


I N T E R

O F F I C E

MEMO

Office of the Mayor

**To:** City Council  
**From:** John R. Pick   
**Subject:** Resolution approving memorandum of agreement - Gary Stephen Cole  
**Date:** May 31, 2005

Attached is a memorandum of agreement between Gary Stephen Cole and the City of Salisbury granting permission to Mr. Cole to continue using the City's floating dock in the East Prong of the Wicomico River to operate his river tour business until June 30<sup>th</sup>, 2007.

I have reviewed this agreement and recommend that the City Council adopt the attached resolution granting Gary Stephen Cole permission to continue using the City's floating dock to operate his river tour business.

/krn

cc: Mayor Tilghman  
Brenda Colegrove

RESOLUTION NO. 1261

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND APPROVING A MEMORANDUM OF AGREEMENT WITH GARY STEPHEN COLE GRANTING HIM PERMISSION TO CONTINUE OPERATING A RIVER TOUR BUSINESS OFF OF THE CITY'S FLOATING DOCK IN THE EAST PRONG OF THE WICOMICO RIVER

WHEREAS, Gary Stephen Cole has expressed an interest in continuing his operation of a river tour business off of the City's floating dock in the East Prong of the Wicomico River, subject to certain conditions; and

WHEREAS, the City Council believes that such a business provides an additional attraction for the City's downtown area; and

WHEREAS, the attached Memorandum of Agreement sets forth the conditions under which the City is willing to permit Mr. Cole to continue operating this business and extend the agreement from one year to two years; and

WHEREAS, Mr. Cole has signed the Memorandum of Agreement indicating his willingness to operate within such conditions;

NOW, THEREFORE, BE IT RESOLVED that the Salisbury City Council hereby approves the attached Memorandum of Agreement with Gary Stephen Cole granting him permission to continue operation of his river tour business off of the city's floating dock in the East Prong of the Wicomico River and authorizes the Council President to sign the attached Memorandum of Agreement.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on the \_\_\_\_ day of June, 2005 and is to become effective immediately upon adoption.

ATTEST:

\_\_\_\_\_  
Brenda J. Colegrove  
CITY CLERK

\_\_\_\_\_  
Michael P. Dunn  
PRESIDENT, City Council

APPROVED by me this \_\_\_\_ day of June, 2005

\_\_\_\_\_  
Barrie P. Tilghman  
MAYOR, City of Salisbury

## MEMORANDUM OF AGREEMENT

MEMORANDUM made this \_\_\_\_\_ day of June 2005 between GARY STEPHEN COLE and the CITY OF SALISBURY:

WHEREAS, Gary Stephen Cole has expressed an interest in operating river tours on the Wicomico River using the City of Salisbury's floating dock located on the East Prong of the river as the point of departure;

WHEREAS, the City of Salisbury believes that such river tours would be of interest to the public and would provide another attraction to the City's downtown;

NOW, THEREFORE, WITNESSETH that in consideration of the mutual promises and covenants made herein, the parties do hereby agree as follows:

1. The City grants permission to Gary Stephen Cole to use the City's floating dock, located on the East Prong of the river, in connection with the operation of a river tour business for a period of two years commencing on the 1<sup>st</sup> day of July, 2005 and ending on the 30<sup>th</sup> day of June, 2007.

2. Mr. Cole agrees:

- a. To remove any debris and trash from the area on a daily basis;
- b. Not to erect any permanent sign or any other structure on the premises (Temporary signs advertising this business may be placed on the premises only when the business is actually in operations);
- c. To keep the premises in good order and to surrender the peaceful and quiet possession of the same at the end of the said term in as good condition as when received, and further to not do, suffer or permit anything to be done in or about the premises which will contravene any policy of insurance of the City, nor use, nor permit their use for the purposes other than those of the river tour business;
- d. To not at any time assign this agreement, or any portion thereof, without the consent in writing of the City or its representatives.
- e. To make no alterations or repairs to the floating dock without prior consent of the City, and that, whatever alterations or repairs Mr. Cole shall be permitted to make shall be done at Mr. Cole's own expense.
- f. To provide to the City a Certificate of Insurance naming the City as an additional insured. Such certificate will evidence that Mr. Cole has insurance in amounts agreeable and acceptable to the City.

- g. To permit access to property by authorized City employees.
- h. To comply with all City ordinances.
- i. To cooperate fully with routine or emergency activities of City agencies.
- j. No lewd or indecent actions, conduct, language, pictures or portrayals shall be included in the activities or events presented by Mr. Cole on the premises, and nothing is to be presented, used, sold or solicited that is against the law, or contrary to, or forbidden by, the ordinances of the City of Salisbury and the laws of the State of Maryland. Mr. Cole agrees to abide by and to be bound by the decisions of The City of Salisbury should any questions of propriety arise under this paragraph.
- k. To remove his boat from the floating dock when he is not physically present and operating his river tour business.
- l. To conduct all off premises advertising in accordance with all applicable city codes.

3. Mr. Cole knows, understands and acknowledges the risks and hazards associated with using the property and hereby assumes any and all risks and hazards associated therewith. Mr. Cole hereby irrevocably waives any and all claims against the City or any of its officials, employees or agents for any bodily injury (including death), loss or property damage incurred by Mr. Cole as a result of using the property and hereby irrevocably releases and discharges the City and any of its officials, employees or agents from any and all claims of liability arising out of or associated with the use of the property.

4. Mr. Cole shall indemnify and hold harmless the City and its officials, employees and agents from and against any and all liabilities, judgments, settlements, losses, costs or charges (including attorneys' fees) incurred by the City and any of its officials, employees or agents as a result of any claim, demand, action or suit relating to any bodily injury (including death), loss or property damage caused by, arising out of, related to or associated with the use of the property by Mr. Cole or by Mr. Cole's customers, members, employees, agents or invitees.

5. Mr. Cole shall pay the City for any and all physical loss or damage to the property (including the cost to repair or replace the property) caused by, arising out of, relating to or associated with the use of the property by him or by his customers, members, employees, agents or invitees.

6. IT IS FURTHER AGREED that if Mr. Cole shall violate any of the foregoing covenants on his part herein made, the City shall have the right without formal notice to terminate this agreement.

7. IT IS FURTHER AGREED that the permission granted to Mr. Cole to use the City's dock is non-exclusive. The City reserves the right to grant other interested parties similar permission.

IN WITNESS WHEREOF, the said parties have hereunto subscribed their names and affixed their seals the day and year first before written.

ATTEST:

CITY OF SALISBURY

\_\_\_\_\_  
Brenda J. Colegrove  
City Clerk

\_\_\_\_\_  
Michael P. Dunn, President  
City Council (SEAL)

ATTEST:

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By: Gary Stephen Cole (SEAL)  
Gary Stephen Cole