



TOWN COUNCIL
Regular Meeting & Work Session
Cape Charles Civic Center
February 18, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Regular Meeting and Work Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Bannon, Buchholz, Follmer and Grossman, and Councilwoman Holloway. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek, Chief Jim Pruitt, Community Relations Manager Jennifer Lewis and Town Clerk Libby Hume. There were four members of the public, with items on the agenda, physically in attendance, and 48 viewers on Facebook Live.

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

Mayor Dize asked that item #5A-approval of the agenda format be moved to the beginning of the meeting prior to item #3-Recognition of Visitors / Presentations / Recognitions.

Motion made by Councilman Follmer, seconded by Councilman Bannon, to move item #5A forward ahead of item #3 on the agenda. The motion was approved by unanimous vote.

Approval of Agenda Format

Mayor Dize stated that he had misread the information pertaining to item #7E-COVID-19 Victims and Survivors Memorial Day Resolution and asked for a motion to remove this item from the agenda.

Motion by Vice Mayor Bennett, seconded by Councilman Follmer, to remove item #7E from the agenda. The motion was approved by unanimous vote.

Councilman Follmer suggested that tonight's presentation from the Concerned Citizens of Cape Charles be moved to another evening and potentially to another venue due to the amount of public interest. The new sound system had not yet been installed in the Civic Center and he did not feel it met the transparency to allow all to participate effectively. If the presentation was moved to a work session in about two weeks, the Governor's restrictions limiting public gatherings to 10 people might be lifted.

Motion made by Councilman Follmer, seconded by Councilwoman Holloway, to reschedule the Concerned Citizens for Cape Charles' presentation.

John Hozey stated that government operations, staff meetings and Council meetings were exempt from the 10-person maximum, but he needed a ruling from the attorney regarding a large public meeting.

Councilwoman Holloway stated that the Governor's current executive order was due to expire on February 28 and the limitation could be loosened.

The motion was approved by unanimous vote.

RECOGNITION OF VISITORS / PRESENTATIONS:

A. *Concerned Citizens of Cape Charles – Bill Ballard*

This item was postponed to a later date.

PUBLIC COMMENTS:

Town Clerk Libby Hume read comments submitted in writing from Phillipa Wilcox, Mollie Pickron, Margaret Ballard, Elizabeth Sutphen, Mary Barrow, Dianne Davis, Phil Goetkin, David Parham, Jane Edwards, Margot Gorske, Loraine Huchler, Jon Dempster, and Stuart Smith. (Please see attached.)

There were no other comments received in writing prior to the meeting or during the public comment period.

CONSENT AGENDA

- A. Approval of Agenda Format – moved to the beginning of the meeting
- B. Approval of Minutes:
 - i. January 21, 2021 Regular Meeting
- C. Approval of December 31, 2020 Financial Report

Motion made by Councilman Bannon, seconded by Councilman Grossman, to approve the Consent Agenda as amended. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

- A. *2021 Harbor Fees and Rates:*

Town Manager John Hozey began by stating that it was unfortunate that this meeting had to be closed to the public. Messrs. Tim Wivell and Mark Henry provided much input into the rate structure so were invited to attend this evening. Mr. Wivell was in attendance. Mr. Henry responded that his concerns were addressed so he would watch the meeting online. John Hozey proceeded to review the proposed charges as follows: i) At the January 21 Town Council Regular Meeting, proposed new harbor rate structures for the upcoming season were presented. The matter was deferred until this meeting to allow for more research of competing rates and other information; ii) In September 2020, Council approved a new management agreement with the Cape Charles Yacht Center to handle the day-to-day operation of the Town Harbor. The purpose of the management company was to increase revenue at the harbor; iii) The discounts were revised giving watermen a 50% discount and town residents a 30% discount; iv) The Town historically provided discounts on fuel sales. Charter boats and annual slip holders received a discount of \$.05 per gallon and watermen received a discount of \$.12 per gallon. Since the annual slip holder dockage category was eliminated, the proposal included extending the \$.05 per gallon discount to charter boats and residents using long-term monthly dockage. The \$.12 per gallon discount to watermen would remain in place; v) There was much discussion last month regarding after-hours fueling. Since that meeting, he found out that it was no longer permitted by state law. All fueling must be done with a qualified attendant. The Town did not realize that the law had changed. He consulted the attorney and found that the law did apply to the Town. There was some discussion regarding this issue and John Hozey noted that two people had used the after-hours fueling six times over the course of one year; vi) Electric rates were also an issue. The Town did not have published monthly rates for electricity so monthly rates were charged arbitrarily. The charge for 30-amp service were reasonable to industry standard but the charge for 50-amp service was grossly underpriced. The proposed rates for 50-amp service going forward were consistent with industry standards. There was some discussion regarding having the electric meters repaired or replaced since they were preferable to charging a flat rate; vii) There had been some pushback to the charge for pressure washing and this could be removed if Council preferred. There was some discussion and Council opted to remove the charge for pressure washing; viii) Mayor Dize brought up the 20' x 20' area for storage of commercial gear, pots, etc., and stated his preference to offer a seven-day grace period for watermen to clean or repair their gear before moving them into the water. If the watermen wanted to use an area to store their equipment, they should be charged from day one; and ix) Wharfage rates were added since they also required Council approval. Mr. Wivell assisted quite a bit and he recommended the change to the unit of measurement calculation. John Hozey noted an error in the printed rates and explained that the fee for a 32-gallon fish barrel should show \$1.00 versus \$1.50. There was much discussion regarding measurements and containers. Scallops were brought in by the sack and horseshoe crabs were in vats. There were many different sizes of vats, so the standard size of 60" to 72" would be used. Mr. Wivell stated that there were not many horseshoe crabs coming in so it probably would not be a big concern.

Motion made by Vice Mayor Bennett, seconded by Councilman Follmer, to approve the harbor fees and rates with the following adjustments: fish barrels would cost \$1.00 versus \$1.50, scallops would be measured by sack, horseshoe crabs would be measured by vat, there would

be no charge for pressure washing, there would be a seven-day grace period on the 20' x 20' storage area, and once the electric meters were repaired, the cost of electrical would be readdressed. The motion was approved by unanimous vote.

NEW BUSINESS:

A. *Revisions to Town Code – Chapters 19, 34 and 42:*

Capital Projects Manager Bob Panek explained the proposed revisions as follows: i) The flaw in Town Code § 42-7 was that it omitted the requirement to install official signage to prohibit the operation of non-motorized vehicles on sidewalks. There was no authority for a blanket prohibition without signage. The proposed revision conformed to state law. If adopted, Council would need to designate by separate action those sidewalks subject to the prohibition and official signage would need to be implemented through the VDOT process; ii) Chapter 19 was enacted in 1997 and no changes had been made since the initial adoption. It was an odd combination of land use regulation and provisions prohibiting gambling, obscene behavior, intoxication, and prostitution. The Zoning Ordinance currently allowed commercial recreation centers in only two districts – Harbor by conditional use, and Planned Unit Developments. Chapter 19 was unnecessary and should be struck; iii) Chapter 34 was enacted in 1975, twenty years before the first Zoning Ordinance, and no changes had been made since initial adoption. Clearly, the intent was to prohibit junkyards. The Zoning Ordinance did not allow junkyards in any district. Chapter 34 was unnecessary and should be struck; and iv) The adoption of an ordinance was necessary for Town Code revisions.

Motion made by Councilman Grossman, seconded by Councilman Follmer, to adopt Ordinance 20210218 to adopt the revisions to the Town Code Chapter 42, and deleting Chapters 19 and 34 as presented. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

B. *Consideration to Advance PPEA Unsolicited Proposals for Further Evaluation:*

John Hozey stated the following: i) It had been a long process since the Town was first approached in May 2020. Much of the time was used to develop the Public-Private Education Facilities and Infrastructure Act (PPEA) guidelines; ii) He would research the comments read earlier this evening regarding posting of the conceptual proposals. He would get the documents posted. The public would still have time to comment. The documents had always been available to them upon request; iii) It was still unknown whether the sale of the facilities would be good for the Town. The proposals needed to be evaluated. There was a request for proposals out for PPEA Utility Consulting Services which would close on March 16; iv) Both companies had been responsive to his requests and were waiting on the process; v) By advancing both proposals to the detail phase, the companies could work on their proposals while the Town worked to hire a consultant. Each company would be given until April 1 to submit their detailed proposal, which would be the earliest that he could bring a consulting contract to Council for approval; and vi) His recommendation was to advance both companies to the next stage. He noted that he had also received a request for information from a third company, Aquatech in Pennsylvania expressing an interest in submitting a proposal. They came to Town to inspect our facilities. He informed them that the Town was not taking bids but accepting unsolicited proposals. The process would not be slowed down for the third company.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to advance Virginia American Water and Aqua to the detail stage. The motion was approved by unanimous vote.

C. *Appointment of Zoning Administrator:*

John Hozey stated that the current planner/zoning administrator recently resigned, and the Town was actively recruiting for a full-time replacement. This was a very difficult position to fill and it could take some time to find a qualified candidate. This position had been a challenge since he began his job at Cape Charles. It took six months until the Town found Allyson Finchum, who was an experienced zoning professional. Things started to get backed up with Ms. Finchum's focus and she decided to move on. It wasn't the best fit. The Town could not be without a zoning administrator. An agreement was reached with Katherine Nunez to perform this function on a

part-time, temporary basis while we continued our recruitment. In addition to zoning administrator, we were also required by Code to have a subdivision agent. Ms. Nunez had extensive experience in this area, as well as familiarity with the Eastern Shore and Northampton County. We were fortunate that she was willing to pitch in and help the Town in this capacity. John Hozey strongly recommended the appointment of Katherine Nunez as zoning administrator and subdivision agent.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to appoint Ms. Katherine Nunez as the zoning administrator and subdivision agent for the Town of Cape Charles.

There was some discussion regarding hiring a new planner and depending on their experience, the Town might need to keep Ms. Nunez on board to train the new planner. The Town was receiving applications from individuals with some planning experience but not zoning which was critically important. Town Council did approve a second position during the budget amendment.

The motion was approved by unanimous vote.

D. *USDA Rural Development Loan Resolution:*

John Hozey stated that the Town applied for a 35% grant/65% loan from USDA Rural Development for utility fund projects to replace a pickup truck, and purchase 100 remote read water meters, including the software, equipment, conversion kits and training. The application was approved and closing documents were being prepared. This resolution was part of the standard paperwork required by the USDA for the grant/loan. This would not cover all the water meters. The water meter replacement would take about two to three years to complete. Although approved, he planned to hold off on the purchase of the water meters until the unsolicited proposals had been evaluated and Council decided whether to sell the facilities. If the Town did not move forward with the sale, the water meters must be upgraded.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20210218 USDA Rural Development Loan Resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

TOWN MANAGER COMMENTS

John Hozey commented on the following:

- 1) He was monitoring the COVID numbers and they continued to go down. He felt the Governor would be loosening the restrictions. As long as the numbers continued to trend downwards, his intent was for the Town to go back to a phased reopening starting March 1. If the numbers continued to decline, the Town would fully reopen on April 1.
- 2) Day 3 of the strategic planning was scheduled for this weekend and he thanked everyone for their time and effort. The first hour would be dedicated to Northampton County's draft comprehensive plan. He had not had the opportunity to review the document, so Councilman Grossman offered to lead that discussion. If anyone would be arriving late to the session, please submit your written comments to him and Councilman Grossman so that they could be incorporated into the discussion.
- 3) Jen Lewis was back in the business of events. Cape Charles Day was scheduled for March 6 and staff needed to know Council's thoughts on whether to move forward with the event or not so the food could be ordered. We would not know about the Governor's restrictions until closer to the event date.

There was some discussion regarding the Governor's upcoming update and the thoughts were that the restrictions would be loosened. If the Governor did not increase the number of people permitted in a public gathering, we might not have a choice but to cancel or postpone the event. We could also continue with the event and have the citizens drive-by to pick up their food.

- 4) There had not been any special meetings for the last couple of months, but we had one scheduled for March 4. Human Resources Manager Jodi Outland would be presenting information regarding health care coverage options.

MAYOR AND COUNCIL COMMENTS

Mayor Dize commented as follows: i) He thanked Bob Panek and John Hozey for their efforts regarding the Town Code adding the importance of trying to get some of the language updated; ii) He thanked John Hozey for his work regarding the strategic planning. The documents emailed to Council looked professional; and iii) He appreciated Council members talking to him yesterday.

Vice Mayor Bennett stated that he did not receive Councilman Grossman's email about the comprehensive plan. John Hozey explained that two emails were sent by Councilman Grossman and the subject line on both stated strategic planning.

Councilwoman Holloway and Councilmen Buchholz and Bannon had no additional comments.

Councilman Follmer expressed his agreement with Mayor Dize in thanking Bob Panek for his work to clean up the Town Code. Some housekeeping issues were addressed such as sidewalks. The Town was moving forward doing things correctly. People would appreciate it. He thanked the whole team.

Councilman Grossman commented as follows: i) He wanted to publicly recognize Ja'Quana Ward for maintaining her deputy treasurer certification. She was one of twelve certified deputy treasurers in Virginia; ii) He sent information to the Mayor and Council regarding local elections. Senate Bill 1157 passed both the house and senate and was on the way to the Governor for his signature. After January 1, 2022, local elections were moved to November with terms commencing on January 1 of the following year. The State Code would override the Town's charter which stated that elections were held in May. Mayor Dize stated that the election information on the Town's website and in the Charter needed to be updated on the website. Libby Hume noted that changes to the Town Charter required approval by the Virginia General Assembly.

Mayor Dize read the announcements.

Motion made by Councilman Grossman, seconded by Councilman Bannon, to close the regular meeting and move to the work session. The motion was approved by unanimous vote.

Work Session Order of Business: Discussion of Current Town Priorities

John Hozey noted that typically the video would be turned off for the work session, but since the meeting was closed to in-person public attendance, the video and Facebook live stream would remain on for public viewing.

John Hozey went on to state that this session was different from the strategic plan. The staff report listed a number of projects in his recommended order of priority and he asked for Council concurrence to move any of the projects up or down in priority. The projects were:

- Facilitate, draft, and publish a new Community Strategic Plan.
- Meet with Departments and begin the FY 2022 budget development process.
- Coordinate a critical administrative update to the zoning ordinance and hire a new zoning administrator.
- Manage the ongoing PPEA process for potential utility sale and recruit/hire consultant to advise.
- Review and revise HDRB ordinances, guidelines, and procedures.
- Assist in the development of the Town's Comprehensive Plan update.
- Push through the "reverse the reverse" parking issue on Mason Avenue.
- Assist with development projects as they come up (ie., old ferry dock area or potential rezones).
- Address options for Town Hall replacement/renovation (#1 on the CAMP).
- Continue cooperative efforts with CPS to minimize their operational impact to the Town.

- Develop and bring forward short-term rental regulations/ordinances.
- Develop a plan with recommendations for boat/RV parking issues in the historic district.
- Develop tougher ordinances on golf cart violations.

There was discussion as follows: i) Mayor Dize stated that the Town had been working on short-term rentals, golf carts and boat parking for quite some time and they needed to be moved up in priority. Councilwoman Holloway appreciated Mayor Dize's comments but added that it was late in the year to begin working again on short-term rentals, etc. It was already too late in the year to make any changes. Council could work on these issues, but they could not become effective until next year's season; ii) Vice Mayor Bennett expressed his agreement with the top three items but felt their order needed to be reversed. He also felt that the Town Hall replacement needed to move down since currently there was nothing that could be done about it, but it needed to be kept at the top of the CAMP. John Hozey informed Council that the Town was working with an architect who was providing his effort pro bono. It was not costing the Town anything to evaluate. Not a lot could be done since the Town did not have the money for this project, but it was still important to remain on the top of the CAMP list; iii) Councilwoman Holloway felt that the HDRB guidelines, etc. needed to be moved up and could possibly be switched with the PPEA process. Work needed to begin on the HDRB guidelines. Mayor Dize added that all the Town's ordinances needed to be reviewed. Councilman Grossman did not see the HDRB guidelines project being moved up above the others that were already listed. John Hozey interjected that just because the HDRB projects were listed below the PPEA and other projects, did not mean that work would not be done. Council just approved moving the unsolicited proposals to the detail phase to allow the bidders to move forward with the proposals. An RFP was currently out for a consultant, but there was not a lot of staff work to do on the PPEA issue at this time. The PPEA project would take priority in late March to early April; iv) Councilman Follmer expressed his agreement in the list mostly as presented but felt that short-term rentals could move below golf carts. Councilwoman Holloway felt that short-term rentals needed to be above boat/RV parking but would be okay with the list as it was presented; v) John Hozey stated that the last three projects on the list, no matter where it was moved in the list of priorities, would not get attention until mid-summer; vi) Councilman Grossman asked whether the zoning map was included with the zoning ordinance update project. John Hozey stated that the zoning map and subdivision ordinance were part of the zoning ordinance project.

A Council consensus was reached to keep the priority list in the order recommended by John Hozey.

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

The meeting adjourned at 8:10 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
February 18, 2021 Town Council Regular Meeting**

Phillipa Wilcox

Subject: Cement plant encroachment

As a Bay Creek resident, I recently walked the boardwalk was stunned to see all the trees cut down, this is an important ecological area and I beg you to consider carefully before you take any more action to expand the plant. I am expecting you to keep the CC citizenry involvement.

Phillipa Wilcox
401 Cassatt Knoll
Cape Charles

Mollie Pickron

Good Evening Mr. Mayor and Council Members:

The purpose for this message is to ask you for support and action to protect the economic and lifestyle well being of the Cape Charles residents, businesses, and visitors.

My name is Mollie Pickron and my husband and I have owned the house at 501 Monroe Ave since 2000. We are members of the Concerned Citizens group relating to the noise, dust, and ugly landscape of the concrete plant (which I never noticed much in the previous 18 years before the plant was sold to the current owners). The Concerned Citizens group approached the plant with a good neighbor relationship attitude last year but unhappily the noise and dust are still huge problems.

I recently reviewed the Town Comprehensive Plan updates from 2019 where workshops collected important data on priorities and vision from the public. These priorities include among other things, Healthy Living, Economic Development, Economic Resiliency, and Concrete Plant Cleanup.

The current state of the concrete plant's excessive noise and dust negatively impacts each of these items and it seems as if the plant is operating as if they are zoned heavy industrial. Here are some of the impacts I see to the Comprehensive Plan updates:

- **Healthy Living**-It is obvious to anyone that the dust and noise generated by the plant are health hazards.
- **Economic Development**-Cape Charles has made great strides in this area. The Treasurer's Report from Oct 31, 2020 shows great growth even considering the pandemic. I believe the continued excess noise will adversely affect the attraction and satisfaction of tourists and cause current residents to seek retirement elsewhere where there is peace and quiet. All this will certainly affect the bottom line for our businesses and for the Town. We have made great progress in our growth previous to the new plant owners getting established.

Transient Occupancy Tax -**21.9% increase** over the previous fiscal year

Sales & Use Tax - **2.2% increase**

Business License Tax - **97.5% increase**

Harbor dockage - **61.8% increase**

- **Concrete Plant Cleanup**- The visual impact of the plant is a big negative and the plant intends to continue to grow. The promise by the Plant to build a shielding wall to help with noise and negative visual appeal has stalled and there is no definitive timeline on its completion.
- **Economic resiliency**- If our residents move away and tourists choose to visit elsewhere, our economic condition will certainly deteriorate, and businesses will falter and close.

I've worked with the Cape Charles Main Street organization for several years and have witnessed the tremendous effort expended in partnership with the Town to support and grow the town businesses, attract new businesses, enhance the sense of community pride and the quality of life for the local residents, and solidify our area as a valued destination for visitors. Neither tourists nor residents want to be awakened at 5 am by the plant noise. Who wants to enjoy a cocktail outside at a local establishment overlooking the beautiful bay or in a backyard gathering and have to shout over the beeping and crashing of heavy equipment? In addition, we have already heard from some boaters who were in the CC Harbor this past summer who say they will not come back because of the noise and dust.

I am concerned that all the effort and progress of the Town will be negated if we cannot find a solution to the adverse environmental impact of the plant.

We are not asking for the plant to be shut down! The plant provides jobs and contributes to the town tax revenues. We are concerned about the quality of life for the residents and tourists which will preserve and encourage the growth of the town!

Specifically, we are asking you to: 1) Support light industrial zoning ONLY, 2) Pressure the plant to finish the wall the owners promised to build. The wall may not completely fix the problems, but hopefully will help.

Thank you for your consideration.
Mollie Pickron
501 Monroe Ave
pickronm@gmail.com
410-440-3236

Margaret Ballard

Subject: State Code: Civil Penalties for Violations of Noise Ordinances

Dear Mayor Dize and Honorable Members of the Cape Charles Town Council,

On behalf of the Concerned Citizens for Cape Charles (CCCC), a grassroots coalition of approximately 35 residents and property owners in the Historic District and Bay Creek, I implore the Town Council to take control of the overpowering and disturbing noise emitted by the Precast Coastal plant all hours of the day and night.

To that end, I respectfully ASK that the council members join our efforts in advocating to our state delegate (Delegate Bob Bloxom) and state senator (Senator Lynwood Lewis) that they carry legislation in the 2022 Virginia General Assembly session to amend the state code and allow Cape Charles's elected officials to control its noise ordinance.

As you all and our CCCC members understand, state code in Virginia has precedence over local ordinances. The state code **exempts** "industrial property," i.e. the Precast plant, from local noise regulation. We will ask our state delegation to amend the state code by **striking the exemption** which will provide our Town Council the authority it needs to enact a local industrial noise ordinance.

We appreciate your attention to this issue and look forward to hearing from you that you will join our efforts.

Sincerely,
Margaret Ballard
115 Mason Avenue
Cape Charles, VA 23310
mballard1617@gmail.com
757-406-9431

Elizabeth Sutphen

Subject: Public comment email please for 18 Feb 2021 Town Council Meeting/thank you

Dear Cape Charles Mayor, Town Manager, and Town Council Members,

As a participant in the growing organization known as Citizens Concerned for Cape Charles (CCCC), I request your action to address mounting public problems associated with Coastal Precast Systems (CPS3). The indisputable facts concerning the impact of CPS3's operations on the tax paying citizens of Cape Charles are as follows:

1. The noise and air pollution from CPS3 are disturbing a growing number of Cape Charles citizens. This applies to citizens that live full time in Cape Charles and weekenders who are subjected to negative heavy industry operations on the Saturdays and Sundays at all hours.

2. CPS3 has not taken adequate measures to reduce their heavy industry disturbances on the town residents in spite of their promises to "be a good neighbor, in harmony with the community" in a 26 May 2020 meeting with Mr. Dize and Mr. Hozey and documented in a followup letter to DEQ inspector on 28 May 2020. (Reference - letter from Gary Shrieves, Coastal Precast Systems, LLC to Matthew Slemple, Air Compliance Inspector, DEQ, dated 28 May 2020/obtained via FOIA request.)

3. The Cape Charles Town leaders have not implemented acceptable measures to protect the Cape Charles community from further negative CPS3 impacts over the last 9 months since the initial meeting with CPS3 on 26 May 2020.

As Cape Charles Town leaders, you are in position to take action through a variety of positive measures. These include:

1. Limit expansion of heavy industry operations in or near the Town of Cape Charles now and into the future.
2. Extend tax or other incentives for CPS3 to install noise control infrastructure and measures that have proved effective for heavy industry operations elsewhere. (Example: www.enoisecontrol.com/products/outdoor-sound-curtains/)
3. Dedicate Town financial resources and/or secure public grants to install additional sound reducing infrastructure (e.g. acoustical panels, sound curtains, sound blankets) for placement in key locations next to the Cape Charles Historic District and the DCR Cape Charles Natural Area Preserve. This will assist in protecting these valuable state recognized assets from the heavy industry noise intrusion and also help to address development of serious public health issues in our town.

Thank you for your time and attention to this important matter.

Sincerely,
Dr. Elizabeth Sutphen
Member of CCCC

Mary Barrow

Subject: Make Noise the Priority

Dear Mayor and Council Members,

I have spent the past several hours reading about the effects of noise pollution on populations close to industrial plants and have found little to broaden the data that has been presented by Margot Gorske, Bill Ballard, Mollie Pickron, David Parham and others in town.

However, interestingly as it pertains directly to the demographics of Cape Charles, according to a study presented in *Noise and Health (7 May 2014)* 'elderly people were found to be more susceptible to noise annoyance' which resulted in more displaced aggression. I mention this as it may highlight why so many of us are not only deeply saddened/disturbed by the introduction of the noise from the cement plant, but more irritated generally.

While this may seem a 'soft' consideration, it is one that is worth noting. Why would those of us who moved here for a quiet retirement want to stay in a place that causes constant irritation?

Finally, yesterday I stood on the outside back steps listening to the industrial thunder and double beeping noise from the plant. I wondered if this was going to become ever more constant – if I could no longer expect to hear the birds in the morning, or the quiet.

My request is that council members address the noise from the cement plant now as a priority.

Thank you,
Mary Barrow

Dianne Davis

Good evening Mr. Mayor, members of the Town Council, Town Manager, Town Clerk and other present

Wow! It is really interesting about the discussions occurring now about the concrete plant.

In 1964 when the Bayshore Concrete Plant decided to open a business here, and it was really an exciting time for our area because they hired roughly 350 people who had full time jobs with benefits.

The southern part of the Eastern Shore really did not have that many businesses other than the small ones that had less than ten employees, and many of them were family members.

We were really sad to learn that the Bayshore Concrete Plant was closing, and all their employees had to find other jobs. As you know, or maybe you do not know, there were not that many places that they could go to

look for employment. The Chesapeake Bay Bridge Tunnel could not hire all those persons that lost their jobs. Some of them ended up unemployed and others were working on jobs that were part time and no benefits.

It was great after a little over a year finding out that the plant was purchased by a new owner in 2019—Coastal Precast Systems. Finally, some of the persons who lost their job could go back to work.

Now can you believe that we have people that are complaining about all the noise (IT IS A PLANT WHAT DO PEOPLE EXPECT?) and other things that is no different than when we had Bayshore Concrete. This is a plant where people are working to make money so that they can take care of their families. The people have been here for years trying to make a living and need to work.

These people are not retirees that have moved here and maybe had jobs paying six figures. We are glad to have these people here, but they must understand we have people who have always been here and need to make a decent salary.

What I do not understand is that Bayshore Concrete Plant opened here in 1964 and did not close until 2018. Were these people who are complaining living here doing that time? Coastal Precast Systems opened within a year or so later. This plant was already in existence and I am sure that those complaining had to know about the plant but decided to take up residence here anyway.

The concern is not for the people who need jobs on the Eastern Shore, but it seems more about doing something about the concerns that were listed in the Eastern Shore Post.

Some people have done very well and have been blessed to make the type of money that they can really enjoy retirement, but the employees at the Plant have not been that fortunate. These people are working hard still trying to make a living, and probably will never be able to retire.

You know, regardless as what the employer decides to do about the complaints, some of the persons complaining will never be satisfied until the plant is closed. The Bayshore Concrete Plant was here for more than 50 years. We now have Coastal Precast Systems here and they have not been in operation here three years and we are hearing all kinds of complaints.

My hope is that this company will continue to grow and not get tired of people complaining and decide to leave this area. The people who have lived here all of their lives need these jobs—**full time jobs as well as benefits.**

PLEASE BE CONCERNED ABOUT THE WELL-BEING OF ALL MANKIND

Phil Goetkin, 602 Jefferson Ave

To: The Mayor and The Town Council

Subject: Coastal Precast Systems Potential Rezoning of Plant Expansion

Date: February 18, 2021

Background and Issues: I have lived with my wife at 602 Jefferson Avenue in Cape Charles since June of 2015. Prior to that time, we lived for six months in Bay Creek. One of the primary reasons we moved to Cape Charles was its incredible natural beauty including the Chesapeake Bay, its vast wildlife and other natural areas. During this time, I have been generally supportive of the activities of Bayshore Concrete Products. However, since the new owners, Coastal Precast Systems (CPS), have taken over operation, I have become quite disturbed especially from the standpoint of pollution and the degradation of Cape Charles' natural assets, resources and environment. Not only has the viewshed of our natural resources been adversely affected by CPS's development, sound and air pollution has put these precious assets at serious risk.

Just make a visit to the Cape Charles Natural Area Preserve; take a walk along the beach; or take a ride in a boat in the harbor out into the Bay. Sound, air and light pollution being generated by CPS is extensive.

As stated in section II.5 of the current Comprehensive Plan:

An abundance of natural resources exist in Cape Charles. Critical wildlife habitats, such as wetlands, natural areas, and the public beach, are present within the town's boundaries and nearby. These natural environments are delicate and should be protected from degradation. **Land use policies must continue to take into account the importance of the local environment to protect these resources for present and future generations.**

The intent of the Cape Charles Master Tree Plan, an addendum to the Comprehensive Plan, is to develop vibrant green infrastructure in **all** town districts by promoting the planting of appropriate new trees, and

protecting appropriate existing trees. The plan's purpose is to ensure the beauty and ecological health of Cape Charles for its citizens and guests. In the last few months, CPS has cut down virtually every tree right up to its property line. Tens if not hundreds of mature native trees have been cut down adjacent to the Cape Charles Natural Area Preserve. I walk the Preserve boardwalk almost every day. Now, with no buffer between CPS and the Preserve, the noise, dust and light pollution is dramatic, not only for me, but more importantly for the plants and animals that live in this preserve. Recently, CPS has been conducting open fires that have produced smoke and ash that has further degraded the preserve. Nothing better than enjoying nature while having problems seeing and breathing.

Conclusion: CPS's development and operation has had significant negative impacts on Cape Charles' natural assets and the quality of life for its citizens. As CPS continues to expand its operations on its current property, it is considering further expanding its operation through additional land acquisition.

I would urge that the Mayor, the Town Council and the Town Staff closely monitor all activities of Coastal Precast Systems.

David Parham

Dear Mayor Dize and Honorable Members of Town Council:

I am requesting the Town Council require that the air and noise pollution from the Coastal Precast Systems plant be reduced to acceptable levels and operations be limited to acceptable hours.

I am NOT asking that the plant be shut down, but it be held responsible to limit its harmful effects on the residents, businesses, marina & beach.

I am not knowledgeable as to the processes used by Coastal Precast Systems compared to their predecessor Bayshore Concrete, but for the prior twelve years before Coastal Precast started operations in 2020, we did not experience these negative, harmful effects.

I am addressing the unacceptable air and noise pollution which comes from the Coastal Precast Systems plant. Their operations not only cause intolerable disruptions to the peace and serenity of the Town but also creates serious health concerns for the residents and tourists in Cape Charles.

The Air Pollution from the plant is a major health concern. I have notified the Council previously with concerns of boats in the Town Harbor being covered with dust/debris from the Coastal Precast Systems plant last summer, certainly a nuisance and undesirable, but of greater concern is the particulate matter that remains airborne and is breathed into the lungs of our residents and tourists. Numerous health studies have shown the correlation between exposure to particulate matter in the air we breathe and serious health risks negatively affecting cardiovascular and respiratory systems. These risks include heart attacks, asthma, bronchitis, and lung cancer, among others. This is especially true for people with pre-existing heart or lung disease, older people, and young children.

As Cape Charles is a Town with an average resident age in the late 50s and a tourist town which attracts families with young children, this concern would be magnified.

It should be noted that reports have indicated that inhaling concrete dust is especially damaging as it is composed of damaging chemicals and can stay airborne for several days.

Now we all know that on most days we have wind in Cape Charles. Per Weather Spark, the average annual wind speed is between 9-13 miles per hour. At these wind speeds, both small and large particulate matter will become airborne. The typical winds from April through August are from the south. This means that dust & particulate matter from the Coastal plant will blow into the Historic District during the summer period when town is full of tourists and renters.

It makes sense that Section 3.13 of the Town Zoning Ordinances for the Industrial District makes it clear that **"NO outside storage of parts, material, fossil fuels, raw materials or petroleum shall be permitted within the M-2 District"**. The zoning requirement goes further to state, **"NO dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property."**

I am requesting the Town Council to enforce these requirements which are needed for the health and benefits of the residents and entire Town.

The noise pollution from the plant must also be addressed as it is detrimental to the wellbeing of the town and its residents.

Definition of noise is “unwanted or disturbing sound” that causes a temporary disruption in the natural balance. Disturbing sound is unwanted when it either interferes with normal activities such as sleeping or conversation or disrupts or diminishes one quality of life. Studies have shown that there are direct links between noise and health. Problems related to noise include stress related illnesses, high blood pressure, speech interference, hearing loss and sleep disruption. The noises from the plant are unnatural in their volume and their frequency. The environment in Cape Charles as a small town, is such that it has become difficult if not impossible to escape the damaging noises six days a week and from early morning till late evening. No one wants to sit on the beach or their porch and hear clanking, banging, and beeping from the plant all day. Apparently, the Cape Charles Town Ordinances agree, as they strictly enforce noise levels on residents in town, and I see no reason why the CPS plant should not be held to similar restrictions. According to Sec. 46-3 dealing with Loud, disturbing noise in town, it states:

It shall be unlawful and a class 4 misdemeanor for any person to create any unreasonable loud, disturbing, and unnecessary noise in the town or **any noise of such character, intensity, and duration as to be detrimental to the life or health of any person or unreasonably disturb or annoy the quiet, comfort or repose of any person.** I believe the Town Planners and Town Council completely understand the negative impacts of noise pollution on the residents, businesses, marina, and beach which is why they clearly address this issue. This is also why in Section 3.13 of the Town Zoning Ordinances for the Industrial District it is clear that **“NO outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices designed to or which transmit a warning message or other communication or signal audible outside any building shall be allowed on the property. No equipment used outdoors, excluding half-ton trucks, shall be equipped with or use any device to emit a warning noise or audible signal while in use on the property.”** The zoning also prohibits transmission of products to or from the plant before 8 AM or after 9 PM Monday through Saturday.

I am requesting that the Town Council take steps to enforce these requirements for the safety and health of our residents and wellbeing of the town.

In closing, I will reiterate I am not requesting the plant be closed but held accountable and in accordance with town ordinances to reduce the air and noise pollution to acceptable levels at acceptable times. This can and should be done.

Thank you for your time and consideration.
Best Regards,
David J. Parham

Jane Edwards

Subject: Fwd: Concerned Citizens of Cape Charles

Town Clerk Libby Hume,

I am writing in support of Concerned Citizens of Cape Charles and the issues they have raised with Coastal Precast Concrete. I live in Bay Creek (resident since 2012) and I hear the noise at my home and on walks with my dog through out the Bay Creek property. My enjoyment of our screened porch and patio are impacted most months of the year (we use those features of our home about 8 months out of twelve). I also work in my garden almost year round in the early morning and I hear the plant. I can only imagine how aggravating the noise and dust are for those who live closer to the plant!

I further support the Concerned Citizens of Cape Charles with concerns of the plant expansion of their operations. The nature preserve and Bay Creek’s beauty would be severely impacted by enlarging the plant’s footprint.

I do not advocate shutting the plant down. I only want more consideration for the citizens of Cape Charles and our tourist/visitor industry.

Thank you for putting my letter into the record for tomorrow’s Town Council meeting.

Jane Edwards
202 Arnie’s Loop
Cape Charles

Margot Gorske

Subject: and all council members

Dear Mayor and Council Members;

The plant is here to grow and make a profit. It is not here to do so at our expense. It exists in a residential area. Not in an industrial park. Our community has a right to be protected from the worst side effects of its operation and to preserve our health, investment, and quality of life.

1. **Dust; Cement** dust causes lung function impairment, chronic obstructive lung disease, restrictive lung disease, pneumoconiosis and carcinoma of the lungs, stomach and colon. Sulfur dioxide (SO₂) affects breathing aggravates existing respiratory and cardiovascular disease. Sensitive populations include asthmatics, individuals with bronchitis or emphysema, children, and the elderly.

Additional health hazards are presented with water runoff into the bay and groundwater and other odorless gases.

2. **Noise**; Research has shown that regular exposure to high noise levels results in higher cases of nausea, **headaches**, argumentativeness, and changes in mood and **anxiety**. Insomnia and developmental delays in children are also associated with noise pollution.

3. **Hours of operation**: directly tied to noise and a solution may be to have the noisiest part of the operation during the day and the silent parts during the night.

We have a window of opportunity to play the long game and use state, federal, and local legal protections to balance the profit goal of the plant with our residential district.

Sincerely,
Margot and Scot Gorske

Loraine Huchler

Public Comment Statement regarding agenda item, "Consideration to advance PPEA unsolicited proposals for further evaluation"

Submitted by Loraine Huchler, P.E., CMC®, FIMC, huchler@martechsystems.com, 609-865-8151 (cell).

I am an Eastern Shore resident and a licensed professional engineer specializing in water and wastewater. I've been following the Town's progress evaluating the option to sell the Water & Wastewater assets and outsource the services. On September 3, 2020, the town adopted and posted the local Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA guidelines). The Town accepted an unsolicited conceptual proposal from Aqua on October 9, 2020 and accepted a finalized conceptual proposal from Virginia American Water (VAW) shortly after receipt of clarifications on January 8, 2021.

There's a requirement to post conceptual proposals for public access. "Why aren't these two conceptual proposals currently available to the public on the Town's website as required by the PPEA guideline?" Section V.B.5.a. of the local PPEA guidelines reprinted below, requires that solicited and unsolicited proposals shall be posted to the Town's website within 10 days of acceptance.

5. Posting Requirements:

- a. A conceptual proposal, whether solicited or unsolicited, shall be posted by the Town within 10 working days after the acceptance of such proposals. Posting shall be on the Town's website. In addition, a summary of the conceptual proposal may be posted by publication, in a newspaper of general circulation in the area in which the contract is to be performed. The posting shall identify the location where copies of the proposal are available for public inspection. At its discretion, the Town may also post on the VBO site.

As of Thursday morning (2/18/21), I was not able to find these two proposals on the Town's website. This requirement applies even if the proposals contain information labeled "confidential" that Town officials redact prior to posting the document.

Today's agenda includes a request for the council to move from the Conceptual Phase Review to the next phase. Is it appropriate for the Town Council to approve advancing these conceptual proposals to the Detailed Phase when the Town Manager has failed to comply with the PPEA requirement to post the two accepted conceptual proposals to the Town's website within 10 days of acceptance? Why would you violate the PPEA guideline and deny stakeholders their legal right to access these documents in a timely manner?

In tonight's request for deliberation, the town manager has stated that "it would appear to be in the Town's best interest to continue this investigation to determine if the sale of our utilities could be in the best interest of the Town." "What constitutes "best interest in the Town?"

Water and sewer rates and fees are a critical issue for stakeholders. The submissions in the Detailed Review Phase requires bidders to define rates and fees (Section D.1.iv.); however, there's no requirement to disclose these fees and rates to the stakeholders.

Numerous studies have documented the high probability that the rates and fees will increase after privatization because corporate profits, dividends and income taxes can add 20 to 30 percent to the operation and maintenance costs – and these costs are passed on to the ratepayers.^{1,2} "How important is the issue of the projection of rates and fees in Town Council's decision?"

On February 5, 2021, the Town of Cape Charles released a Request for Proposal (RFP) for PPEA Utility Consulting Services. There are seven (7) tasks: Background research, PPEA processes & procedures, asset appraisal, rate forecast & capital investment strategy, evaluation and contract monitoring metrics, meet with Cape Charles staff, and participate in town hall meetings & assist with PPEA agreement. This is a significant amount of work: "What is the budget for these consulting services? "How will the town pay for this work?" "Shouldn't the appraisal of the assets and the financial analysis – defining the capital investments and forecasting the rates – be done first to understand what is a fair purchase price?" "If the town decides not to complete a deal with either bidder, does any of the expense for the consultant's work have tangible value?" There's no sense in spending money to conduct intensive due diligence if the Town determines part-way through the process that the deal is not "in the best interest of the town."

Finally, I'll continue to ask the questions that I've asked for the past six weeks, "Why? Why does the town want to sell the water plant?" and "After paying off the current debt, how does the Town plan to spend the proceeds of the sale of these assets?" As ratepayers and stakeholders, we deserve transparent actions and timely answers to our questions.

¹ <https://www.foodandwaterwatch.org/sites/default/files/Public%20Private%20Water%20Service%20FS%20Apr%202010.pdf>

² https://www.foodandwaterwatch.org/sites/default/files/qa_public_private_water_fs_june_2009.pdf

Jon Dempster

Dear Council,

My name is Jon Dempster, owner of "The Shanty" at 33 Marina Rd. I am here to address the ongoing debate about rates in the harbor, specifically as they regard to commercial waterman. I understand that you, The Council, reached an agreement last September to lease the operations of the Town Harbor to the Cape Charles Yacht Center. And while some of that decision does effect "The Shanty" in terms of our operations, maintenance of public areas, events, and other, I have remained silent until now out of trust of your decisions.

However, as local watermen are not only our friends at The Shanty, but also our local vendors and the inspiration for this business to exist in the first place, I feel we have a right to speak to these terms.

When I arrived here, by boat, eleven years ago I lived in this harbor. Surrounded by almost nothing but commercial vessels. It was this that reminded me of being home in Gloucester, Massachusetts. It was also this that made me believe a local seafood joint on the water, supported by it's own community of local watermen, was the opportunity of a lifetime.

That opportunity has had a lot to do with the shape of this community over the past 10 years. And it was built upon a working harbor, with working watermen, who were the priority for a blue collar seafood joint, long before we needed 130 more slips for private vessels.

We should all be thankful for how this has gone, but we should always water our roots.

It came to my attention about a month ago that the "annual" slip holder rates, which several watermen maintain faithfully, had been removed. More so it also came to my attention that the rates for commercial vessels would increase significantly. Still I sat by as I understood the vernacular of the deal ultimately allows you, The Council, control of the rates. I hold hope that you will honor our watermen.

After seeing the proposed rates for tonight's meeting I have to say I was disappointed. Yes the rates have come down significantly from the last proposal in terms of the "Long Term" rate which includes substantial percentage discounts to both locals and commercial vessels. However, the proposed wharfage, 20x20 rentals, cleaning and other charges not included in the "per foot" rate bring this beyond where it began in the previously unacceptable proposal.

The addition of these previously unimposed, or non existent fees, make this proposal a Red Herring. Do we believe the watermen are not intelligent enough to calculate these new costs? Beyond the fact that there has been no addressing the "Off Hours" Fueling issue. Nothing has really been given here, there is no compromise. Simply a restructure at which costs are actually higher than previously proposed.

If these rates are approved I would be afraid that you have set a precedent of increases that these commercial watermen will not only have to fight each year, but will become financially unsustainable for their vitality.

The Shanty, although open year round now, used to base our operational season on the beginning of Crab Season. This year on March 17th I hope to see the same familiar Tangier, and other faces, pulling into the harbor to begin a successful harvest season.

More so I hope year round to see the same familiar faces returning to the harbor each day after a long hard day with the bounty of our Bay.

Council you have my faith. You are all intelligent people who can see through this for what it is. I would encourage you to protect your community. To protect it's roots. And to make sure we are not driving our original economic vitality out but protecting it for years to come from what we have become.

Sincerely yours,
Jon Dempster
The Shanty
508-284-3318
jondempster@yahoo.com

Stuart Smith, 27 Kings Court

Despite Council's admonishment at the January 2021 Council Meeting against including rates far out of Cape Charles, CCYC has chosen to write a marketing piece that can best be described as mostly aspirational. Indeed marketing is the art of creating preference for your product or service even if some of the arguments are based on what you would like the facts to be.

Let's look at some more facts. The survey (attached) was conducted in 1 hour using marina websites. It covers the Patuxent River marinas southward to the Elizabeth River. The average rate for a transient night (not including power) is **\$1.89/ft**. This puts the proposed rates for Cape Charles at 59% above the average marina. Marinas in the far northeast have very short seasons (typically Memorial Day to at best Columbus Day) or 4 1/2 months compared to our 8 month season, so naturally rates are higher.

I want to highlight one marina in the CCYC survey, Charleston Harbor Marina. I have stayed there for a month at a time on two ICW cruises (2018, 2020). The property has two first class hotels, 3 pools (one heated in the winter months), a hot tub, a beach club where once a month entertainment is provided around a seasonal theme (like an oyster roast), a first class restaurant (Fish House), a shuttle van which takes boaters to downtown Charleston, grocery stores and West Marine, and to a local plantation. Two newspapers are free, with free coffee and hot chocolate in winter months. Showers and laundry are above average. The view from the marina is the Cooper River with the Charleston skyline and the Ravenel Bridge. Our view is of the Concrete Plant. So International yacht owners are coming to Cape Charles for our beautiful view? Where is our pool going to be located?

Cape Charles proposed rates are 36% above Charleston Harbor! Marketing hype does nothing to create real value for boaters.

Another inconvenient fact is that CCYC rates were raised in the Spring of 2020 in anticipation of submitting their RFP response.

The exact general rate structure proposed including fixed electric rates are the same as posted by CCYC last year. Before that monthly rates were \$6/ft, below Cape Charles seasonal rate of \$6.41.

There is a cry for improvements that needs additional capital and more events. Under a prior harbormaster Cape Charles had many waterfront events including a tall ships festival for many years which attracted large crowds of visitors. Council stopped all events due to losses incurred and lack of financial support from the extended community to continue the tall ships events. Tall ship visits are very expensive due to individual ship requirements for appearance fees.

"For years Cape Charles Harbor has been underpriced for transients".

Another inconvenient fact, Cape Charles for many years had rates that were appropriate for the facilities, older poorly maintained smaller fixed docks, showers that can be charitably called basic, mostly smaller boats, watermen, with very little seasonal slip availability even for residents.

When MD and VA stopped the winter crab harvest rates were significantly increased to make up for the loss of watermen revenue. And current rates have been raised the last few years 30% to \$2.25/ft/night compared to the survey average of \$1.89.

Another reality check— it's a tired old argument that lower rates generate negative perception no matter how smooth the marketing speak. So does lower rates in Charleston Harbor Resort, St. Augustine, and Annapolis mean substandard facilities and amenities. Really? Just because it's written in the rate proposal marketing piece doesn't make it a fact.

And finally, about discounts during busy summer season. These discounts typically have been extended to yacht clubs who bring 10 or more boats. Old Point Comfort Yacht Club has been visiting Cape Charles Harbor for over 35 years every Memorial Day weekend. With the construction of the new floating docks they now typically bring 35 or more boats. It's clear that CCYC intends to remove these discounts. A perfect insult to a very long term supporter.

If you do the sums on the CCYC proposed rate sheet survey using Cape Charles at 2.25/ft the average rate is **\$2.35!!** Again \$3.00/ft is 28% above their own data.

Does Council really think Cape Charles is not going to be judged against many other alternatives? Adopting the proposed rates positions Cape Charles Harbor as one the most expensive transient marinas in the Chesapeake Bay and beyond.

Does Council remember what happened the last time it raised rates substantially?

Table 1

Marina	Price per foot	
Deltaville Yachting Center	1.00	BoatUS
Fishing Bay Marina	2.00	
Dozier's Regatta Point	1.75	BoatUS
Mobjack Marina	1.00	
Riverwalk (Yorktown)	\$2.00	1.50 M-Th
York River Yacht Haven	2.00	
SouthHall Landing (Hampton)	1.25	Stay 4 get 1 free
Salt Ponds (Hampton)	1.25	Stay 5 get 2 free
Old Point Comfort	2.00	Yacht club discounts
Bluewater Yachting Center	2.00	
Hampton Public Piers	1.25	BoatUS rate
Willoughby Harbor Marina	2.00	
Waterside Marina (Norfolk)	2.00	
Tidewater Marina (Portsmouth)	2.00	
Portsmouth Boating Center	2.00	
Bay Pointe (Little Creek)	2.50	
Little Creek Marina	2.00	
Cobbs Marina	2.00	
Oyster Farm	2.50	
Onancock Town Harbor	2.00	
Somers Cove (Crisfield)	1.95	
Point Lookout Marina(Potomac)	1.50	
Spring Cove (Solomons)	2.50	
Solomons Yachting Center	2.50	
Safe Harbor Zahnisers (Solomons)	2.25	
Average	1.89	

December 2020 Treasurer's Report

Page 1 – Cash Position

- Property taxes were due Dec 7th, collections are going well.

Page 2 – Revenue vs. Expenditures

- The first DHCD Small Business Recovery Grant reimbursement (\$114,541) was received. \$200,042 has been expended to date.
- The YTD Harbor performance is much improved over FY20. Dockage is already at budget estimate for the year. The revenue estimate had been reduced due to COVID-19 projections.

Page 3 – Capital Projects

- The Harbor WiFi upgrade project is progressing.
- Funds were expended for demolition work for the Inner Harbor rehab project.

Page 4 – Tax Collection Rate

- No comments.

Page 5 – Tax Revenue Trends

- Harbor dockage is 61% higher than it was December 2019.
- Meals tax revenue is still lagging by 9.3% from 2019, but transient occupancy taxes have surpassed 2019 year to date amounts by 25.7%.
- Business License (BPOL) is higher by 192% than 2019, however the due date for BPOL was extended from April to September.
- Sales and Use tax revenue is 11.3% higher than in 2019.

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

<u>Cash on Hand</u>	<u>11/30/2020</u>	<u>12/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$873,837	\$605,817	-\$268,020
Atlantic Union Bank Money Market Account	\$1,427,884	\$2,428,337	\$1,000,453
LGIP Account 1 - Unrestricted	\$104,165	\$104,177	\$12
LGIP Account 2 - Unrestricted	\$305,199	\$305,236	\$37
Total Cash On Hand	\$2,711,086	\$3,443,567	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>11/30/2020</u>	<u>12/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,079,183	\$1,079,281	\$99
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$25,890	\$25,890	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$3,879	\$4,148	\$269
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,582	\$257,584	\$2
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Total Cash Held in Reserve	\$1,370,624	\$1,370,993	\$369
Total Cash - All Accounts	\$4,081,709	\$4,814,559	\$732,850

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,998,081
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MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

December 31, 2020

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY21
GENERAL						
REVENUE - Operating	\$1,047,339	\$2,175,134	\$2,240,643	\$82,421.34	\$3,580,706	62.58%
EXPENDED - Operating	\$478,904	\$1,216,665	\$1,570,098	\$353,432.76	\$2,805,563	55.96%
NET	568,435	958,469	670,545	(287,924)	775,143	
REVENUE - CAPITAL GRANTS & LOANS	0	2,042	114,541	112,499	813,867	14.07%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	7,459	202,813	84,421	(118,392)	1,589,010	5.31%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	0	0	0	0	
TOWN CONTRIB. & PENDING GRANTS	(7,459)	(200,770)	30,121	230,891	(775,143)	
PUBLIC UTILITIES						
REVENUE - Operating	143,062	865,531	907,966	42,435	1,689,134	53.75%
EXPENDED - Operating	44,746	388,371	340,346	(48,025)	1,146,690	29.68%
NET	98,316	477,160	567,620	90,460	542,444	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	55,696	173,668	190,060	16,392	169,600	112.06%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	55,696	372,062	354,980	(17,082)	712,044	49.85%
TOWN CONTRIB. & PENDING GRANTS	0	(198,395)	(164,921)	33,474	(542,444)	
HARBOR						
REVENUE - Operating	7,217	394,400	594,461	200,061	1,060,080	56.08%
EXPENDED - Operating	39,735	393,921	442,330	48,410	692,473	63.88%
NET	(32,517)	479	152,131	151,652	367,607	
REVENUE - GRANTS & LOANS	0	18,803	0	(18,803)	375,765	0.00%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	0	0	(97,108)	0	
EXPENDED - Capital Projects, Debt Svc	11,664	97,108	107,873	186,179	743,372	14.51%
TOWN CONTRIB. & PENDING GRANTS	(11,664)	(78,306)	(107,873)	(204,982)	(367,607)	
SANITATION						
REVENUE	16,937	101,196	101,742	546	214,546	47.42%
EXPENDED	17,892	98,719	100,584	1,865	214,546	46.88%
NET	(955)	2,477	1,158	(1,319)	0	

FY 2021 Capital Improvement Project Tracking Report

As of:
12/31/2020

	FY21 Status or Start Date	Percent of Completion	FY21 Budgeted	FY21 QTR 1 Expended	FY21 QTR 2 Expended	FY21 QTR 3 Expended	FY21 QTR 4 Expended	FY21 YTD Expended	(Over)/Under Budget
General Fund									
Police Vehicle	Pending	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 38,940
Permit Department Software	Pending	0%	\$ 7,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,000
Public Works Shop Heaters	Complete	100%	\$ 6,868	\$ -	\$ 6,528	\$ -	\$ -	\$ 6,528	\$ 340
Grounds Maintenance Equipment	Pending	0%	\$ 22,240	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,240
Central Park Zipline	Pending	0%	\$ 14,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,000
Portable ADA Equipped Restroom Trailer	On Hold	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,000
Mason Avenue Re-striping	On Hold	0%	\$ 5,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000
Parking Lots (Mason & Harbor Shanty Area)	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Video Surveillance System	Bid award	0%	\$ 35,000	\$ -	\$ 56	\$ -	\$ -	\$ 56	\$ 34,944
Municipal Building Project Evaluation	Preliminary process	0%	\$ 45,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,000
Multi-Use Trail Phase 2 Closeout	Pending	0%	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000
subtotal			\$ 519,048	\$ -	\$ 6,584	\$ -	\$ -	\$ 6,584	\$ 512,464
Water Fund									
SCADA System	pending	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000
Remote Read Water Meters - starter setup	pending	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,985
Pickup Truck	pending	0%	\$ 32,766	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,766
Water Tower Mixers	pending	0%	\$ 55,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,000
subtotal			\$ 154,751	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 154,751
Harbor Fund									
Inner Harbor Rehabilitation Phase I carryover	Complete	100%	\$ 60,390	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ (0)
WiFi/Security Cameras/Lighting Project	In process	23%	\$ 35,000		\$ 8,201			\$ 8,201	\$ 26,799
Inner Harbor Rehabilitation Phase II	Demolition	6%	\$ 85,700	\$ -	\$ 5,359	\$ -	\$ -	\$ 5,359	\$ 80,341
subtotal			\$ 181,090	\$ 60,390	\$ 13,559	\$ -	\$ -	\$ 73,950	\$ 107,140
Sanitation Fund									
Trash Can Replacements	Complete	100%	\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
subtotal			\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ -	\$ 11,796
TOTAL			\$ 866,685	\$ 60,390	\$ 31,939	\$ -	\$ -	\$ 80,533	\$ 786,152

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES
December 31, 2020

YTD 2020 Real Estate Tax Collections

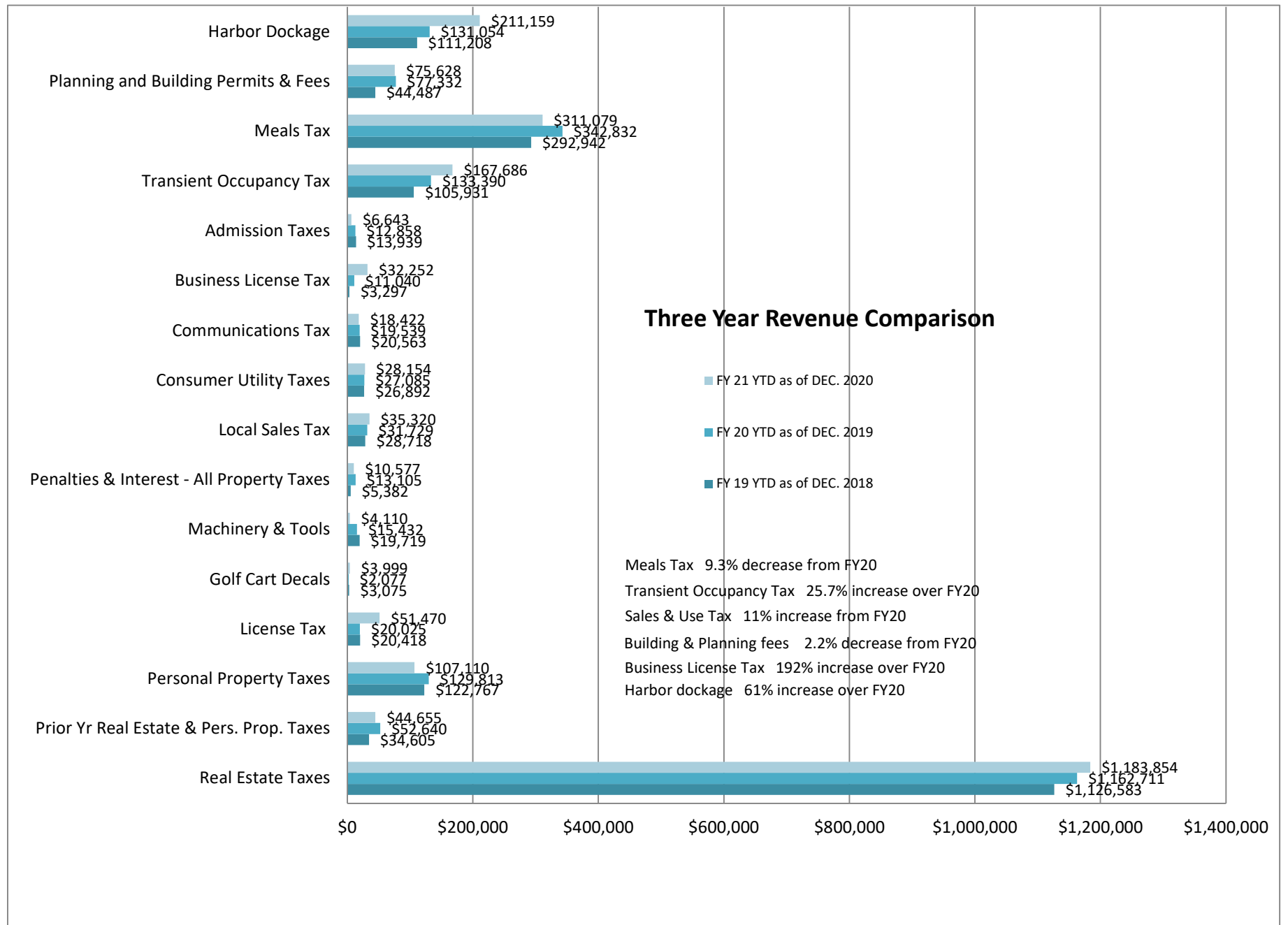
Total Taxable Land Value	182,295,434	
Total Improvement Value	293,203,847	
Exemptions	(2,650,000)	
Additional Assessments (SCC Utility)	-	
Total Real Estate Value (taxable)	472,849,281	
Total Budgeted	1,223,505	
Total Tax Billed	1,291,310	
Total Adjustments	(3,818)	
Total Collected YTD (percent of billed)	<u>1,183,854</u>	92%
Amount Due per Accounts Receivable	103,639	

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

Total Personal Property Value	13,824,800	
2020 Initial Assessment Exonerations	(393,342)	
Personal Property Value, billed	13,431,458	
Total Budgeted	175,000	
Total Tax Billed less PPTRA	207,905	
Total Adjustments & Additional Exonerations	(6,179)	
Total Collected YTD (percent of billed)	<u>162,690</u>	81%
Amount Due per Accounts Receivable	39,036	

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

Total Budgeted	75,300	
Total Collected (percent of budget)	<u>55,231</u>	73%
Amount Due Per Budget	20,069	





*Municipal Corp. of
Cape Charles*

The undersigned Clerk of the Council of the Town of Cape Charles, Virginia (the “Town”), hereby certifies that:

1. A meeting of the Council of the Town (the “Council”) was duly called and held on February 18, 2021 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Ordinance 20210218 (the “Ordinance”) of the Town entitled as recorded in full in the minutes of the Meeting, duly adopted by a majority of the members of the Council present and voting during the Meeting.
3. A summary of the members of the Council participating at the Meeting and the recorded vote with respect to the foregoing Ordinance as set forth below:

<u>Member Name</u>	<u>Present</u>	<u>Absent</u>	<u>Voting</u>		
			<u>Yes</u>	<u>No</u>	<u>Abstaining</u>
William Dize, Mayor	X				
Chris Bannon	X		X		
Steve Bennett	X		X		
Andy Buchholz	X		X		
Andrew Follmer	X		X		
Paul Grossman	X		X		
Tammy Holloway	X		X		

4. The Ordinance has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

Witness my signature and the seal of the Town of Cape Charles, Virginia this 18th day of February 2021.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

ORDINANCE 20210218

**ADOPTING REVISIONS TO CAPE CHARLES TOWN CODE
CHAPTER 42, AND DELETING CHAPTERS 19 AND 34**

WHEREAS, the Cape Charles Town Code is a compilation of ordinances enacted by the Cape Charles Town Council and periodic revisions are required to reflect policy initiatives, conform to new federal or state law, and to recognize changes in organizational structure, etc.; and

WHEREAS, upon review of Chapter 42, a provision inconsistent with the Code of Virginia was discovered; and

WHEREAS, upon review of Chapters 19 and 34, these chapters were found to be incongruent with the Cape Charles Zoning Ordinance and, in the case of Chapter 19 duplicative with several other provisions of the Town Code;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 18th day of February 2021, that Cape Charles Town Code Chapter 42 – Motor Vehicles and Traffic be revised per the attached, and that Chapters 19 and 34 be deleted, to become effective immediately.

Adopted by the Town Council of Cape Charles on February 18, 2021.

By: _____
Mayor

ATTEST:

Town Clerk

Sec. 42-7. - Operation of vehicles on sidewalks, shared-use paths, etc.

- (1) No motor vehicle shall be operated on the sidewalks, shared-use pedestrian paths, boardwalk or public pier of the town, unless directed by the police department or unless a motor vehicle is passing over a sidewalk to access a driveway. Parked motor vehicles are prohibited from obstructing the sidewalks. For the purpose of this paragraph, the term motor vehicle shall mean passenger cars, trucks of all kinds, motorcycles, mopeds, and golf carts.
- (2) Operation of roller skates, skateboards, personal delivery devices, bicycles, electric personal assistive mobility devices, motorized skateboards or scooters, motor-driven cycles, or electric power-assisted bicycles is allowed unless specifically prohibited by official signage.
- (3) Operation of wheelchairs or wheelchair conveyances, including those self-propelled, for use by mobility impaired persons is allowed.

LOAN RESOLUTION (TOCC #20210218)
(Public Bodies)

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

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

WHEREAS, it is necessary for the _____
 _____ (Public Body)
 (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

 pursuant to the provisions of _____; and

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

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

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

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
 - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
 - (b) Repairing or replacing short-lived assets.
 - (c) Making extensions or improvements to the facility.Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ _____

under the terms offered by the Government; that the _____

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

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

The vote was: Yeas _____ Nays _____ Absent _____.

IN WITNESS WHEREOF, the _____ of the
_____ has duly adopted this resolution and caused it
to be executed by the officers below in duplicate on this _____ day of _____,

(SEAL)

By

Attest:

Title

Title