Chapter 11, Article 9 (§16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§18.2-266 Et Seq.), If Any, For Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic		ITEM NUMBER: 7G
	ATTACHMENTS: Ordinance 20220616B		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume, Town Clerk	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

Each year a new ordinance must be passed accepting any and all amendments to the provisions and requirements set by Code of Virginia in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations.

DISCUSSION:

From time to time, the Code of Virginia is amended to either delete or add new safety tactics to protect those traveling the highways, streets and roads. Changes to penalties and violations are also made. In order to have the authority to enforce these new laws, an amendment to the Town Code must be made that adopts any changes.

RECOMMENDATION:

Staff requests adoption of Ordinance 20220616B To Adopt Amendments to the Code of Virginia §46.2 and Title 16.1, Chapter 11, Article 9 (§16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§18.2-266 Et Seq.), If Any, For Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic by roll call vote.

ORDINANCE NO: 20220616B

**AN ORDINANCE TO ADOPT
AMENDMENTS TO THE CODE OF VIRGINIA §46.2 AND
TITLE 16.1, CHAPTER 11, ARTICLE 9 (§16.1-278 ET SEQ.) AND TITLE 18.2,
CHAPTER 7, ARTICLE 2 (§ 18.2-266 ET SEQ.), IF ANY, FOR INCORPORATION
INTO THE CAPE CHARLES TOWN CODE
CHAPTER 42-MOTOR VEHICLES AND TRAFFIC**

WHEREAS, it is necessary to follow the guide set by the Code of Virginia to protect the safety and welfare of residents and guests of the Town of Cape Charles; and

WHEREAS, from time to time, the Code of Virginia is amended to protect those traveling the highways, streets and roads of the Commonwealth; and

WHEREAS, in order to have the authority to enforce these new laws, the Town Council of the Town of Cape Charles must adopt any and all amendments made by the Commonwealth of Virginia; now

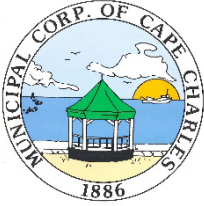
THEREFORE, BE IT ORDAINED: That pursuant to the authority of the Code of Virginia, 1950, as amended, § 46.2-1313, all of the provisions and requirements of the laws of the Commonwealth contained in Code of Virginia, Title 46.2 and Code of Virginia, Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1, and of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 into ordinances as in force and effect on the date of the adoption of this Code, and as amended in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated in this chapter by reference and made applicable within the Town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the Town. Such provisions and requirements are hereby adopted, *mutadis mutandis*, and made a part of this chapter as fully as though set forth at length herein. It shall be unlawful for any person within the Town to violate or fail, neglect or refuse to comply with any provision or requirement which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under the Code of Virginia. This ordinance will take effect July 1, 2022.

Adopted by the Town Council of Cape Charles on June 16, 2022.

Mayor William Dize

ATTEST:

Town Clerk

 TOWN OF CAPE CHARLES	AGENDA TITLE: Purpose for Accessory Dwelling Units		AGENDA DATE June 16, 2022
	SUBJECT/PROPOSAL/REQUEST: Establish the purpose and vision for permitting Accessory Dwelling Units		ITEM NUMBER: 7H
	ATTACHMENTS: Comp Plan Excerpt – ADU's		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): John Hozey, Town Manager	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

In November 2018 the Town adopted a zoning ordinance which addressed Accessory Dwelling Units (ADU). On May 19, 2022, the Town Council considered a zoning text amendment to this ordinance, as recommended by the Planning Commission. The Council also held a joint public hearing with the Planning Commission on this amendment on May 3, 2022. However, on May 19th the Town Council rejected the proposed text amendment.

ITEM SPECIFICS:

Since the initial ADU ordinance was adopted, there has been considerable turnover in staff, as well as several new members on the Town Council. During this intervening time, and as a result of such turnover, the purpose and intent of the original ADU ordinance may have been misinterpreted or changed.

Current staff understood the initial purpose for this ordinance was to address critically needed affordable long-term rental units in town. It was further understood that increasing the density of buildings/structures on any parcel in the historic district was not necessarily desired and could detract from the character of the district. However, the need for long-term rental units was deemed so great, that the Town Council was willing to sacrifice the incremental increase in density required to achieve the goal of long-term rentals.

The conclusion staff drew from the above understanding was that an accessory dwelling unit would not otherwise be desired within the historic district unless it was to be used for long-term rentals. Otherwise, it would contribute to the density of the district without a corresponding benefit. This conclusion would preclude Town approval of any building permit for an ADU if it was to be used just as a means to extend the capacity of the primary structure. This conclusion would also negate the long-term use of an ADU by the property owner, so that the primary structure would be available for short-term rentals.

However, property owners felt that once built, an ADU should be available for whatever use the homeowner wanted. Since homeowner expectations were at odds with the currently understood intent of ADU's, the Planning Commission attempted to clarify the initial ordinance and to close any unintentional loopholes of the original legislation. That culminated in the text amendment that was forwarded to Council.

Since the Town Council rejected this amendment, it would seem prudent to get an updated vision and purpose for ADU's from the currently seated Town Council, before the Planning Commission tries again to develop potential text revisions.

RECOMMENDATION:

Staff requests that the Town Council discuss a vision and the purpose for ADU's in town, and to make a motion clarifying such, which will then be used by the Planning Commission to develop future amendments that will be acceptable to the Council.

Policies and Descriptions

Following is an expansion of each of the policies:

1. Preserve and enhance the integrity of the Historic District.	
Applies to Neighborhoods: ➤ Residential ➤ Mixed Use	Description: • Strengthen the historic preservation ordinance to ensure maintenance and preservation of the existing historic building stock • Make streetscape improvements along Mason Avenue, Bay Avenue, Randolph Avenue, Strawberry Street, and Peach Street • Restore medians and landscaping • Continue sidewalk improvements • Maintain Central Park as an urban/civic amenity that provides a multipurpose space for town events and individual recreation
2. Promote compatible infill development and renovation within established neighborhoods.	
Applies to Neighborhoods: ➤ Residential ➤ Mixed Use	Description: • Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options • Ensure new development is sympathetic and compatible with the neighborhood's architectural fabric. New building(s) should match the prevailing style and character of the neighborhood's existing buildings in scale, massing, colors and materials • Emphasize the preservation of the town's historic housing stock
3. Promote mixed use as the preferred form of development in the Commercial, Harbor, and Village Districts.	
Applies to Neighborhoods: ➤ Mixed Use ➤ Some parts (villages) of Accawmacke Planation PUD	Description: • Encourage the principle of incorporating mixed land uses, similar to the current land use patterns in the town such as: ○ Allowing residential and retail/commercial uses within the same building ○ Promoting residences within close proximity to commercial and retail centers • Combined live-work structures should be encouraged in new development and in the Mason Avenue districts to better integrate housing with the shops and businesses of the new and existing centers