

**TOWN COUNCIL
Public Hearing & Regular Meeting
Cape Charles Civic Center
December 16, 2021
6:30 PM**

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing & Regular Meeting of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Vice Mayor Bennett arrived at 6:52 p.m. Also, in attendance were Town Manager John Hozey, Zoning Administrator/Interim Planner Katie Nunez, Police Chief Jim Pruitt, Assistant to the Town Manager Julie Pruitt, and Town Clerk Libby Hume. There were 10 members of the public physically in attendance, and 18 viewers on Facebook.

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

PUBLIC HEARING:

Mayor Dize opened the public hearing for comments relating to conditional use permit applications for 602 Tazewell Avenue, 206A Jefferson Avenue, 325 Madison Avenue, 654 Monroe Avenue, 410 Harbor Avenue/100 Madison Avenue, 4 Lots on Randolph Avenue, and 219 Mason Avenue.

Jean Snyder, representative from Riverside Cape Charles Medical Center

Ms. Snyder addressed Council stated that the medical center was across the street from 219 Mason and expressed their concerns regarding parking for the five proposed residential units.

There were no other comments to be heard nor any received in writing prior to the hearing.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to close the public hearing. The motion was approved by unanimous vote.

The public hearing portion of the meeting closed at 6:32 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

- A. *Board of Zoning Appeals Semi-Annual Report, Katie Nunez, Zoning Administrator*
Katie Nunez provided an update of the Board of Zoning Appeals activity for calendar years 2019, 2020 and 2021.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Anna Lee

Ms. Lee addressed Council regarding the flat tax on short term rentals. (Please see attached.)

There were no other comments to be heard nor any received in writing prior to the meeting.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. November 18, 2021 Town Council Public Hearing & Regular Meeting
 - ii. November 18, 2021 Town Council Work Session
- C. Approval of October 31, 2021 Financial Report

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

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. 602 Tazewell Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Zoning Administrator Katie Nunez stated that a conditional use permit (CUP) application was received to construct a two-story accessory structure at 602 Tazewell Avenue. The first floor would be used as a garage and the second floor would be an accessory dwelling unit (ADU). The Planning Commission held their public hearing on October 5, 2021 with no comments received. The applicants were currently living abroad and intended to utilize the ADU as their residence when in Cape Charles. Upon retirement, they would move into the main house and use the ADU as a long-term rental property. The Planning Commission, by majority vote, recommended approval of the CUP with the following conditions: i) The applicant needed to apply and obtain approval from the Historic District Review Board for all exterior improvements in accordance with the Historic District Overlay and Guidance documents; and ii) The applicant needed to obtain all required permits and approvals from the building and planning departments.

There was much discussion regarding the main residence currently being used as a short-term rental. Although this use did not meet the intent of the ordinance, it met the letter of the law as currently written. The Planning Commission would be addressing the ordinance language related to short-term rentals in January. Katie Nunez outlined future plans for monitoring inspections and conditions for conditional use permits.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the conditional use permit for 602 Tazewell Avenue with the conditions as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwomen Holloway and O'Brien opposed.

B. 206A Jefferson Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received for an after-the-fact approval to utilize a 576 square foot accessory structure as an ADU at 206A Jefferson Avenue. The current owners purchased the property on May 3, 2021 and inherited this situation. After a complaint was received, staff investigated and confirmed an illegal apartment on this property. Once notified, the new owners acted swiftly to remedy the violation and filed the CUP application on August 12, 2021. Zoning review found the application to be in compliance with all requirements of the zoning ordinance, since the accessory structure was an existing structure. The Planning Commission held their public hearing on October 5, 2021 with no comments received. The applicants were living in the main house and wanted to utilize the ADU for long-term rental. The unit had been used as a rental for the last 25 years. The Planning Commission recommended after-the-fact approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: i) The applicant needed to obtain a certificate of occupancy for the ADU from the building department.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit for 206A Jefferson Avenue with the condition as recommended by the Planning Commission. The motion was approved by unanimous vote.

C. 325 Madison Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received for an after-the-fact approval to utilize a 360 square foot accessory structure as an ADU at 325 Madison Avenue. After a complaint was received, staff investigated and confirmed the existence and utilization of an ADU on the property. The accessory structure was built in the mid-to-late 2010s when the ordinance did not specify the requirements for an ADU, nor did it give authority for an ADU as a by-right use. The Town

did not amend the zoning ordinance regarding ADUs until 2017. Zoning review found the application to be in compliance with all requirements of the zoning ordinance, since the accessory structure was an existing structure. The Planning Commission held their public hearing on October 5, 2021 with four comments received in support of the application. The Planning Commission, by majority vote, recommended after-the-fact approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: i) The applicant needed to obtain a certificate of occupancy for the ADU from the building department.

Councilman Grossman noted that the main house was currently used as a short-term vacation rental.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit for 325 Madison Avenue with the condition as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwoman Holloway opposed.

D. 654 Monroe Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received to convert an existing 576 square foot accessory structure into an ADU. The second floor would be used for living quarters and the first floor would be for recreation purposes with no parking of vehicles within the structure. The applicants had indicated that when they purchased the property their realtor indicated that there was a rental space included as part of the property. As soon as the applicants were informed that the structure had not been approved for dwelling purposes and rentals, they took the proper steps ending the rental of the space until the property was in full compliance. The Planning Commission held their public hearing on October 5, 2021 with no comments received. The Planning Commission, by majority vote, recommended approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: i) The applicant needed to obtain a certificate of occupancy for the ADU from the building department.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit for 654 Monroe Avenue with the condition as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwomen Holloway and O'Brien opposed.

E. 410 Harbor Avenue/100 Madison Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received to remove an existing shed and replace it with a new accessory structure, sized 13' x 30', with the first floor to be used as a garage with storage space and the second story to be used as an ADU. At their April 20, 2021 meeting, the Historic District Review Board (HDRB) approved a Certificate of Appropriateness for work on the main house and removal of the shed. The HDRB informed the applicant that after approval of a CUP for the ADU, they would have to come back before the HDRB for review of a Certificate of Appropriateness for the new accessory structure. The Planning Commission held their public hearing on November 2, 2021 with no comments received. The Planning Commission recommended approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) and Section 3.2 (C)(7) with the following condition: i) The applicant needed to obtain HDRB approval for all exterior improvements in accordance with the Historic District Overlay and Guidance documents; and ii) The applicant needed to obtain all required permits and approvals from the building and planning departments.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the conditional use permit for 410 Harbor Avenue/100 Madison Avenue with the conditions as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwomen Holloway and O'Brien opposed.

F. *4 Lots on Randolph Avenue – Conditional Use Permit – Mini Golf:*

Katie Nunez stated that a CUP application was received to construct a mini-golf course on four lots on Randolph Avenue (tax map #83A4-1-B-26, 27, 28 and 29) which were located across the entrance from the Myrtle Landing Apartments (formerly known as Heritage Acres). The lots were zoned as Commercial-3 and the proposed use for mini-golf was a permitted use under Section 3-8 (B)(2) of the zoning ordinance. The proposed use was brought to the Planning Commission in February 2021 and the Commission stated that this use would be compatible with other uses allowed in the Commercial-1, -2 and -3 zoning districts but indicated that a CUP was necessary for adequate review of parking, lighting, landscaping, setbacks and visual aesthetics of the proposed project in relation to the other development occurring on this stretch of Randolph/Stone Road.

During the Planning Commission meeting, the applicants stated the following: i) They would like to offer some light food fare, beer, wine and canned cocktails on the premises; ii) They would close at 9:00 p.m. during the summer season and have reduced hours during the shoulder season; iii) Each hole, along with the width of the path between holes, would be ADA compliant; iv) Two speakers would be installed for ambient music, no live music; v) It would be a low-key place for families to play; vi) Black aluminum fencing, similar to the fence in Central Park. Would be installed around the property; vii) A small dumpster would be located on the southeast corner of the course, with trash cans placed throughout the course; ix) A landscape plan was provided to improve the look of the property along Randolph Avenue and to help provide a noise buffer; x) Lighting would be a historic type pole seen throughout the town and would have a baffle on top to direct the light down to keep with the Town's lighting ordinance; xi) There would be landscape lighting on the course which would allow for mini-golfing in the evening hours; xii) The applicants were working on the sign, which would be 4' x 6', and would submit the plan for a sign permit; xiii) The site plan, including the stormwater plan, were being finalized for submission to the state and VDOT for approval; and xiv) The course design and layout would mimic the feel of the Town – historic, nautical aspects, old trains, and other elements of the Eastern Shore.

The Planning Commission held their public hearing on November 2, 2021 with one comment received in support of the application. The Planning Commission recommended approval of the CUP for a mini-golf course on Randolph Avenue (tax map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, 83A4-1-B-29) pursuant to Cape Charles Zoning Ordinance Section 3.8 (B)(2) with the following conditions: i) All signage shall comply with the sign requirements in Cape Charles Zoning Ordinance section 4.1 – Sign Regulations and a sign permit application would be filed and approved by the Town prior to any signage being installed; ii) At least 20 parking spaces to be provided as required by zoning ordinance section 4.5 (B)(g)(3); iii) A full lighting plan submitted as part of the final site plan that fully complied with zoning ordinance section 4.4(E) – Exterior Lighting; iv) The final site plan was conditional upon affirmative third party reviews from DEQ, VDOT, the Town's third-party reviewer Enviro-Management, LLC and all comments from said reviewers must be incorporated into a revised final site plan; v) The final site plan would incorporate the requirements of zoning ordinance section 4.5 (M) which detailed the placement and screening for dumpsters; vi) HDRB Certificate of Appropriateness, and Certificate of Occupancy from the building department needed to be obtained; and vii) Admission of new players must be stopped at 9:00 p.m.

Councilman Buchholz questioned why the applicants were required to apply for a CUP if the intended use was by-right. Katie Nunez responded that the Planning Commission did not see this as a by-right use and required a CUP so the lighting, aesthetics, etc. could be evaluated. Councilman Grossman added that the Commission wanted to protect the residents living across the street.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the conditional use permit for the four parcels on Randolph Avenue (tax map #83A4-1-B-26,

83A4-1-B-27, 83A4-1-B-28, 83A4-1-B-29) with the conditions as recommended by the Planning Commission. The motion was approved by unanimous vote.

G. *219 Mason Avenue – Conditional Use Permit – 5 Residential Units above First Floor Commercial:*

Katie Nunez stated that a CUP application was received for five residential units above first floor commercial at 219 Mason Avenue. The property was zoned Commercial District C-1 which allowed for a dual use of Commercial/Residential. A floor plan was submitted for five residential units on the second floor of this building. Three of the units would be one-bedroom apartments or lofts and two of the units would be two-bedroom apartments. The requirement of six parking spaces had been met. The Planning Commission held their public hearing on November 2, 2021 with no comments received. The Planning Commission recommended approval of the CUP for five residential units on the second floor above commercial at 219 Mason Avenue with the following conditions: i) Final site plan was conditional upon affirmative third party reviews from DEQ, VDOT and the Town's third party reviewer Enviro-Management, LLC, and incorporation of all comments from said reviews into a revised final site plan; and ii) HDRB Certificate of Appropriateness, and Certificate of Occupancy from the building department needed to be obtained.

There was some discussion regarding the ongoing parking issues along Mason Avenue.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the conditional use permit for five residential units on the second floor above commercial at 219 Mason Avenue with the conditions as recommended by the Planning Commission. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to take a five-minute break. The motion was approved by unanimous vote.

Council took a break from 7:33 p.m. until 7:37 p.m.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to call the meeting back to order. The motion was approved by unanimous vote.

H. *Harbor Area Review Board Member Reappointment:*

John Hozey stated that the Harbor Area Review Board oversaw the Historic Harbor Area Overlay District and reviewed applications for Certificates of Appropriateness (COA) for construction, reconstruction, substantial exterior alternation, razing or relocation within the Historic Harbor Area Overlay District, and made recommendations to the Town Council for approval or denial of a COA. The Board met as needed and consisted of three citizen members each service five-year terms, along with representatives from the Town Council, Planning Commission and Historic District Review Board. Mr. Stuart Smith currently served on the Harbor Area Review Board and his term would expire on December 20, 2021. Mr. Smith expressed his interest in continuing his service on the Board for another term.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to reappoint Mr. Stuart Smith to the Harbor Area Review Board for another term. The motion was approved by unanimous vote.

I. *Architectural Services Contract Amendment:*

John Hozey stated that, at the September 16, 2021 meeting, Council authorized a contract with HBA initially in the amount of \$41,509 for Phase 1 architectural services for future office space, and up to \$45K to accommodate addition of a wetlands delineation and Phase 1 Environmental Site Assessment for the potential construction site on Cassatt Parkway. Additionally, Council requested that a fee proposal be obtained from HBA to add the library function into the analysis.

The fiscal year 2022 budget included \$130K for the project with \$45K earmarked for the analysis of alternatives. Staff was working with HBA, and their proposed sub-consultant MSA. MSA recommended soil and water sampling to determine if there was any significant contamination from the adjacent former dump site. The total cost for the environmental assessment was \$5,040 and would bring the contract value to \$46,549, or \$1,549 over the \$45K authorized. Additionally, HBA proposed a fee of \$1,948 to add the library function to the Phase 1 scope of work. The total of the additional work would exceed the authorized \$45K by \$3,497. There was sufficient funding budgeted for the project to accommodate this.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to authorize amendments to the HBA contract for i) \$5,040 for an environmental assessment of the potential construction site; and ii) \$1,948 to add the library function to Phase 1. The motion was approved by unanimous vote.

J. *Civil War Trail Interactive Signage:*

John Hozey informed Council that Civic War Trails® had been working with communities since 1994 to share their stories and connect visitors with small towns and big stories across a network that now spanned six states. Travelers looked to Trails to put them in the footsteps of the generals, soldiers, citizens and the enslaved who found themselves in the midst of the Civil War. The Town was recently contacted about joining the Civil War Trail by approving placement of an interpretive sign depicting the life and contributions of Peter Jacob Carter who was enslaved in Northampton County before self-emancipating and then service with the 10th "United States Colored Troops" during the war. After the war, he went on to serve the County as their Delegate to the House of Delegates, as well as being the keeper for the old Cherrystone lighthouse, which was what would provide the nexus for installing the sign in Cape Charles. It was likely that some of Peter Jacob Carter's descendants might still be in the County. All of these signs must be located at historically significant sites, or at a location where such sites could be viewed. This sign must be placed in an area where the original Cherrystone lighthouse site could be viewed, limiting the location to somewhere in the area of Bay and Washington Avenues. The current plan was to install the sign along the boardwalk on Bay Avenue as far north as practicable. There was no cost to the Town for either the initial installation of the sign or ongoing maintenance. All costs would be covered by the Civil War Trails organization and associated donors/sponsors. If the Town were ever to renovate that area of the boardwalk/beach, the Civil War Trails organization would move the sign to a new location chosen by the Town as long as the Cherrystone lighthouse site could still be viewed.

Councilman Grossman suggested execution of a memorandum of agreement with the Civil War Trails organization outlining all details.

There was some discussion as follows: i) Vice Mayor Bennett expressed his concern regarding this issue, adding that a Civil War monument was just torn down in Eastville and this signage would be another reminder of slavery, regardless of the side. The website for this organization was poorly done without much information of their purpose. He had difficulty putting up a monument referencing the Civil War when monuments were being torn down; ii) Councilman Follmer expressed his opinion stating that no one was trying to forget the Civil War and the monument in Eastville honored someone who had slaves and promoted slavery. He did not think this issue was the same situation, and the fact that the organization would cover the cost of installation, maintenance, removal, etc. was great.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to authorize the town manager to execute a memorandum of agreement with the Civil War Trails organization for the placement of a Civil War Trails interpretive sign in the area of Bay and Washington Avenues. The motion was approved by majority vote with Vice Mayor Bennett opposed.

K. *Comprehensive Plan Consultant:*

John Hozey stated that a request for proposals was issued on October 8, 2021 to solicit consultant help for a two-phased project. Phase 1 of the project was to assist with completion of work on the Comprehensive Plan update which had already been started by the Planning Commission. Phase II would be to use the new Comprehensive Plan to conduct a complete review and update of the Town's Zoning Ordinance. Three proposals were received and an evaluation team was formed consisting of Planning Commission Chair Bill Stramm, Zoning Administrator Katie Nunez, and John Hozey. The team members unanimously chose Summit Design and Engineering Services for this project. While the other two proposals represented qualified companies, the team felt that Summit did the best job of understanding the work already done and how to carry that forward in an efficient way. The project was anticipated to take approximately 12 months to complete the full scope of work. There was sufficient funding budgeted for this project to cover the work for the balance of this fiscal year. Work performed next fiscal year would be reappropriated or added to the FY 2023 budget and authorized for this contract by Council at that time.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to authorize the town manager to sign an agreement for professional services with Summit Design and Engineering Services in the amount of \$61,275 for the Comprehensive Plan and Zoning Ordinance updates. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) As of the time he left the office this evening, there were 349 responses to the strategic plan community survey. There were almost equal numbers of paper and electronic responses. Many residents completed the two-page survey that was included with the utility bills. Julie Pruitt was inputting the paper responses into Survey Monkey, which was a good tool and easy to track. He was looking forward to presenting the information to the Council. The survey would close tomorrow, December 17, at 2:00 p.m. A reminder was placed on Facebook on Monday. Cape Charles Main Street sent an email blast on Tuesday, and a Nixle community message went out today. The cost for Survey Monkey for all the analysis tools was about \$600; ii) He was able to set up a meeting for next week with the Mayor, Delegate Bloxom and himself regarding legislative priorities. He hoped to set up a similar meeting with Senator Lewis; and iii) He wished everyone a Merry Christmas and a great New Year.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer commented as follows: i) He thanked the Public Works crew for cleaning all the leaves out of the gutter on Mason Avenue; ii) After the new year, he requested a work session for discussion regarding committees, consisting of several members of Council, staff and members of the community, to accomplish some of the necessary work. Tonight's discussion showed the need to leverage efforts in a strict regulatory framework; iii) He asked for an inventory of Town-owned real estate. John Hozey responded that he would get a list compiled; iv) He expressed his concern with members of the Town's Boards and Commission advocating against the Town's policies or Council's plans. He felt it was a problem when a member of the Planning Commission stated their disagreement with Town policy and vote against an item. There were members of staff and a Council representative present at Planning Commission meetings, and it was their role to remind the Commissioners what was or was not in their purview; and v) He wished everyone a Merry Christmas.

Councilman Grossman stated is agreement with Councilman Follmer regarding committees, adding that work regarding parking, including boats and RVs, and short-term rentals could be split up and tackled.

Councilwoman O'Brien and Vice Mayor Bennett wished everyone happy holidays.

Councilwoman Holloway commented on the following: i) She also concurred regarding committee work. It was a good formula to have committees with members of Council, Planning Commission, staff and community members; ii) She congratulated Julie Pruitt on her first official Town event. The Grand Illumination was wonderful, along with the lighted golf cart parade, lighted boat parade, etc. It was a happy night in Cape Charles and felt like Mayberry; and iii) Tomorrow would be the last Festive Friday. They have been very well attended. The businesses and residents were happy to be able to enjoy the town again.

Councilman Buchholz commented on the following: i) He would be serving beverages during Festive Fridays tomorrow; ii) He told Katie Nunez that she was doing a fantastic job and that he meant no ill will during discussion earlier this evening. He sometimes got overzealous; and iii) He wished a Merry Christmas to all.

Mayor Dize commented as follows: i) He stressed the importance of all residents and business owners to complete the survey tonight if they had not already done so. He wanted over 400 responses by the time the survey closed tomorrow; and ii) He expressed his appreciation to everyone involved in the efforts put into Festive Fridays – Cape Charles Main Street, shop owners and other business owners. So many people contacted him to tell him that it made them feel like it was the old times again. Councilwoman Holloway added a shout out to Katy Sabo who was the coordinator for Cape Charles Main Street, and to Debbie Pocock for running the snow machine.

Mayor Dize read the announcements.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Town Council Public Hearing & Regular Meeting. The motion was approved by unanimous vote.

The Public Hearing & Regular Meeting adjourned at 8:02 p.m.

Mayor Dize

Town Clerk

**Comments & Information Provided in Writing
December 16, 2021 Town Council Public Hearing & Regular Meeting**

#5 – Public Comments

Anna Lee

Dear Mayor, Town Council & Town Staff:

My name is Anna Lee and my husband and I have owned a duplex at 107-109 Tazewell Avenue for 7.5 years. We live full time in 107 Tazewell and host 109 Tazewell as a vacation rental on AirBnb. We also own Barrier Islands Salt Co.

During the annual budget process, the Town Manager recommended and Town Council approved a new, \$4 per night flat tax on short term home rentals but only a \$1 per night flat tax on short term hotel, B&B and Inn rentals. The Town Manager and Town Council justified the higher tax by saying that it was needed to cover the cost to Town of managing short term home rental ‘grievances and issues.’

On June 17th I submitted a letter opposing this recommendation based on the lack of information provided to support it and requested reporting to substantiate it. I never received a response.

On August 26th I submitted a FOIA request to the Town Manager, formally asking again to see the details regarding the ‘grievances and issues’ cited and the associated expenses described. After several emails with Town staff, I was told that no documentation existed in support of this budget recommendation. I was told that it would cost \$200 to generate reporting to show any complaints to Town and any associated expenses, so I paid it.

While \$4 per night might sound like a small additional tax, when you factor in the 230 short term home rentals in Cape Charles and apply our average annual occupancy rate of 87%, **this new tax totals \$292,146 annually in addition to the 3.7% tax we already pay.**

Based on the Town’s response to my FOIA request, short term home rentals have actually only increased Town expenses by \$4,278 annually - this is the cost of the additional administrative work involved in collecting and recording the tax checks from short term rental owners which total roughly \$172,000 annually, more than covering the additional administrative expense to process them. The FOIA response also showed that Town spent \$0 managing the five complaints received related to rentals during the 15 month period from June 2020 to September 2021, all of which were related to parking and trash, and none of which received a response.

Based on these findings, I’m asking that Town cancel the arbitrary \$4 per night flat tax on short term rentals.

I have no objection to paying more in taxes to cover covid related budget shortfalls or much needed capital improvements to town buildings - I just ask that these taxes be fairly applied across all categories of small business or perhaps across all property owners.

Along with my comments, I’m submitting my FOIA request and FOIA response received from Town into the public record. My contact information is also provided below and I’m happy to discuss my submission with anyone who has questions or comments.

Sincerely,
Anna Lee
vitaleea@gmail.com
410-490-9778 cell

FOIA Request Email Chain

----- Forwarded message -----

From: **Anna Lee** <vitaleea@gmail.com>
Date: Thu, Sep 16, 2021 at 11:53 AM
Subject: Re: FOIA Response
To: Libby Hume <clerk@capecharles.org>

Thanks, Libby. I'm all set and appreciate your time and assistance, as well as everyone else involved.

Anna

----- Forwarded message -----

From: **Libby Hume** <clerk@capecharles.org>
Date: Thu, Sep 16, 2021 at 11:48 AM
Subject: RE: FOIA Response
To: Anna Lee <vitaleea@gmail.com>

Good morning, Ms. Lee.

Yes, you caught a typo! I'm so sorry for that! The hours provided by the Code and Building department were an average. Connie told me that some applications take her a lot longer to process than others. This was the best she and Jeb could provide.

Regarding the Report a Concern issues, we have not been keeping records on staff time to resolve any issues generated from those reports.

Thanks. Please let me know if you need anything else.

Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

----- Forwarded message -----

From: **Anna Lee** <vitaleea@gmail.com>
Date: Thu, Sep 16, 2021 at 10:39 AM
Subject: Re: FOIA Response
To: Libby Hume <clerk@capecharles.org>

Hi Libby -

I've reviewed all of the info provided and it's very helpful. I just have a few follow up comments/questions:

- I'm assuming \$0 labor costs related to the 5 'report a concern' issues submitted from June 2020 until Sep 10 2021 because none were provided.

- Can you clarify what the totals and time period are on page 2 Code Enforcement/Building Dept.? This shows \$20,975 in labor costs per rental property (\$6,391 + \$14,584). I assume this is a typo because assuming Connie's rate of \$17.28 per hour would have her working 30 weeks to process one property. She'd have to work 69 years to complete all 120 properties one time.

But then the second page, last bullet of Connie's rental inspection process document shows a total of \$99.41 per rental property per year in labor costs (1 hour of the Code Official + 4 hours Permit Tech). This sounds much more reasonable. I assume this is the correct number?

Thank you!
Anna

On Wed, Sep 15, 2021 at 11:32 AM Anna Lee <vitaleea@gmail.com> wrote:

Thank you, Libby! I'll drop the check for the balance off today. Once I review everything I may get back to you if I have any questions.

Please thank all involved in putting this together.

Have a good week,
Anna

On Tue, Sep 14, 2021 at 5:28 PM Libby Hume <clerk@capecharles.org> wrote:

Good afternoon, Ms. Lee.

Please see the attached file in response to your FOIA request relating to short-term rentals and associated costs to the Town.

Please let me know if you have any problems opening the file.

Thank you,
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

On Mon, Aug 30, 2021 at 2:26 PM Libby Hume <clerk@capecharles.org> wrote:

Thanks, Ms. Lee. I passed this additional request along.
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

From: Anna Lee <vitaleea@gmail.com>
Sent: Monday, August 30, 2021 2:21 PM
To: Libby Hume <clerk@capecharles.org>
Cc: John Hozey <john.hozey@capecharles.org>
Subject: Re: FOIA Request re: Short Term Rentals

One additional revision - I need to know the total number of rooms for vacation rentals, hotels, B&Bs and inns during the time period in question. Please see this addition below:

I'm now making a FOIA request, in hopes of getting my request prioritized, for reporting that includes all in person, phone, email, text and website submissions that contained a comment or concern about any short term rental for the period 6/1/20 thru today. Each should include the name of the individual contacting the town, the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short term rental in question and what action was taken. Please also provide the total number of rooms for each of the following - vacation rentals, hotels, B&Bs and inns - during the time period in question.

On Mon, Aug 30, 2021 at 2:03 PM Anna Lee <vitaleea@gmail.com> wrote:

I have revised my FOIA request to also include the name of the person submitting the comment or concern - please see revision below.

I'm now making a FOIA request, in hopes of getting my request prioritized, for reporting that includes all in person, phone, email, text and website submissions that contained a comment or concern about any short term rental for the period 6/1/20 thru today. Each should include the name of the individual contacting the town, the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short term rental in question and what action was taken.

On Mon, Aug 30, 2021 at 1:27 PM Anna Lee <vitaleea@gmail.com> wrote:

No problem - I understand. I'll drop the \$200 check off today.

Thanks,
Anna

On Mon, Aug 30, 2021 at 1:17 PM Libby Hume <clerk@capecharles.org> wrote:

Hi, Ms. Lee.

In talking to the various departments, they do not have the records in a report. The information will have to be researched. Your request involves the Building/Code Enforcement department regarding applications, permitting, inspections, etc. – Jeb Brady and Connie Drummond. The Police department regarding comments/complaints they may have received. The Public Works department regarding comments/ complaints they may have received. The Finance department for business licenses and transient occupancy tax. John Hozey will also have to look through his files. You also have my time to review everything once it's received and compile it to provide to you. We are a very small locality so do not have admin assistants in each department who can do the research. The hours add up. Six or seven hours combined will exceed \$200. If the time it takes to research, compile and respond to the request turns out to be less, we will refund you any difference.

Thanks,
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

From: Anna Lee <vitaleea@gmail.com>
Sent: Monday, August 30, 2021 1:03 PM
To: Libby Hume <clerk@capecharles.org>
Cc: John Hozey <john.hozey@capecharles.org>
Subject: Re: FOIA Request re: Short Term Rentals

Thanks, Libby. I'm not trying to be difficult but I'm not clear on the cost. This information has to exist because it was used to make a recommendation for the budget - I assumed it would be a matter of emailing me an existing file. I've seen other FOIA requests for existing info cost around \$30 - why is this one \$200? Not trying to be difficult - it just feels like an inflated price for my request. How many hours are you assuming this will take?

Can you tell me a yes or no as to whether any data currently exists on this topic?

And I do understand that the clock starts once I make a deposit.

Thanks,
Anna

On Mon, Aug 30, 2021 at 12:54 PM Libby Hume <clerk@capecharles.org> wrote:

Good morning, Ms. Lee.

We currently do not have reports readily available. The various departments are currently working to compile the information requested.

Please note that in our letter invoking Code of Virginia § 2.2-3704. B.4 for additional time to respond, we also invoked § 2.2-3704.H requesting a deposit payment. I just wanted to point out to you that, as stated in the letter, the timeframe for the Town's response does not begin until receipt of the deposit payment.

Thank you,
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

From: Anna Lee <vitaleea@gmail.com>
Sent: Friday, August 27, 2021 2:35 PM
To: Libby Hume <clerk@capecharles.org>
Cc: John Hozey <john.hozey@capecharles.org>
Subject: Re: FOIA Request re: Short Term Rentals

Thank you, Libby! No problem on the additional time.

Given that the information I've requested was cited as an input in the budget process that led to the decision to tax Airbnbs at a rate of 4x higher than other short term rentals, my assumption is that this reporting already exists in some form. I'm flexible as to the format of the information and am happy to accept it in it's current format to see if it satisfies my request. I assume that this could be provided for a smaller fee.

Thanks,
Anna

On Fri, Aug 27, 2021 at 2:19 PM Libby Hume <clerk@capecharles.org> wrote:

Good afternoon, Ms. Lee.

Town Manager John Hozey forwarded your request to me, and I've contacted the various departments and staff asking them to search their records regarding your requested information.

Please see the attached letter invoking subsection B.4 of § 2.2-3704 of the Code of Virginia to provide us with additional time to research and respond to your request.

Respectfully,
Libby Hume

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

----- Forwarded message -----

From: **Anna Lee** vitaleea@gmail.com
Date: Thu, Aug 26, 2021 at 9:18 AM
Subject: FOIA request - short term rentals
To: John Hozey john.hozey@capecharles.org

Hi John -I hope you're doing well. Just following up on a prior request....Back during the budget process, town leadership cited 'issues and grievances' specific to vacation rentals that were driving up town labor costs as the justification for imposing a \$4 per night flat rate tax on vacation rentals but only a \$1 per night flat rate tax for hotels, B&B s and inns. I submitted a letter opposing this and asking for reporting that detailed these costs but never received a response.

I'm now making a FOIA request, in hopes of getting my request prioritized, for reporting that includes all in person, phone, email, text and website submissions that contained a comment or concern about any short term rental for the period 6/1/20 thru today. Each should include the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short term rental in question and what action was taken.

I assume this report is available since this data was used in the budget process. If it exists in another slightly different format I'm happy to discuss what's available.

Thanks for your help,
Anna Lee
107-109 Tazewell Ave
410-490-9778 cell



*Municipal Corp. of
Cape Charles*

September 14, 2021

Ms. Anna Lee
107-109 Tazewell Avenue
Cape Charles, VA 23310

via email: vitaleea@gmail.com

Re: Freedom of Information Act Request

Dear Ms. Lee:

This office is in receipt of your request for records made in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) requesting “all in person, phone, email, text and website submissions that contained a comment or concern about any short-term rental for the period June 1, 2020 through August 26, 2021. Each should include the name of the individual contacting the town, the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short-term rental in question and what action was taken. Please also include the total number of rooms for each of the following – vacation rentals, hotels, B&Bs and inns – during the time period in question.”

After researching our records, attached are the following:

- A file outlining the costs to the Town for the short-term rental program as a whole
- Copies of Report a Concern emails

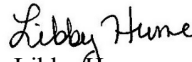
- A document detailing the Building Department's procedures related to the rental inspection process

The Town does not capture the number of rooms for each short-term rental property, nor does the Town separate the information by category.

Also, enclosed is our invoice for the staff time taken to research and compile the requested information.

Thank you for contacting this office.

Sincerely,


Libby Hume
Town Clerk

Enclosures

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310
(757) 331-3259 Fax (757) 331-4820

Finance Dept:

Costs are ongoing. The figures provided are through September 10, 2021.

Collections cost for BPOL and TOT for vacation rentals for the summer collections audit time 2021 only:

B&Bs = \$0

Rental Homes = \$4,278*

* All staff and a summer intern participated in this effort to audit BPOL and TOT accounts, mail letters and applications, and seeking out those not in compliance – Approx. 158 hours at an average rate of \$21.20/hour = \$3,350

Treasurer's hours researching, typing letters, emailing, calling, educations and helping complete forms (July-August 2021 only) = \$828

Mailing supplies and postage for certified letters and delinquent notices = \$100

Code Enforcement/Building Dept:

Please see attached document from the Permit Technician detailing the rental inspection process.

Approximate time and costs per rental property:

Inspections = \$6,391

Paperwork & processing = \$14,584

Report a Concern:

The online Report a Concern emails go to the town manager for review, and he forwards them to the appropriate department head. The staff's contact with the individual and resolution have not been documented.

Total costs to the Town: \$25,253

Response ID: 1415854

Form Name: Report a Concern

Date Submitted: Jun 21 2020 11:29AM

IP Address: 168.149.145.120

Name: Lori Smith

Email: lpgawnab@msn.com

Address: 526 Strawberry Street

Phone: 804-339-3497

Area of Concern: Safety Issues

Brief Description of Problem: 522 Strawberry St. is a rental unit...2 of their cars have been parked on the wrong side of the street since yesterday...someone is going to get hit head on if they are not paying attention when they pull out. (the cars are facing north on the west side of the street) Thank you!

Location of Problem: 522 Strawberry St.

Response Requested: None

John Hozey

From: John Hozey
Sent: Sunday, June 21, 2020 11:53 AM
To: Jim Pruitt
Subject: Fwd: Report a Concern

FYI

Begin forwarded message:

From: "formbuilder@municipalnotices.com" <formbuilder@municipalnotices.com>
Date: June 21, 2020 at 11:29:57 AM EDT
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Name:
Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:00 a.m. and 4:30 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name
Lori Smith

Email
lpgawnab@msn.com

Address
526 Strawberry Street

Phone
804-339-3497

Area of Concern
Safety Issues

Brief Description of Problem

522 Strawberry St. is a rental unit...2 of their cars have been parked on the wrong side of the street since yesterday...someone is going to get hit head on if they are not paying attention when they pull out. (the cars are facing north on the west side of the street) Thank you!

Location of Problem

522 Strawberry St.

1

Response Requested

None

Sent from IP Address: 168.149.145.120

Response ID: 1415991
Form Name: Report a Concern
Date Submitted: Jun 21 2020 12:26PM
IP Address: 162.217.52.192
Name: Jo Bawiec
Email: Jobawiec@gmail.com
Address: Strawberry st
Phone: 434-547-3082

Area of Concern: Safety Issues

Brief Description of Problem: 500 block of strawberry st. Cars/ golf carts parked in wrong direction. Safety issue. This has been a consistent issue on this block (rental house). 3 vehicles have been parked illegally for 2 days

Location of Problem: 522 strawberry st

Response Requested: None

John Hozey

From: John Hozey
Sent: Sunday, June 21, 2020 12:57 PM
To: Jim Pruitt
Subject: FW: Report a Concern

FYI

*John
John Hozey
Town Manager
Cape Charles, VA*

From: formbuilder@municipalnotices.com <formbuilder@municipalnotices.com>
Sent: Sunday, June 21, 2020 12:27 PM
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:00 a.m. and 4:30 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name

Jo Bawiec

Email

Jobawiec@gmail.com

Address

Strawberry st

Phone

434-547-3082

Area of Concern

Safety Issues

Brief Description of Problem

500 block of strawberry st. Cars/ golf carts parked in wrong direction. Safety issue. This has been a consistent issue on this block (rental house). 3 vehicles have been parked illegally for 2 days

1

Location of Problem

522 strawberry st

Response Requested

None

Sent from IP Address: 162.217.52.192

Response ID: 1418457

Form Name: Report a Concern

Date Submitted: Jul 27 2020 6:29PM

IP Address: 38.124.147.131

Name: Etta K Pruitt

Email: Epruitt1@verizon.net

Address: 3 Tazewell, CC

Phone: 757-331-3675

Area of Concern: Debris, Litter

Brief Description of Problem: My concern is with rental properties that do not have enough trash receptacles. A minimum of two should be required. Some large places should have three. When renters move out on Saturday and leave trash overflowing or filled plastic bags on the ground, they are quickly found by cats or other "at large" animals. Folks coming in on Saturday have nowhere to put their trash. There are six rentals on my block and it can be a real mess in the neighborhood. Can you do something Thanks to all!

Location of Problem: My block of 3 Tazewell

Response Requested: None

John Hozey

From: John Hozey
Sent: Tuesday, July 28, 2020 7:59 AM
To: John Lockwood
Subject: FW: Report a Concern

John, any ideas here?

John
John Hozey
Town Manager
Cape Charles, VA

From: formbuilder@municipalnotices.com <formbuilder@municipalnotices.com>
Sent: Monday, July 27, 2020 6:29 PM
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Name:
Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:00 a.m. and 4:30 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name
Etta K Pruitt

Email
Epruitt1@verizon.net

Address
3 Tazewell, CC

Phone
757-331-3675

Area of Concern
Debris, Litter

Brief Description of Problem

My concern is with rental properties that do not have enough trash receptacles. A minimum of two should be required. Some large places should have three. When renters move out on Saturday and leave trash overflowing or filled plastic bags on the ground, they are quickly found by cats or other "at large" animals. Folks coming in on Saturday have

1

nowhere to put their trash. There are six rentals on my block and it can be a real mess in the neighborhood. Can you do something Thanks to all!

Location of Problem
My block of 3 Tazewell

Response Requested
None

Sent from IP Address: 38.124.147.131

Response ID: 1433938

Form Name: Report a Concern

Date Submitted: Jun 5 2021 4:08PM

IP Address: 162.217.52.192

Area of Concern: Other

Brief Description of Problem: 420 Randolph has been using orange cones in street to reserve parking spaces in the front of the short term rental (for rental golf cart?). Witnessed most recently Saturday afternoon. Not appropriate. Street parking is open to all. Neighboring two houses are currently vacant which allows ample parking on the south side of street.

Location of Problem: 420 Randolph Ave

Name: Paul Grossman

Email: Grossman51@aol.com

Address: 506 Randolph Ave

Phone: 804-499-0118

Response Requested: Email

John Hozey

From: John Hozey
Sent: Saturday, June 5, 2021 4:12 PM
To: Jim Pruitt
Subject: Fwd: Report a Concern

Can you send someone to check this out.

Begin forwarded message:

From: formbuilder@municipalnotices.com
Date: June 5, 2021 at 4:08:46 PM EDT
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Name:
Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:30 a.m. and 4:30 p.m.

Please understand that this service is not monitored during non-business hours and should not be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.** To report urgent but Non-Emergency incidents or for Non-Emergency police assistance, please call police dispatch at 757-678-0458.

Area of Concern
Other

Brief Description of Problem
420 Randolph has been using orange cones in street to reserve parking spaces in the front of the short term rental (for rental golf cart?). Witnessed most recently Saturday afternoon. Not appropriate. Street parking is open to all. Neighboring two houses are currently vacant which allows ample parking on the south side of street.

Location of Problem
420 Randolph Ave

Name
Paul Grossman

Email
Grossman51@aol.com

Address
506 Randolph Ave

Phone

1

804-499-0118

Response Requested
Email

Sent from IP Address: 162.217.52.192

Response ID: 1437363

Form Name: Report a Concern

Date Submitted: Jul 18 2021 6:37PM

IP Address: 47.133.248.203

Area of Concern: Other

Brief Description of Problem: Parking in Historic District With the increase in vacation rentals, the parking in our residential areas is becoming bothersome. Reading the Zoning Ordinance on Parking, I found the following: 3. Hotels, motels and similar businesses or institutions providing overnight accommodations: 1 space per unit plus 1 space per 5 units for visitors. If I read this correctly, each home has a space for two vehicles unless they are able to park in another designated area. Can we make the visitors adhere to this? Perhaps it should be noted in the rules and regulations of each vacation rental. Maybe I am off base. But the 200 block of Tazewell has as many rentals as full time residents. Often times as many as 4 vehicles are parked in front of one rental making it impossible for the full time resident to park near their own home. Thank you for any reply.

Location of Problem:

Name: Judi A. "Joy" Pelletier

Email: joyncc@verizon.net

Address: 218 Tazewell Ave, Cape Charles, VA 23310

Phone: 804-382-4169

Response Requested: Email

The Cape Charles Building Department Rental Inspection Process

In 2020 and 2021, a total of 211 rental inspection applications were processed by the Cape Charles Building Department Permit Technician. The rental inspection process from receipt of application to issuance of the Rental Certificate of Occupancy is a very time-consuming undertaking. Late winter, spring and early summer months are the busiest times of the year for receiving rental inspection applications. Most vacation rental property owners want the safety inspection completed before the spring/summer rental season gets underway.

In 2020, 91 rental inspection applications were processed before, during and after the start of the Covid 19 Pandemic. The typical rental inspection process between Building Department staff and owners/agents was interrupted. Covid caused some rental property owners to postpone or stop renting their vacation rental units during 2021 due to safety concerns. Safety measures were put into place for all property inspections. That information was disseminated to all property owners and agents before inspections were scheduled. Of the 91 inspection applications received in 2020, all paperwork was processed, and all but four property inspections were completed. Those four rental units became long term rentals during the pandemic.

In 2021, 120 rental inspection applications were processed by the Permit Technician. This year the Building/Code Enforcement office was overwhelmed with a barrage of rental inspection applications and building applications in a short period of time. Rental inspection application processing, documentation, inspection scheduling and inspections were handled in a timely manner. All 120 rental inspection applications received in 2021 have been processed, and all properties have been inspected. To maintain the fast pace and keep the inspection appointments moving forward, the decision was made to send out the certificates as time allowed. The safety inspections of the rental units took priority.

As mentioned above, the vacation rental inspection process is a very time-consuming operation. The rental inspection steps are listed below:

- Rental property owners or property management agents contact the Permit Technician in person, by phone or by email to request information related to the rental property inspection process. Rental inspection applications are also mailed to the office.
- Rental property owners/agents are assisted in person when they visit the Town office.
- Telephone calls are an opportunity to assist the owner/agent by answering specific rental inspection related questions. Together, we determine what forms and other information are needed by the caller. This is also an opportunity to educate the caller on navigating the Cape Charles website so that the caller can more easily locate the required forms and information for this department and for all other departments in the Cape Charles Town Office.
- Email requests for rental inspection applications and other information are handled by emailing the requested forms and information to the rental property owner/agent.
- Receive and review the application for accuracy and completeness.
- Enter the application information in the Cape Charles Building Department permit system.
- Take payment by check, credit card or cash.
- Print out and/or scan receipts.
- Email, mail, or hand deliver the Cape Charles receipt and the credit card receipt to the applicant or agent.
- Enter information and payment amount onto a daily report for the Finance Department.
- Deliver the daily report to Finance Department staff.
- Add the rental property to the rental inspection excel spreadsheet.
- Coordinate with Code Official regarding availability for possible inspection dates and times.
- Coordinate rental inspection dates and times with property owner or agent via phone calls and/or emails. Often it takes many calls and emails to agree on the beat time for the rental inspection.
- Add the agreed upon inspection date and time to the rental inspection spreadsheet.
- Send out memo to owner or agent confirming the inspection date and time.
- Add inspection to office calendar
- Add inspection to The Code Official's daily list
- The Code Official visits the rental property to conduct a safety inspection of the property.
- The Code Official completes documentation of the rental inspection including the need for reinspection.
- Rental inspection results are entered into the permit system and on the excel spreadsheet.
- If the property passes inspection, print out the Rental Certificate of Occupancy, scan it, email it, mail it or hand deliver it to the owner or agent of the property.
- Finalize rental property information on the excel spreadsheet for the record.
- If the rental does not pass inspection, continue to call and/or email the property owner or agent to ask for photographic proof of inspection corrections.
- If reinspection is necessary, assist rental owner or agent with information related to correction notice items.
- Coordinate reinspection date and time with Code Official and rental owner or agent.
- Code Official reinspects property for items noted on the correction notice.
- All corrections are entered into the permit system and spreadsheet.
- The Rental Certificate of Occupancy is scanned, emailed, mailed or hand deliver to the owner or agent of the property.
- On average, the Building Department Code Official and Permit Technician spend approximately five hours per rental unit each year. The Code Official spends one hour on each rental unit at \$30.29 per hour. The Permit Technician devotes approximately four hours per rental unit at \$17.28 per hour.

Respectfully submitted,
Connie Drummond
Permit Technician
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310



Town of Cape Charles

ATTN: Town Treasurer
2 Plum Street
Cape Charles, Virginia 23310
757/331-3259 fax 757/331-4820

Invoice No. CC2021-0914

INVOICE

Customer

Name Anna Lee
Address 107-109 Tazewell Avenue
City Cape Charles State VA ZIP 23310
Phone

Date 9/14/2021
Order No.
Rep
FOB

Qty	Description	Unit Price	TOTAL
4	Staff Time - Connie Drummond	\$17.28	\$69.12
0.5	Staff Time - John Hozey	\$50.48	\$25.24
2.5	Staff Time - Libby Hume	\$29.90	\$74.75
1.50	Staff Time - Deborah Pocock	\$31.00	\$46.50
-1.00	Less deposit received	\$200.00	(\$200.00)
Staff time to research and compile requested information for the August 26, 2021 FOIA request regarding short term rental information from June 1, 2020 through August 26, 2021.			

Payment Details

- ☐ Cash
☐ Check
☐ Credit Card

SubTotal	\$15.61
Shipping & Handling	\$0.00
Taxes	
TOTAL	\$15.61

Office Use Only

Please make check payable
to: "Town of Cape Charles"

October 2021 Treasurer's Report

Page 1 – Cash Position

- A debt service payment of \$120,587 was made on the VRA interest free loan.
- A payment of \$1,798,279 was received as a surety bond. It was deposited into a new VIP Liquidity Pool investment account and will be refunded to the developer as portions of the project are completed.
- A Boating Infrastructure Grant Payment of \$30,754 was received. The project ended in FY2021 and included WiFi improvements, security cameras, 4 new light poles, and improvements to the fuel pumps.

Page 2 – Revenue vs. Expenditures

- It is normal to have a net loss in the general fund at this time of year, prior to receiving tax payments.
- The special activities fund net loss is a timing issue with the small business recovery grant payments and reimbursements.

Page 3 – Capital Projects

- No activity year to date, will return in a future report.

Page 4 – Tax Collection Rate

- The 2021 tax bills were mailed out on November 3rd. This report will return next month.

Page 5 – Tax Revenue Trends

- Business license due date was extended in FY 2021, which may cause collections for July 2021-March 2022 to be lower the previous year.
- Meals tax, sales and use tax and transient occupancy taxes average 50% higher than year to date October 2020. Please note that over \$15,000 in delinquent TOT from prior years is included in this increase.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
October 31, 2021

<u>Cash on Hand</u>	<u>9/30/2021</u>	<u>10/31/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$804,045	\$672,385	-\$131,660
Atlantic Union Bank Money Market Account	\$2,021,864	\$2,021,475	-\$389
LGIP Account 1 - Unrestricted	\$104,241	\$104,246	\$5
LGIP Account 2 - Unrestricted	\$295,520	\$295,537	\$16
Total Cash On Hand	\$3,225,670	\$3,093,642	-\$132,027

<u>Restricted and Reserved Cash Balances</u>	<u>9/30/2021</u>	<u>10/31/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$35,810	\$35,810	\$0
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$6,365	\$6,651	\$286
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,587	\$257,588	\$0
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
Atlantic Union Money Market # ARPA CRF #5847	\$528,633	\$528,647	\$13
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$1,735,885	\$1,736,079	\$194
Virginia Investment Pool Liquidity Acct#2, Surety Bond Escrow Rsrvd	\$0	\$1,798,279	\$1,798,279
Total Cash Held in Reserve	\$2,579,503	\$4,378,275	\$1,798,772
Total Cash - All Accounts	\$5,805,173	\$7,471,918	\$1,666,745

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,419,908
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MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

October 31, 2021

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 FY22</u>
GENERAL Operations						
REVENUE	\$193,716	\$627,692	\$890,849	\$263,157	\$3,536,507	25.19%
EXPENDITURES	\$182,483	\$909,790	\$1,015,450	\$105,660	\$3,536,507	28.71%
NET	\$11,233	(282,098)	(\$124,601)	\$157,497	\$0	
GENERAL Capital						
REVENUE	\$6,752	\$0	\$33,162	\$33,162	\$1,197,762	2.77%
EXPENDITURES	\$0	\$0	\$848	\$848	\$1,197,762	0.07%
NET	\$6,752	\$0	\$32,314	\$32,314	\$0	
GENERAL Debt Service						
REVENUE	\$0	\$70,793	\$104,166	\$33,373	\$258,614	40.28%
EXPENDITURES	\$0	\$70,793	\$104,166	\$33,373	\$258,614	40.28%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities						
REVENUE	\$20,786	\$0	\$102,128	\$102,128	\$948,115	10.77%
EXPENDITURES	\$75,009	\$0	\$196,432	\$196,432	\$948,115	20.72%
NET	(\$54,224)	\$0	(\$94,304)	(\$94,304)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

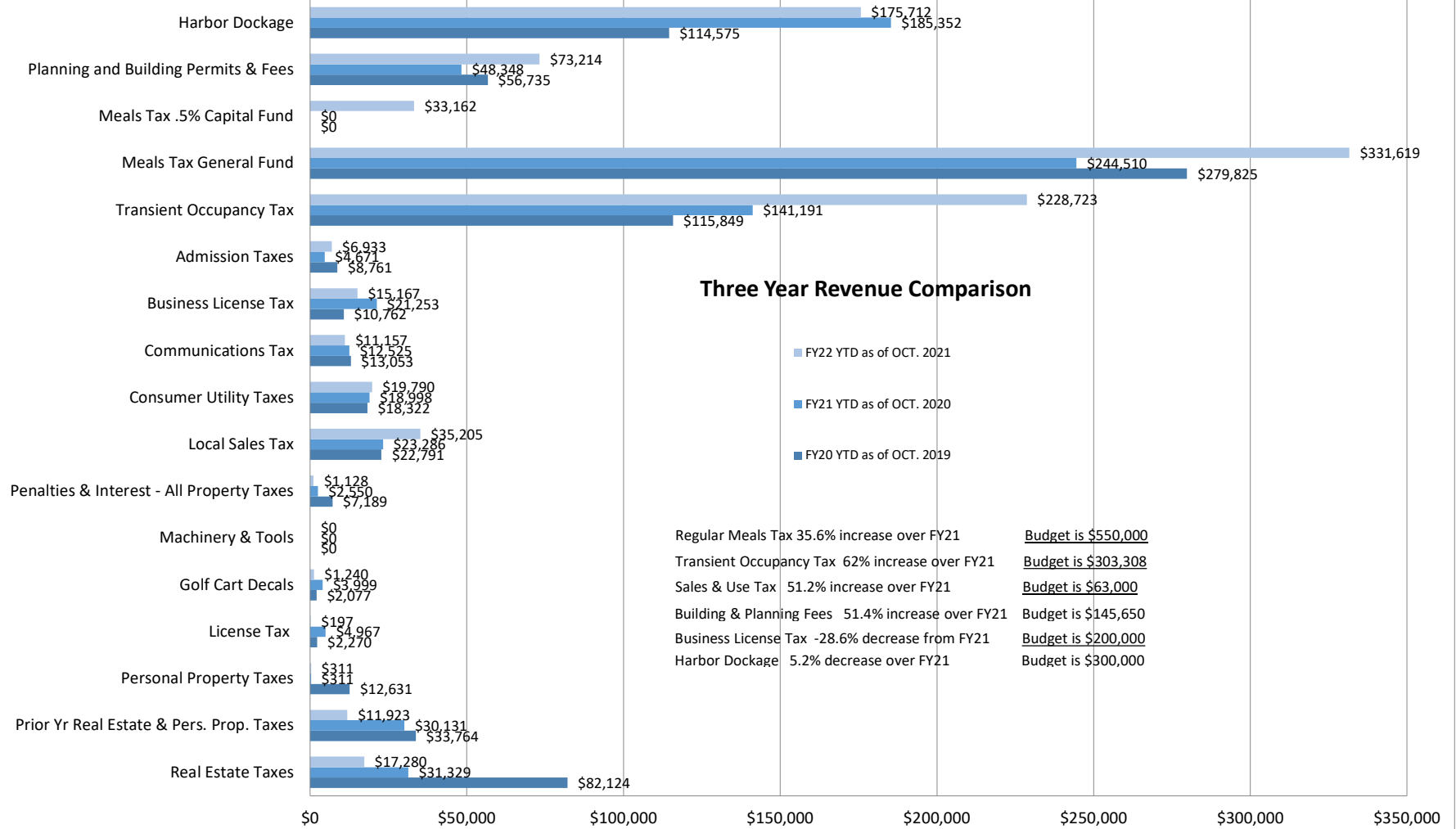
TREASURER'S REPORT

October 31, 2021

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 FY22</u>
PUBLIC UTILITIES						
REVENUE - Operating	\$37,996	\$406,815	\$486,319	\$79,503	\$1,825,021	26.65%
EXPENDITURES - Operating (less facility fees rsrvd)	\$89,468	\$182,857	\$286,854	\$103,997	\$993,224	28.88%
NET	(\$51,472)	\$223,958	\$199,465	(\$24,493)	\$831,797	
REVENUE - CAPITAL GRANTS, LOANS, DEBT SVC	\$120,587	\$341,121	\$163,100	-\$178,021	\$104,751	155.70%
REVENUE - FACILITY FEES	\$10,600	\$176,200	\$127,200	-\$49,000	\$254,400	50.00%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, & FACILITY FEES	\$131,187	\$164,921	\$290,300	\$125,379	\$936,548	31.00%
TOWN CONTRIB. & PENDING GRANTS	\$0	\$0	\$0	\$0	(\$831,797)	
HARBOR						
REVENUE - Operating	\$58,299	\$542,158	\$414,944	-\$127,214	\$833,500	49.78%
EXPENDITURES - Operating	\$50,843	\$368,219	\$337,931	-\$30,288	\$772,500	43.75%
NET	\$7,456	\$173,939	\$77,013	(\$96,926)	\$61,000	
REVENUE - GRANTS & LOANS	\$30,754	\$0	\$30,754	\$30,754	\$0	#DIV/0!
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$33,094	\$0	\$33,094	\$33,094	\$102,657	32.24%
EXPENDED - Capital Projects, Debt Svc	\$0	\$94,314	\$33,094	-\$61,220	\$163,657	20.22%
TOWN CONTRIB. & PENDING GRANTS	\$30,754	(\$94,314)	\$30,754	\$125,068	(\$61,000)	
SANITATION						
REVENUE	\$20,729	\$67,528	\$81,952	\$14,424	\$390,595	20.98%
EXPENDITURES	\$18,864	\$64,980	\$70,448	\$5,467	\$390,595	18.04%
NET	\$1,865	\$2,548	\$11,505	\$8,957	\$0	

Three Year Revenue Comparison





TOWN COUNCIL
Work Session
Cape Charles Civic Center
December 16, 2021

Immediately Following the Public Hearing & Regular Meeting

At 8:14 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock and Town Clerk Libby Hume. There were no members of the public in attendance.

WORK SESSION DISCUSSION:

FY 2022 Mid-Year Budget Review

Town Manager John Hozey began by stating that the revenue came in above budget, especially meals tax, transient occupancy tax, building & zoning fees and charges based on data through November 2021. The increased revenue could be appropriated up to the amount needed to balance the anticipated changes in the departmental expenditure budgets. He went on to summarize the proposed changes:

- Restructuring two departments and pay brackets
 - The most serious was the police department. One officer recently resigned mostly due to the pay. Pay bands were created for Officer 1, Officer 2 or sergeant, and Officer 3 or lieutenant. The current officers were being placed on the scale based on years of service, using a multiplier of 2.5 per year of service.
 - The other critical area was public works. Minimum wage would be increasing in a few weeks. The Town could not compete with McDonald's, etc. He was working to revamp the department to include succession planning. Ralph Bowen was currently in the utility department but would be moving to public works. He was incredibly talented, was getting offers from other entities, but wanted to stay with the town. He would become the public works foreman and would be trained to take over for John Lockwood when John retired in about two years. The pay bands would be 1 for a Maintenance Specialist, 2 for Maintenance Specialist II to work under the foreman. Similar to the police department, employees would be placed on the scale based on years of service with the same multiplier. The plan was to add needed structure to the department.
 - A new regular part-time position was being created in the public works department. The seasonal employee, Joe Gittinger, would be moved to a regular part-time employee. Joe had an incredible spirit and was a hard worker. This would be a good change for him and the town. He would receive a pay increase in January due to the increase in the minimum wage.
 - The total annual cost for the proposed changes including benefits would be about \$93K.
 - The changes would be effective upon Council approval of the budget amendment. A public hearing was required and would be scheduled for January 6, 2022 with a special meeting following.
 - Councilman Grossman asked when the other departments would be updated. John Hozey responded that he would work on it but did not currently have the time to do so.
- Additional funding was needed in the Planning Department to cover the historic district design guidelines update. \$60K was budgeted for the comprehensive plan update, but nothing for the historic district guidelines. We were estimating that \$41K of the budgeted

amount would be spent this fiscal year. The remaining \$19K plus an additional \$35K should cover the historic guidelines. Funding was also included for the increased need for public hearing advertising. The comprehensive plan update was originally approved in the Town Manager budget but was being moved to the Planning budget.

- The Community Trail Phase 3 had a long history. The initial bids came in too high. The project was amended, and we were hopeful to go back out for bids. With the current environment of supply chains, he expressed his concern that the bids would come in over budget again. John Hozey stated his preference for a capital project fund contingency reserve. When a project was closed out, any remaining budgeted funds would be moved to the contingency reserve for use by another project if needed. There was \$25K in the fund now and he proposed adding an additional \$50K to be transferred from the General Fund to the Capital Projects Fund under contingency reserve.
- Code Enforcement. We have received numerous complaints regarding a number of properties in Town in deteriorating conditions. It would cost an average of \$10K per property to shore up the structures. The issues could not be addressed since funding was not budgeted. \$50K was being added to the Code Enforcement budget for this purpose. The most problematic property was the blue structure on Randolph Avenue by Town Hall which was close to becoming a demolition by neglect. The cost for this one property was estimated to be about \$150K and no funding was added to the budget at this time. A strongly worded letter was sent to the property owner but per the Code of Virginia, the property owner has 90 days to take corrective action. In the meantime, staff would be meeting with our state representatives to assist the Town with legislative changes which would provide us with greater enforcement ability. There was some additional discussion regarding a number of properties.
- Harbor Fund. An additional \$20K was being added to complete the repairs to the dock which sustained damage after being hit by a vessel, believed to be a barge. The underwater structure was fine but bolts came loose causing the corrugated steel to fall. Unfortunately, the damage was not covered by our insurance policy. The repairs needed to be completed before the winter storms.
- Utility Fund. i) A notice of violation was received for the wastewater treatment plant, but the fine had not yet been assessed; ii) In 2009, the former director of public utilities developed a plan to monitor the water usage and was supposed to have tracked it through the years. Unfortunately, the numbers had not been tracked. Scottie Neville received a notice asking for the report which did not exist. We would provide the information we had available but anticipated potential fines; iii) The phosphorus numbers were exceeded last summer, but no reason could be determined. If the Town was over the limit for the annual average, another find would be assessed; iv) John Hozey recommended not proceeding with the majority of the capital projects for the utility system until a determination was made regarding the potential sale. \$100K was being moved to the utility contingency line, which could be used for any assessed fines; v) Bay Creek was submitting their projects faster than staff could review it. Each time the zoning administrator signs off on a subdivision plat, she had to attest that the Town had enough water capacity to accommodate the new subdivision. Without a study being performed, we currently could not determine whether there was enough capacity or not. Each connection also affected the annexation agreement. \$25K was being added to both the water and wastewater budgets for a capacity study. Bay Creek also put together a scope of work to hire an engineer for a modeling study. The scope of work was almost identical to the Town's. With Council permission, staff would like to work with Bay Creek to share the costs. Bay Creek would spend \$50K for the modeling and the Town would spend \$50K for analysis. A cooperation agreement would be drafted to outline the work and the joint ownership of the materials. There was a general consensus to move forward with an agreement to cooperate with Bay Creek for this project.

Councilman Follmer recommended an increase to the town manager salary adding that John Hozey had been doing an exceptional job and due to budget restraints last year, the contracted increase was not given. Council expressed their agreement with this recommendation.

Council proceeded to review the budget detail by page and the following was discussed: i) Mayor Dize recommended that a portion of the lease revenue from The Shanty (page 5) be moved to a new budget line for parking lot maintenance. Councilwoman Holloway expressed her agreement. John Hozey stated that parking lot maintenance would be added as a new expenditure line; ii) \$30K was added in the Public Works budget for grounds maintenance. This was due to price increases and more areas/items needing maintenance. Citizens for Central Park wanted to add flower beds in the park which would have to be maintained by the Town. We always had issues with the irrigation system so watering would have to be done manually. A number of projects began with volunteers, but the Town always ended up having to take over the maintenance. John Hozey expressed his concern regarding this issue adding that the contract would be bid out after the first of the year. The public works crew could not continue to mow the grass, weed flower beds, and perform the multitude of other necessary tasks around the town. If we wanted the Town to look good, we would have to include funding to maintain everything. Councilman Follmer suggested obtaining input from the merchants for the request for proposals so they would know what would be included in the contract. There was further discussion regarding items the property/business owners should be responsible for and those the town needed to maintain; iii) The community events budget would be moved into the town manager budget for FY 2023 since it was no longer a department; iv) John Hozey and Deborah Pocock met with representative from the Cape Charles Yacht Center (CCYC) to review the first year under the management agreement. Both the CCYC and the Town made money. The management services expenditure was increased in relation to the increased revenue from dockage fees (page 28); v) A long term capital plan would be developed for the harbor. The current projects came in below budget so the extra funding of about \$21K was being moved to the repair & maintenance supplies budget line for routine repairs and maintenance (page 29); vi) The cost for waste disposal increased about \$7K with the new contract, but the fees to residents could not be increased mid-year. The cost of the contract increases plus additional costs to purchase replacement trash receptacles would be transferred from the sanitation fund balance, reducing the fund balance to approximately \$82K (page 30).

There was some additional discussion regarding the fishing pier repairs, beach access and sand replenishment.

Council was in concurrence to move forward with a public hearing on the FY 2022 budget amendment on January 6, 2022.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adjourn the Town Council Work Session. The motion was approved by unanimous vote.

The meeting adjourned at 9:36 p.m.

Mayor Dize

Town Clerk



**TOWN COUNCIL
Executive Session
Cape Charles Civic Center
December 16, 2021
Immediately Following the Work Session**

At approximately 9:40 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, and Town Clerk Libby Hume. There were no members of the public physically in attendance and 3 viewers on Facebook during the open portions of the meeting.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711 of the Code of Virginia for the purpose of: Paragraph 28: Discussion or consideration of information subject to exclusion in subdivision 11.b. of Section 2.2-3705.6 – Information provided by a private entity to a responsible public entity pursuant to the provisions of the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest of bargaining position of the public or private entity would be adversely affected.

Specifically: PPEA Proposal Review and Process:

- Aqua Virginia, Inc.
- Virginia American Water

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 9:42 p.m.

At 10:33 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.

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

The open portion of the meeting resumed at 10:34 p.m.

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: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

The upcoming schedule for winter 2022 were reviewed. The following meetings/activities were discussed and scheduled:

- A Special Edition Gazette would be published the first week of January
- January 6, 2022: Public Hearing and Special Meeting regarding the FY 2022 budget amendment; Work Session regarding the personnel manual update
- January 8, 2022: Town Hall Meeting regarding the strategic plan
- January 12, 2022: Executive Session for board interviews. This meeting would begin at 5:00 p.m.
- January 13, 2022: Special Meeting regarding the PPEA process; If the special meeting did not last too long, a work session would be held regarding the strategic plan and to review the comments from the January 6 Town Hall Meeting.
- January 20, 2022: Regular Meeting. The strategic plan would be on the agenda for approval.
- February 3, 2022: Work Session regarding employee benefits
- February 16 & 19, 2022: Town Hall Meetings re: PPEA process
- February 17, 2022: Regular Meeting
- March 3, 2022: Work Session regarding the FY 2023 budget

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

The Executive Session adjourned at 10:44 p.m.

Mayor Dize

Town Clerk