



TOWN COUNCIL
Public Hearing & Regular Meeting
Civic Center
March 21, 2019
Immediately following Executive Session

At 6:55p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Public Hearing and Regular Meeting of the Town Council. In addition to Mayor Dize, present were Vice Mayor Bennett, Councilmen Bannon, Buchholz and Grossman, and Councilwomen Burge and Holloway. Also, in attendance were Town Manager Larry DiRe, Public Works/Public Utilities Director Dave Fauber, Town Planner Zach Ponds, Police Chief Jim Pruitt and Town Clerk Libby Hume. There were approximately 25 members of the public in attendance.

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

PUBLIC HEARING PUBLIC COMMENTS:

- A. Conditional Use Permit application to allow an accessory dwelling unit at 615 Monroe Avenue (Tax Parcel 83A3-1-243B)
- B. Proposed Text Amendments to Cape Charles Zoning Ordinance:
 - i. Article IV, Section 4.5.1 adding a mixed-use designation to the Table of Parking Standards, and regulating the minimum off-street parking requirement for mixed-use development
 - ii. Article IV, Section 4.5.F.1.k adding a requirement that new mixed-use developments delineate residential parking spaces with appropriate signage

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

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

The public hearing was closed at 6:57 p.m.

RECOGNITION OF VISITORS

- A. *Eastern Shore Spay Organization – Sandy Mayer*

Ms. Mayer, secretary/treasurer of the Eastern Shore Spay Organization (ESSO), began by requesting \$1,500 from Council to continue their spay/neuter clinics adding that matching grants were available to them for any funding received from municipalities or other organizations. ESSO brought in the PETA van on a monthly basis to Cheriton and Exmore to provide affordable spay/neuter services to residents of the shore. Ms. Mayer reviewed the various pricing for spay/neuter services and vaccinations. Over the last four years, 1,100 cats and 300 dogs had been spayed/neutered. 580 of the cats were pet cats and 520 were community cats. ESSO had also transported about 200 cats across the bay for adoptions. Pet Smart had accepted 20 cats for adoption. Ms. Mayer described the history of what brought her to Cape Charles and how she became involved with the community cat populations and eventual formation of ESSO. She explained the Trap-Neuter-Release (TNR) process adding that it was the only proven method of controlling the community cat population.

There were a number of questions from the Mayor and Council as follows:

- Councilwoman Holloway asked how ESSO differentiated pets from community cats. Ms. Mayer responded that pets were usually brought in carriers.
- Mayor Dize asked for the statistics regarding the number of cats and dogs spayed/neutered this current year.
- Councilwoman Holloway asked for a budget showing ESSO’s use of funds. Mr. Hank Mayer responded that he had given the information to Town Manager Larry DiRe.

- Councilwoman Burge asked Ms. Mayer to estimate the number of feral/community cats in Cape Charles. Ms. Mayer responded that there were about 100 to 200 community cats in town.
- Mayor Dize stated that a number of organizations outside of Virginia reached out to him regarding their TNR programs and informed him that they did not feed the cats after release since more cats would be attracted by the feedings. One organization in Texas had a Barnyard Cat Program where the cats were given to farmers after they were spayed/neutered. Ms. Mayer responded that the farmers on the shore already had cats and that she had dealt with a lady from Chesapeake who expressed an interest for 10 cats for her farm. Ms. Mayer made the preparations with the paperwork, etc. but the lady never contacted her to pick up the cats.

B. *Inflow & Infiltration Issues – Public Utilities Director Dave Fauber*

Dave Fauber provided the history of the Town’s issues and work related to stormwater, water, pump stations, etc. (Please see attached.)

PUBLIC COMMENTS:

Noelle Lawrence, 7 American Court

Ms. Lawrence stated that she and her husband had lived in Cape Charles for nine years and addressed Council in favor of accepting the proposal to sell the land to The Shanty, the current lessee, to incentivize making improvements to property. The Town would receive the property tax revenue.

Pete Baumann, 239 Monroe Avenue

Mr. Baumann commented as follows: i) He was in favor of selling the land to The Shanty. If the Town were to sell it to another private entity, they could charge a higher rent and take the profit vs. the Town. There was already a flourishing business, that people loved, on the property and he would like to see the relationship continue; ii) He was the president of ESSO and commended Ms. Mayer on the time she spent on the cats. He got involved with ESSO for the cats and didn’t want to see them killed. He believed in TNR and feeding the cats and keeping them disease free. Ms. Mayer did so much that didn’t come out of ESSO’s budget. If they weren’t allowed to feed the cats, they would get filthy and disease ridden. He had heard the complaints from the community and comments that food being left out attracted other animals. ESSO collected the food bowls after feeding the cats. He concluded by stating that he would like to see buy-in of their program.

Jon Dempster, Verlinda Landing, owner of The Shanty

Mr. Dempster thanked Council for the opportunity to speak then proceeded to comment on the potential sale of the property at the harbor. It was an opportunity to bring \$262K in revenue into the Town. The offer was based on a verified appraisal. The Shanty made a commitment to begin the addition by next Monday and the Town would see an immediate increase in tax revenue and job creation. They were a risk eight years ago when the lease was signed. The Hungry Crab, LLC’s offer was the only offer received by the Town and they had invested \$750K on the property. They were a much safer bet today and needed the equity in the land beneath their building for better leverage with the bank.

Adria Rhodes, 215 Monroe Avenue

Ms. Rhodes spoke in support of the sale of the harbor property to the Hungry Crab, LLC adding that she had worked with the team since before they opened in 2012. They had an excellent leadership team and she was proud to be part of that team. She had worked in other restaurants, some successful and some not. The owners of The Shanty were special, and no detail was too small. They strived to continue and grow and increase revenue, taxes and job creation in the Town. This business created an environment of friends and family and truly put people ahead of money. She looked forward to the future and growth.

Town Clerk Libby Hume read submitted comments into record. (Please see attached.)

There were no other comments to be heard nor any other written comments submitted prior to the meeting.

CONSENT AGENDA:

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. January 26, 2019 Town Council Strategic Planning Session
 - ii. February 19, 2019 Town Council Executive Session
 - iii. February 21, 2019 Town Council Public Hearing, Regular Meeting & Executive Session
 - iv. March 7, 2019 Town Council Special Meeting & Executive Session
- C. Approval of January 31, 2019 Financial Report
- D. Monthly Department Reports
- E. Appointment of Zoning Administrator
- F. Vendor Request for Commercial Activity in the Open Space Zoning District

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

UNFINISHED BUSINESS:

- A. *Vacation of Public Right-of-Way on Tax Parcel #90-8-1A2:*

Town Manager Larry DiRe stated that the subject property was the access road to the former Sustainable Technology Industrial Park which was currently in the Virginia Department of Transportation's (VDOT) secondary road system as a public right-of-way. Vacating the public right-of-way would remove it from the secondary road system. The Northampton County Board of Supervisors sold the subject property to South Port Investors and vacation of the right-of-way was necessary for the transfer of ownership. Town Council held the required public hearing on March 14, 2019. Council now needed to send a letter of support to VDOT vacating the right-of-way.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to authorize the mayor to sign a letter of support to VDOT vacating the public right-of-way. The motion was approved by unanimous vote.

- B. *Sale of Town-Owned Real Property (Portion of Tax Parcel #83A3-A-10):*

Larry DiRe stated that the Town received unsolicited offers to purchase a portion of lot 10 from both the Hungry Crab, LLC and Southern Shore Holdings, LLC. The portion of the lot constituted approximately .40 acres. No portion of the town-owned parking lot or the Waterman's Monument site were included in this proposed transaction. The Hungry Crab, LLC submitted an appraisal showing a land value of \$262K. The Town sent the appraisals to W. R. McCain and Associates, Inc. for an independent review and they concurred with the valuation. Pursuant to Code of Virginia Sections 15.2-1800 and 15.2-1813, Town Council held a public hearing on March 14, 2019. The majority of comments received at the public hearing were opposed to the Town selling the property, but not all. A super-majority vote of Council was required to sell the property.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to approve the sale of approximately .40 acres of land on parcel 10 to the Hungry Crab, LLC for \$262,000.

There was much debate regarding the proposed sale as follows:

Councilman Grossman stated that he spent a lot of time going through the lease and put his thoughts on paper and proceeded to read his notes into the record. (Please see attached.)

Councilman Buchholz commented that Councilman Grossman's analysis didn't take meals tax into consideration as future revenue and went on to state that restaurant seating was at a premium especially with the ever-growing number of people coming here. This was an in-town restaurant that was already proven, and it was a disservice to them not to sell them the property. They planned to add 50 jobs from the addition and the Town would reap more benefits over a longer period of time. What was the purpose for Town holding onto the land? By not selling the land, the Town was not letting The Shanty grow since ownership of the land could be a provision of the mortgage lender.

Councilwoman Burge began by stating that it was a difficult thing to balance and appreciated Councilman Buchholz's comments and all the work done by Councilman Grossman. She continued as follows: i) At the public hearing, a large number of citizens spoke in opposition to the sale. Her evaluation of disposing of public property was to consider the Town not the developers with a priority that all property in Town be productive and on the tax rolls. She discovered today that this property was on the tax rolls and the lessee was paying for both the land and the improvements; ii) Economic development was Council's responsibility and, in her view, those who were invested in the Town were more likely to continue with their investments. This proposal was a bonafide proposal for a legitimate purpose and reason; iii) This development met the Town's goals. We didn't know what would happen to the railroad property. It was significant to look at the whole area, not just the .40 acre. It was important to know; iv) Would the lessee be harmed by not selling the land? It was difficult to answer. For the immediate time, they were still here but the future was unknown. It was not her intention to do anything harmful to any business; and v) She had heard a lot of talk saying that the Town should sell or buy a number of properties. There was fear that the property would be worth so much more, but we didn't know that today. Some didn't want the property to be purchased and flipped for more money. Council could put guard rails in place. When Rayfield's built their current store, there was a first right of refusal if the property were to be sold. Council could look at a first right of refusal for the same price as sold but she wasn't sure if that would be acceptable to the lessee. Other limitations, such as some included in the lease, could be added. It would be in the interest of Town to have a use limitation, such as a fee-simple sale, which wouldn't be in the Town's overall best interest, that was determinable as long as a restaurant was there. She had seen similar limitations in other sales.

Councilwoman Holloway stated that everyone had struggled in weighing the pros and cons. The Shanty took a risk in 2012 and were a catalyst in Cape Charles' economic development. If we were to put an economic value in the marketing and public relations that The Shanty had received nationally which brought people into Cape Charles, it couldn't be fit into a formula. They made an investment that benefitted the tourism industry the Town had today. The unknown of what would happen with the railroad didn't matter because The Shanty had a lease and were already here. It shouldn't hold her back from making a decision to sell the land at the appraised value, although she liked the idea of the first right of refusal for the Town to buy back the property at the same price.

Councilman Bannon stated that he had been on Council over 20 years and this was the hardest decision he had ever made. The Shanty had done so much for the Town. He saw a bright future for the Town and had a love for the harbor area that had been repeated by many people. For the betterment of the Town, he could not vote in favor of the sale.

Vice Mayor Bennett stated that he was not in favor of selling the property at any time in the debate and still felt that way. He had no doubt about what The Shanty had brought to the Town. A lot of people had taken risks with opening their businesses in Town. He wasn't just looking at the railroad property but also other improvements on the south side of the harbor. Improvements could be seen daily. There was too much going on for Council not to get a better feel of everything at the harbor. If Council were to look at selling non-performing assets, should the beach be sold since it didn't generate revenue? With all things considered, it was not the right time to sell this property.

Mayor Dize stated that although he did not get a vote, he was able to give his opinion, adding that he believed that Council was making a big mistake. Council couldn't hold up the whole town based on what might or might not happen with the railroad. He felt that Council was being short-sighted. The Shanty took a chance on the Town when there was nothing here. The Town needed to do our due diligence and be in the business of helping businesses to succeed and grow. An appraisal was done and verified. He understood that realtors were saying that in a few years it would increase in value. The Town didn't own the building, just the land. There was a waiting list at all restaurants in town and additional seats were needed. The Shanty was proposing 50 additional seats which equated to more meals tax. He believed that once the land and building became one, the assessment would go up. He looked at the tax assessment for the land and improvements and compared to what he was paying for his property on Peach Street, it amounted to peanuts.

Councilman Buchholz restated his motion.

Councilwoman Holloway amended the motion to add a first right of refusal to the Town for the sale price of \$262K, which was seconded by Councilman Buchholz. The motion failed due to lack of a super majority. Roll call vote: Bannon, no; Bennett, no; Buchholz, yes; Burge, yes; Grossman, no; Holloway, yes.

C. Conditional Use Permit – 615 Monroe Avenue:

Town Planner Zach Ponds stated that the proposed development was an approximately 960 square foot two-story accessory dwelling unit in the rear of the property with a garage on the first floor and dwelling unit on the second floor. The property was located in the Single-Family Residential District – 1 and in the Historic District Overlay. The proposed use was allowable in the R-1 district as a conditional use. The proposed structure met the setback, height, floor area and parking requirements of the zoning ordinance. If approved for a conditional use permit, the proposed accessory dwelling unit would require a certificate of appropriateness from the Historic District Review Board. The Planning Commission held their public hearing and meeting on March 5, 2019 and recommended Council approval of the conditional use permit (CUP) as submitted.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to approve the conditional use permit for an accessory dwelling unit at 615 Monroe Avenue as submitted. The motion was approved by unanimous vote.

D. Text Amendments to Cape Charles Zoning Ordinance:

Zach Ponds described the proposed text amendments to the following sections: i) Article IV, Section 4.5.1, Table of Parking Standards, to include a separate “Nature of Use” designation for mixed-use development and creating a parking standard for this use of 1.0 space per one-bedroom dwelling unit; otherwise 2.0 spaces per dwelling unit, plus one additional space per 200 square feet of commercial gross floor area. Currently, retail uses were required to have 1.0 space per 200 square feet of gross floor area, restaurants were required to have 1.0 space per 100 square feet of gross floor space, and general office uses were required to have 1.0 space per 300 square feet of gross floor area. 200 square feet of gross floor area would be a good middle-ground requirement between these three types of uses; and ii) Article IV, Section 4.5.F.1.k to include a sentence stating “For new construction mixed-use developments, parking stalls for residential units shall be identified by appropriate signage.” The proposed text amendment was intended to have developers clearly delineate between the parking required for residential units within mixed-use developments and would help reserve specific parking spots for residents while deterring non-residents visiting the commercial uses from parking in those locations. Enforcement, however, would be regulated by the Homeowners’ Association, not the Town. The Planning Commission held their public hearing and meeting on March 5, 2019 and recommended Council approval of the text amendments as proposed.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the text amendments to Cape Charles Zoning Ordinance Article IV, Sections 4.5.1 and 4.5.F.1.k as proposed.

There were some questions regarding the proposed amendment to Section 4.5.1. Zach Ponds informed Council that the proposed changes were a result of discussions with a developer. Parking depended on the use of commercial space which could not be determined when constructing the building. This language was specifically for new construction. The current language would remain for existing buildings which possibly could not meet the parking standards.

The motion was approved by unanimous vote.

NEW BUSINESS

A. Conditional Use Permit Application – 649 Randolph Avenue – Set Public Hearing:

Zach Ponds stated that the owners of 649 Randolph Avenue wanted to convert the detached garage, which was constructed in 2007, into an accessory dwelling unit, with the dwelling unit on the second floor. The applicants proposed to add a balcony on the east elevation of the second

story facing Fig Street and replacing the two windows on the second story with doors. The entrance to the dwelling unit would not be through the garage but rather by stairs to the doors on the second story balcony. A certificate of appropriateness for the exterior changes to the existing structure was approved by the Historic District Review Board at their February 19, 2019 meeting. The proposed use of an accessory dwelling unit was an allowable use in the R-1 district by conditional use and the proposed use met the zoning ordinance requirements for accessory structures and accessory dwelling units. The Planning Commission scheduled their public hearing for April 2, 2019. A Town Council public hearing was also required prior to a decision being made regarding the CUP application.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to schedule a public hearing for April 11, 2019 to hear public comment regarding the conditional use permit application for 649 Randolph Avenue. The motion was approved by unanimous vote.

B. Conditional Use Permit Application – 209 Mason Avenue – Set Public Hearing:

Larry DiRe stated that a CUP application was received for ground floor Americans with Disabilities Act (ADA) compliant residential, and residential dwelling units above the first-floor commercial use at 209 Mason Avenue (the Parson's building). The 2016 Cape Charles Comprehensive Plan promoted residential and commercial mixed-use development on Mason Avenue and spoke to such use in a favorable, desired manner for the central business district. A number of years ago, this building was approved for a CUP for residential uses above the first floor commercial but that permit expired without the work being completed. While the site allowed for some off-street parking, the subject property was within the 600 feet distance to the town-leased parking area and so could use that lot for shared parking upon agreement with the Town. The Planning Commission scheduled their public hearing for April 2, 2019. The Commissioners also requested Town Council to provide for an improved ingress/egress alleyway and curb cut for residential access to the on-site, off-street parking area. Staff contacted the applicant via email about a phased approach to make these ingress/egress improvements to ensure that construction vehicles no longer required access to the property. The applicant agreed to this approach.

Motion made by Councilwoman Burge, seconded by Vice Mayor Bennett, to schedule a public hearing for April 11, 2019 to hear public comment regarding the conditional use permit application for 209 Mason Avenue. The motion was approved by unanimous vote.

C. April Town Council Regular Meeting Date Change:

Larry DiRe stated that the April Town Council Regular Meeting was currently scheduled for April 18, 2019 which fell on Holy Thursday this year. In the past, the Town Council had not held meetings on Holy Thursday to allow members to celebrate this annual Easter observance. Council was polled and agreed to reschedule the April regular meeting to Thursday, April 11. Pursuant to Code of Virginia Section 15.2-1416, regular meeting dates could be changed by the adoption of a resolution and posting of the resolution on the door of the meeting location and newspaper at least seven days prior to the new meeting date.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Resolution 20190321 approving the change to the April Town Council Regular Meeting date to April 11, 2019. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Burge, yes; Grossman, yes; Holloway, yes.

TOWN MANAGER COMMENTS

Larry DiRe did not have any additional comments.

MAYOR AND COUNCIL COMMENTS

Councilwoman Burge stated that she was very appreciative of all the citizens who came out tonight, the comments made and the cordiality of everyone. Council made some really difficult decisions tonight. There were a lot of exciting things happening in Town, with all the conditional use permits, etc. Everyone thought hard about the issues and she respected everyone's opinions but was

disappointed for Jon Dempster and hopeful that Council's decision wouldn't impede the progress too much.

Councilman Grossman congratulated Zach Ponds on his appointment as zoning administrator.

Councilman Bannon did not have any additional comments.

Vice Mayor Bennett commented as follows: i) He briefly mentioned it during discussions about The Shanty, but the development on the south side of the harbor was unbelievable with the living shoreline. The work was being done by the same person who would be putting in the breakwater; and ii) He had brought up the issues with water and wastewater in the past only because he was concerned, and he knew that Dave Fauber was also concerned. He didn't want Council to do anything to impede the progress regarding resolving the I&I issues. A lot of work needed to be done. The Town was losing too much water all the time.

Councilwoman Holloway commented as follows: i) She wanted to follow-up on the work session regarding short-term rentals. She knew we were in the budget season, but this work session needed to be held. There were more and more conversations regarding this issue and cities and towns were developing ordinances regarding enforcement of Airbnbs and rentals. This impacted the Town in a financial sense and the sense of community. It would be interesting to know how many rentals were in the town vs. residences; and ii) She wanted to announce an exciting new event sponsored by Cape Charles Main Street. Carol Evans was on the committee planning the Love Run Walk which was scheduled for April 27 starting at the LOVE sign. Funds raised would go to the LOVE sign maintenance fund. It costs about \$1,400 annually in maintenance and nothing had been done to it since it was installed.

Councilman Buchholz did not have any additional comments.

Mayor Dize commented as follows: i) He thanked Council for their long, hard deliberation over the sale of the property. Sometimes everyone did not agree. He was disappointed in the outcome but not in the job Council did on a day-to-day basis; ii) He thanked Dave Fauber for his presentation tonight and asked Council to open up their purses to get things fixed, especially the cross connections and stormwater issues. He would also like residents to do their part and if they had sump pumps or gutters going into the sewer system, to disconnect them. The Town spent \$21M on the wastewater treatment plant and he was sure it would take about \$10M to \$12M to upgrade it. He didn't want the Town to have to upgrade the system unless it was for additional homes and businesses. Councilman Buchholz asked staff to track residents and business owners who had their sump pumps and gutters connected to the sewer system, especially repeat offenders. Councilwoman Holloway added that the Town needed a campaign informing residents, business owners and contractors not to blow grass clippings, etc. into the streets since they go into the storm drains. She was sure it was in the Gazette but more needed to be done; iii) He congratulated Zach Ponds on his appointment as zoning administrator; and iv) He thanked Larry DiRe and Deborah Pocock on their work preparing the budget.

Mayor Dize read the announcements and noted that March 27, 2019 would be his last day for Office Hours. He would be holding a Town Hall session every three months or so in the Civic Center.

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

The meeting adjourned at 9:23 p.m.

Mayor Dize

Town Clerk

**Comments submitted in writing
March 21, 2019 Public Hearing & Regular Meeting**

Dave Fauber, Public Works/Public Utilities Director

Inflow & Infiltration (I&I) History

I&I is an on-going issue for any sewage collection system.

When addressing I&I you must look at not just the sewage collection main lines and laterals, but also the pump stations water standing on the roadways and storm sewer drain lines.

Anything that adds pressure or relieves pressure on the sewer system. During periods with increased rainfall, the water table rise and puts enormous pressure on lines that were not necessarily installed to hold pressure, terracotta pipes.

Our terracotta drain lines act like a drain field in reverse.

To better understand where we are, I want to go back for some history as to how we got here.

Notice of Violation 2004

DEQ reports that on August 3, 2004 seven manholes in Cape Charles were overflowing sewage. Steve Thomas, Willis Wharf

LOA DEQ February 8, 2006

Events leading up to the letter:

1. 17 Sewage overflows from 2003 to 2006
Mostly from excessive rain fall
2. Sept 2003 Notice of Violation for discharges of untreated sewage into the bay due to overflows

Town and DEQ agree to:

1. Smoke testing in 2006 to identify sources of I&I
2. Engineering study of Mason Ave Pump Station service area
3. Report back to DEQ on results of testing and plan to move forward

When Mike Cosby left as Director of Public Works and Mike Thorns, Director of Public Utilities left I was given the job as Director of Public Works and Public Utilities. Spring 2007.

Stearns and Wheeler TO WW-3

\$66k

1. Flow metering at 60-day intervals
2. Closed circuit TV areas with highest flow
3. Capacity analysis of entire system to make sure that the capacity limitations are not the cause of the problem

In addition to the items listed in the original LOA, as a result of the engineering study, we did the following:

1. We Raised 39 manholes so that the lids are flush to street grade level. 26 had to be located after being covered with asphalt.
2. We installed nylon inserts under all the manhole lids covers
3. We purchased a camera and sewer jetter to inspect the laterals along Mason Avenue
4. House inspections for illegal connections of basement sump pumps to the sewer system. 3 were found and corrected. With help from the building department.

April 28, 2010 the DEQ issued a Consent Order. Cited:

1. WWTP bacteria in effluent
2. Referred to LOA issued in 2006, ammonia and fecal coliform.
3. 27 other issues relating to the old plant and exceedances in discharge

We were ordered to:

1. Complete the new plant by November 2011
2. Submit quarterly reports on the progress of the plant.
3. Demonstrate that the collection system has been repaired to a point to keep influent to the plant at 95% of design capacity of the plant for a period of 60 days.

In 2012 we performed smoke testing again and located 51 sources of I&I. All items were repaired.

In 2012 we completed the CCTV survey of the remaining 80% of the town that was not done in 2007. Our system is very tight and looks new.

From 2011 to 2014 we monitored flow vs rainfall in various manholes throughout town.

Surveyed the town for sump pumps illegally connected to the sewer system. 14 were found and corrected.

In 2011 the Mason Ave pump station was rehabbed. The wet well was fitted with a fiberglass liner to prevent ground water intrusion. And the 10" influent pipe was increased to 12" the force main from the pump station to the plant was increased in size from 6" to 12".

May 2013 Consent Order Lifted.

There have been two overflows in the collection system since 2007. One in 2008 when the main at the intersection of Monroe and Plum became clogged with grease. And one in 2009 at the intersection of Bay and Mason when we had 3" of rain overnight. Since that time, we have upgraded the influent line into the Mason Avenue pump station and increased it from 10" to 12" eliminating the bottle neck that attributed to that overflow.

In 2015 we repaired 33 manholes. Repair specs.

In 2017 we upgraded Pine and Plum Street pump stations and patched and repaired the wet wells to prevent ground water intrusion.

2018 Smoke test. Working on repairs now.

Help from public:

1. Disconnect sump pumps and roof gutters from the town sewer system
2. Don't blow yard debris into the street
3. Don't remove clean out caps to drain surface water off yards or driveways. Bay Creek irrigation.

Issues not yet addressed:

1. Old laterals from the house to the street
 - Terracotta
 - Not installed for pressure (tested at top out now)
 - Back yard privies
2. Washington Avenue pump station wet well
3. Will be doing another sump pump/roof gutter survey
4. CCTV of storm drains. We know that we have cross connections between the two systems as evidenced by the picture on page 5 of the smoke test.
5. Further inspections of manholes
6. More flow/rainfall surveys in town
 - Purchase equipment

From: David Gay
506 Monroe Avenue
Cape Charles, VA

CC: Libby Hume

Subject: Sale of Real Town Property,

I was not able to attend the Public Hearing on March 14, 2019 regarding the sale of a portion of the Town Harbor lot occupied by the Shanty (Hungry Crab, LLC.) and would like to add my comments to the public record.

Great changes are about to happen in Cape Charles in the next few years. The availability and development of the railroad property will create many new possibilities that we could not have imagined when the current Comprehensive Plan was completed in 2006. *[The current Comprehensive Plan was adopted by the Town Council on December 15, 2016.]*

In the past, the Town Council has been criticized for either selling town assets on the cheap or failing to acquire property at low cost when available. I hope history does not repeat itself.

Cape Charles property values are increasing, a fact that is not lost on the partners of the Hungry Crab LLC. When the Hungry Crab, LLC entered into the original agreement with the Town to build the restaurant on the Town Harbor they knew they had a sweetheart deal. Low rent and a parking lot that is maintained by the Town.

So, what has changed? Many people see the potential of Cape Charles developing to the south and want to acquire a piece of that opportunity. Frankly, \$262,000 for that piece of real estate is an insult to the taxpayers. Several realtors have said that this piece of the harbor could be worth three and four times that amount in just a few years. Rather than sell off valuable Town property piecemeal at bargain prices, the Council should look 5, 10 or even 20 years down the road and considered the impact that decision will have on our Town.

Many businesses rent their brick and mortar facilities rather than own them. Why not continue the relationship and rent? I am sure that the Shanty will not close their doors after investing \$750,000 in their business.

Please keep in mind that the Planning Commission is working on an update to the 2006 Comprehensive Plan. Perhaps it would be wise to defer any sale of Town property in the Harbor District until an updated version of the Plan can be reviewed. This way the Town remains in control of the land and its ultimate best use.

Thank you for considering my opinion.

Councilman Paul Grossman

Decision on selling harbor parcel of land to Hungry Crab

Guiding Principles

- Decision needs to be made with the best interest of the town and not towards the benefit of any one person or entity.
- Do no harm to individual or entity.
- Base decision on assessed value of the land and not on speculation as what the future could hold regarding value and/or different use.
- Utilize the public's accepted Harbor Conceptual Master Plan developed in 2006.

Basis going into decision

1. Unlike 2011 where the town advertised for business proposals and the Hungry Crab responded, this is an **unsolicited** proposal for the town to consider.
2. I believe a previous unsolicited offer in 2014 was not accepted.
3. The current lease, as signed in 2012, contains the following:
 "Tenant acknowledges and agrees that (i) **Landlord has a compelling and substantial interest in controlling the development and use of the property in the harbor and surrounding areas...**"
4. The **lease locks in the use of the property as a seafood restaurant**. This current use of the property agrees with Harbor Conceptual Master Plan's intention. Under 'Use of Property:' *Used only for operation of a casual, seafood themed restaurant and for no other purpose unless Town agrees.* Under 'Termination:' *Termination at Town's option should the property cease to be used for permitted use.*
5. Tenant has the option for 3 renewal periods of 10 years each (extending to **2052**).
6. The Town financial benefits from the lease currently based on terms of rent;
 - a. Base payment of \$500/month or \$6,000 annually.
 - b. 1% gross sales – over the past 3 years, this averages \$21,157 per year.From a practical business perspective, why does the public benefit with foregoing this revenue stream (~\$27,000) with the sale of this parcel. **With the current stream of rent, the current proposed price of \$262,000 is returned every ten years.**
7. The Town is not even losing on property tax revenue since the tenant pays taxes on land and improvements.
8. The lease specifically excludes the 12-foot-wide public walkway and includes the right to install golf cart path and pedestrian path along the northern border (coordinated with tenant).
9. There is a high degree of uncertainty as to the future development of the harbor, i.e., land surrounding the harbor (all of parcel 10) and railroad property.

Position

Given:

- The benefits of the current lease that allows the tenant and town to satisfy the intent of the public's harbor conceptual plan for a long period of time,
- The current source of town revenue received via rent and taxes, and
- Allowance for future decision making on the sale of town property once plans surrounding the harbor start to firm up,

At this point in time, I do not see why it is in the best interest of the town to accept an unsolicited offer to sell this specific parcel of land to any entity regardless of price and agree with the staff's recommendation.

FEBRUARY Treasurer's Report

Page 1 – Cash Position

- No comments

Page 2 – Revenue vs. Expenditures

- The harbor docks sustained at least \$17,000 worth of damage from storm Michael last fall, which was of course unbudgeted. The Town may be eligible for FEMA assistance to help cover some or all of these expenses.

Page 3 – Capital Projects

- No payments were made for capital projects in February.

Page 4 – Tax Collection Rate

- See notes on chart, percentages of increase.

Page 5 – Tax Revenue Trends

- No comments.

**MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
February 28, 2019**

Cash on Hand		1/31/2019		2/28/2019	Increase/ (Decrease)
Xenith Bank Checking Account	\$	545,642	\$	497,719	-\$47,923
Xenith Bank Money Market Account	\$	1,290,985	\$	1,142,146	-\$148,839
LGIP Account 1 - Unrestricted	\$	101,335	\$	101,535	\$200
LGIP Account 2 - Unrestricted	\$	292,450	\$	293,085	\$636
Total Cash On Hand	\$	2,230,411	\$	2,034,485	\$ (195,926)

Restricted and Reserved Cash Balances		1/31/2019		2/28/2019	Increase/ (Decrease)
Xenith Bank Savings Account - Facility Fees Reserved (Utilities)		\$603,789		\$783,434	\$179,645
Xenith Bank Checking Account - Police Funds		\$431		\$431	\$0
LGIP Account 2 - Restricted for USDA loans		\$29,643		\$29,643	\$0
PNC SNAP Account- 2013 Bond Proceeds - Principal		\$544,367		\$544,367	\$0
PNC SNAP Account- 2013 Bond Proceeds - Interest		\$33,142		\$34,317	\$1,175
Xenith Bank Checking Account - E-Summons Revenue Reserved		\$2,069		\$2,109	\$39
US Bank - Reserved per VRA Interest Free Loan Requirements		\$258,767		\$259,211	\$ 445
Wells Fargo 2010 Debt Service pass through account #300		\$2,400		\$2,784	\$ 384
Wells Fargo 2010 Debt Service pass through account #308		\$512		\$528	\$ 17
Total Cash Held in Reserve	\$	1,475,119	\$	1,656,824	\$ 181,706
Total Cash - All Accounts	\$	3,705,530	\$	3,691,309	\$ (14,221)

DEBT SERVICE

Net Long-Term Debt as of Current Reporting Month End

Principal

\$7,645,842

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY19
GENERAL						
REVENUE - Operating	\$101,051	\$2,101,612	\$2,169,920	\$68,307.79	\$2,520,469	86.09%
EXPENDED - Operating	\$156,238	\$1,297,059	\$1,499,505	\$202,445.99	\$2,520,469	59.49%
NET	(55,187)	804,554	670,415	(134,138)	0	
REVENUE - CAPITAL GRANTS & LOANS	0	194,412	22,402	(172,010)	1,844,191	1.21%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	0	605,668	444,255	(161,413)	1,844,191	24.09%
TOWN CONTRIB. & PENDING GRANTS	0	(411,256)	(421,853)	(10,597)	0	
PUBLIC UTILITIES						
REVENUE - Operating	133,578	1,147,260	1,087,680	(59,580)	1,100,200	98.86%
EXPENDED - Operating	47,966	772,130	606,063	(166,067)	1,100,200	55.09%
NET	85,612	375,130	481,617	106,486	0	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	21,200	153,700	95,400	(58,300)	694,834	13.73%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	21,200	254,851	512,328	257,477	694,834	73.73%
TOWN CONTRIB. & PENDING GRANTS	0	(101,151)	(416,928)	(315,777)	0	
HARBOR						
REVENUE - Operating	7,931	352,619	397,844	45,225	660,236	60.26%
EXPENDED - Operating	30,682	381,131	452,034	70,903	660,236	68.47%
NET	(22,751)	(28,511)	(54,190)	(25,679)	0	
REVENUE - GRANTS & LOANS	6,985	0	27,892	27,892	1,127,401	2.47%
EXPENDED - Capital Projects, Debt Svc	5,875	92,876	155,482	62,606	1,127,401	13.79%
TOWN CONTRIB. & PENDING GRANTS	1,110	(92,876)	(127,590)	(34,715)	0	
SANITATION						
REVENUE	16,426	118,742	131,317	12,575	189,322	69.36%
EXPENDED	16,811	120,305	114,286	(6,019)	189,322	60.37%
NET	(385)	(1,563)	17,032	18,595	0	

FY 2019 Capital Improvement Project Tracking Report

As of:
2/28/2019

	FY19 Status or Start Date	Percent of Completion	FY19 Budgeted	FY19 QTR 1 Expended	FY19 QTR 2 Expended	FY19 QTR 3 Expended	FY19 QTR 4 Expended	FY19 YTD Expended	(Over)/Under Budget
General Fund									
Replacement Police Vehicle	Pending	0%	\$ 34,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 34,000
Mason Avenue Street Lights (19)	Pending	0%	\$ 47,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 47,500
Additional Light Poles for Central Park	Complete - CCP paid for their share directly.	100%	\$ 18,000	\$ 6,440	\$ 5,888	\$ -	\$ -	\$ 12,328	\$ 5,672
Unbudgeted - Strawberry St Plaza Lights	Complete	100%	\$ -	\$ -	\$ 10,186	\$ -	\$ -	\$ 10,186	\$ (10,186)
New Roof for Civic Center	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Repair Exterior of Library Building Phase 1	Pending	0%	\$ 50,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000
Beach Sweeper	Complete	95%	\$ 55,000	\$ 52,500	\$ -	\$ -	\$ -	\$ 52,500	\$ 2,500
Rebuild East Entrance to Tazewell Alley	Pending	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000
Strawberry Street Plaza Sidewalk Extension	Pending	0%	\$ 5,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000
Multi-Use Trail Phase 2 (80/20 VDOT)	Complete, except for billing	42%	\$ 500,000	\$ 132,722	\$ 76,997	\$ -	\$ -	\$ 209,719	\$ 290,281
Multi-Use Trail Phase 3 (80/20 VDOT)	Engineering	4%	\$ 752,000	\$ -	\$ 27,932	\$ -	\$ -	\$ 27,932	\$ 724,068
Multi-Use Trail Phase 4 (80/20 VDOT)	Engineering	0%	\$ 181,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 181,000
subtotal			\$ 1,667,500	\$ 191,661	\$ 121,003	\$ -	\$ -	\$ 312,664	\$ 1,354,836
Water Fund									
Leak Detection Equipment	Pending	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000
Vacuum Trailer - shared with WATER	Complete	100%	\$ 22,500	\$ 21,586	\$ -	\$ -	\$ -	\$ 21,586	\$ 914
subtotal			\$ 37,500	\$ 21,586	\$ -	\$ -	\$ -	\$ 21,586	\$ 914
Sewer Fund									
4 New Mixers (Upgrades)	Complete	100%	\$ 26,000	\$ -	\$ 25,760	\$ -	\$ -	\$ 25,760.00	\$ 240
Vacuum Trailer - shared with WATER	Complete	100%	\$ 22,500	\$ 21,586	\$ -	\$ -	\$ -	\$ 21,586	\$ 914
subtotal			\$ 48,500	\$ 21,586	\$ 25,760	\$ -	\$ -	\$ 47,346	\$ 914
Harbor Fund									
Shade Sails - Bathhouse Front Deck	Pending	0%	\$ 8,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,000
Finger Pier Upgrade	Pending	0%	\$ 30,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 30,000
Upgrade Harbor Fuel System	Pending	0%	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000
Breakwater # 4	Pending	4%	\$ 875,000	\$ 19,750	\$ 8,214	\$ 9,949	\$ -	\$ 37,913	\$ 837,087
HVAC System for Office- NEW PROJECT	Complete	100%	\$ -	\$ -	\$ 5,800	\$ -	\$ -	\$ 5,800	\$ (5,800)
subtotal			\$ 1,013,000	\$ 19,750	\$ 14,014	\$ 9,949	\$ -	\$ 43,713	\$ 969,287
TOTAL			\$ 2,766,500	\$ 254,584	\$ 160,777	\$ 9,949	\$ -	\$ 425,310	\$ 2,325,951

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES
February 28, 2019

YTD 2018 Real Estate Tax Collections

Total Taxable Land Value	\$ 160,531,300	
Total Improvement Value	\$ 250,500,900	
Exemptions	\$ (5,420,800)	
Additional Assessments (SCC Utility)	\$ 3,844,675	
Total Real Estate Value (taxable)	\$ 409,456,075	
Total Budgeted	\$ 1,151,000	
Total Tax Billed	\$ 1,205,849	
Total Adjustments	\$ (124.50)	
Total Collected YTD (percent of billed)	<u>\$ 1,150,899</u>	95%
Amount Due per Accounts Receivable	\$ 54,825.40	

YTD 2018 Personal Property Tax, Machinery and Tools Tax & 2018 License Tax Collections

Total Personal Property Value	\$ 13,716,500	
2018 Initial Assesment Exonerations	\$ (38,600)	
Total Personal Property Value	\$ 13,677,900	
Total Budgeted	\$ 167,000	
Total Tax Billed less PPTRA	<u>\$ 225,757</u>	
Total Adjustments & Additional Exonerations	\$ (27,463)	
Total Collected YTD (percent of billed)	<u>\$ 170,788</u>	86%
Amount Due per Accounts Receivable	\$ 27,507.20	

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

Total Budgeted	\$ 105,000	
Total Collected (percent of budget)	<u>\$ 56,922</u>	54%
Amount Due Per Budget	\$ 48,078	

