

May 3, 2012

Memorandum of Agreement (MOA)
Bay Creek Resort & Club
Beach Club Water and Sewer Connection Charge

Purpose. This MOA addresses the water and sewer connection charge for the proposed Bay Creek Resort & Club Beach Club.

Background. The original calculation of the water and sewer connection charge was \$153,006, based on the following:

1. Maximum occupancy load of 879 allowed for the building.
2. Consumption rates for similar facilities from the state waterworks regulation.
3. Seasonal allowances for the outdoor pools

Subsequently, the planned utilization of the building and first year occupancy projections were reviewed with Bay Creek. The building code occupancy calculations (879) are not a good fit for determining water and wastewater capacity demand for this type of facility. For example, in the case of a restaurant or bar the owner has a desire to maximize occupancy to the extent allowed by the building code. In the case of the beach club, there are large areas (lounge, fitness center, etc.) where density is not desirable or even practical. It is therefore logical to find some other measure of expected occupancy.

Discussion. Bay Creek's first year projections show a maximum average daily occupancy of fewer than 50 people. However, they also show special event occupancy of 200 people. Our water and wastewater capacity must be designed for the anticipated maximum demand. This is especially true for the waterworks, since water must flow when a customer turns on the faucet and there must be reserve capacity for fire fighting. Given the vagaries of the initial occupancy projections, it is reasonable to use 200 as the maximum. This can be reevaluated as experience is gained operating the beach club.

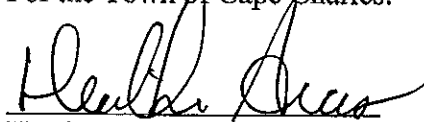
The state waterworks regulation lacks specific guidance on consumption rates for this type of facility. The most similar facility specified in the regulation based on functionality is "high school with showers" at 16 gallons per day (GPD) per person.

Using a maximum consumption rate of 3,200 GPD (200x16) in the Class II (non-residential) connection charge formula specified in the Town Code, results in a connection charge of \$44,166.

Agreement.

1. The initial water and sewer connection charge will be \$44,166.
2. Bay Creek Resort & Club will maintain daily occupancy records.
3. Maximum occupancy will be reevaluated after every two years of beach club operations.
4. An additional connection charge increment will be required by increases above the currently projected maximum occupancy of 200 and above any new maximums established after each two year reevaluation.
5. Any additional connection charge increments will be payable within thirty days after _____ reevaluations are completed.

For the Town of Cape Charles:



Heather Arcos
Town Manager

For Bay Creek Resort & Club:



Oral Lambert
Chief Operating Officer