

TOWN COUNCIL
Regular Meeting & Executive Session
Cape Charles Civic Center
December 17, 2020
6:30 PM

At approximately 6:30 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Regular Meeting & Executive 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, Chief Jim Pruitt and Town Clerk Libby Hume. There were five members of the public physically in attendance, and ten viewers on Facebook Live.

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

RECOGNITION OF VISITORS / PRESENTATIONS:

A. Commendation Awards

Mayor Dize presented two commendations to Officers Michael Charlton and Juana Diaz for their quick thinking and heroic actions on November 11, 2020 in performing the necessary life-saving measures on an unresponsive individual. Officers Charlton and Diaz were in attendance to accept their commendations.

B. Proclamation – Cape Charles School Choice Week

Mayor Dize read Proclamation 20201217-Cape Charles School Choice Week.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Proclamation 20201217 Cape Charles School Choice Week. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

PUBLIC COMMENTS:

There were no comments to be heard nor any comments received in writing prior to the meeting or during the public comment period.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. November 18, 2020 Executive Session & Special Called Meeting
 - ii. November 19, 2020 Public Hearings & Regular Meeting
- C. Approval of October 31, 2020 Financial Report

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to approve the Consent Agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business to review.

NEW BUSINESS:

- A. *Ordinance #20201217 – Declaring a Local Emergency and Disaster Created by the COVID-19 Pandemic:*

Town Manager John Hozey stated that the Town Council adopted Ordinance 20200330 declaring a local emergency which expanded the Town’s ability to respond to the COVID-19 pandemic while conducting routine necessary business. The Ordinance expired on September 30, 2020. At that time, the pandemic appeared to be waning, so it was not readopted. On December 10, Governor Northam issued Executive Order 72 increasing restrictions, which included lowering the number for public gatherings to 10 and establishing a nightly curfew. As a result of the

increased restrictions and the large numbers of new cases, it was prudent to consider readopting the local emergency ordinance.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt Ordinance 20201217 An Emergency Ordinance of the Town Council of the Town of Cape Charles, Virginia, Declaring a Local Emergency and Disaster Created by the COVID-19 Pandemic; Appointing the Town Manager as the Town's Director of Emergency Management; and Adopting Temporary Changes in Practices and Procedures, Public Meetings and Deadlines as Necessary to Address Continuity of Government Associated with the Pandemic Disaster. Mayor Dize moved for adoption of Ordinance 20201217 as noticed and forewent reading of the Ordinance. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

B. *Appeal of Historic District Review Board Decision – 627 Monroe Avenue:*

Town Planner Allyson Finchum joined the meeting via phone and stated the following: i) An appeal of the December 1, 2020 Historic District Review Board's (HDRB) decision regarding the replacement of windows at 627 Monroe Avenue was received; ii) The windows being replaced were on the first floor of the dwelling and the replacement windows were vinyl versus the original wood and there was a difference in the muntin size; iii) The property owner had asked three window contractors and was told that no permits were necessary. One of the contractors stated that a historic review might be necessary. The selected contractor had informed the property owner that he thought that he had received all the proper approvals for the project. Allyson Finchum stated that she felt the property owner was misled; iv) The property owner had saved for several years to replace the old windows, but now had mismatched windows since the work had been stopped; and v) Allyson Finchum added that she felt that Council might grant relief to the owner.

Mr. Robert Mucha, the applicant, distributed additional photographs depicting the windows to the Council and proceeded as follows: i) He and his wife chose to relocate to Cape Charles due to the proximity to the water and had met someone from every family that previously owned his house. The windows were rattling and inefficient. He even fractured a finger when one of the windows fell on it; ii) He researched various windows and chose a style that closely resembled the existing windows. They were very difficult to find especially one with a grid; iii) He wanted a contractor who specialized in windows and interviewed several of them. He asked about permits and other requirements and was told by the contractors that if he was replacing like with like, no permits were necessary. One contractor stated that he would contact the Town regarding the requirements, so that was the contractor he hired, and the contract was signed in September 2020; iv) Five of the six windows were installed. The sixth window was damaged so could not be replaced at that time. About a week after the first set of windows was installed, he received notification that he was in violation of the Town's ordinance and was informed that he had to apply for HDRB approval; v) He and his contractor went to the HDRB regarding the sixth window which was larger than the others and did not have a grid. The window would be obstructed from view since it was blocked by the front porch and a crape myrtle tree. The application was denied. He felt that the new window improved the exterior appearance since it didn't have a storm window; vi) He understood the job of the HDRB, but Cape Charles was not Williamsburg and a compromise was needed. He asked for consideration since he had asked the contractor and assumed that the contractor did what was required by the Town; and vii) He felt that he did his due diligence and asked the right questions. He went to great lengths to duplicate the look of the original windows. He trusted his contractor and was not trying to violate any ordinances. He respectfully requested that the Council overturn the HDRB's decision and allow him to install the last window.

Councilman Grossman asked Mr. Mucha whether the additional photographs were provided to the HDRB for review since it would be inappropriate for Council to deliberate this appeal with additional information that wasn't provided to the board. Councilman Grossman added that he attended the HDRB meetings and didn't recall these photographs.

Mr. Mucha responded that the first two photographs that showed the rotted wood were provided to the HDRB, but he had circled the areas for tonight's appeal.

Herbert Thom represented the HDRB in the proceedings and stated the following: i) He was the one who discovered the windows being installed and concrete sills being painted. He contacted Allyson Finchum who came to the property. Ms. Finchum determined that the muntins were too small noting that they were between the glass which was not permitted in the historic district; ii) The contractor told the property owner that the correct windows were not available in wood, but that was incorrect; and iii) Five windows had been installed and the one large window, which was fairly invisible, still needed to be replaced.

Councilman Grossman countered by stating that he went to the property and saw the window which was not obscured.

Allyson Finchum stated that the HDRB confirmed that the property owner believed he was acting in good faith and held the contractor responsible.

There was discussion as follows: i) Vice Mayor Bennett stated that in the photograph included in the packet, the muntin appeared to be between the glass, but in photograph 4 provided this evening, the muntin looked like it was outside. Herbert Thom stated that the muntin was between the glass; ii) It was noted that the property owner worked with his contractor to find a window close to the originals in size and style and rot was a good reason to replace a window. The contractor could be assessed the penalty; iii) Allyson Finchum interjected that in building code violations, the contractor was held liable, but in zoning ordinance violations, the owner was held responsible; iv) Councilwoman Holloway added that the bigger problem was that the residents did not know the regulations. People were just trying to make their houses look better and safer. Cape Charles was a coastal town and wood rotted faster than in other areas. Property owners needed to be allowed to use other materials. Until recently, a lot of houses in the historic district were permitted to install vinyl windows; v) Allyson Finchum added that she had spoken with John Hozey about notifying new owners of the regulations, so they were aware of the need to go before the HDRB before doing any work on their houses. Property transfers would be reviewed, and letters sent to the new owners. Notices could also be placed in utility bills; vi) Councilman Follmer stated that Mr. Mucha asked questions and performed a fair amount of due diligence. Unless there was a way to hold the contractor responsible, he did not think the property owner should be punished. The ordinance lacked clarity and there was a lack of constancy with the board's decisions; vii) Councilman Bannon stated that the real estate agents should also be notifying potential buyers of the requirements; and viii) There was much discussion about the requirement that contractors from outside the area obtain a business license from the Town. Other areas did not require permits for windows or roofs. People were not aware of these requirements. They were not intentionally trying to violate the ordinances.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to uphold the appeal and grant relief to the applicant to install the sixth window. The motion was approved by majority vote with Councilman Grossman opposed.

C. Conditional Use Permit Application – 401 Madison Avenue:

Allyson Finchum stated that a conditional use permit application was received to convert the second story of a finished detached garage to an accessory dwelling unit at 401 Madison Avenue. The unit would be used as a long-term rental. A Town Council/Planning Commission joint public hearing was held on October 6, 2020. The Planning Commission reviewed the application following the public hearing and deferred their decision until the November meeting so additional information could be gathered. At their November 4, 2020 meeting, the Planning Commission recommended Council approval of a conditional use permit with the following eight conditions:

- 1) The accessory dwelling shall comply with all local, state, and federal regulations.
- 2) The accessory dwelling shall comply with all provisions of the Town of Cape Charles Zoning Ordinance Article IV, § 4.2(J) Accessory Dwellings and subject to the following:
 - A. Physical characteristics:
 - i. The accessory dwelling shall be located in an accessory building.
 - ii. The accessory dwelling shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.

- iii. The accessory dwelling shall have one kitchen and one bathroom.
- iv. The accessory dwelling shall not have the appearance of a single-family dwelling.
- B. Occupancy characteristics:
 - i. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles, the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to § 4.3.F.
 - ii. Inspections – The accessory dwelling unit shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
- C. Other requirements:
 - i. The accessory dwelling located in accessory building may have a separate water meter from the principal dwelling.
 - ii. The lot on which the accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - iii. Three on-site parking spaces shall be provided at all times.
 - iv. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.
- 3) The accessory dwelling unit shall be limited to no more than one-bedroom accommodation.
- 4) The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the accessory dwelling unit as a permanent residence. If at any time the owner occupies neither unit, the accessory dwelling unit shall automatically become a non-inhabitable space, shall not be used as a dwelling, and shall not be rented.
- 5) The effective period of the conditional use permit shall be three years. At the end of every three years, renewal shall be automatically extended upon receipt of certification by the Town Planner that the primary dwelling unit remains the principal residence of the owner and that all other conditions met at the time of the original application remain unchanged.
- 6) The accessory dwelling unit shall not be sold separately from the single-family home.
- 7) Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant in a form approved by the Town to notify subsequent owners of the requirements of this permit.
- 8) Violation of any of these conditions may result in review and revocation of the conditional use permit by Town Council.

Allyson Finchum recommended approval of the conditional use permit with the proposed conditions.

Vice Mayor Bennett asked whether the applicant was in agreement with all the conditions. Allyson Finchum responded that the applicant did not express any disagreement or concerns.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit with the eight proposed conditions for 401 Madison Avenue to convert the second story of a finished detached garage to an accessory dwelling unit for use as a long-term rental. The motion was approved by unanimous vote.

D. VDOT Warning Signage Request:

John Hozey stated that Ms. Dianne Davis addressed Council at the November 19, 2020 Regular Meeting and asked that the Town submit a request to VDOT regarding the installation of warning signage to alert motorists of pedestrians and individuals with disabilities who might also be on or near active roadways, especially in the areas around the Myrtle Landing Apartments. VDOT was contacted and a resolution needed to be adopted by the Town Council requesting the signage. He had asked Town Clerk Libby Hume and Community Relations Manager Jen Lewis to work with Ms. Davis regarding her request. Staff recommended Council adoption of Resolution 20201217.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20201217 – Request to VDOT for Warning Signage on Cape Charles' Streets for Persons with Disabilities. Mayor Dize moved for adoption of Resolution 20201217 as noticed and forewent reading of the resolution. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

E. Re-Appointment of Historic District Review Board Member:

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to re-appoint Mr. Kerry Shackelford to the Historic District Review Board for another five-year term.

There was much discussion as follows: i) Councilman Follmer began by thanking Kerry Shackelford and all the HDRB members for their service. He went on to state that he wanted to assure that Council would be making their decision based on results or a reasonable expectation of results. There was a consensus among our citizens that the historic review process had gotten off track. While the guidelines certainly needed work, he didn't think it could be said that everything was the fault of the guidelines. Council's responsibility was to the Town and to ensure the preservation of the integrity of our historic district and to ensure we remained a vibrant living Town. Council demonstrated that commitment by initiating support of the Main Street program. Treating Cape Charles as a museum, along the lines of Colonial Williamsburg, rather than a living town with reasonable expectations of a quality of life, proved to be a deterrent to the preservation of our historic treasures as citizens and investors were reluctant to engage in what was perceived as an adversarial and frustrating review process. As discussed during the recent board interviews, the current perception of the HDRB was a deterrent for qualified candidates to apply for or accept appointments to the board. Nearly without exception, those who had gone before the HDRB this year had expressed that they were not treated well, irrespective of whether their application was approved or not, and irrespective of any individuals or specific cases, it was indisputable that there was a broad perception that the current board was excessively difficult and consistent in not achieving the results this Council wished to see. If this continued, the accountability clearly rested squarely with this Council, who were the people responsible for the composition of the HDRB. He believed the goals of the Council, our historic district, and our Town as a whole would benefit from a change in leadership and some fresh perspectives on the board. Councilman Follmer concluded by stating that he did not support this reappointment; ii) Councilwoman Holloway expressed her agreement with Councilman Follmer adding that the number of appeals had increased significantly in recent years. She appreciated Mr. Shackelford's service but did not think the HDRB was listening to the Council. Council should not be receiving so many appeals. In the past two months, at least four residents had contacted her about the HDRB. It also felt like the board was on a witch hunt looking at properties to see what was being done. Councilwoman Holloway concluded her comments by expressing her concern with the reappointment of Mr. Shackelford; iii) Councilman Bannon added that there was a belief that if the application was denied by the HDRB, the Town Council would always override their decision; iv) Vice Mayor Bennett stated that there had been an unprecedented number of appeals. A joint meeting was held with the HDRB and representatives from the Department of Historic Resources (DHR) and six appeals were reviewed in detail. DHR agreed with five of the six. There was so much discussion that an opinion wasn't issued on the sixth. Council had stated for years that the guidelines needed to be revised. He had vocalized his opinion about the HDRB many times in the past. Vice Mayor Bennett concluded by stating his agreement with Councilman Follmer; v) Councilman Buchholz stated that Vice Mayor Bennett had told him that in his first ten years on Council, only one appeal had been heard. There were now too many appeals coming to Council. Part of the problem was that the HDRB was holding the property owners to the highest standards of the National Historic Preservation Regulations which dealt with historic restorations versus improvements to dwellings; vi) Councilwoman Holloway added that a change was necessary. When Council recently held interviews to fill vacancies on the boards, no one wanted to be on the HDRB due to the stigma. Council appointed the team. Just like a coach, when the team wasn't performing, changes needed to be made; vii) Councilman Grossman stated that the HDRB was trying to implement the Town's guidelines. The members of the board were being attacked versus the guidelines. He attended every meeting and the HDRB tried to do their best and were being consistent with following the guidelines; viii) Councilman Follmer interjected that the

decisions weren't consistent. The problem was that Council was seeing more and more appeals. Council granting the appeals showed that we weren't getting the desired results; ix) Until the guidelines were revised, the appeals would continue; and x) Mayor Dize thought the HDRB went too far at times and added that it was up to Council to come up with a solution. Mayor Dize called for a vote.

The motion was denied by majority vote. Councilmen Bannon and Grossman were in favor of reappointing Mr. Shackelford to the Historic District Review Board. Vice Mayor Bennett, Councilmen Buchholz and Follmer, and Councilwoman Holloway were opposed.

Councilwoman Holloway added that a work session with Council and the HDRB needed to be scheduled and asked that the Mayor, John Hozey and Allyson Finchum provide guidance.

John Hozey stated that this was on his to-do list and he would target January – February to tackle the issue.

TOWN MANAGER COMMENTS

John Hozey commented on the following:

- 1) The Strategic Planning Retreat was initially discussed and planned for January 9 and 10. Although government was exempt from the Governor's restrictions, with the recent number of COVID-19 cases, a couple of which were in the Town, it would not look good for the Town not to lead by example. He proposed delaying the retreat to the first weekend of February. The Governor's orders were set to expire on January 31. By holding the retreat on February 6 and 7, there was still time to get things done in time for the budget review.

Mayor Dize, Vice Mayor Bennett, and Councilman Follmer agreed that it would be best to move the retreat to February 6 and 7.

- 2) He and Councilman Grossman discussed the relation of the Strategic Planning Retreat with the Comprehensive Plan. He suggested inviting the Planning Commission to participate in discussions for a portion of the retreat so both groups would be informed on the others' ideas. If there was no objection, he would contact the chairman of the Planning Commission.
- 3) He had been receiving an extraordinary number of complaints about the streetlights. ANEC was replacing the streetlights with LED bulbs of the same wattage but they were much brighter than the older ones. ANEC had not been receptive to working with us until Chincoteague also started complaining. He had heard from some residents who would be okay with the removal of some of the streetlights. The bright lights took away from the small-town appeal. He would ask ANEC for dimmer lights, then possibly for the removal of some of the lights.

Councilwoman Holloway stated that Cape Charles was a walkable Town and some of the sidewalks were not in good condition. She would be concerned about the safety of the residents if lights were removed. Chief Pruitt added that lighting was a deterrent and helped ensure safety.

John Hozey noted that he would focus on dimming the lights versus removal.

Mayor Dize stated that he received a number of complaints last year and had contacted an engineer with ANEC. He was told that the lights could be dimmed in place if the Town provided the pole numbers. Nothing was ever done.

- 4) The Town was moving forward with reversing the reverse-angle parking on Mason Avenue. VDOT informed us that a traffic engineer was needed so money was added to the budget and a request for proposal was published last week. The first phase would be to obtain a design exception. The proposals were due on January 15.
- 5) The mobile restroom facility on Peach Street was worth a try but was not meant for permanent service. There had been significant problems all summer. The unit would be adequate for events where most people respected the property. Unfortunately, some people do not have respect for the facility. It was poorly constructed. The doors did not close all the way and blew open with the wind. Public works would try to retrofit the facility and replace the equipment. A second unit was budgeted for with funding assistance from a USDA grant/loan. Since the unit could not

handle the usage, it would not be feasible to order a second unit. The Capital Asset Management Program addressed a restroom on the east end. There was no way to add a restroom in phase 4 of the trail project with the funding available.

Councilman Follmer stated that John Hozey assessment of the mobile unit was spot on and added that the idea of retrofitting the unit seemed good.

Councilwoman Holloway expressed her disappointment adding that Cape Charles Main Street (CCMS) worked hard to get the funding for the unit. CCMS moved forward with the purchase of this unit based on research by staff. \$25K was a lot of money and CCMS was told that this unit would work. It was disappointing that the unit wasn't adequate especially after CCMS was told that research showed that it would. She added that staff needed to take responsibility for this issue.

Mayor Dize disagreed with Councilwoman Holloway adding that sometimes things looked great on paper but didn't work as well when implemented.

John Hozey added that the unit could handle normal use but not abuse.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer commented as follows: i) He loved the idea of integrating the comprehensive plan with the strategic planning session; and ii) He added that the county was also working on their comprehensive plan and asked whether staff was keeping up with the county's work. Councilman Grossman interjected that the Board of Supervisors were reviewing the final draft and it would be made available for public review mid-January. Councilman Grossman asked that a joint work session with Council and Planning Commission be scheduled in early February to review the county's final draft to provide comments.

Councilman Grossman commented as follows: i) He informed Council that he was serving on the ANPDC's Community Committee; and ii) He asked who would contact Kerry Shackelford regarding Council's decision. Mayor Dize stated that he would contact Mr. Shackelford.

Councilwoman Holloway commented as follows: i) Some of the Christmas lights in Central Park were out. John Hozey stated that most were on GFI outlets which were constantly failing. Public Works was working on the issue; and ii) The lights on the Central Park gazebo were on all day. John Hozey would get Public Works to look at them.

Councilman Buchholz stated that staff was doing an outstanding job with COVID-19. It was mind-blowing what staff has had to deal with. All staff of all facilities had done an excellent job. He asked that John Hozey pass along his comments to staff.

Vice Mayor Bennett and Councilman Bannon had no additional comments.

Mayor Dize commented as follows: i) He reiterated Councilman Buchholz' comments. It had been a crazy year and he appreciated staff and all the first responders for their hard work; and ii) He believed that the crab pot would be set up on Mason Avenue for about two days to provide photo opportunities. He requested that everyone observe the social distancing guidelines.

Mayor Dize read the announcements.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:

Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Review of unsolicited proposals from AQUA Virginia, Inc. and Virginia America Water to acquire the water and wastewater utility system assets of the town, to include

strategies for process and negotiation regarding future operational, financial, and capital implications, as well as impacts on current and future utility rates.

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

Council went into executive session at 8:10 p.m.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 8:53 p.m.

Libby Hume went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body. Roll call vote: Bannon, yes; Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes.

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

The meeting adjourned at 8:55 p.m.

Mayor Dize

Town Clerk

PROCLAMATION 20201217
CAPE CHARLES SCHOOL CHOICE WEEK

WHEREAS, all children in Cape Charles should have access to the highest-quality education possible; and,

WHEREAS, Cape Charles recognizes the important role that an effective education plays in preparing all students in Cape Charles to be successful adults; and,

WHEREAS, quality education is critically important to the economic vitality of Cape Charles; and,

WHEREAS, Northampton County is home to public and nonpublic schools which parents can choose for their children, in addition to families who educate their children in the home; and

WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

WHEREAS, Northampton County has teaching professionals in all types of school settings who are committed to educating our children; and,

WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options;

NOW, THEREFORE, the Town Council of Cape Charles hereby recognizes January 24 – 30, 2021 as Cape Charles School Choice Week and call this observance to the attention of all of our citizens.

Adopted by the Town Council of Cape Charles on this 17th day of December 2020.

Mayor William “Smitty” Dize

ATTEST: _____
Clerk of the Council

Page 1 – Cash Position

- No comments.
- A payment of \$120,587 on the VRA interest free loan for the wastewater treatment plan was made. The town's debt, excluding USDA vehicle and equipment loans, has dipped just below seven million dollars.

Page 2 – Revenue vs. Expenditures

- No comments.

Page 3 – Capital Projects

- The ad requesting bids for the video surveillance camera system was published.
- The replacement trash cans were purchased.

Page 4 – Tax Collection Rate

- This page will return in November.

Page 5 – Tax Revenue Trends

- Harbor dockage is 61% higher September 2020 than it was September 2019.
- Meals tax revenue is still lagging by 10% from 2019, but transient occupancy taxes have surpassed 2019 year to date amounts by 22%.
- Business License (BPOL) is higher by 97.5% than 2019, however the due date for BPOL was extended from April to September.

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

<u>Cash on Hand</u>	<u>9/30/2020</u>	<u>10/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$436,651	\$595,239	\$158,588
Atlantic Union Bank Money Market Account	\$1,427,260	\$1,227,592	-\$199,668
LGIP Account 1 - Unrestricted	\$104,136	\$104,152	\$17
LGIP Account 2 - Unrestricted	\$299,541	\$299,593	\$53
PNC SNAP Account - no longer restricted	\$0	\$0	\$0
PNC SNAP Account Interest	\$0	\$0	\$0
Total Cash On Hand	\$2,267,587	\$2,226,576	\$0

<u>Restricted and Reserved Cash Balances</u>	<u>9/30/2020</u>	<u>10/31/2020</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	\$1,079,091	\$1,079,091	\$0
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$31,454	\$31,454	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$3,428	\$3,542	\$114
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,586	\$257,587	\$1
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	\$1,375,649	\$1,375,765	\$116
Total Cash - All Accounts	\$3,643,237	\$3,602,341	-\$40,896

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,998,081
---	-------------

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

October 31, 2020

REVENUE VS. EXPENDITURES

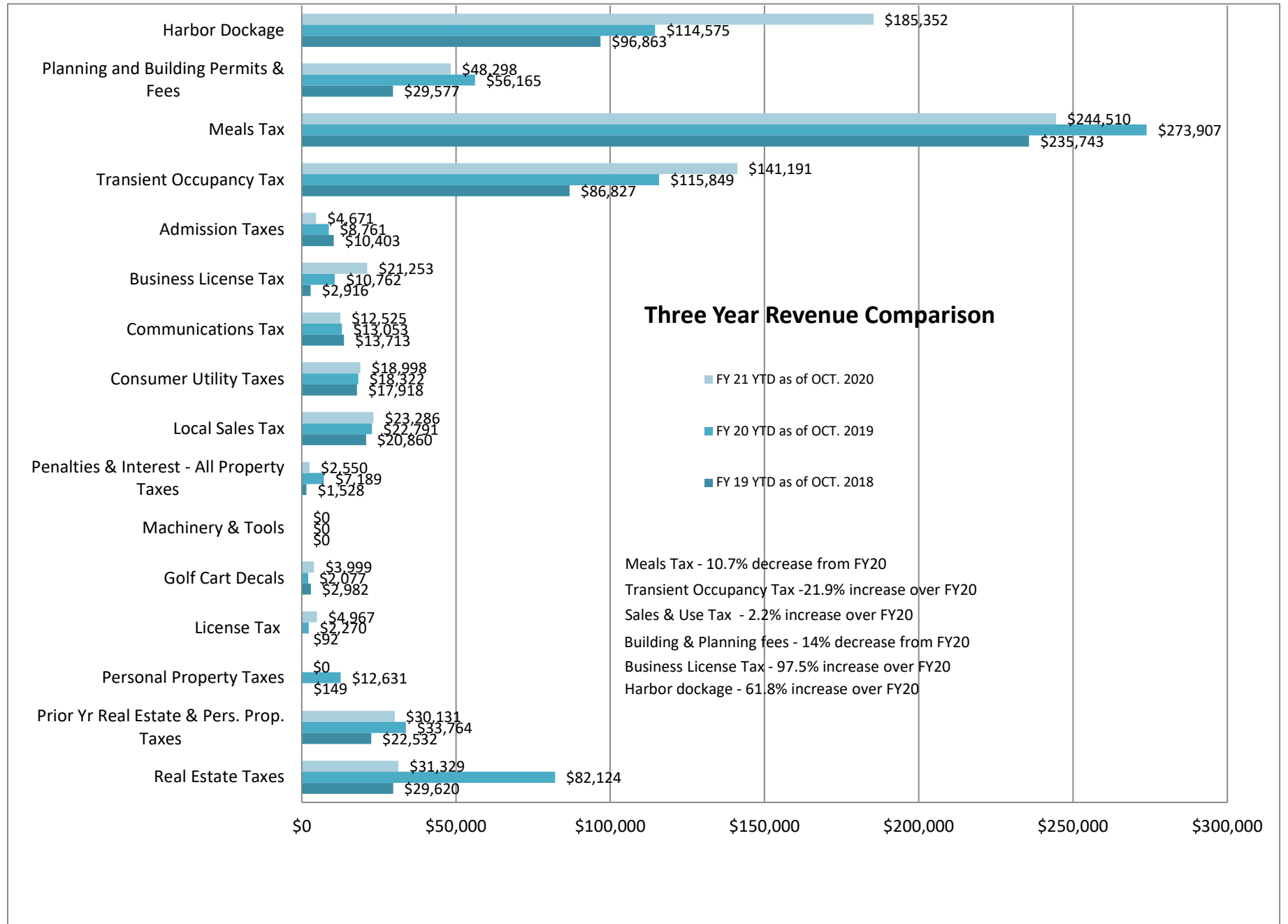
<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY19</u>
GENERAL						
REVENUE - Operating	\$194,939	\$758,235	\$698,485	\$82,421.34	\$3,580,706	19.51%
EXPENDED - Operating	\$251,429	\$863,372	\$909,790	\$46,417.99	\$2,805,563	32.43%
NET	(56,490)	(105,138)	(211,305)	(106,168)	775,143	
REVENUE - CAPITAL GRANTS & LOANS	0	2,042	0	(2,042)	813,867	0.00%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	0	175,064	70,793	(104,271)	1,589,010	4.46%
TRANSFER TO HARBOR TO TRUE UP FUND						
BALANCE	0	0	0	0	0	
TOWN CONTRIB. &/OR PENDING GRANTS	0	(173,022)	(70,793)	102,229	(775,143)	
PUBLIC UTILITIES						
REVENUE - Operating	234,237	590,554	571,736	(18,818)	1,689,134	33.85%
EXPENDED - Operating	65,859	249,913	182,857	(67,056)	1,146,690	15.95%
NET	168,377	340,641	388,879	48,238	542,444	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	74,200	140,668	176,200	35,532	169,600	103.89%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	194,787	339,063	341,121	2,058	712,044	47.91%
TOWN CONTRIB. &/OR PENDING GRANTS	(120,587)	(198,395)	(164,921)	33,474	(542,444)	
HARBOR						
REVENUE - Operating	89,016	315,670	542,158	226,488	1,060,080	51.14%
EXPENDED - Operating	61,640	301,675	368,219	66,544	692,473	53.17%
NET	27,376	13,995	173,939	159,944	367,607	
REVENUE - GRANTS & LOANS	0	0	0	0	375,765	0.00%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	0	0	(122,628)	0	
EXPENDED - Capital Projects, Debt Svc	0	122,628	94,314	216,942	743,372	12.69%
TOWN CONTRIB. &/OR PENDING GRANTS	0	(122,628)	(94,314)	(216,942)	(367,607)	
SANITATION						
REVENUE	16,997	68,206	67,528	(678)	214,546	31.47%
EXPENDED	0	52,505	64,980	12,475	214,546	30.29%
NET	16,997	15,701	2,548	(13,153)	0	

FY 2021 Capital Improvement Project Tracking Report

As of:
10/31/2020

	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
<u>General Fund</u>									
Police Vehicle	Pending	0%	\$ 38,940	\$ -	\$ -	\$ -	\$ -	\$ -	38,940
Permit Department Software	Pending	0%	\$ 7,000	\$ -	\$ -	\$ -	\$ -	\$ -	7,000
Public Works Shop Heaters	Pending	0%	\$ 6,868	\$ -	\$ -	\$ -	\$ -	\$ -	6,868
Grounds Maintenance Equipment	Pending	0%	\$ 22,240	\$ -	\$ -	\$ -	\$ -	\$ -	22,240
Portable ADA Equipped Restroom Trailer	Pending	0%	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ -	35,000
Mason Avenue Re-striping	On Hold	0%	\$ 15,000	\$ -	\$ -	\$ -	\$ -	\$ -	15,000
Parking Lots (Mason & Harbor Shanty Area)	Pending	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	10,000
Video Surveillance System	.	0%	\$ 35,000	\$ -	\$ 56	\$ -	\$ -	\$ 56	\$ 34,944
Multi-Use Trail Phase 2 Closeout	Pending	0%	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	200,000
subtotal			\$ 370,048	\$ -	\$ 56	\$ -	\$ -	\$ 56	\$ 369,992
<u>Water Fund</u>									
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
subtotal			\$ 99,751	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99,751
<u>Harbor Fund</u>									
Inner Harbor Rehabilitation Phase I carryover	Complete	#DIV/0!	\$ -	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ (60,390)
Inner Harbor Rehabilitation Phase II	pending	0%	\$ 118,470	\$ -	\$ -	\$ -	\$ -	\$ -	118,470
subtotal			\$ 118,470	\$ 60,390	\$ -	\$ -	\$ -	\$ 60,390	\$ 58,080
<u>Sanitation Fund</u>									
Trash Can Replacements	on order	100%	\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ 11,796	\$ (0)
subtotal			\$ 11,796	\$ -	\$ 11,796	\$ -	\$ -	\$ 11,796	\$ (0)
TOTAL			\$ 600,065	\$ 60,390	\$ 11,852	\$ -	\$ -	\$ 72,242	\$ 527,823

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT





*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 December 17, 2020 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Ordinance 20201217 (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 17th day of December 2020.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

ORDINANCE #20201217

AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CAPE CHARLES, VIRGINIA, DECLARING A LOCAL EMERGENCY AND DISASTER CREATED BY THE COVID-19 PANDEMIC; APPOINTING THE TOWN MANAGER AS THE TOWN'S DIRECTOR OF EMERGENCY MANAGEMENT; AND ADOPTING TEMPORARY CHANGES IN PRACTICES AND PROCEDURES, PUBLIC MEETINGS AND DEADLINES AS NECESSARY TO ADDRESS CONTINUITY OF GOVERNMENT ASSOCIATED WITH THE PANDEMIC DISASTER.

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster, as defined by Virginia Code § 44-146.16, arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate; and

WHEREAS, on March 30, 2020, the Town of Cape Charles adopted Emergency Ordinance 20200330, which expired on or about September 30, 2020; and

WHEREAS, the conditions giving rise to adoption of Emergency Ordinance 20200330 continue; and

WHEREAS, on December 10, 2020, Governor Ralph S. Northam issued Executive Order Seventy-Two in furtherance of Executive Order 51, as amended, in response to the spread of COVID-19; and

WHEREAS, for the reasons and basis set forth in Executive Order Seventy-Two, Emergency Ordinance 20200330, and due to the recent increase in reported COVID-19 cases on the Eastern Shore of Virginia; and

WHEREAS, for the reasons stated herein, the Council desires to ensure the continuity of government during the COVID-19 pandemic disaster, including, but not limited to the conduct of electronic meetings without a quorum of members physically assembled in a single location; and

WHEREAS, the Commonwealth of Virginia's 2020 Budget Amendments permit public bodies to meet by electronic communication means without a quorum of the public body or any

member of the governing board physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location; and (ii) the purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body; and

WHEREAS, this Declaration of Emergency and Emergency Ordinance is adopted in accordance with Virginia Code §§ 2.2-3708.2(A)(3), 15.2-1102, 15.2-1413 and 44-146.16 – 21, and other applicable law.

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

1. That the COVID-19 pandemic is hereby declared a local emergency and disaster as those terms are defined in Virginia Code § 44-146.16.
2. That the nature of the declared emergency may make it impracticable or unsafe to assemble a quorum of the Council, and its boards, commissions, committees and authorities, in a single location.
3. That the Town Manager is hereby designated the Town's Director of Emergency Management and is hereby given the emergency powers and duties described in Virginia Code § 44-146.21, and is further authorized to take such lawful action as he deems necessary or desirable to address the COVID-19 pandemic.
4. That the Town Manager is directed to assist and fully cooperate with the County of Northampton in the implementation of its Plan of Emergency Operations and is further directed to develop and implement (i) a supplemental Plan of Emergency Operation for the Town of Cape Charles to the extent he deems necessary, (ii) a plan for the continuity of essential government functions during the COVID-19 pandemic, and (iii) a plan for the resumption of normal government operations at the termination of the emergency and disaster created by the COVID-19 pandemic.
5. That the Town Manager shall ensure that the adoption and implementation of all plans, procedures, and policies are consistent with state and federal law and with the terms and conditions of this Emergency Ordinance.
6. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or specific, the following emergency procedures are adopted to ensure the continuity of government during the COVID-19 pandemic emergency and disaster:
 - a. Any meeting or activities that require the physical presence of a member of the Council, or its boards, commissions, committees and authorities (collectively, the

“governing body”), may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physical present in one location; and

- b. Prior to holding any such electronic meeting, the governing body shall provide public notice in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
 - c. Any such electronic meeting shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Emergency Ordinance; identify those members of the governing body physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
 - d. Any such electronic meeting of the governing body shall be open to electronic participation by the public and closed to in-person participation by the public; and
 - e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through telephonic or other electronic means during the course of the electronic meeting. All such public comments will be provided to members of the governing body at or before the electronic meeting and made part of the record for such meeting; and
 - f. The minutes of all electronic meetings shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The governing body may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.
7. That the provisions of this Emergency Ordinance shall remain in full force and effect until amended or rescinded by the Council in conformity with the notice provisions set forth in Virginia Code § 15.2-1427, but in no event shall such ordinance be effective for more than six months. The powers, duties and obligations conferred by and under this Emergency Ordinance shall incorporate any future executive orders of the President of the United States, the Governor of the Commonwealth of Virginia or the State Health Commissioner, as well as any and all changes in state or federal law. Upon rescission by the Council, this Emergency Ordinance shall terminate, and normal practices and procedures of government shall resume.

IT IS FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a governing body, including its officers

and employees, shall be suspended during this emergency and disaster, however, the governing body, and the officers and employees thereof, are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

IT IS FURTHER ORDAINED, that non-emergency public hearings and action items of the governing body may be postponed to a date certain provided that public notice is given so that the public are aware of how and when to present their views.

Nothing in this Emergency Ordinance shall prohibit the Council or its boards, commissions, committees, and authorities, from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration.

An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

ADOPTED by the Town Council of Cape Charles, Virginia on December 17, 2020.

By: _____
Mayor

ATTEST:

Town Clerk



*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 December 17, 2020 (the “Meeting”).
2. Attached hereto is a true, correct and complete copy of Resolution 20201217 (the “Resolution”) 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 present or absent 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 Resolution 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 17th day of December 2020.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

RESOLUTION 20201217

REQUEST TO VDOT FOR WARNING SIGNAGE ON CAPE CHARLES' STREETS FOR PERSONS WITH DISABILITIES

WHEREAS, the Town of Cape Charles has a large population of elderly and disabled residents;
and

WHEREAS, many of the residents at the Myrtle Landing Apartments and Sea Breeze Apartments walk or use wheelchairs and scooters as their mode of transportation to Rayfield's Drug Store, Peach Street Convenience Store, the Cape Charles Memorial Library and the retail establishments on Mason Avenue; and

WHEREAS, the amount of vehicular traffic has increased significantly along Stone Road, especially during the tourist season which typically runs from April to October of each year; and

WHEREAS, in an effort to ensure the safety of the residents and visitors to the Town of Cape Charles, it was suggested that signage be installed in Town warning motorists of pedestrians and individuals with disabilities who may also be on or near active roadways; and

WHEREAS, the identified locations with the highest amounts of pedestrian and individuals with disabilities traffic are as follows, in priority order:

- Stone Road, west bound just prior to the Myrtle Landing Apartments, and east bound from Fig Street
- Fig Street Extended, from the intersection of Stone Road/Randolph Avenue to Mason Avenue
- Mason Avenue, east bound before the "hump"

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town Council of the Town of Cape Charles hereby approves the submittal of a request to the Virginia Department of Transportation for the installation of W11-2 signs to warn motorists of pedestrians, and supplementary plaques indicating "DISABILITY" along with each sign.

Adopted by the Town Council of Cape Charles on this 17th day of December 2020.

By: _____
Mayor William "Smitty" Dize

ATTEST:

Town Clerk