TOWN COUNCIL
FY 2022 Budget Public Hearing, Regular Meeting, Executive Session & Emergency Preparedness Training
Cape Charles Civic Center
June 17, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing for the Fiscal Year 2022 Budget, Regular Meeting, Executive Session and Emergency Preparedness Training 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, Treasurer Deborah Pocock, Chief Jim Pruitt, Community Relations Manager Jennifer Lewis, and Town Clerk Libby Hume. There were six members of the public physically in attendance, and 14 viewers on Facebook.

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

PUBLIC HEARING

Mayor Dize read the public hearing advertisement for the fiscal year (FY) 2022 proposed budget, tax and utility rates.

Town Manager John Hozey stated the following: i) There was a technical change to the budget regarding the American Rescue Plan Act (ARPA) funds. The revenue was initially expected during FY 2022, but staff received notification that the funding would be received during FY 2021. A change would be made to move the ARPA funding from FY 2022 to a reappropriation from FY 2021; ii) He met with some members of the community regarding the transient occupancy tax (TOT) proposal, and they asked him to provide the TOT rate necessary to capture the same revenue as the proposed TOT rate increase to 4.0% and the flat rates. The TOT rate needed to get the same revenue was 6.14% and the mean rate for Towns in Virginia was 5%. The alternative to increasing TOT was a real property rate increase of an additional 2.6 cents per $100 of assessed value, which would equate to just over $104 per year on a house assessed at $400K. This would be an increase of 24% over the current rate. Should the Town Council approve the budget as proposed, the TOT increase would not take effect until January 2022 which was after the end of the current season.

Councilman Buchholz added that TOT was a pass-through tax, but real property tax impacted every homeowner.

Anne Vantine

Ms. Vantine stated that she was a co-owner of a duplex. One side was currently being rented and the other side was being renovated for rent after the summer. The problem was that renters balked at fees but had less of an issue with taxes. Rental websites, such as VRBO and HomeAway, considered fees as income. Vacation property owners would be taxed on the flat fee as income so they would not be able to fully pass on this fee. She concluded by stating that she felt the percentage was fine but had issues with the flat fee.

Maria Raphael

Ms. Raphael addressed Council regarding real property taxes which were based on assessed value stating that Cape Charles had seen an exponential increase in new housing construction. She was curious as to how many certificates of occupancy had been issued since 2012 as the assessments go up once the dwelling was constructed. Northampton County had increased assessments astronomically. A year after she moved in, the assessed value of her dwelling went up 75%. She was informed by the County that they use the MLS as a base for reassessments. She expressed her concern about the Town's statement that it had not increased taxes in over a decade. While the percentage per $100 of assessed value may not have gone up, the amount of revenue brought in by the real estate tax had and continued to grow given the growth in Cape Charles. The proposed budget was almost $1.6M over the 2019 budget and $3.4M over the 2020 budget, which she understood given the reductions for COVID. Nowhere in the budget did it show where the wind fall from 2020 went. The proposed budget showed a 197% increase for the town planner expense over 2020 and 106% increase over 2019 which seemed astronomical in budgetary terms. It also indicated that, as Councilman Buchholz stated and if done as John Hozey stated earlier, the permanent homeowners would bear the costs of commercial occupancies. She questioned why the commercial water and sewer rates were the same as the residential rates. She reiterated her feelings that it was such an astronomical increase in the taxes given that it didn't take into account the new assessments.

Barbara O'Hare
Ms. O'Hare addressed the Council as a representative from the Cape Charles Tree Advisory Board and asked Council to budget $1K for the Public Works crew to plant native trees in high priority public spaces. (Please see attached.)

Town Clerk Libby Hume read 15 comments submitted in writing prior to the meeting. (Please see attached.)

Councilman Follmer stated that there was a common misunderstanding regarding equalization. A common perception is that our tax rate has stayed the same. Citizens did not understand the equalization aspect. The Town's rates had actually gone down over the years. He asked Treasurer Deborah Pocock to explain equalization.

Deborah Pocock stated that when the assessments were received from the County, staff examined them to see if the tax revenue would be more than 1% of the previous year. If it was, it was considered a tax increase. Over the last 12 years, the Town Council had elected to reduce the tax rate to get the same revenue plus 1% only. Not only had it not been a tax increase, but it was actually a net decrease. The Town allowed for a little bit of growth, but it was not as much as the Town would have realized if we would have been able to increase naturally.

A citizen in attendance asked about the additional revenue from new construction.

Deborah Pocock responded that the assessments received were as of January 1st, so most new construction would not be picked up until the next year. When the projected budget revenue was calculated, staff added an estimated amount for new construction. Meals tax and TOT were handled similarly in that a percentage was added to the projected revenue for growth. Estimated growth for all were already factored in when considering the net loss for the year.

There were additional comments as follows: i) Councilwoman Holloway added that she felt there was a misunderstanding of the process and wanted to make sure that everything was explained. There were a lot of assumptions made that the Town was reacting to 2020 and 2021 with COVID. There was much history going back to 2014. Council held public work sessions to discuss the proposed budget and various options, but no one knew that. She felt that it was incredibly valuable that people submitted their thoughts; ii) Councilman Buchholz commented that the citizens did not need to worry about scooters coming to Town. John Hozey added that a company approached the planner and scooters would not be an issue; iii) John Hozey went on to state that if someone was just looking at the bottom-line budget numbers, it was an extraordinary year with grants. An $800K grant was received which was a pass-through to businesses. All grants were included in the bottom line and were shown as coming in then going out, so this budget could not be compared with previous years; iv) Councilwoman Holloway informed the citizens that their comments would be reviewed by Council and staff.

There were no additional comments received in writing prior to the meeting nor during the public hearing.

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

The public hearing portion of the meeting closed at 7:20 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

There were no visitors to recognize nor any presentations.

PUBLIC COMMENTS:

Terry Strub

Ms. Strub addressed Council regarding boat trailers, boats, and oversized vehicles parked on town streets. (Please see attached.)

Town Clerk Libby Hume read one comment submitted in writing prior to the meeting. (Please see attached.)

There were no additional comments received in writing prior to the meeting nor during the public comment period.

CONSENT AGENDA

A. Approval of Agenda Format
B. Approval of Minutes:
   i. May 13, 2021 Town Council Work Session
   ii. May 20, 2021 Town Council Regular Meeting & Work Session
   iii. May 25, 2021 Town Council Work Session
   iv. June 1, 2021 Planning Commission/Town Council Joint Public Hearing
C. Approval of April 30, 2021 Financial Report

Vice Mayor Bennett stated that he had a question about the financial report and asked that it be pulled from the consent agenda.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to pull the April 30, 2021 Financial Report from the Consent Agenda and approving the remaining Consent Agenda items as presented. The motion was approved by unanimous vote.

Vice Mayor Bennett asked about the Harbor revenue. The Revenue & Expenditures Report showed a net of $145K. The Three-Year Revenue Comparison Report showed this year's revenue almost double that of last year and he was having difficulty putting the numbers together.

Deborah Pocock stated that the differences related to debt service which was subsidized by the General Fund. The Harbor was doing well and paying part of their debt service and the height of the season was just beginning. The Revenue vs. Expenditures Report was complicated since it split out grants from other expenses.

Additional discussion regarding this item followed. John Hozey stated that he met with Cape Charles Yacht Center this week and asked them to work on capturing specific information in their new software. We needed to track occupancy revenue and could not compare rates. Heads needed to be counted. Going forward, we needed hard numbers of actual occupancy rates to better track the numbers to see if the rate increases were affecting occupancy.

Councilman Buchholz added that it seemed to be busier than in a long time. Boaters were there during the week as well as over the weekends.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to approve the April 30, 2021 Financial Report as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

A. *Cape Charles Zoning Ordinance Amendments:*

John Hozey stated that a joint work session was held with the Planning Commission and Historic District Review Board and proposed amendments to Articles II and VIII were drafted. A joint public hearing was held with the Planning Commission on June 1, 2021. The Planning Commission conducted a thorough review of the amended language and additional changes were proposed. He forwarded the proposed documents to the Virginia Department of Historic Resources (VDHR) Certified Local Government office for their review. Their only recommendation was for more robust qualifications for board members. Section 8.9 was revised per their recommendation and distributed earlier for Council review. In his opinion, most of the recommended changes provided by the Planning Commission improved and added clarification to the document. The only exception was Section 8.20.A which added a reference to Section 8.25.A regarding the pre-application process but provided no guidance for the Board. Other than this section, John Hozey recommended approval of the proposed text amendments to Articles II and VIII and recommended by the Planning Commission. Council could go through the document to discuss.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to accept the entirety of Articles II and VIII as recommended by the Planning Commission and including John Hozey's changes to Article 8.9 as a result of his discussion with the VDHR.

The floor was opened for discussion.

Councilman Follmer stated that he had a few questions and suggested changes: i) John Hozey had already addressed his first one regarding the qualifications of the Board members in Section 8.9 and he liked those changes; ii) Regarding the changes to Section 8.20.A, this was a forward-looking document, and the recommended changes did not communicate the Town Council's vision. His preference was to reinstate the deleted language from the first proposal "*The board is expected to work with each applicant to assist them in achieving their goal while preserving the character of the district.*" John Hozey asked that each additional amendment be done by vote.

Motion made by Councilman Follmer, seconded by Vice Mayor Bennett, to add back the deleted language in Section 8.20.A as discussed. The motion was approved by unanimous vote.

Councilman Follmer continued his review as follows: iii) He felt that the work "*related*" in Section 8.15.B. was too broad and vague and suggested changing the language to "*Actions addressed by the Guidelines…*"

Motion made by Councilman Follmer, seconded by Councilwoman Holloway, to revise the language in Section 8.15.B. as discussed. The motion was approved by unanimous vote.

There was further discussion as follows: i) Vice Mayor Bennett felt that the deleted wording in Section 8.16.H needed to be added back in. Councilman Grossman stated that the language was removed because it was too subjective. John Hozey added that in previous discussions, he heard that if it could not be seen from the public right-of-way, there was more latitude given to the project. Councilman Buchholz noted that several years ago, a joint meeting was held and members from the Department of Historic Resources attended, and they were fine with additions on the backs of houses.; ii) John Hozey reminded Council that this review was the first step in the process. The Town would be hiring consultants to review and update the design guidelines. Additional changes could be identified; iii) Re: Section 8.18.C.3.c., Vice Mayor Bennett commented that "*structural elements*" needed to be defined. The phrase was used multiple times in the document without definition. He was a structural engineer, and, in his world, structural elements were floor joists, etc. that could not be changed or seen from the exterior. In his opinion, anything on the exterior was all architectural except for porch columns. This item would be noted for the consultant to address; iv) Vice Mayor Bennett asked about the change regarding the appointment of the zoning administrator. John Hozey stated that the change was based on current practices of appointing a zoning administrator by motion rather than by resolution; v) Vice Mayor Bennett asked if the zoning map had ever been amended. Councilman Grossman stated that it had not been provided for Council adoption.

Mayor Dize moved for adoption of Ordinance 20210617A Adopting Revisions to Cape Charles Zoning Ordinance Articles II and VIII as amended by Council and called for a roll call vote. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

NEW BUSINESS:

A. *Code 42-3 – Adoption of State Law:*
John Hozey stated an Ordinance had to be adopted each year to accept all amendments to the provisions and requirements set by the Code of Virginia in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations. Last year, Councilman Grossman questioned the need to adopt annually. The town clerk researched this issue and confirmed that it had to be adopted annually.

Motion made by Councilman Follmer, seconded by Vice Mayor Bennett, to adopt Ordinance 20210617B to Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 16.1-278 Et Seq.) and Title 18.2, Chapter 7, Article 2 (§ 18.2-266 Et Seq.), if any, for Incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic. Mayor Dize moved for adoption of Ordinance 20210617B as noticed and forewent reading of the ordinance. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

B. *Amendments to Electronic Participation in Town Council Meetings Policy:*
John Hozey stated that the General Assembly amended Code of Virginia Section 2.2-3708.2 relating to electronic participation in meetings. The General Assembly added a provision for members of the public body to participate electronically due to a family member's medical conditional that required the member to provide care for such family member, preventing them from physically attending the meeting. The number of permissible meetings was amended to two meetings per calendar year, which was the current permissible number, "*or 25 percent of the meetings held per calendar year rounded up to the next whole number."* Due to these recent amendments, the Town's written policy must also be amended. John Hozey added that as of today, the Town's emergency ordinance expired, and the state's emergency ordinance would expire on June 30, 2021.

Motion made by Councilwoman Holloway, seconded by Vice Mayor Bennett, to adopt the amended Town of Cape Charles Electronic Participation in Town Council Meetings Policy effective July 1, 2021. The motion was approved by unanimous vote.

C. *July Regular Meeting Date Change:*
John Hozey stated that the current July Town Council Regular Meeting was scheduled for July 15, 2021. A joint public hearing with the Planning Commission was scheduled for July 13, 2021 to be followed by the Planning Commission's regular meeting. In order to allow sufficient time for submittal of the staff report regarding the Commission's recommendation and associated documentation for inclusion in the Town Council agenda packet, Mayor Dize approved staff's request to reschedule the July Town Council Regular Meeting date to July 22nd. Pursuant to Section 15.2-1416 of the Code of Virginia, any change in the regular meeting date, time or location must be done by adoption of a resolution.

Motion made by Councilman Follmer, seconded by Councilman Buchholz, to adopt Resolution 20210617A Changing the Day of the July 2021 Cape Charles Town Council Regular Meeting. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

D. *Department of Wildlife Resources Boat Landing Cooperative Agreement:*
John Hozey stated that the last agreement expired in the fall of 2020. The agreement was for 20 years and provided that the State would pay the cost of repairs to the boat ramp, but the Town would have to provide use of the ramp to the general public at no cost. At the time, Council opted not to renew the agreement for another 20-year term. He worked with the Department of Wildlife Resources (DWR) to negotiate a 5-year agreement with the following stipulations: i) DWR would perform several deferred maintenance items this year, estimated at about $50K; ii) The Town would maintain the facility to acceptable standards; iii) The Town would be allowed to close the facility for special events for one day, twice a year. This allowance might not be available in any longer-term agreement using federal or other grant funds; and iv) Free public access. John Hozey added that this was a reasonable approach to stay in the program that could lead to a major renovation, accomplish needed repairs now, and provide time to further evaluate whether a longer-term agreement would make sense.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adopt Resolution 20210617B Cooperative Agreement for Boat Landing. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) He talked to the Cape Charles Yacht Center. They were doing a fine job. Funding was put aside to clean up the harbor area. There was also a functional place for parking. He was contacted by Canonie regarding additional space by the boat ramp for parking. He would research this and bring it back to Council if reasonable terms could be worked out; ii) The Kevcor legal issue has been resolved. VDOT transferred the funding to our account and the release of funds from escrow has been ordered; iii) VDOT approved the Town's request to reduce the speed limit on Stone Road effective June 23rd. He had requested two weeks' notice to notify the public, but VDOT would be changing the signs next week. Chief Pruitt put out the electronic sign this afternoon to notify the public of the upcoming change. The request to install rumble strips was not initially approved, but after talking to VDOT, it had now been approved, but the signs would be installed before the rumble strips were in place. He encouraged everyone to use caution in the area until accustomed to the change and the rumble strips were in place. The speed limit would be 55 MPH to Cassatt Parkway, then down to 40 MPH to Hermitage Road, then down to 25 MPH into Town. The rumble strips would be installed just east of the 25 MPH zone heading west bound; iv) There were safety concerns with the Randolph Avenue beach entrance point. The underlying wooden path was broken with sharp edges and the dunes had grown so tall and narrowed the entrance so that equipment could not access the walkway. The entrance would be widened a little to enable adequate access for repairs, which was technically against the dune plan. The Public Works crew was busy putting in playground mulch and intended to work on the beach entrance next week. It would not be a permanent fix but would make it passable. It would be repaired correctly off-season. A sign was placed at the entrance temporarily closing it, but the sign kept disappearing, as it was one of the most popular entrance points; v) The American Rescue Plan Act funding request was formally submitted and acknowledged. A work session would be scheduled to review the permitted uses of the funding. A public input session would be scheduled afterwards. Councilman Grossman noted that other localities had already published notices to hold their public input sessions. John Hozey responded that he wanted to have the work session first to go over the parameters before inviting public input on uses, but if Council preferred, he could work on the public input session first. Councilwoman O'Brien added that a business on Mason Avenue had offered space for Council to hold the public meeting. It would be a more informal location for a Town Hall meeting and might be a nice way for people to interact; vi) A request was received from A&N Electric Cooperative for Town support of a grant for electric charging stations for electric vehicles. It involved only generic support with nothing financially. He planned to submit a letter of support; vii) A notice was received today from the new K Coast Surf Shop on Mason Avenue inviting the Mayor and Town Council to a formal ribbon-cutting ceremony on June 26 at 12:30 p.m. A champion professional surfer would be there to sign autographs; and viii) He had friends coming to visit from Alaska and would be taking time off from July 5 through July 13.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer stated that he walked around the Harbor a few weeks ago and saw that area in disrepair. He went back this week and it looked so much better and safer and wanted to thank the Public Works department for doing a good job. John Hozey noted that the Town had a great Public Works team but the work at the Harbor was done by the Cape Charles Yacht Center. The Public Works manager supplied the lumber.

Councilwoman O'Brien thanked Public Works for taking care of the trees in the alley.

Vice Mayor Bennett commented on the following: i) The Town's sign on Route 13 touting the public beach and free fishing pier. Given the state of tourism, he felt that the signs could be better used for other purposes. Councilwoman Holloway stated that Cape Charles Main Street had a $10K design grant and their first idea was to redo the sign. Councilman Follmer added that he frequently had business owners and residents say the same thing; ii) He asked that the request to reduce the speed limit on Route 642 from the Bay Creek entrance to the start of the 25 MPH area be put back on the agenda; and iii) He suggested a change to the golf cart regulations to not require seat belts to get an inspection. Golf cart manufacturers did not install seat belts, and many said that it was safer if in an accident, to be able to get away from the golf cart. He had a letter from Club Car stating this. John Hozey asked Vice Mayor Bennett to forward him a copy of the letter.

Councilwoman Holloway comments as follows: i) The boat and trailer regulation needed to get back on the agenda as well for a work session. It was put off because of COVID, but we needed to get back on it; ii) She thanked Diane D'Amico and Patsy Harris for their work on the new business brochure. It had been completed and was well done. She would try to get copies for the next meeting; iii) Tonight was the first Third Thursdays event by the LOVE sign. Unfortunately, Council could not attend due to meetings. A lot of hard work was put into organizing the event and she hoped it was going well; iv) The banners that were on the lamp posts were destroyed over three years. Adjustments needed to be made to the style and size. Advice was sought from Virginia Beach. New material was being used. The banners had arrived and should be put up soon. Banners would also be placed in the Harbor and Central Park. John Hozey added that the Public Works crew was waiting for the banner arms; and vi) Cape Charles Main Street received four Northampton County Infrastructure Grants to add benches on Mason Avenue, LOVE Fests, Festive Fridays, and a golf cart path.

Councilmen Buchholz and Grossman did not have any additional comments.

Mayor Dize commented as follows: i) He thanked the citizens and staff who came out on Cape Charles Day. There was a good attendance; ii) He thanked Public Works for keeping the Town looking nice; iii) The Harbor looked nice, and the Town looked good as a whole; and iv) He thanked John Hozey and staff.

Mayor Dize read the announcements.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, 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 1: Discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specified public officers, appointees, or employees of any public body.

Specifically: Review Performance of Historic District Review Board

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.

The member of the public and staff in attendance, with the exception of John Hozey, Libby Hume and Chief Pruitt, left the room.

Council went into executive session at 8:25 p.m.

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

The open portion of the meeting resumed at 9:17 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.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Public Hearing, Regular Meeting and Executive Session and move to the Council training session. The motion was approved by unanimous vote.

The Public Hearing, Regular Meeting and Executive Session adjourned at 9:19 p.m.

COUNCIL TRAINING SESSION:

John Hozey and Chief Pruitt provided emergency preparedness training for the Mayor and Council.

Motion made by Councilman Grossman, seconded by Councilwoman O'Brien, to adjourn the Town Council Training Session. The motion was approved by unanimous vote.

The training session adjourned at 9:55 p.m.

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Mayor Dize

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Town Clerk

Comments & Information Provided in Writing
June 17, 2021 Town Council FY 2022 Budget Public Hearing & Regular Meeting

Barbara O'Hare, Tree Advisory Board

TO: Cape Charles Town Council

FROM: Cape Charles Tree Advisory Board

A member of the Cape Charles Tree Advisory Board (TAB) will be attending the upcoming June 17 Town Council meeting with plans to make a request for a small budget to support TAB initiatives in the upcoming year. The following points will be discussed:

- Request for $1,000 be added to the Public Works Department's budget to plant native trees in high priority public spaces.
- Significant commercial, residential and industrial development and re-development over the past few years has resulted in a net loss of many of our trees. The requested funds will help to reverse this trend – enhancing and increasing the town's family of trees.
- TAB is currently working on a Cape Charles Tree Planting Plan which will serve as a guide for the selection and location of new trees that would be purchased with these funds.
- The planting of new trees to replace many of those lost through development and those lost through age or disease directly supports the recently approved Cape Charles Strategic Planning Document with a vision to "Preserve our natural resources now and for generations to come." Trees support the "plan for coastal resiliency" and helps "to protect and improve public green/open space infrastructure" which are stated goals of this plan.

We are hopeful that our request for these funds will be approved.

Members of the Cape Charles Tree Advisory Board:
Joe Fehrer
Phil Goetkin
Jane McKinley
Barbara O'Hare
Christine Williams

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Pat Tinkelman
Subject: Proposed paid parking

One of the things I absolutely love about Cape Charles is that parking is free- it is something that helps maintain the small town feel of the town. As a resident, I would rather see my property tax go up a small amount than have to start paying for parking!!!!

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Tom and Bonnie Moore
Subject: Thoughts on upcoming decisions for Cape Charles
From: Tom and Bonnie Moore, owners of 206 and 208 Madison Ave.

We are aware of several decisions coming up soon regarding Cape Charles and wanted to share our thoughts and experiences with you. Thank you for taking the time to hear us out!

- We do not support paid parking along Bay Ave. and Mason Ave. It will reduce shopping on Mason Ave. It is not worth the nuisance of paying for and monitoring a parking spot, and people will use side streets to park instead. It will also be an administrative burden on the town.
- We do not support a nightly fee for tourists. Our 3-bedroom houses rent for a maximum of $335/night (less in off season), so for our guests this is an additional tax of at least 1.2%. Adding a second type of tax is an administrative burden to the town as well as vacation homeowners. Differential taxes between vacation rentals and hotels/B&B's is unfair to guests and business owners. **If you do decide to raise taxes on visitors, how will these funds directly benefit tourists/tourism?**
- A great way to improve Cape Charles while increasing town revenue is to draw visitors in the off season. Visitors generate revenue through TOT and spending at shops and restaurants. They frequent Cape Charles establishments far more often than residents and homeowners. Providing activities to draw them helps increase your revenues while making the town even more enjoyable for homeowners. Win win.

- We support fair assessments of housing prices and property taxes that allow for a sustainable town budget, even if that means increasing the rate. We have never expected property taxes to remain flat while costs for running a town increase, ESPECIALLY if we are meanwhile benefitting from the increased value of our home.
- We do not support electric scooters. We have experienced them in other towns (DC, Memphis), and they create a trashy looking town (because they're left all over), and unsafe sidewalks and streets (because they go too fast to be safe on sidewalks and too slow to be safe on streets). We have witnessed numerous accidents occur while visiting these cities. Cape Charles is completely walkable and adding scooters will not increase mobility for anyone. Additionally, the streets and sidewalks are not smooth enough for a scooter - trust us, we've tried with our kids!

Sincerely,
Tom and Bonnie Moore

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Rebekah Carrier
Subject: Taxes

We are the owners of 606 Jefferson Ave. We operate as an AirB&B. We wanted to address our concerns regarding the potential tax increase in the TOT and per night fee that is being proposed.

As you know, vacation homeowners and their customers make up the majority of the revenue for the town. By increasing the taxes on this category, prices for vacationers will increase, and this could cause a decrease in demand resulting in a net decrease in revenue for the town.

We and other vacation homeowners have experienced an increase in rentals this year. This additional volume will already result in additional revenue to the town at the current tax rate.

In addition, I call your attention to the disparity in proposed taxation rates between vacation home owners and hotels. This disparity in rates does not exist anywhere else in Virginia and is inherently unfair to your largest revenue source.

We request the following:
1.) No increase in taxes for vacation homeowners or their customers
2.) Parity between vacation homeowners and hotels
3.) A detailed review of the current budget (there appears to be several line items that could be decreased or eliminated)

Have a great day,
Rebekah Carrier

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Beth Hals
Subject: Issues regarding upcoming vote

To whom it may concern,

In light of some of the issues coming up for a vote:

- As of the fall of 2020, we have become repeat visitors to Cape Charles and adore this beautiful little town. When we're visiting, we always visit the shops on Mason, multiple restaurants and dessert places, rent a golf cart, and of course visit the beach and playground. We rent a vacation home when we come because there's more space for our small children and extended family.
- Paid parking on Bay Ave. and Mason Ave. would be a burden and would keep me from frequenting the shops on Mason Ave. I would likely seek parking on side streets before taking the time and energy to attempt to pay and monitor a parking spot on Bay Ave. or Mason Ave. We also worry our elderly family members would have difficulty navigating a paid parking system, which might dissuade them from stopping in the shops.
- Charging a nightly rental fee of $4 for vacation rentals feels like nickel-and-diming visitors. We understand if the transient occupancy tax (TOT) needs to increase slightly, but both increasing the TOT as well as adding a nightly fee is too much. The rentals we stay in are less than $400/night, meaning the proposed nightly fee is more than 1% tacked on to the cost of my stay. We love Cape Charles, but if vacationing there becomes too expensive, we will consider vacationing elsewhere. Increasing taxes for visitors should directly benefit them.
- We do not want the option of electric scooters in town. They create cluttered sidewalks and unsafe pedestrian and street traffic issues, especially when walking with young children. The town is so small

that they are not necessary for getting around and the sidewalks and streets are not maintained well enough to safely use a scooter.
- We would love more events outside of the summer season to draw us to Cape Charles. Every time we're in town, we visit many shops and restaurants, and would love to see Cape Charles thrive outside of the summer season.

Thank you,
The Hals Family - Columbia, Maryland

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Phillip and Jordan Dail

As a business owner on Mason Avenue as well as the owner of two vacation homes in town we have great concern about the proposed increase in the TOT and the addition of the flat rate fee applied with discrimination to vacation homeowners.

Firstly, we feel the town is taking a narrow-sighted approach to increasing the taxes based revenue that was collected in 2020 and the budget deficit due to Covid-19. The same members of council and the town manager who denied homeowners the ability to rent their homes in the spring of 2020, closed the beaches for any activity during the same period (above and beyond what was done by the governor), and canceled Festive Fridays are now facing the financial consequences of these decisions. The town has admitted that the property taxes were not properly raised to keep up with the increasing house prices. Why are the vacation owners being held responsible for this lack of planning and mismanagement of the town finances? We respectively request that they reconsider a rash move to increase taxes because of these actions.

Our vacation rental homes are a small business, and all of these small businesses' lost thousands of dollars last year due to the governor and the town's lock downs (Without firm numbers I hesitate to guess, but I would not be surprised if it reached in the $500,000-$1,000,000 range of revenue loss total). Most of the vacation rentals did not qualify for the loans and grants offered by the government to help off-set revenue lost during Covid. Unlike the town, who just received almost one million dollars to help cover deficits and loss, we had to absorb these losses in revenue personally. Many of us feared losing our homes to foreclosure if the tourism did not return. It is ridiculous to assume that all the vacation rentals are "cash cows" with deep pockets to pull from. We have restoration costs, maintenance and upkeep (for 100 + year old homes), bills, taxes, cleaning fees, and hefty mortgages to pay. We are families, many young and still working full-time, needing the rent revenue to pay the basic costs and many vacation owners never see a profit (especially after the 2020 season).

If taxes need to be increased at all, we are only in favor of increasing the TOT tax by a small percentage, rather than adding the flat rate tax added to the per night stay. There are several reasons the flat rate fee does not help the town and the homeowners nor does it treat the rental avenues fairly. Why are bed and breakfasts and hotels treated differently (In the entire state of Virginia, only 6 cities impose a flat rate fee, and only Cape Charles would distinguish between types)? Why are all vacation rentals treated the same across the board? Some vacation rentals are only 1 or 2 bedrooms but would pay the same flat rate tax as the other larger homes. This does not make logical sense nor is it fair to those who have smaller homes. Another reason the flat rate tax is not a good choice is that is adds another avenue of responsibility to the vacation renters to keep track of and pay. We are already burdened by all the state, local, and county taxing and the required accounting. It also would add a new system that the town will have to manage which would cause an increase in staffing needs and a computer tracking system of some sort.

It is vitally important to have places to stay and eat for vacationers is for the businesses on Mason Avenue and the Cape Charles economy. Vacations are getting more and more expensive, and people choose Cape Charles based on its affordable vacation homes and quaint main street. But we should be careful to not get too comfortable. Last year we enjoyed a boom in tourism (after rentals resumed and the beaches opened) when people were forced to cancel their other vacation destinations in bigger cities or trips that required a plane flight. I fear we may kill the "Golden Goose" before it actually comes to fruition by making it too expensive to stay. Once Covid is no longer a factor, will tourists choose more exotic locations with more amenities to offer, places with more restaurants with shorter waiting times, and more activities? Cape Charles lacks many things that other towns and cities offer and we should be careful not to chase away our chance to make life long tourist-customers with high prices of food and lodging. The town should be focusing efforts to make our town a wonderful destination by helping individuals open businesses, especially restaurants and looking for ways to meet the needs of this industry that is suffering. The restaurant industry needs some serious care and concern as we bring more folks in town. In turn the town will also reap the benefits of the meal tax increase and the sales tax when tourists shop and eat. My husband and I have recently dined at a local favorite restaurant and had a terrible experience (the food was horrible and expensive-this was off season and we didn't wait 3 hours for a table like our guests will this summer). With the staffing issues and the lack of restaurant choices we worry that vacationers won't return and will choose other localities with more to offer.

Without vacation rentals there would be no place for our customers to stay. Without customers we will go out of business. Without restaurants there would be nowhere for tourists to eat. We have a very symbiotic relationship that requires all things to work. Please keep all perspectives in mind while you implement taxes that will have repercussions for years to come.

Sincerely,
Phillip and Jordan Dail
Co-Owners 117 Randoph
Owners 202 Madison
Owners Cape Charles Candy Company
Owners Red Truck Candy Company, Norfolk, Virginia

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VACATION HOMEOWNERS
OF CAPE CHARLES, VA

Dear Town Council,

We are a group of homeowners in Cape Charles who rent our homes out to vacationers. We are license-holding, rule-following vacation homeowners in the Town of Cape Charles that seek to foster community building and good neighbor behavior. We love Cape Charles and love sharing our homes with friends and contacts who enjoy spending time (and money) in Cape Charles.

Examples of our work as a group include donating $1,500 to Cape Charles Main Street's Festive Fridays (3rd highest donor after Bay Creek and Simpson Builders), raising $2,409 for Cape Charles Citizens for Central Park's 2021 Summer Concert Series, and collaborating with the Town a graphic for golf cart rules to be distributed throughout town. We are also planning several public events for all of Cape Charles, for example The First Day on the Bay (Jan 2022), which has received funds via a Northampton County tourism grant.

We are concerned about the proposed increase in the Town's Transient Occupancy Tax, in particular the differential nightly rate for hotels and bed & breakfasts compared to vacation rental properties. **If Town Council determines that an increase in taxes is warranted, we ask that it be applied uniformly across types of rentals by an increase in the percentage and not through a nightly fee.**

The Proposed Nightly Fee Treats Some Rentals Unfairly

The proposed nightly fee is based on the incorrect assumption that vacation home rentals are four-bedroom houses. Based on an analysis of Airbnb properties in Cape Charles, the average property on Airbnb (excluding B&B rooms advertised on Airbnb) is 3.38 bedrooms. This includes one-bedroom properties and two-bedroom properties that would be subject to an unfair $4 per night fee that does not accurately reflect the nature of their property. This fee would treat smaller vacation properties in town unfairly.

Also, it is our experience that 3, 4, or 5 bedroom houses are often rented by one couple. The number of bedrooms does not necessarily reflect the number of people staying there. So, charging a higher per night fee would impact these visitors unfairly.

The proposed fee also does not consider the aspects of hotels in town. For example, the 750 sq. ft. loft rooms at Hotel Cape Charles with an eat-in kitchen are larger than several rental homes in town that are 500-600 sq. ft.

The nightly fee would also leave tax revenue on the table by not taxing more expensive properties at a percentage rate. A $4 per night fee is equivalent to a 2% tax on a rental that charges $200 per night but is a 0.8% tax for a rental that charges $500 per night. This provides a benefit for larger home rentals compared to smaller home rentals.

The nightly fee would also provide a lower tax rate for hotels and bed & breakfasts compared to vacation home rentals. A bed and breakfast that has four rooms booked will take in $968 in room rates and will pay a total of $4 in nightly fees (0.4% tax rate) while a 2 BR rental that charges $175/night will also pay $4 in nightly fees (2.3% tax rate). This type of differential treatment is unprecedented in Virginia and should not be done here in Cape Charles.

If a TOT tax increase is necessary, we ask that you increase the tax rate and not impose a nightly fee.

A 4x Nightly Fee is a Poor Proxy for Increased Demands on Services

One justification for a nightly fee for vacation homes that is four times higher than other properties is that vacation homes create additional demands on services from the Town. First, we disagree that our visitors create additional demands on Town services; in some ways, vacation rentals may lessen the demands on Town services than if these visitors were concentrated at hotels. Second, we care deeply about the Town and want to be good neighbors, so would welcome the opportunity to discuss with the Town ways that we can improve Town relations.

A flat $4 fee treats every vacation rental the same when they are not. A 1 BR bungalow will not have the same needs as will a home in Marina Village, yet the nightly fee treats them the same. The more accurate proxy for size of the property and number of visitors is a percentage rate applied to the nightly rate -- not an arbitrary flat fee. The nightly rate for the accommodations will naturally take into account the size of the property, the number of visitors, and the time of year. A percentage tax is fairer and more equitable than a flat fee and will take into account the unique aspects of each property.

Tax Collections Will Likely Increase Significantly in 2021 Without a Tax Increase

We all know that 2020 was a year unlike any other. For a big part of the year, the Town was shot down to short-term rentals, significantly impacting TOT tax collections. As we return to normal in 2021, we are expecting to see a significant increase in TOT tax collections because of increased rental activity in the Town throughout the year. Anecdotally, we have seen increased interest in renting in Cape Charles outside of the peak summer months.

It is quite possible that this increased business could bring in the desired additional revenue without having to increase the tax rate. **We ask you to wait until the 2021 tax revenue picture is clearer before increasing tax rates.**

Increased Taxes Will Make Vacationing in Cape Charles More Expensive

Renting in Cape Charles is already subject to 11% taxes, which will soon go to 12%. This includes the Town TOT of 3.7%, Northampton TOT of 2%, 5.3% in sales taxes, and the anticipated additional 1% in sales taxes for local schools.

Taking a summer vacation is not an inexpensive venture, and it can be one of the most expensive items in a family's annual budget. We want Cape Charles to be an accessible, affordable vacation destination. Many of our visitors are young families looking for an economical getaway; not a lavish vacation. Yet Cape Charles competes against locations in Delaware, Maryland, Virginia, North Carolina, and South Carolina for vacationers.

An extra $28 in nightly fees for a week at the beach should not be taken lightly. This is money that they can't spend at Brown Dog, The Shanty, or Cape Charles Candy. We want them to be able to take a vacation and still have money to spend in the Town's stores and restaurants -- which will bring in additional sales and meals taxes.

Our Common Goal Should Be to Increase the Appeal of Cape Charles

For many years, Cape Charles was primarily a summer destination. In recent years, we have seen gradually increased interest in coming to Cape Charles during the "shoulder season" and "off season." Unlike the hotels that close for the winter, many of us offer accommodations throughout the year. This year, our First Day on the Bay event will aim to get visitors to town (and spend money) during the winter when visits are usually at their lowest.

The most impactful thing that we can do to raise more TOT revenue is to get people to come to Cape Charles in the off-season when they would otherwise not. A home or B&B room that sits empty collects nothing in TOT, but if we can convince visitors to come during the winter months, that is when we will see big jumps in TOT collections.

We would like to work with the Town on making Cape Charles a more attractive year-round destination. If more visitors come to town, businesses like our shops and bakeries will have the incentive to be open throughout the week, have better hours, hire more employees, and will generate more tax revenue in the process. It will also generate interest in new businesses coming to town to serve the year-round population -- increasing the quality of life in the Town for everyone.

In summary, our two main asks are as follows:

1. We ask you to wait until the 2021 tax revenue picture is clearer before increasing tax rates.
2. If a TOT tax increase is necessary, we ask that you increase the tax rate and not impose a nightly fee.

We appreciate your time and look forward to your partnership.

Best regards,
The Officers of Vacation Homeowners of Cape Charles

Phillip Dail
President
117 Randolph Avenue
202 Madison Avenue

Scott Faircloth
Vice President
216 Monroe Avenue

Ahren Foster
Secretary
125 Strawberry Street

Sarah Fullam
Treasurer
508 Plum Street

Jeff Palmore
Legal
618 Randolph Avenue

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Gary & Shiela McKinney
Subject: Proposed TOT Increase

As full-time residents of Cape Charles, we ask you not to increase taxes on vacation home rentals. Like many residents, we first came to Cape Charles on a vacation, and we fell in love. We now make Cape Charles our full-time home, and we appreciate the value that vacation home rentals bring to our town.

Vacation home rentals bring a steady stream of visitors to Cape Charles that shop in our stores, eat in our restaurants, and patron our other businesses. Cape Charles is able to sustain businesses that could not exist but for these vacation rental visitors. Ice cream shops, candy stores, surf shops, and restaurants cannot survive on full-time residents alone.

We are especially troubled about singling out vacation houses for a higher per night fee than hotels and bed & breakfasts pay. We should be welcoming these visitors to our wonderful town and encouraging them to spend money in our shops and restaurants -- not hitting them with higher, unfair taxes. A percentage tax that applies equally across the board makes much more sense.

Thank you,
Gary & Shiela McKinney
14 Bay Avenue
Cape Charles, VA 23310

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Dawn Dail
Subject: Increase of taxes

We originally "discovered" Cape Charles in 2012. We were looking for a place to spend time with our small extended family that was fairly close (no planes), where we could congregate in one area for evening and breakfast (not a hotel) and that had a family friendly atmosphere (no Myrtle Beach). Cape Charles seemed to meet all of those requirements. After our first experience we were hooked and rented the same house for 2 more summers since there wasn't much else available that would fit our family.

The town was very run down, with many houses severely in need of restoration or demolition, the school was boarded up and there were very few places to eat or shop. In spite of this, the experience of a beach town without all of the big city problems convinced us to invest in a house on Randolph Ave. We poured our lives into the restoration of that old house, working night and day until it was once again the beauty it was originally. We were not the only ones who saw the potential of, not only these houses, but Cape Charles, itself. In short, we, the short term rental home owners, believed in you - the community of Cape Charles - enough that we were willing to invest in you. We were willing because we saw a vision of what the town could be and wanted to save what we could before there was nothing left to build on. ...and it worked! People took notice and told friends, HGTV profiled the town and its wonderful benefits and the town began to flourish all while retaining its small town charm.

Without all of the hard work, investment of money and vision of the short term rental owners it couldn't have happened as it did and the city council would now be searching for funds to keep a town running that was falling into serious decline. And, now, after all of this, the city council is planning to punish these same homeowners by raising the taxes on these houses in an exorbitant fashion. The way that the taxes are being levied is clearly meant for the short term rental owners to bear the largest load of the tax burden.

Although the hotel and bed and breakfasts rely on tourism just as much as the short term owners, they will enjoy the benefit of not having to share that tax burden. The residents of the town are also enjoying the benefits of the increased tourism since all of the businesses and rentals bring in money for the town that they do not have to cover.

With the houses full and the businesses busy, it would seem logical that Cape Charles has already seen an increase in revenue as never before. If there is a shortfall, then consider a small increase overall for everyone. Don't make it more expensive to vacation here. Tourists can go anywhere but their visits here are what will keep this town thriving.

Please reconsider the way that you are planning to tax all of us. Our homes and businesses are an essential part of this town and we love being a part of it but pursuing the large tax increase on only the vacation rental owners is a very discriminatory tax seems like a punishment not a business decision.

Thank you for considering our concerns,
Dawn Dail
117 Randolph Ave.

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Janet Coggins
Subject: cape charles visitors

I heard that several issues were coming up for discussion, and as a frequent visitor I wanted to share my opinions with you.

We have been coming to Cape Charles for several years now - (driving from Alabama to meet up with family from VA).

We love the small town feel and the clean and safe vibe the town has. The beach is perfect for families and we especially love to watch the sunsets.

We always rent a vacation home to accommodate our large family and it gives us lots of options to play in the yard and cookout, etc.

I don't think there needs to be any more fees tacked onto the cost of our rentals, they are high enough already!

I think all parking should remain free, surely this will help keep traffic up at the local businesses. We love to just pop over for shopping and dining, and it keeps the small town feel.

We recently attended the street music session when we were there on Memorial Day, and had a blast. Great job everyone! The band was fabulous, loved the chairs available for my elderly mom (her first visit) and being able to walk and get ice cream was fabulous. We'd love to see more activities all during the year, it's fun for the locals and visitors, and keeps the town feeling vibrant and involved.

Lastly, I'd like to give a stern warning about electric scooters. When we visited St. Louis two years ago, the tourists on scooters were awful! They buzzed right around pedestrians with no warning, riders were inexperienced drivers, not following road or sidewalk rules. Then they threw them down and left them all over town. The worst part was at night, when a scooter would come zipping out of the dark, oblivious to the curbs and other hazards and running right in front of cars. I don't know about their safety statistics, but I'm sure it can't be good!!

Let's keep Cape Charles a walking and biking town!

We love coming to visit, and I think your town is perfectly lovely. Keep up the good work! We're coming back in mid July, can't wait!!

Sincerely,

Janet Coggins
4487 County Road 266
Five Points, AL 36855

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Cynthia Emrich & Tucker Van Dyck
Subject: Views on Proposed Changes to Vacation Rental Taxes

We're writing to share our views on the proposed changes to taxes associated with short-term vacation rentals in the Town.

As you're well aware, those of us who own and operate such rentals are already taxed significantly, and by multiple jurisdictions, with 3.7% of gross receipts owed to the Town, another 2% to the County, and 5.3% in sales taxes--for a total of 11%. Each of these is likely to go up, adding an additional tax burden.

Now you propose to add an additional, and we would stress *unequal* per-night tax of $1/night for a hotel or bed and breakfast, ***but** $4/night for a vacation home rental*. As you're likely aware, this type of unequal taxation between different types of vacation accommodations is unprecedented in Virginia. And we would argue that it is rooted in inaccurate assumptions. It's our understanding that you arrived at this proposal by assuming that the prototypical vacation rental home offers 4 bedrooms, when our review of all listings on Airbnb puts the average at 3 bedrooms. Further, as Mark Twain once famously wrote, "There are lies, there are damned lies, and then there are statistics." What the statistic related to the number of rooms per vacation home rental overlooks is the wide variation across vacation home rentals--both in their number of rooms and in their nightly rates. What this means in practice is that your proposal will hit much harder the owners of 1- or 2-bedroom rentals and/or homes with nightly rates at the modest, affordable end of the spectrum. This impact strikes us as patently unfair.

The final point we'll make is that we hope the Town will be wary of doing anything that will contribute to Cape Charles becoming out of reach for middle-class families. We are currently riding high as a tourist destination because we offer a very attractive alternative to far-flung destinations that require air travel due to a continued reluctance to travel by plane. We'd encourage you to push pause on your proposed additional taxes until you have a clearer sense of the true budget shortfall post-pandemic. 2020 was an aberration due to the pandemic. 2021 will be a very different year. Let's see what it brings before taking actions that may well have negative, unintended consequences for our Town.

The group of vacation home rental owners in Cape Charles is passionate about our Town, and we are increasingly banding together to make a positive difference--contributing to improvements in our beloved Central Park, supporting the efforts of Cape Charles Main Street, and other critical improvement efforts. Please don't do anything that sends a message that the Town is not supportive of vacation home rentals. Singling out for an unequal tax sends exactly this type of message.

Thank you for reading, and take care.

Cynthia Emrich & Tucker Van Dyck
Cynthia Emrich, Ph.D.
3 Pollard Park
Williamsburg, VA 23185

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J. Scott Faircloth

I am writing to oppose the proposed dual tax rate increase of vacation rental properties in Cape Charles. As proposed, the Town of Cape Charles is considering both an % increase AND an onerous flat fee rate of $4 per night.

In addition to an increased tax burden based on an arbitrarily increased rate, the $4 per night scheme would also place a significant and unfair accounting and regulatory burden on homeowners.

Already vacation homeowners are taxed at 11% with another 1% increase on the way. And, of course, we must pay property taxes along with Federal and State income taxes, as well. Yet many of us operate on razor thin margins fighting for every dollar we can earn and expense we can save. Particularly during the height and fallout of COVID, our small operations suffered greatly. In fact, many vacation homeowners are still trying to make up for the massive revenue loss from COVID-related cancellations.

And while we are taxed heavily, our contribution to the town budget doesn’t stop there. While I am not privy to the numbers, I think it’s a safe assumption that vacation rental homes are responsible for generating a significant percentage of the sales, meals and property taxes collected within the town. We bring people to the town who provide a constant influx of money spent and taxes paid. This, in-turn, creates much-needed jobs for Cape Charles residents, in addition to employing countless tax-paying contractors, landscapers and housekeepers necessary to ensure our operations run smoothly. In other words, we are a key stimulus to the town economy. To unnecessarily burden one of the prime economic engines of the town, particularly on the heels of a global pandemic, is shortsighted and a fool's errand.

I understand there is a budget shortfall which may be exacerbated by the COVID pandemic. However, I encourage the Town Council to not kill their cash cow through over taxation and over regulation. Instead, I would implore the council to close that gap by taking a closer look at: (1) equitable property assessments across the entire town (2) cutting unnecessary expenditures from the town budget (that were, perhaps, exposed as unnecessary by the COVID shutdowns) and (3) supporting vacation homeowners in ways that recognize our invaluable role in the local economy by removing regulatory barriers and tax burdens, not increasing them.

I'll close with the words of Ronald Reagan who once famously said: "Government's view of the economy can be summed up in a few short phrases: if it moves… tax it. If it keeps moving… regulate it. And, if it stops moving… subsidize it." To Reagan, over taxation and over regulation inevitably lead to the opposite of the intended effect. Ronald Reagan was right then and he's right now and I implore the Town Council table this added tax burden until after the effects of COVID (to small businesses and to the town budget) can be more fully understood.

Thank you,
Scott Faircloth, 216 Monroe Ave, Vacation Homeowner of "The Sandlot House"

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Harriett Barry
Subject: Thoughts on your upcoming votes

- We are repeat visitors to Cape Charles, in both summer and off-season. When we're visiting, we always visit the shops on Mason, multiple restaurants and dessert places, rent a golf cart, and of course visit the beach and playground. We rent a vacation home when we come because there's more space for our small children and extended family.
- Paid parking on Bay Ave. and Mason Ave. would be a burden and would keep me from frequenting the shops on Mason Ave. I would likely seek parking on side streets before taking the time and energy to attempt to pay and monitor a parking spot on Bay Ave. or Mason Ave.
- Charging a nightly rental fee of $4 for vacation rentals feels like nickel-and- diming visitors. We understand if the transient occupancy tax (TOT) needs to increase slightly, but both increasing the TOT as well as adding a nightly fee is too much. The rentals we stay in are less than $400/night, meaning the proposed nightly fee is more than 1% tacked on to the cost of my stay. We love Cape Charles, but if vacationing there becomes too expensive, we will consider vacationing elsewhere. Increasing taxes for visitors should directly benefit them.
- We do not want the option of electric scooters in town. They create cluttered sidewalks and unsafe pedestrian and street traffic issues. The town is so small that they are not necessary for getting around. We just walk! Besides, the sidewalks and streets are not maintained well enough to safely use a scooter.
- We would love if there were more events outside of the summer season to draw us to Cape Charles. Every time we're in town, we visit many shops and restaurants, and would love to see Cape Charles thrive outside of the summer season.

Please try and keep in mind your visitors to your wonderful town. I'd really hate to have to reevaluate our vacation plans and choose somewhere else.

Sincerely,
Harriet Barry

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Jeff Palmore
Subject: Keep Cape Charles Taxes Fair for Everyone

I am writing about the proposed flat fee tax on home rentals in Cape Charles.

My wife, two children, and I are frequent visitors to Cape Charles. We are also renovating a home in town to be able to visit more frequently.

During our most recent visit to town, the four of us stayed in a hotel room. Other times, the four of us have stayed in a house. As I understand it, the proposed budget includes a new tax of $1 per night if the four of us stay in a hotel but $4 per night if the four of us stay in a house. The justification for this is apparently that the impact on the Town is somehow 4x more if the four of us are staying at a house than if we are staying at a hotel.

There was mention of a house on Randolph charging $600 per night. A $4 per night fee actually gives the renter of this house a break on the taxes they pay. The flat fee amounts to a tax rate of 0.66% if you can afford to rent a $600/nt house but is 2% (three times more) if you rent a $200 a night house.

A percentage rate that applies across the board to all properties is much more fair. This would collect more from those renting more expensive houses.

Please don't impose this regressive tax, instead apply the same tax rate to everyone, and help keep Cape Charles affordable for everyone.

Thank you,
Jeff Palmore
618 Randolph Ave.

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Kenneth Butta
245 Mason Ave Unit 202
Cape Charles, VA 23310

Mayor Dize, Town Council, and Mr. Hozey,

I am writing to you to express my opposition to the proposed new per night flat tax of $1 per night for a hotel or bed & breakfast room and $4 per night for a vacation home rental.

I know that the town must increase revenues in order to provide the services we need. I think that the increase in the TOT is appropriate. What I object to is the unequal treatment of vacation homeowners compared to hotels and B&Bs. The chart below compares the percent of nightly revenue that different lodging types would pay under this plan. Clearly this is not equitable.

Lodging type	# rooms	Occupancy Vac. rental @ 100% Others @ 75%	Estimated average per night cost per unit	Total income per night	Per night tax	% of nightly revenue
Vacation rental	2	2	$150.00	$150.00	4	2.7%
Vacation rental	3	3	$185.00	$185.00	4	2.2%
Vacation rental	4	4	$315.00	$315.00	4	1.3%
Vacation rental	5	5	$350.00	$350.00	4	1.1%
B & B	4	3	$225.00	$675.00	3	0.4%
Hotel CC	22	17	$250.00	$4,125.00	17	0.4%
Northampton Hotel	5	4	$240.00	$900.00	4	1.7%

I think a better solution would be to raise the TOT past 4.0% to capture the needed revenue in a fair manner. Please keep in mind that we don't want the increase to decrease tourism or cause visitors to spend less in shops and restaurants. I know you have a difficult task ahead of you; I ask that you treat all members of our community equally.

Thank you for your consideration,
Ken & Ami Butta

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Anna Lee
Subject: Comments for tonights meeting

Thank you for the many hours that went into preparing the proposed budget.

My husband and I own a duplex at 107-109 Tazewell where we live in one side and rent out the other side on AirBnb. We've had wonderful, respectful and surprisingly quiet guests and have enjoyed sharing our town with visitors. Our visitors are almost exclusively families with 2-4 children who could not stay at a B&B and could not fit in one hotel room. Most do very little cooking in the rental and spend all of their time at the beach or in restaurants and shops.

2021 will be a record setting year for short term rental taxes and vacation rentals have played a critical role in that growth by allowing more total visitors and larger groups to stay for multiple days.

I disagree with singling vacation rentals out for a special flat tax rate that is 4 times that of hotels/B&Bs and believe that this approach would set a precedent in Virginia. The $4 flat rate also assumes that all vacation rentals have four bedrooms, penalizing those with fewer rooms.

Can you also please provide us with reporting to support the mention of increased labor costs in town related to managing vacation rental 'grievances and issues'? This data will allow the Vacation Rental Home Owners of Cape Charles group to understand the number and type of complaints and work to address them.

I also recommend revisiting Real Estate Tax and considering a larger increase given that it represents the lion's share of revenue and has not been increased since 2014. Town can offer a payment plan or consider a reduced rate for residents with hardships.

Thank you!
Anna Lee

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Terry Strub
Subject: Public Comment: Boat trailers, boats, and oversize vehicles parked on town streets

As summer approaches, the increase in boat trailers, boats, and oversize vehicles parked on town streets has become a danger for bikers, children, walkers, and cars. Many of the trailers don’t have red flags or other signs to call attention to the hazard. In many cases, drivers must veer into the lane for oncoming vehicles to avoid the obstacle. This concern has been addressed in the past but it seems that nothing has been done to provide safe and secure alternative parking for these obstacles. The residents and visitors to the town deserve safe passage.
Thank you.

Terry Strub
522B Washington Ave

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Diane D’Amico, Planning Commissioner

At the Planning Commission meeting of June 1, 2021, I was the sole dissenter to the changes proposed in Section VIII of the Zoning Ordinance. It was clear to me the point of these changes are not to preserve our history but merely to <u>look</u> historic hence the overuse of the word “character” in these Guidelines. For those who want character I suggest you purchase in Bay Creek. They are doing a fabulous job with their standards and guidelines. For those who value the historic integrity of Cape Charles I beg the Council to make the requirements more in line with preservation. Homes in this town are going for 2, 3, 4 times their original cost. Surely people willing to spend that much money can afford a little more to preserve our town. If we are not willing to control the vast number of Air B&B's and VRBO's at least let us revel in our history, our hometown values and our grace.

April 2021 Treasurer's Report

Page 1 – Cash Position

- There was a $120,587 debt service payment made on the 2010 VRA Interest Free Loan for the wastewater treatment plan.
- Cash was transferred from the money market to the operating account to pay regular expenses and the debt service payment.

Page 2 – Revenue vs. Expenditures

- The harbor debt service YTD is $102,605.18, and the YTD net loss is only $84,055.

Page 3 – Capital Projects

- The SCADA system base computers were purchased.
- The Inner Harbor rehab project is complete.
- The zipline for the park playground is pending arrival of a part for installation.

Page 4 – Tax Collection Rate

- Tax collections are a little above what was budgeted.

Page 5 – Tax Revenue Trends

- Harbor dockage continues to increase. It is nearly twice what it was in April 2019.
- BPOL, sales tax and transient occupancy taxes show tremendous growth, and meals tax should surpass 2020 by the end of May.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
April 30, 2021

Cash on Hand	3/31/2021	4/30/2021	Increase/ (Decrease)
Atlantic Union Bank Checking Account	$416,080	$663,704	$247,623
Atlantic Union Bank Money Market Account	$2,249,568	$1,999,654	-$249,914
LGIP Account 1 - Unrestricted	$104,206	$104,214	$8
LGIP Account 2 - Unrestricted	$305,329	$305,353	$24
Total Cash On Hand	**$3,075,183**	**$3,072,925**	**$0**

Restricted and Reserved Cash Balances	3/31/2021	4/30/2021	Increase/ (Decrease)
Atlantic Union Bank Savings Account - Facility Fees Rsrvd (Utilities)	$1,079,308	$1,079,317	$9
Atlantic Union Bank Checking Account - Police Funds	$431	$431	$0
LGIP Account 2 - Restricted for USDA loan covenant	$25,890	$25,890	$0
Atlantic Union Bank Checking Accnt - E-Summons Revenue Rsrvd	$4,916	$5,134	$218
US Bank - Reserved per VRA Interest Free Loan Requirements	$257,588	$257,589	$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	**$1,371,792**	**$1,372,021**	**$228**
Total Cash - All Accounts	**$4,446,976**	**$4,444,945**	**-$2,030**

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	$6,633,495

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

April 30, 2021

REVENUE VS. EXPENDITURES

FUND	CURRENT MONTH	PRIOR YEAR-TO-DATE	CURRENT YEAR-TO-DATE	INCREASE/ (DECREASE) YTD	ANNUAL BUDGET	% REALIZED/ EXPENDED FY21
GENERAL						
REVENUE - Operating	$267,093	$2,535,291	$3,472,916	$937,625.71	$4,177,677	83.13%
EXPENDED - Operating	$230,607	$2,000,890	$2,515,929	$515,039.04	$3,866,830	65.06%
NET	**36,487**	**534,401**	**956,988**	**422,587**	**310,847**	
REVENUE - CAPITAL GRANTS & LOANS	0	2,042	0	(2,042)	329,817	0.00%
EXPENDED - CAPITAL PROJECTS & DEBT SVC	9,901	277,883	499,393	221,509	640,664	77.95%
TRANSFER TO HARBOR TO TRUE UP FUND BALANCE	0	0	0	0	0	
TOWN CONTRIB. & PENDING GRANTS	**(9,901)**	**(275,841)**	**(499,393)**	**(223,551)**	**(310,847)**	
PUBLIC UTILITIES						
REVENUE - Operating	166,517	1,416,293	1,498,060	81,767	1,750,836	85.56%
EXPENDED - Operating	(42,532)	712,357	455,596	(256,760)	1,604,799	28.39%
NET	**209,050**	**703,936**	**1,042,463**	**338,527**	**146,037**	
REVENUE - CAPITAL GRANTS, LOANS, & FACILITY FEES	120,277	227,867	419,860	191,992	275,551	152.37%
EXPENDED - CAPITAL PROJECTS,DEBT SVC, & FACILITY FEES	240,864	701,599	887,539	**185,941**	421,588	210.52%
TOWN CONTRIB. & PENDING GRANTS	**(120,587)**	**(473,731)**	**(467,680)**	**6,051**	**(146,037)**	
HARBOR						
REVENUE - Operating	82,051	479,588	740,817	261,229	761,102	97.33%
EXPENDED - Operating	70,638	517,436	595,391	77,955	681,900	87.31%
NET	**11,413**	**(37,848)**	**145,426**	**183,274**	**79,202**	
REVENUE - GRANTS & LOANS	0	131,680	10,586	(121,094)	95,054	11.14%
TRANSFERRED FM GEN FUND TO TRUE UP FUND BALANCE	0	0	0	0	110,101	
EXPENDED - Capital Projects, Debt Svc	0	536,134	240,067	(296,067)	284,357	84.42%
TOWN CONTRIB. & PENDING GRANTS	**0**	**(404,454)**	**(229,481)**	**174,973**	**(79,202)**	
SANITATION						
REVENUE	16,903	167,331	169,779	2,448	220,274	77.08%
EXPENDED	17,805	167,316	171,812	4,496	220,274	78.00%
NET	**(901)**	**16**	**(2,033)**	**(2,048)**	**0**	

FY 2021 Capital Improvement Project Tracking Report

As of: 4/30/2021	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
General Fund									
Police Vehicle	on backorder	0%	$ 38,940	$ -	$ -	$ -	$ -	$ -	$ 38,940
Permit Department Software	partially installed	0%	$ 7,000	$ -	$ -	$ -	$ -	$ -	$ 7,000
Public Works Shop Heaters	Complete	100%	$ 6,868	$ -	$ 6,528	$ -	$ -	$ 6,528	$ 340
Grounds Maintenance Equipment	Complete	132%	$ 22,240	$ -	$ -	$ 29,412	$ -	$ 29,412	$ (7,172)
Central Park Zipline	**partially installed**	**72%**	**$ 14,000**	**$ -**	**$ -**		**$ 10,031**	**$ 10,031**	**$ 3,969**
Portable ADA Equipped Restroom Trailer	On Hold	0%	$ 35,000	$ -	$ -	$ -	$ -	$ -	$ 35,000
Mason Avenue Re-striping	On Hold	0%	$ 5,000	$ -	$ -	$ -	$ -	$ -	$ 5,000
Parking Lots (Mason & Harbor Shanty Area)	Pending	0%	$ 10,000	$ -	$ -	$ -	$ -	$ -	$ 10,000
Video Surveillance System	Complete	100%	$ 35,000	$ -	$ 56	$ 34,287	$ -	$ 34,343	$ 657
Municipal Building Project Evaluation	Preliminary process	0%	$ 45,000	$ -	$ -	$ -	$ -	$ -	$ 45,000
Multi-Use Trail Phase 2 Closeout	Complete	100%	$ 305,000	$ -	$ -	$ 308,000	$ -	$ 308,000	$ (3,000)
subtotal			**$ 524,048**	**$ -**	**$ 6,584**	**$ 371,699**	**$ 10,031**	**$ 388,313**	**$ 135,735**
Water Fund									
SCADA System	**In process**	**13%**	**$ 15,000**	**$ -**	**$ -**		**$ 1,927**	**$ 1,927.00**	**$ 13,073**
Remote Read Water Meters - starter setup	On hold- FY22	0%	$ 51,985	$ -	$ -	$ -	$ -	$ -	$ 51,985
Pickup Truck	back-ordered	0%	$ 32,766	$ -	$ -	$ -	$ -	$ -	$ 32,766
Water Tower Mixers	On hold	0%	$ 55,000	$ -	$ -	$ -	$ -	$ -	$ 55,000
subtotal			**$ 154,751**	**$ -**	**$ -**	**$ -**	**$ 1,927**	**$ 1,927**	**$ 152,824**
Harbor Fund									
Inner Harbor Rehabilitation Phase I carryover	Complete	100%	$ 60,390	$ 60,390	$ -	$ -	$ -	$ 60,390	$ (0)
WIFi/Security Cameras/Lighting Project	Complete	45%	$ 35,000		$ 8,201	$ 7,570		$ 15,771	$ 19,229
Inner Harbor Rehabilitation Phase II	Complete	14%	$ 85,700	$ -	$ 5,359	$ 6,957	$ 55	$ 12,371	$ 73,329
subtotal			**$ 181,090**	**$ 60,390**	**$ 13,559**	**$ 14,527**	**$ 55**	**$ 88,532**	**$ 92,559**
Sanitation Fund									
Trash Can Replacements	Complete	100%	$ 11,796	$ -	$ 11,796	$ -	$ -	$ -	$ 11,796
subtotal			**$ 11,796**	**$ -**	**$ 11,796**	**$ -**	**$ -**	**$ -**	**$ 11,796**
TOTAL			**$ 871,685**	**$ 60,390**	**$ 31,939**	**$ 386,226**	**$ 12,013**	**$ 478,772**	**$ 392,913**

***ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT**

MUNICIPAL CORPORATION OF CAPE CHARLES
April 30, 2021

YTD 2020 Real Estate Tax Collections

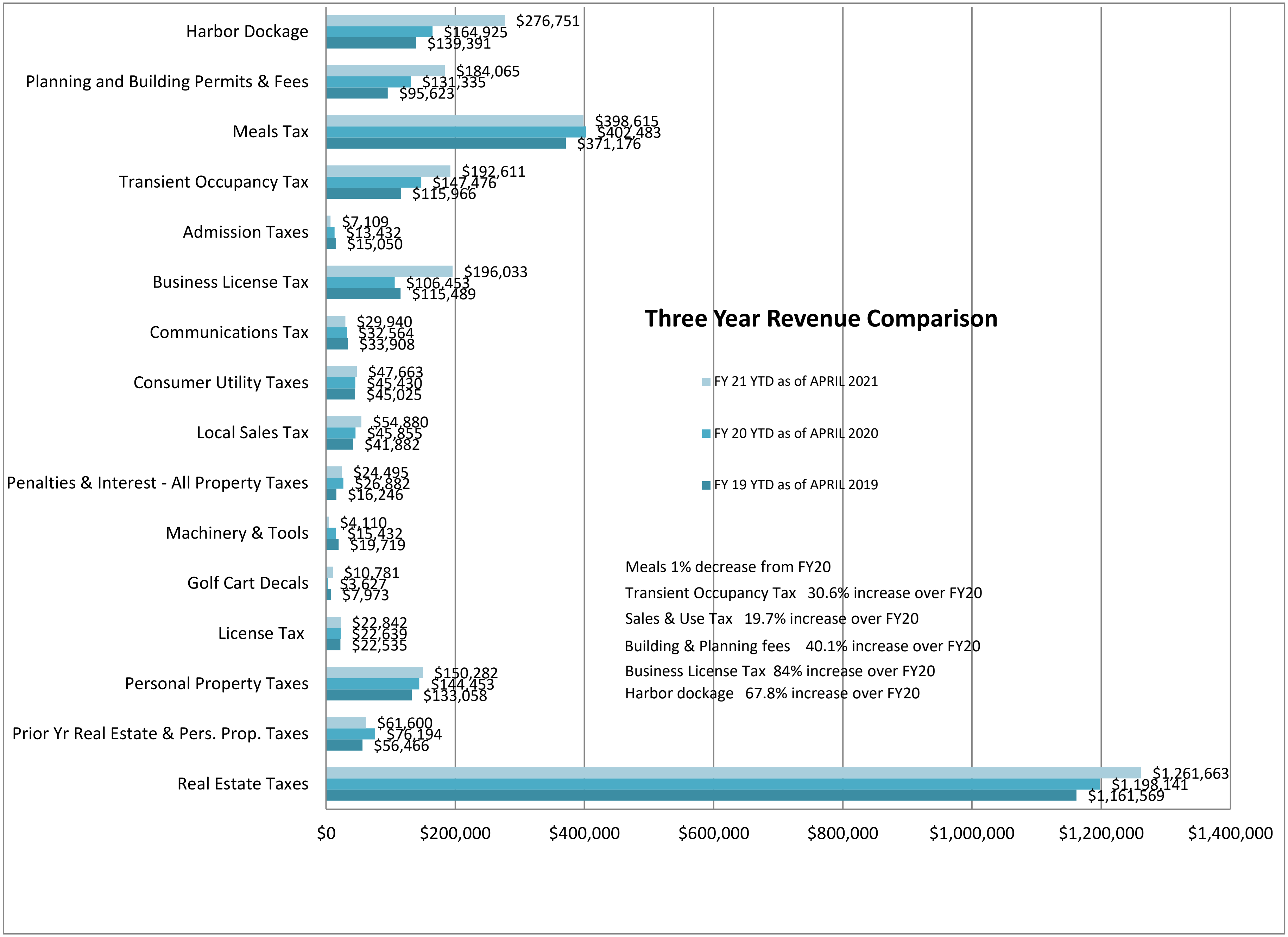
Total Taxable Land Value	179,736,100	
Total Improvement Value	291,966,800	
Exemptions	(2,650,000)	
Additional Assessments (SCC Utility)	3,796,381	
Total Real Estate Value (taxable)	**472,849,281**	
Total Budgeted	1,223,505	
Total Tax Billed	1,291,310	
Total Adjustments	(3,861)	
Total Collected YTD (percent of billed)	1,261,663	98%
Amount Due per Accounts Receivable	**25,786**	

YTD 2020 Personal Property Tax, Machinery and Tools Tax & 2020 License Tax Collections

Total Personal Property Value	13,824,800	
2020 Initial Assessement Exonerations	(393,342)	
Personal Property Value, billed	13,431,458	
Total Budgeted	175,000	
Total Tax Billed less PPTRA	207,905	
Total Adjustments & Additional Exonerations	(9,078)	
Total Collected YTD (percent of billed)	177,234	89%
Amount Due per Accounts Receivable	**21,593**	

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

Total Budgeted	75,300	
Total Collected (percent of budget)	86,095	114%
Amount Due Per Budget	**(10,795)**	


Three Year Revenue Comparison
FY 21 YTD as of APRIL 2021
FY 20 YTD as of APRIL 2020
FY 19 YTD as of APRIL 2019
Harbor Dockage
$276,751
$164,925
$139,391
Planning and Building Permits & Fees
$184,065
$131,335
$95,623
Meals Tax
$398,615
$402,483
$371,176
Transient Occupancy Tax
$192,611
$147,476
$115,966
Admission Taxes
$7,109
$13,432
$15,050
Business License Tax
$196,033
$106,453
$115,489
Communications Tax
$29,940
$32,564
$33,908
Consumer Utility Taxes
$47,663
$45,430
$45,025
Local Sales Tax
$54,880
$45,855
$41,882
Penalties & Interest - All Property Taxes
$24,495
$26,882
$16,246
Machinery & Tools
$4,110
$15,432
$19,719
Golf Cart Decals
$10,781
$3,627
$7,973
License Tax
$22,842
$22,639
$22,535
Personal Property Taxes
$150,282
$144,453
$133,058
Prior Yr Real Estate & Pers. Prop. Taxes
$61,600
$76,194
$56,466
Real Estate Taxes
$1,261,663
$1,198,141
$1,161,569
$0
$200,000
$400,000
$600,000
$800,000
$1,000,000
$1,200,000
$1,400,000
Meals 1% decrease from FY20
Transient Occupancy Tax 30.6% increase over FY20
Sales & Use Tax 19.7% increase over FY20
Building & Planning fees 40.1% increase over FY20
Business License Tax 84% increase over FY20
Harbor dockage 67.8% increase over FY20

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 June 17, 2021 (the "Meeting"). Attached hereto is a true, correct and complete copy of Ordinance 20210617A (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.

2. 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:

			Voting		
Member Name	**Present**	**Absent**	**Yes**	**No**	**Abstaining**
William Dize, Mayor	X				
Steve Bennett	X		X		
Andy Buchholz	X		X		
Andrew Follmer	X		X		
Paul Grossman	X		X		
Tammy Holloway	X		X		
Ellen O'Brien	X		X		

3. 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 June 2021.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

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

ORDINANCE 20210617A

ADOPTING REVISIONS TO CAPE CHARLES ZONING ORDINANCE ARTICLES II AND VIII

WHEREAS, the Cape Charles Zoning Ordinance is a compilation of ordinances establishing zoning regulations for the Town of Cape Charles and providing for the administration and enforcement of the regulations; and

WHEREAS, the Zoning Ordinance classifies the territory under the Town's jurisdictions into districts and within each district a set of regulations for the use of land, buildings, structures, and their size, construction, etc.; and

WHEREAS, Article II describes definitions for language in the Zoning Ordinance, and Article VIII regulates the Historic District Overlay; and

WHEREAS, for some time there has been discussion regarding the need to update Article VIII and a joint work session was held on April 13, 2021 with the Mayor, Town Council and members of the Planning Commission and Historic District Review Board; and

WHEREAS, the proposed amendments to Articles VIII and II resulted from this joint session and were circulated to the members of the Council, Commission and Board for their review and input; and

WHEREAS, pursuant to Code of Virginia §§ 15.2-2285 and 15.2-2204, after proper notice, a joint public hearing was held with the Town Council and Planning Commission, followed by the Planning Commission's regular meeting for thorough review and deliberation of the proposed revisions; and

WHEREAS, the Planning Commission further amended the language in Articles II and VIII and recommended adoption of the proposed changes as presented for Council review at their June 17, 2021 Regular Meeting; now

THEREFORE, BE IT ORDAINED by the Town Council of Cape Charles, this 17th day of June 2021, that Cape Charles Zoning Ordinance Articles II and VIII be revised per the attached, as may be amended by Council, to become effective immediately.

****

Adopted by the Town Council of Cape Charles on June 17, 2021.

By:____________________________________
Mayor

ATTEST:

____
Town Clerk

ARTICLE II – DEFINITIONS

ADMINISTRATOR, THE ZONING ADMINISTRATOR, means the official charged with the enforcement of the zoning ordinance. The Administrator may be any appointed or elected official who is designated to the position by the Town Council. The Administrator may serve with or without compensation as determined by the Council.

ALTERATION means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any exterior change such as in doors, windows, roof, siding, porches, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

BUILDING means any structure having a roof supported by walls which is solidly enclosed, including any area which is solidly enclosed with glass or any other rigid material which will not allow for the passage of air.

BUILDING PERMIT means written permission issued by proper authority for the construction, repair, alteration, addition, restoration, demolition, or razing of all or a part of any building or structure.

CERTIFICATE OF APPROPRIATENESS is a certificate or other statement indicating approval by the Administrator, the Harbor Area Review Board or the Historic District Review Board as the case may require, of plans for construction, alteration, reconstruction, repair, restoration, demolition, or razing of a building or structure or part thereof.

CONTRIBUTING STRUCTURE OR PROPERTY means a structure, building, or place constructed on or before 1964 OR which has special significance because of notable architectural or historic features relating to the cultural or artistic heritage of the community and whose authentic look and character should be retained. The National Register of Historic Places (amended 2019) provides the listing of contributing structures and properties. Should a building or structure within the boundaries of the historic district not be listed in the national register, the building or structure will be classified as noncontributing.

DESIGN GUIDELINES are those set of recommendations adopted pursuant to §8.20 and §9.20 of this Code.

HISTORIC DISTRICT is an area designated by the town within which buildings, structures, appurtenances, and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale and detail; or because of their being a part of or related to a square, park, or area or general arrangement of which should be preserved and/or developed according to cultural, historical, or architectural motives or purposes.

NONCONTRIBUTING STRUCTURE are those that were built after 1964 or have been altered to such a degree that they are no longer representative of the period which they were built or are in such poor physical condition that their retention is difficult. The National Register of Historic Places (amended
2019) provides the listing of non-contributing structures and properties. Should a building or structure within the boundaries of the historic district not to be listed in the national register, the building or structure will be classified as non-contributing.

PERIOD OF SIGNIFICANCE: The National Register of Historic Places recognizes buildings, sites, and districts for their historic significance, and has documented that the significance be associated with a discrete chronological period for the Cape Charles Historic District from 1883 to 1964.

PRESERVATION is the process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.

RECONSTRUCTION is any or all work needed to remake or rebuild all or part of any building to a sound condition, but not necessarily of original materials. It is the process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. Reconstruction is different from the other historic treatments in that it is undertaken when there are often no visible historic materials extant or only a foundation remains.

REHABILITATION is the process of making possible a compatible use for a property through repair, alterations, and additions while retaining to the maximum extent practicable those portions or features which convey its historical, cultural, or architectural values.

REPAIRS are any or all work involving the return to functionality of existing structures or elements with authentic looking materials.

RESTORATION is any or all work connected with the returning to or restoring of a building or a part of any building to its original condition through the use of original or nearly original materials. It is the process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

STANDARDS are Zoning Ordinance requirements that are evaluated by the Zoning Administrator or Code Official and not under the discretion of the Historic District Review Board or the Harbor Area Review Board.

ARTICLE VIII. – HISTORIC DISTRICT OVERLAY

"The Cape Charles Historic District encompasses nearly all of the town of Cape Charles as it was originally laid out in 1883-1884 as well as the Sea Cottage addition, an area west of the original limits of the town, that was developed after 1909…The town was originally laid out in an unusual twenty-seven block grid pattern dominated by a central park with four landscaped streets that radiate from the park and serve as a main cross axis for the town's circulation pattern. No other such plan is known to exist in Virginia."
- 1989 National Register of Historic Places Registration Form Section 7, page 1.

"An interesting stock of architectural styles in both the residential area and the downtown commercial area contribute an historic style and authenticity. The street patterns, lot configurations and boundaries, which were laid out in an historic grid pattern, have remained largely unaltered, adding to the Town's historical integrity. Cape Charles' late nineteenth and early twentieth century character is a key element in the Town's interest and attractiveness to tourists. The traditional downtown commercial area on Mason Avenue still serves as the commercial center for the Town. It is important that the Town's historic character be protected, not only for its intrinsic value, but also to contribute to attract and expand tourism in Cape Charles." – Town of Cape Charles 1999 Comprehensive Plan, page 40.

The Town of Cape Charles participates in the Certified Local Government program and in so doing demonstrates a commitment to keep what is significant from the past for the benefit of future generations. The architectural integrity of existing structures shall be recognized, and future development shall be compatible.

Section 8.1 Purpose of the District

The purpose of this district is to guard against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of registered architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is also the purpose of the district to preserve the character of the designated historic areas and historic landmarks and other historic or architectural features and to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the historic district.

Section 8.2 Criteria for Establishing Historic Districts--General Character

The boundaries of the Historic District shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone.

Section 8.3 Inventory of Landmarks and Contributing Properties Established

The Town of Cape Charles has established as part of this ordinance a map covering the area included in the Historic District, based on the criteria set forth in this ordinance. This map shall be as much a part of this ordinance as if fully described herein. Pending further amendment of this ordinance, the period of significance for the Town will be from 1883 to 1964 as delineated in the Cape Charles Historic District National Register of Historic Places (amended 2019). As identified in the National Register, structures or sites designated as properties which contribute to the historic character of the Town shall be known as contributing properties for the purpose of this Ordinance. Structures or sites not designated as landmark or contributing properties shall be known as noncontributing properties. Should a building or structure within the boundaries of the historic district not be listed in the national register, the building or structure will be classified as noncontributing. The map may be amended from time to time in the same manner as the zoning district map.

Section 8.4. Application of the District; Relation to Other Zoning Districts

To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the Historic District is created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Zoning District Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the Historic District is superimposed except as these other district regulations may be modified by application of the regulations in the Historic District.

Section 8.5 Permitted Uses

A building or land shall be used only for any use or accessory use permitted in the zoning district in which the premises are situated and upon which the Historic District is superimposed.

Section 8.6 Historic District Review Board; Creation

For the general purposes of this Article as herein stated and specifically to preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas, there is created a board known as the Historic District Review Board.

Section 8.7 Historic District Review Board; Membership

The members of the Historic District Review Board shall be appointed by the Town Council. The Membership shall consist of five citizens, at least three of whom shall be residents of the local historic district.

Section 8.8 Historic District Review Board; Terms

Upon approval by the Town Council, members shall be appointed for a term of five years. Appointments to fill vacancies shall be only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until a successor is appointed and qualifies.

Section 8.9 Historic District Review Board; Qualifications

Members of the Historic District Review Board shall have demonstrated interest and knowledge in the historical and architectural development of the Town and when possible, include a Planning Commission member, as well as professionals in the disciplines of architecture, history, historic preservation, archaeology, or related profession; and professionals in the disciplines of planning, building construction, or real estate.

Section 8.10 Historic District Review Board; Organization

The Historic District Review Board shall elect from its own membership a chairman and vice chairman who shall serve annual terms and may succeed themselves. The chairman shall preside over all meetings in addition to having the duties and responsibilities of other members of the Board. The vice chairman shall preside over meetings of the Board in the absence of the chairman.

Section 8.11 Historic District Review Board; Rules

The Board shall meet in regular session on the third Tuesday of every month when an application has been filed requiring consideration. Special meetings of the Board may be called by the chairman or a majority of the members after public notice as required.

Section 8.12 Historic District Review Board; Meetings; Hearings

Written notice of a special meeting is not required if the time of special meeting has been fixed at a regular meeting or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Board. The Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the Commonwealth of Virginia.

Section 8.13 Historic District Review Board; Procedures

The Board shall, with the concurrence of the town manager, establish procedures for all matters coming before it for review and all meetings shall be open to the public. The Board will have the right to appeal decisions of the town manager to the Town Council.

Section 8.14 Historic District Review Board; Powers and Duties

The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district. In addition, the Board shall have the following duties:

A. To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies, and property owners in matters involving historically significant sites and buildings or other properties in the historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.

B. To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.

C. To oversee studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts and means of preservation, utilization, improvement, and maintenance of historic assets in the Town.

D. To propose additional historic districts or additions or deletions to districts.

E. To recommend standards and guidelines for adoption by the Town Council to supplement the standards set forth in this Ordinance; the currently adopted guidelines are called "Cape Charles Historic District Guidelines revised October 2017."

F. To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.

G. To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve the character of historic landmarks, buildings, sites, or areas within the Town.

Section 8.15 Summary of Administration Review Procedures

In general, it is the purpose of this ordinance to establish review procedures for actions affecting properties in the Historic District.

A. Actions related to "Standards" will be exclusively the purview of the Zoning Administrator.

B. Actions addressed by "Guidelines" will be the purview of the Historic District Review Board, except that guidelines that are relatively straight forward may be delegated to the Zoning Administrator at the discretion of the Historic District Review Board.

C. In all cases the decisions of the Zoning Administrator shall be appealed to the Board of Zoning Appeals as stated in §2-2.6.2.C, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

Section 8.16 Approval of Historic District Review Board Required

A. Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.

B. Contributing accessory structures will be treated as contributing structures only under the following conditions:
   1. It is on a permanent foundation; and
   2. It is of sufficient square footage that a new structure of that type would require a building permit; and

3. It is not being used as, or being considered for, accessory dwelling units.

C. "Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein:
   1. General examples of "non-substantial" alterations:
      a. Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or
      b. To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.
   2. Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.
   3. General examples of work constituting "substantial alterations" include:
      a. Construction of a new building at any location or a new permanent accessory building requiring a building permit on a landmark or contributing property or on a site within the Historic District.
      b. Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.
      c. Any alteration of the exterior architectural style of a structure or its significant elements; some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements.
      d. Addition to or removal of one or more stories or alteration of a roof line.
      e. Any other major actions not specifically covered by the terms of this section, but which would have an effect on the character of the historic district.

D. In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action, or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.

Section 8.17 Certain Minor Actions Exempted from Review by the Historic District Review Board

Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

A. Repainting the structure. (Original painting of masonry surfaces is not exempted from review.)

B. Replacement of missing or broken windowpanes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.

C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or other existing wall openings (if no building permit is required for such addition or deletion).

D. Addition or deletion of television and radio antennas or skylights and solar collectors in locations not visible from a public street or a waterway.

E. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, fencing immediately surrounding trash receptacles or outdoor ventilation units, small fountains, outdoor showers, and ponds which will not substantially affect the character of the property and its surroundings.

F. Construction of off-street loading areas and off-street parking areas.

G. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.

H. Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not to be considered public places.

I. Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance.

J. Receiving historic preservation tax credits through state or federal offices.

K. Demolition of non-contributing buildings or structures.

L. Alterations or repairs made to a building or structure for the purpose of temporary emergency stabilization.

Section 8.18 Delegation of Authority

A. The Zoning Administrator or Code Official shall have authority to order that work be stopped and that an appropriate application be filed for review by the Historic District Review Board in any case where the action has an adverse effect on the Historic District.

B. The Historic District Review Board shall periodically review the design guidelines contained in this section.

Section 8.19. Certificate of Appropriateness

Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued on behalf of the Historic District Review Board, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board or the Zoning Administrator. The Historic District Review Board may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit-requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

Section 8.20 Design Guidelines; Recommendations for Review

A. The Historic District Review Board shall be guided in its decisions by the design guidelines but must also use independent judgement and discretion to consider the unique characteristics of each request. The board is expected to work with each applicant to assist them in achieving their goal while preserving the character of the district. The board shall utilize the pre-application review process as defined in Section 8.25.A.

B. It shall be the duty of the Historic District Review Board to prepare recommended amendments to the design guidelines.

C. The Town Council shall adopt and amend the design guidelines after conducting at least one public hearing pursuant to §15.2-2204 of the Code of Virginia.

D. Separate guidelines shall be developed for all new infill buildings in Cape Charles' historic district. New infill construction will not diminish, detract, or distract from the character of surrounding historic buildings or the overall historic district.

E. Alterations and additions to non-contributing structures that affect the exterior appearance of the structure or additions should be compatible with the district following the guidelines for new (infill) construction. Criteria for non-contributing structures may be less restrictive than that applied to contributing structures.

Section 8.21 Demolition: Alternate Procedure: Offer to Sell

A. Prior to approval of any application for demolition, modification, moving, or removal of a contributing structure within the Cape Charles Historic District; the zoning administrator, the Historic District Review Board, or the Town Council, as applicable, shall review the application for its compatibility with each of the following guidelines.

   1. Whether or not the contributing structure is of such architectural or historic interest that its removal would be to the detriment of the character and integrity of the Historic District.

   2. Whether or not the contributing structure is of such interest or significance that it would qualify as a National, State, or local historic landmark.

   3. Whether or not retention of the contributing structure would help to preserve and protect a historic place or area of historic interest in the Town.

4. Whether or not plans for future use of the site after demolition are appropriate, compatible, sympathetic, and complimentary to the character and integrity of the Historic District.

No subsequent application under Section 8.21A regarding the contributing structure may be made until more than one year after a final denial by the Town Council.

B. In addition to the right of appeal herein elsewhere set forth, the owner of a contributing structure in the Cape Charles Historic District shall as a matter of right be entitled to move, remove, modify, raze or demolish all or part of such contributing structure provided that:

1. The owner has applied to the Town Council for such right.

2. The owner has for the applicable period of time set forth in the time schedule in Section 8.21.B.4., and at a price reasonably related to the fair market value of the contributing structure and the land, other improvements and appurtenances pertaining thereto (assuming the buyer will be required to preserve and restore the contributing structure in place on the property) as determined by the average of two (2) real estate appraisals from two (2) different appraisers, made a bona fide, public offer (pursuant to the requirements of this Section 8.21 B.) to sell such contributing structure, and the land, other improvements and appurtenances pertaining thereto (collectively, the “Property”), to the Town and any other person, firm, corporation, government or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the contributing structure in place. If the two (2) required real estate appraisals submitted by the Owner differ by more than ten percent (10%), the owner must have the Property appraised a third time at his own expense by a third real estate appraiser selected by the Town. The bona fide offer to sell must be at a price not more than the average of the two such appraisals that are closest to one another.

3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such Property thereto, prior to the expiration of the applicable time period set forth in the time schedule in Section 8.21.B.4. Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above.

4. The time schedule for offers to sell shall be as follows:

   a. Three (3) consecutive months when the offering price is less than twenty-five thousand dollars.

   b. Four (4) consecutive months when the offering price is twenty-five thousand or more but less than forty thousand dollars.

   c. Five (5) consecutive months when the offering price is forty thousand or more but less than fifty-five thousand dollars.

   d. Six (6) consecutive months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars.

e. Seven (7) consecutive months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars.

f. Twelve (12) consecutive months when the offering price is ninety thousand dollars or more.

5. Before making a bona fide offer to sell, the owner shall first file a statement with the Zoning Administrator along with the appraisals required by Section 8.21.B.2. The statement shall identify the Property, state the offering price, the date the offer of sale is to begin, the names and addresses of adjacent property owners, and the names and addresses of listing real estate agents, if any. The owner shall be required to maintain the Property in at least its current condition during the term of the public offer. No time period set forth in the time schedule contained in Section 8.21.B.4. shall begin to run until the statement has been filed. Within five (5) business days after receipt of a statement, copies of the statement shall be delivered by the Zoning Administrator to the Town Manager, the Town Council, and the Historic District Review Board. Within thirty (30) days after the receipt of a statement, the Zoning Administrator: (a) shall place notice of the statement once a week for two successive weeks in a newspaper having general circulation in the Town, (b) post a notice of the statement prominently on the Property, and (c) send notice of the offer, accompanied by the statement, to the adjacent property owners by certified or registered mail.

6. During the time period for the offer to sell, the Town may take steps as it deems necessary to preserve the contributing structure in accordance with the purposes of this article. Such steps may include, but are not limited to, consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of the Property by public or private bodies or agencies, and exploration of the possibility of moving structures or other features on the Property.

7. The fact that an offer to sell a Property is made at a price reasonably related to fair market value as described previously may be questioned by any party who files with the Zoning Administrator, on or before sixty (60) days after the offer for sale has begun, a petition in writing signed by at least twenty-five (25) persons owning real estate within Cape Charles, questioning such valuation. Upon receipt of such a petition, one (1) disinterested real estate appraiser shall be appointed by the petitioners, and the cost of the appraisal shall be borne by the petitioners. Said appraiser shall forthwith make an appraisal of the Property on the same basis as described in B.2. above, and the Town shall use the average of the lower two appraisals to establish fair market value under Section 8.21.B. In the event such valuation indicates that the price at which the applicant offered to sell the Property was at a price that is higher than the Property's fair market value, the offer to sell shall be void and of no force and effect for purposes of satisfying the requirements set forth in this Section 8.21.B.

Section 8.22 Maintenance and Repair Required

A. The purpose of this section is solely to stop demolition by neglect, whereby owners of property in the Historic District allow the structure, or historic attributes of the structure, to become a hazardous building or structure. Any building or structure which is determined to be in such an unsafe condition that it would endanger life or property is governed by Town Code Chapter 18, Article III, Unsafe Buildings or Structures and under the sole jurisdiction of the Town's Code Official.

B. All buildings and structures in the Historic District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration, or defects may, in the opinion of the Historic District Review Board and Town Council, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

1. The deterioration of exterior walls or other vertical supports, including broken doors and windowpanes;

2. The deterioration of roofs or horizontal members;

3. The deterioration of exterior chimneys;

4. The deterioration or crumbling of exterior plaster, wood, or mortar;

5. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

C. After notice by the Zoning Administrator or Code Official by certified mail of specific instances of failure to maintain or repair and of an opportunity to appear before the Historic District Review Board, the owner or person in charge of said structure shall have ninety (90) days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in this ordinance. In the alternative, if the owner fails to act, the Historic District Review Board may recommend to the Town Council that the Zoning Administrator, after due notice to the owner, enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and the reasonable costs thereof shall be placed as a lien against the property.

Section 8.23 File of Actions to be Maintained

In order to provide guidance for the consistent application of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Zoning Administrator shall maintain a file containing a record of all applications, including drawings and photographs pertaining thereto and the decision of the Zoning Administrator or the HistoricDistrict Review Board in each case. The file documents shall be compiled by the Zoning Administrator, maintained by the Town Clerk, and remain the property of the Town but shall be held available for public review.

Section 8.24 Administration; Zoning Administrator

Except as authorized herein the Zoning Administrator or Code Official shall not authorize a permit for any erection, reconstruction, integral exterior facade change, demolition, or razing of a building or structure in the Historic District until the same has been approved by the Historic District Review Board as set forth in the following procedures.

Section 8.25 Receipt of Application

Upon receipt of an application by the Zoning Administrator for each permit in the historic district, the Zoning Administrator shall oversee the following:

A. Pre-application review: Persons considering action that requires a certificate of appropriateness, as set forth in this ordinance, are to request an informal informational meeting with the Zoning Administrator and at least one member of the Historic District Review Board prior to submitting a formal application for a certificate of appropriateness. Requests for such informational meetings can be made to the zoning administrator, who will contact a member of the board. The informational meeting will occur within thirty (30) days of receipt of such a request. The purpose of an informational meeting is to review the design guidelines and standards and the procedures for obtaining a certificate of appropriateness. Neither the applicant nor the zoning administrator/board member(s) shall be bound by any informational meeting or conceptual review. Zoning administrator can use discretion on the need for a pre-application meeting or the inclusion of a board representative depending on the nature of project proposed;

B. Once accepted by the zoning administrator as a fully completed application, the zoning administrator will forward to the Historic District Review Board a copy of the application, together with a copy of the site plan and the building plans and specifications filed by the applicant if such application requires the Historic District Review Board to meet and render a decision;

C. Compile a record of all such applications and of the final disposition of the same, to be maintained by the Town Clerk;

D. Require applicants to submit one (1) hard copy and one electronic version of material required to permit compliance with the foregoing.

Section 8.26 Material to be Submitted for Review

By general rule, or by specific request in a particular case, the Historic District Review Board may require submission of any or all of the following in connection with the application: architectural plans, site plans, landscaping plans, construction methods, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and such other exhibits and reports as are necessary for its determinations. Requests for approval of activities proposed in historic districts shall be accepted only from the record owner of the land involved in such proposal, or their agent.

Section 8.27 Other Approvals Required

The Zoning Administrator will review submitted applications for Certificates of Appropriateness against appropriate zoning requirements before forwarding application to the Historic District Review Board for pre-application review and approval. In any case in which an applicant's proposal also requires the approval of the Board of Zoning Appeals, final action by the Board of Zoning Appeals shall precede final action by the Historic District Review Board. The Board of Zoning Appeals may, however, table a proposal in order to request the comments of the Historic District Review Board. In this case, final action by the Historic District Review Board shall be taken prior to consideration of proposals requiring site plan approval.

Section 8.28 Action by the Historic District Review Board; Issuance of Certificates of

Appropriateness

The Historic District Review Board shall render a decision upon any request or application for a Certificate of Appropriateness within ninety (90) days after the filing of an application accepted as complete. Failure of the Historic District Review Board to render such a decision within said ninety (90) day period, unless such period be extended with the concurrence of the applicant, shall entitle the applicant to proceed as if the Historic District Review Board had granted the Certificate of Appropriateness applied for prior to denying the Certificate of Appropriateness. The Historic District Review Board, on the basis of the review of information received, shall, upon request, indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Historic District Review Board, would protect and/or preserve the historical aspects of the landmark, building, structure, or district. If the applicant determines that they will make the suggested changes, the Historic District Review Board may issue the Certificate of Appropriateness. Agreed to changes will be so stipulated on the Certificate of Appropriateness.

All conditions required for the approval of a certificate of appropriateness will also be included on the building plan and will be reviewed by the Code Official during routine inspections.

The Zoning Administrator will be responsible for issuance of the Certificate of Appropriateness to the applicant and the Town's Code Official office within five (5) business days. Denials of applications are to be stated in writing to the applicant along with the reasons for such denials by the zoning administrator and issued within five (5) business days. Once a Certificate of Appropriateness is granted, the applicant may obtain permits to start work with the understanding that work may be stopped should an appeal be filed to the board's decision within a 30-day period following approval of the Certificate of Appropriateness, and that the applicant takes full responsibility to bear whatever consequences result from the appeal's final decision.

Section 8.29 Expiration of Certificates of Appropriateness

Any certificate issued pursuant to this article shall expire of its own limitation twelve (12) months from the date of issuance if the work authorized thereby is not commenced by the end of such twelve (12) month period; and further, any such certificate shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve (12) months after being commenced. Any period or periods of time during which the right to use any such certificate is stayed pursuant to this article shall be excluded from the computation of the twelve (12) months.

Section 8.30 Inspection by Administrator After Approval

When a Certificate of Appropriateness has been issued, the Zoning Administrator or Town Building Official shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violating any ordinances of the Town. The Zoning Administrator or Town Building Official may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

Section 8.31 Delay of Approval

In the case of a proposal other than for demolition or moving but involving a designated landmark where the Historic District Review Board or, on appeal, the Town Council cannot reach a satisfactory agreement with the owner and where the Historic District Review Board or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three (3) months from the date of application or appeal to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Historic District Review Board or, on appeal, by the Town Council.

Section 8.32 Conditions Imposed by the Historic District Review Board

In approval of any proposal under this section, the Historic District Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require, including but not limited to, the specifications enumerated for conditional uses and for the Town Council.

Section 8.33 Appeals; Decisions of the Historic District Review Board

An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator the following: a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with the property owner(s) associated with the project under appeal; a fee equal in value to the fee paid by the property owner(s) associated with the project under appeal. The person submitting the appeal shall not be allowed to present any evidence that was not presented to the Historic District Review Board, Council members having any relevant interaction with the applicant shall disclose such interaction prior to considering the appeal. The Zoning Administrator will prepare a document of all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within sixty (60) days from the date the person submitted a request for appeal. At the hearing, the appealing party may appear in person or by agent. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from and make such order, requirement,decision or determination as ought to be made and to that end shall have all the powers of the Historic District Review Board.

Section 8.34 Appeals; Decisions of the Zoning Administrator

An appeal from a decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator the following: a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with property owner(s) associated with the project under appeal. The Zoning Administrator shall transmit to the Board of Zoning Appeals within five (5) days all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the meeting, give public notice thereof as required pursuant to Code of Virginia §15.2-2204; and decide the same within sixty (60) days. At the meeting the party may appear in person or by agent. In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify, any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made.

Section 8.35 Appeal to the Circuit Court from a Decision of the Town Council

An appeal from a final decision of the Town Council may be filed with the Circuit Court within thirty (30) days after said decision in the manner prescribed by law by the owner of the property in question, by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, or by the Historic District Review Board. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building, or structure. The court may reverse or modify the decision of the Town Council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council.

Section 8.36 Violations and Penalties

Any violation of this Article and the penalties for all such violations shall be as set forth in §2.4.3 of the Zoning Ordinance.

Section 8.37 Definitions

For the purpose of this article, terms and words pertaining to the Historic District are defined in Article II of this Ordinance.

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 June 17, 2021 (the "Meeting"). Attached hereto is a true, correct and complete copy of Ordinance 20210617B (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.

2. 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:

Member Name	Present	Absent	Voting Yes	Voting No	Abstaining
William Dize, Mayor	X				
Steve Bennett	X		X		
Andy Buchholz	X		X		
Andrew Follmer	X		X		
Paul Grossman	X		X		
Tammy Holloway	X		X		
Ellen O'Brien	X		X		

3. 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 June 2021.

____

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

ORDINANCE NO: 20210617B

AN ORDINANCE TO ADOPT AMENDMENTS TO THE CODE OF VIRGINIA §46.2 AND TITLE 16.1, CHAPTER 11, ARTICLE 9 (§16.1-278 ET SEQ.) AND TITLE 18.2, CHAPTER 7, ARTICLE 2 (§ 18.2-266 ET SEQ.), IF ANY, FOR INCORPORATION INTO THE CAPE CHARLES TOWN CODE CHAPTER 42-MOTOR VEHICLES AND TRAFFIC

WHEREAS, it is necessary to follow the guide set by the Code of Virginia to protect the safety and welfare of residents and guests of the Town of Cape Charles; and

WHEREAS, from time to time, the Code of Virginia is amended to protect those traveling the highways, streets and roads of the Commonwealth; and

WHEREAS, in order to have the authority to enforce these new laws, the Town Council of the Town of Cape Charles must adopt any and all amendments made by the Commonwealth of Virginia; now

THEREFORE, BE IT ORDAINED: That pursuant to the authority of the Code of Virginia, 1950, as amended, § 46.2-1313, all of the provisions and requirements of the laws of the Commonwealth contained in Code of Virginia, Title 46.2 and Code of Virginia, Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1, and of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 into ordinances as in force and effect on the date of the adoption of this Code, and as amended in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated in this chapter by reference and made applicable within the Town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the Town. Such provisions and requirements are hereby adopted, *mutadis mutandis*, and made a part of this chapter as fully as though set forth at length herein. It shall be unlawful for any person within the Town to violate or fail, neglect or refuse to comply with any provision or requirement which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under the Code of Virginia. This ordinance will take effect July 1, 2021.

****

Adopted by the Town Council of Cape Charles on June 17, 2021.

____
Mayor William Dize

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 June 17, 2021 (the "Meeting"). Attached hereto is a true, correct and complete copy of Resolution 20210617A (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.

2. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Resolution as set forth below:

Member Name	Present	Absent	Voting Yes	Voting No	Abstaining
William Dize, Mayor	X				
Steve Bennett	X		X		
Andy Buchholz	X		X		
Andrew Follmer	X		X		
Paul Grossman	X		X		
Tammy Holloway	X		X		
Ellen O'Brien	X		X		

3. 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 June 2021.

Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

RESOLUTION 20210617A

CHANGING DAY OF THE JULY 2021 CAPE CHARLES TOWN COUNCIL REGULAR MEETING

WHEREAS, the Cape Charles Town Council Regular Meetings are currently held on the third Thursdays of each month and agenda packets usually are sent out the Friday of the week prior to the meeting; and

WHEREAS, a joint public hearing is being scheduled with the Planning Commission in July regarding proposed changes to the Cape Charles Zoning Ordinance; and

WHEREAS, the Planning Commission's regular meeting date is July 6, which falls during the July 4^{th} holiday week; and

WHEREAS, in order to ensure a quorum is reached for both the Planning Commission and Town Council, the date of the joint public hearing is being scheduled for July 13; and

WHEREAS, the July Town Council Regular Meeting is currently scheduled for July 15, 2021, so there would not be adequate time to submit the necessary staff report and documentation regarding the Planning Commission's recommendation on the proposed Zoning Ordinance amendments to allow for adequate citizen and Council review prior to adoption; now

THEREFORE, BE IT RESOLVED by the Town Council of the Town of Cape Charles, Virginia, that the July Town Council Regular Meeting will be held on July 22, 2021, beginning at 6:30 PM, at the Cape Charles Civic Center.

****

Adopted by the Town Council of Cape Charles on June 17, 2021.

By: ________________________________

Mayor William Dize

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 June 17, 2021 (the "Meeting"). Attached hereto is a true, correct and complete copy of Resolution 20210617B (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.

2. A summary of the members of the Council present or absent at the Meeting and the recorded vote with respect to the foregoing Resolution as set forth below:

			Voting		
Member Name	**Present**	**Absent**	**Yes**	**No**	**Abstaining**
William Dize, Mayor	X				
Steve Bennett	X		X		
Andy Buchholz	X		X		
Andrew Follmer	X		X		
Paul Grossman	X		X		
Tammy Holloway	X		X		
Ellen O'Brien	X		X		

3. 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 June 2021.

____
Clerk of the Council
Town of Cape Charles, Virginia

(Seal)

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

RESOLUTION 20210617B

COOPERATIVE AGREEMENT FOR BOAT LANDING

WHEREAS, the previous cooperative agreement between the Town of Cape Charles and the Department of Game and Inland Fisheries, now Department of Wildlife Resources (DWR), for the public access boat landing in the town harbor has expired; and

WHEREAS, DWR is willing to make significant repairs to the landing; and

WHEREAS, the Town is willing to maintain the landing and make it available for free public access to the harbor; now

THEREFORE BE IT RESOLVED by the Town Council of the Town of Cape Charles, this 17th day of June 2021, that the Town Manager is authorized to enter into a new cooperative agreement on terms substantially in accordance with the attached draft agreement.

Adopted by the Town Council of the Town of Cape Charles on June 17, 2021.

By: ______________________________
Mayor

ATTEST:

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Clerk of Council / Town Clerk