



Before the
Colonial Beach Town Council
Held at
Colonial Beach Town Center, 22 Washington Ave
Colonial Beach, VA 22443

Wednesday, August 17, 2022 at 6:00 PM
Town Council Regular Meeting
AGENDA

- 1. Call to Order**
- 2. Moment of Silence & Pledge of Allegiance**
- 3. Roll Call of Members**
- 4. Additions to the Agenda**
- 5. Approval of the Agenda**
- 6. Approval of Consent Agenda (TAB A)**
 - a. Approval of Minutes – September 22, 2021, October 6 & 20, 2022
 - b. Resolution # 32-22, Amends & Appropriates FY Budget, General Fund, (CBPD Asset Forfeiture)
- 7. Council Member Announcements**
- 8. Town Manager Update**
- 9. Presentations**
 - a. **Westmoreland County Board of Supervisors, Mr. Trivett, District V Supervisor**
 - b. **Colonial Beach Public Schools, Dr. Mitchell, Superintendent**
 - c. **Update on Downton/Colonial Ave Water/Sewer Upgrades, Dewberry**
 - d. **Update on Sunset Cove, Dan Armstrong**
- 10. Citizen Input**

11. Old Business

- a. **Ordinance No. 729**, Amends Town of Colonial Beach Town Code of Ordinances Chapter 2, Chapter 8, and Chapter 11 **(TAB B)**
 - i. **Public Input**
 - ii. **Council Action**

12. New Business

- a. **Referrals to Planning Commission**
 - i. Justification and Scope for Master Plan
- b. **PUBLIC HEARING, Intent to Sell Town-Owned Real Property** (Adjacent Property to 353 7th Street) **(TAB C)**
 - i. **Public Input**
 - ii. **Council Action**

13. Closed Meeting

- a. **Pursuant to Virginia Code §2.2-3711(A)(7)** consultation with legal counsel pertaining to pending litigation, where such consultation in open meeting would adversely the litigation posture of the public body, in the *pending court cases in Westmoreland County Circuit Court*.

14. Adjournment

Tab A

COUNCIL PAPER

At the work session held on August 3, 2022, at the Colonial Beach Town Center

RESOLUTION #32-22, Amends and Appropriates Fiscal Year 2022-2023 Budget, General Fund

WHEREAS, the Colonial Beach Town Council finds it necessary to make the following amendments to the Fiscal Year 2022-2023 budget.

WHEREAS, in FY2021-2022, the Colonial Beach Police Department received asset forfeiture proceeds totaling \$10,998.99 and;

WHEREAS, only \$2,541.55 of these funds were spent in FY2021-2022, leaving \$8,457.44 of funds remaining, and;

WHEREAS, under Virginia’s Forfeited Asset Sharing Program, these funds must be used to supplement the Police Department budget;

NOW THEREFORE BE IT RESOLVED, that the Town Council at its work session held on Wednesday, August 3, 2022, hereby adopts and appropriates an amendment to the Fiscal Year 2022-2023 budget as follows:

	FY 2022-23 Adopted	FY 2022-23 Revised	Change
General Fund	\$8,880,799.15	\$8,889,256.59	+\$8,457.44

Breakdown of revenue and expenditure allocations:

General Fund

DB 100-031100-5811 – Asset Forfeiture (Expenditure)	\$8,457.44
CR 100-090000-0100 – Carry-Over From Prior Year (Revenue)	\$8,457.44



TO: Town Council
FROM: Lisa M. Okes, CFO
COPY: India Adams-Jacobs, Town Manager
SUBJECT: Carry Forward Asset Forfeiture Funds
DATE: August 3, 2022

SUMMARY:

In FY2022, the Colonial Beach Police Department received asset forfeiture proceeds totaling \$10,998.99. These proceeds must be used for non-budgeted items. In FY2022, only \$2,541.55 of these funds were spent. Therefore, the remaining \$8,457.44 needs to be carried forward to FY2023. Now, staff is requesting that Town Council approve the appropriation and amendment of the FY 2022-2023 General Fund budget the remaining asset forfeiture funds.

BACKGROUND:

According to the Code of Virginia, § 19.2-386.22, all money and property used in substantial connection with the manufacture, sale, or distribution of controlled substances or marijuana can be seized by a law-enforcement agency. Under Virginia's Forfeited Asset Sharing Program (FASP), 90% of all proceeds are returned to the jurisdiction that participated in the seizure.

The Colonial Beach Police Department received asset forfeiture proceeds in accordance with Virginia's Forfeited Asset Sharing Program in the amount of \$10,998.99. They spent \$2,541.55 during FY 2021-2022. These funds must be used to supplement the Police Department budget. The remaining funds need to be carried forward into FY 2022-2023's budget.

ISSUE:

There were asset forfeiture funds remaining in the Police Department's FY 2021-2022 budget in the amount of \$8,457.44. The remaining funds need to be carried forward into the Police Department budget so must be adopted and appropriated in the FY2022-2023 budget.

ALTERNATIVES:

There are no alternatives available.

FISCAL IMPACT:

The FY 2022-2023 General Fund budget will increase by \$8,457.44.

RECOMMENDATION:

Staff recommends that council appropriate and amend the FY 2022-2023 General Fund budget for the \$8,457.44 of asset forfeiture proceeds received by the Police Department.

Tab B



TO: Town of Colonial Beach Town Council
FROM: Vivian Seay Giles
COPY: India Adams-Jacobs, Town Manager
SUBJECT: Town Code of Ordinances – Amendments to Chapters 2, 8, and 11
DATE: July 29, 2022

SUMMARY:

Consider amendments to Town of Colonial Beach Code of Ordinances Chapters 2, 8, and 11 to remove ordinances that are not enforceable, not relevant to current Town activities, or that have been repealed by the Virginia General Assembly.

BACKGROUND:

Councilman Moncure undertook a review of the Town of Colonial Beach Code of Ordinances, starting with identifying those ordinances recommended for repeal. The ordinances are recommended for repeal for the following reasons:

1. The subject matter covered is no longer relevant to current Town operations.
2. The subject matter covered is no enforceable under current law.
3. The subject matter covered has been repealed by the Virginia General Assembly.

ISSUE:

Amendments to Town of Colonial Beach Code of Ordinances Chapters 2, 8, and 11.

ALTERNATIVES:

1. Take no action and leave the ordinances without amendment.
2. Adopt a portion of the recommended amendments.
3. Adopt all proposed amendments to Town of Colonial Beach Code of Ordinances Chapters 2, 8, and 11.

RECOMMENDATION:

Adopt all proposed amendments to Town of Colonial Beach Code of Ordinances Chapters 2, 8, and 11 in order to update those ordinances to comport with current Town operations and to comply with current law of the Commonwealth of Virginia.

ORDINANCE NO. 729

AN ORDINANCE TO AMEND TOWN OF COLONIAL BEACH CODE OF ORDINANCES CHAPTER 2, CHAPTER 8, AND CHAPTER 11

August 3, 2022

WHEREAS, the Town Council of the Town of Colonial Beach, Virginia recognizes that certain codified Town ordinances are in need of update in order to comport with current Town functions and current state law; and

WHEREAS, the Town Council wishes to amend and update those codified ordinances from time to time; and

WHEREAS, among those ordinances to be updated are Chapter 2, Chapter 8, and Chapter 11 of the Town of Colonial Beach Code of Ordinances; and

WHEREAS, proposed amendments have been prepared, presented, and recommended by the Town attorney for consideration by the Town Council; and

WHEREAS, having considered the proposed and recommended amendments to Chapter 2, Chapter 8, and Chapter 11 of the Town of Colonial Beach Code of Ordinances, the Town Council now wishes to adopt those proposed amendments.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Town Council of the Town of Colonial Beach, Virginia, as follows:

- a. The foregoing recitals are hereby incorporated by this reference.
- b. Upon consideration of the foregoing, and having found that the amendment of Chapter 2, Chapter 8, and Chapter 11 of the Town of Colonial Beach Code of Ordinances is appropriate and in the best interest of the Town and its residents to comport with current Town functions and current state law, the Town Council does ordain and amend the said Chapter 2, Chapter 8, and Chapter 11 of the Town of Colonial Beach Code of Ordinances as proposed and attached.
- c. This Ordinance is effective immediately.

[Amendments recommended to delete irrelevant and redundant provisions.]

Chapter 2 ADMINISTRATION¹

ARTICLE I. IN GENERAL

~~Sec. 2-1. Eleanor Park—Rent for manufactured home spaces.~~

~~(a) The rent for manufactured home spaces in Eleanor Park shall be as follows:~~

~~(1) For lots 1—14, three thousand two hundred forty dollars (\$3,240.00) per year.~~

~~(2) For lots 15—47, two thousand eight hundred eighty dollars (\$2,880.00) per year.~~

~~(b) Rent shall be payable in advance in equal quarterly installments due and payable on the first day of the months of May, August, November and February of each year.~~

~~(1) Charges for water and sewer service in Eleanor Park shall be in addition to the payment of rent.~~

~~(2) The annual rental amount for all lots shall increase annually beginning on August 1, 2008 by five (5) percent.~~

~~(c) All waterfront lots shall not be available for rent as of August 1, 2007 and shall be vacated by July 31, 2010.~~

~~(Ord. No. 543)~~

~~Cross reference(s)—Water and sewers, Ch. 21.~~

~~Sec. 2-2. Same—Tenants' responsibility for beautification.~~

~~The beautification of Eleanor Park shall be the sole responsibility of the tenants.~~

~~(Ord. No. 121H)~~

¹Cross reference(s)—Unauthorized use of town property, § 17-6.

~~Sec. 2-3. Same—Leases not assignable.~~

~~Leases for lots in Eleanor Park shall not be assignable.~~

~~(Ord. No. 270)~~

~~Sec. 2-4. Exemption by state law for food booths and concession stands.~~

~~The following exemptions to Title 35.1 of the Code of Virginia, (hotels, restaurants, summer camps and campgrounds) are hereby enacted:~~

~~(1) Food booths at fairs, if such booths are promoted or sponsored by any political subdivision of the Commonwealth or by any charitable nonprofit organization or group thereof.~~

~~(2) Concession stands at youth athletic activities, if such stands are promoted or sponsored by either a youth athletic association or by any charitable nonprofit organization or group thereof which has been recognized as being a part of the recreational program of the political subdivision where the association or organization is located by an ordinance or resolution of such political subdivision.~~

~~The local health officer shall provide a mechanism by which to appoint qualified designees for any and all food booth participants or concession stands which may be exempted by this section. In order to be exempted from Title 35.1 of the Code of Virginia, a food booth or concession stand must have a qualified designee, appointed by the local health officer, present during the preparation and service of food.~~

~~(Ord. No. 376)~~

Secs. 2-~~51~~—2-15. Reserved.

ARTICLE II. TOWN MANAGER

Sec. 2-16. Authority to employ manager.

Pursuant to the authority contained in ~~Section 15.1-795 of~~ the Code of Virginia, the town council has authorized the employment of a town manager.

(Ord. No. 156A, § 1)

Sec. 2-17. Management of town's administrative affairs.

The town manager, under the control of the council, shall have general charge and management of the administrative affairs and work of the town. The town manager ~~He~~ is authorized to exercise such administrative authority as necessary to insure the efficient and economical operation of the town, except such powers as are or may be specifically prohibited by the town council or the laws or Constitution of Virginia.

(Ord. No. 156A, § 2)

Sec. 2-18. General authority with respect to personnel.

Exclusive of elective officials, all organized departments of the town shall report to the town manager and the appointment and removal of town employees shall be the prerogative of the town manager, subject to any determination that may be reached under the grievance procedure, provided for in article III of this chapter, if such grievance procedure is utilized by the employee concerned. The town manager may call upon subordinate department heads to make recommendations concerning the employment or dismissal of town employees, but shall not be bound by their recommendation.

By June 30th of every year, the town manager shall provide a written statement certifying to the town council that all town employees have the proper licensure and/or certifications necessary under state law and regulation to perform the functions of their respective positions. In the event that a town employee is provisionally licensed and/or certified in accordance with state law and regulation, the town manager shall ensure that the employee is fully licensed and/or certified no later than December 31, 2018. No new employee may be hired by the town manager if the employee is not fully licensed and/or certified in accordance with state law and regulation, unless a resolution shall have been approved by the town council authorizing such hire. In addition, the offer of employment shall be contingent upon the employee signing an agreement to become fully licensed and/or certified within such reasonable time identified by the town manager, and agreed to by resolution of the town council.

(Ord. No. 156A, § 2; Ord. No. 681)

Sec. 2-19. Authority to require department heads to change practices and to consolidate or eliminate departments.

The town manager may require department heads to change or modify practices, provided such changes do not affect a procedure mandated by law. He may consolidate or eliminate existing departments, in the interest of efficiency, but may not eliminate established public services, without prior approval of the council.

(Ord. No. 156A, § 2)

Sec. 2-20. Authority with respect to budget and payment of bills.

The town manager may prepare a tentative budget and may call upon the town ~~finance director~~treasurer for assistance in the preparation of such tentative budget and may call upon the town attorney for assistance in defending the tentative budget before the council. Once the final budget is approved by the council, the town manager shall have the authority to establish such record controls as he or she may deem necessary for strict adherence to the budget. The town manager shall have the authority to authorize payment of all bills incurred for budgeted items.

(Ord. No. 156A, § 2)

Sec. 2-21. No authority over employees of school board or treasurer's office; article does not change grievance procedures.

Nothing in this article shall be construed as giving the town manager authority over the school board or employees of the school board. Nothing in this article shall be construed to change the grievance procedures established in article III of this chapter and approved by the stateCommonwealth.

(Ord. No. 156A, § 2; Ord. No. 2-21, 2-10-94)

Sec. 2-22. No authority over fire department or rescue squad.

The fire department and the rescue squad are voluntary in nature and nothing in this article shall be construed as granting to the town manager any authority over the fire department or the rescue squad.

(Ord. No. 156A, § 2)

Sec. 2-23. Authority of staff-mayor to act in absence of manager—Generally.

~~In the absence of the town manager, t~~he town manager shall designate one or more staff members, in succession, who mayor may exercise any power or perform any duty ascribed to, or required of, the town manager by this Code or other ordinance of the town upon direction from the town manager to exercise that power or upon direction from the mayor when the town manager is unable, at the determination of the mayor, to so direct.

Sec. 2-23.1. Reserved. Same—When committee consent required.

~~Notwithstanding any other provision of this Code, or of section 2-23, at any time during which the town does not have a town manager, the mayor shall have the powers, duties and functions prescribed for the town manager described in this article; provided that in any matter which is the concern or responsibility of an established committee, he shall act only with the express consent of the related committee. At such time, references in this article to the town manager shall be construed to apply to the mayor.~~

~~(Ord. No. 246)~~

~~Editor's note(s)—Ord. No. 246, adopted Dec. 10, 1987, did not specifically amend the Code, hence inclusion herein as § 2-23.1 was at the discretion of the editor.~~

Sec. 2-24. Authority to request criminal history records of applicants for employment.

The town manager or the superintendent of schools shall be authorized to request and receive information concerning the criminal history records of applicants for employment with the Town of Colonial Beach or the school board, respectively. The purpose of said authority shall be to determine if the past criminal conduct of an applicant with a conviction record would be compatible with the nature of the employment under consideration.

(Ord. No. 212)

Secs. 2-25—2-32. Reserved.

~~ARTICLE III. EMPLOYEE GRIEVANCES²~~

~~DIVISION 1. GENERALLY~~

~~Sec. 2-33. Objective of article.~~

~~It is the objective of this article to afford an immediate and fair method for the resolution of disputes which may arise between the town and its employees.~~

~~(Ord. No. 152B, § 1)~~

~~Sec. 2-34. Personnel covered by article.~~

~~The provisions of this article shall apply to all permanent town employees, except probationary employees and managerial employees engaged in policy determinations. Excluded from the procedure herein established are such law enforcement officers, as defined in chapter 10.1 of title 2.1 of the Code of Virginia, if applicable, whose grievance is subject to the provisions of such chapter 10.1 and who have elected to proceed pursuant to such chapter 10.1 in the resolution of their grievance, if applicable.~~

~~(Ord. No. 152B, § 2)~~

~~Sec. 2-35. "Grievance" defined; nongrievable complaints.~~

~~(a) For the purposes of this article, a grievance shall be a complaint or dispute relative to an employee's employment involving, but not necessarily limited to:~~

- ~~(1) Disciplinary actions, including dismissals, demotions and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance.~~
- ~~(2) Concerns regarding the application, meaning or interpretation of personnel policies, procedures, rules and regulations.~~
- ~~(3) Acts of reprisal for using the grievance procedure or of participation in the grievance of another town employee.~~
- ~~(4) Complaints of discrimination on the basis of race, color, creed, political affiliation, age, handicap, national origin or sex.~~

~~(b) Some complaints are not grievable under the procedure prescribed by this article. These involve:~~

- ~~(1) The contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations.~~
- ~~(2) Work activity accepted by the employee as a condition of employment or work activity which may be reasonably expected to be a part of the job content. The measurement and assessment of work activity~~

²State law reference(s)—Duty of council to establish employees grievance procedure, Code of Virginia, §§ 15.1-7.1, 15.1-7.2; state grievance procedure, § 2.1-114.5:1.

through a performance evaluation shall not be grievable except where the employee can show that the evaluation was arbitrary or capricious.

~~(3) Establishment and revision of wages or salaries, position classifications or general benefits.~~

~~(4) Failure to promote, except where the employee can show established promotional policies or procedures were not followed or applied fairly.~~

~~(5) The methods, means and personnel by which work activities are to be carried on.~~

~~(6) Except where such action affects an employee who has been reinstated within the previous six (6) months as the result of the final determination of a grievance, termination, lay off, demotion or suspension from duties because of lack of work, reduction in force, or job abolition. In any grievance brought under the above exception, the action shall be upheld upon a showing by the town that;~~

~~a. There was a valid business reason for the action, and~~

~~b. The employee was notified of such reason in writing prior to the effective date of the action.~~

~~(7) The hiring, promotion, transfer, assignment and retention of employees within the town.~~

~~(8) The relief of employees from duties of the town in emergencies.~~

~~(c) The classification of a complaint as nongrievable shall not be construed to restrict any employee's right to seek, or the town's right to provide, customary administrative review of complaints outside the scope of the grievance procedure.~~

~~(Ord. No. 152B, §§ 3, 5; Res. of 1-9-86; Ord. No. 236; Ord. No. 239)~~

~~Sec. 2-36. Article does not affect certain management rights.~~

~~Nothing in this article is intended to circumvent or modify the existing management right of the town to do the following:~~

~~(1) Direct the work of its employees as well as establish and revise wages, salaries, position classifications and general employee benefits.~~

~~(2) Hire, promote, transfer assign and retain employees.~~

~~(3) Maintain the efficiency of governmental operations.~~

~~(4) Relieve employees from duties in emergencies.~~

~~(5) Determine the methods, means and personnel by which operations are to be carried on.~~

~~(Ord. No. 152B, § 4)~~

~~Sec. 2-37. Exercise, by mayor, of town manager's functions under article.~~

~~At any time during which the town does not have a town manager, the mayor shall have the powers, duties and functions prescribed for the town manager in this article and, at such times, references in this article to the town manager shall be construed to apply to the mayor.~~

~~Sec. 2-38. Determination of grievability.~~

~~(a) Decisions regarding whether or not a matter is grievable shall be made by the town manager, at the request of the agency or department involved or the grievant, and such decision shall be made within five (5)~~

working days from the receipt of said request. A copy of the ruling will be sent to the grievant. The town attorney or commonwealth's attorney shall not decide the issue of grievability.

- (b) ~~Determination of grievability shall be made subsequent to the reduction of the grievance to writing, but prior to the panel hearing provided for in this article. Decisions of the town manager may be appealed by the grievant to the circuit court of the county, for a hearing *de novo* on the issue of grievability. Proceedings for review of the decision of the town manager shall be instituted by filing a notice of appeal with the town manager, within five (5) working days from the date of receipt of the decision and giving a copy thereof to all other parties. Within five (5) days thereafter, the town manager shall transmit to the clerk of the circuit court a copy of his decision, a copy of the notice of appeal and the exhibits. The failure of the town manager to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the town manager to transmit the record on or before a certain date. Within thirty (30) days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the town manager and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require; the court may affirm the decisions of the agency head or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.~~
- (c) ~~The issue of grievability may occur at any step of the procedure prior to the panel hearing, but once raised, the issue must be resolved before further processing of the grievance. In any event, the issue of grievability must be resolved prior to the panel hearing or it shall be deemed to have been waived.~~

(Ord. No. 152B, § 5; Res. of 1-9-86)

~~Secs. 2-39—2-43. Reserved.~~

~~*DIVISION 2. GRIEVANCE PROCEDURE*~~

~~Sec. 2-44. Generally.~~

- (a) ~~All stages of a grievance beyond the first step shall be in writing on forms supplied by the town. Beyond the first step, both the grievant and the respondent may call appropriate witnesses and be represented by legal counsel or other persons as provided in this procedure.~~
- (b) ~~Once an employee reduces his grievance to writing, he must specify, on the appropriate form, the specific relief he expects to obtain through use of this procedure.~~
- (c) ~~After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) work days of receipt of written notification by the other party of the compliance violation. Such written notification shall be made to the town manager. Failure of either party without just cause to comply with all substantial procedural requirements at the panel hearing shall result in a decision in favor of the other party.~~
- (d) ~~Failure of the respondent to comply with all substantial procedural requirements of the grievance procedure, without just cause, will, at the option of the grievant, advance the grievant to the next step in the grievance resolution process. Failure of the respondent, without just cause, to comply with all substantial procedural~~

requirements of the final step of the grievance procedure shall result in a decision in favor of the grievant. Personal face to face meetings are required at steps one (1) through three (3).

(Ord. No. 152B, § 6; Res. of 1-9-86)

Sec. 2-45. First step: Supervisor level.

- (a) ~~Generally.~~ The provisions of this section shall constitute the first step of the grievance procedure.
- (b) ~~Part A.~~ Within thirty (30) days after the occurrence or condition giving rise to the grievance, the employee affected may identify the grievance verbally to the employee's immediate supervisor. Within three (3) working days of such presentation, the supervisor shall give his response to the employee with respect to the grievance, or shall advise the employee that additional time for such decision is needed, in which case a decision must be given the employee within three (3) working days thereafter.
- (c) ~~Part B.~~ If a satisfactory resolution is not reached by the process provided for in Part A above, the employee should reduce the grievance to writing, identifying the nature of the grievance and the expected remedy on Grievance Form A. Such written grievance should be presented to the immediate supervisor within three (3) working days of the supervisor's verbal reply. The supervisor must then reply, in writing, within three (3) working days.

(Ord. No. 152B, § 7)

Sec. 2-46. Second step: Management level.

- (a) ~~The provisions of this section shall constitute the second step of the grievance procedure.~~
- (b) ~~If a satisfactory resolution is not reached at the first step, the employee may so indicate on the grievance form and submit the grievance to the next level of supervision, the department head, within ten (10) working days. A meeting to review the grievance shall be held between the employee and the department head, within three (3) working days. The time limit between the second step submission and the second step meeting may be extended by mutual agreement.~~
- (c) ~~At the second step meeting, the only persons present may be the grievant, the appropriate agency or department head and appropriate witnesses for each side. A second step written reply to the grievance shall be provided to the employee within three (3) work days after the second step meeting.~~

(Ord. No. 152B, § 7; Res. of 1-9-86)

Sec. 2-47. Third step: Upper management level.

- (a) ~~The provisions of this section shall constitute the third step of the grievance procedure.~~
- (b) ~~If a satisfactory resolution is not reached at the second step, the employee must submit the grievance to the town manager. Submission to the third step must occur within ten (10) working days of the second step reply. The town manager shall meet with the employee within three (3) working days or indicate that an extension is necessary. Such extension shall not exceed three (3) additional working days, except by mutual agreement. The employee may have legal counsel or a fellow employee of his choice present at the third step meeting. The town manager shall render a written reply to the grievance within three (3) working days following the third step meeting.~~
- (c) ~~The only persons present at the third step meeting may be the grievant, the town manager, and appropriate witnesses for each side. Provided however, the grievant at his or her option may have present a~~

representative of his or her choice. If the grievant is represented by legal counsel, management likewise has the option of being represented by counsel.

(Ord. No. 152B, § 7; Res. of 1-9-86)

Sec. 2-48. Fourth step: Panel hearing.

- (a) The provisions of this section shall constitute the fourth step of the grievance procedure.
- (b) If the reply from the third step is not acceptable to the grievant, he may submit the grievance to a fourth step panel hearing. The request for a fourth step panel hearing shall be indicated by the employee on Form B and submitted to the department head. A request for a panel hearing must be submitted within ten (10) working days of the third step reply. A copy of the request shall be sent to the town manager. The town manager shall then arrange for the panel selection and schedule the panel hearing.
- (c) A panel shall be selected in the following manner: One member shall be appointed by the grievant, one member shall be appointed by the department head and a third member shall be selected by the first two (2). To insure an objective panel, the grievant and any supervisor responding to the first three (3) steps of grievance may not serve on the panel. Panels chosen in compliance with these requirements shall be deemed to be impartial. In the event that agreement cannot be reached as to the final panel member, the judge of the circuit court of the county shall select such third panel member. Such panel shall not be composed of any persons having direct involvement with the grievance being held by the panel or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: Spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of such an attorney shall serve as a panel member.
- (d) The third panel member as described in (c) above shall be chairperson of the panel. The full panel shall set the time for the hearing and notify the employee. The hearing shall be held no later than ten (10) working days after the date of the request. The grievant may have present, at the hearing, representatives of his choice. Copies of the grievance (Form A) shall be sent by the town to the panel members.
- (e) The majority decision of the panel shall be final and binding in all its determinations and shall be consistent with the provisions of the law and written policy. The panel has the responsibility to interpret the application of appropriate department policies and procedures in the case. It does not have the prerogative to formulate or to change policies or procedures. The conduct of the hearing shall be as follows:
 - (1) The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing provided that at the request of the grievant, the hearing shall be private.
 - (2) The panel may, at the beginning of the hearing, ask for statements clarifying the issues involved.
 - (3) Exhibits, when offered by the grievant or the agency, may be received in evidence by the panel, and when so received, shall be marked and made part of the record.
 - (4) The town, then the grievant, or their representatives, shall then present their claims and proofs and witnesses who shall submit to questions or other examination. Representatives of the town and grievant may examine and cross-examine witnesses and evidence presented without being in violation of Section 54-44 of the Code of Virginia binding in all its determinations and shall be consistent with the provisions of law and written policies. The panel may at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.

- ~~(5) The parties may offer evidence and shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.~~
- ~~(6) The panel chairman shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the chairman shall declare the hearing closed.~~
- ~~(7) The hearing may be reopened by the panel, on its own motion or upon application of a party, for good cause shown, at any time before the award is made.~~
- ~~(f) The decision shall be filed, in writing, by the panel chairman, with the department head, not later than fifteen (15) full working days after the completion of the hearing. The decision shall be made in the format appearing in the forms at the end of this article.~~
- ~~(g) Panel decision.~~
- ~~(1) Copies of the decision shall be transmitted to the town manager and the police chief as applicable, the employee and the employee's immediate supervisor.~~
- ~~(2) The town manager and/or the chief of police shall implement any remedy to the extent that it is consistent with the provisions of law and written policy. If either party believes the decision to be inconsistent with those provisions, he shall inform the panel and the other party within five (5) days of receipt of the decision.~~
- ~~(h) Reconsideration. The grievant or the town may request the panel reconsider the decision for one of the reasons:~~
- ~~(1) Based on the facts.~~
- ~~(2) Consistence with law and written policy.~~
- ~~If a written request to reconsider the panel decision is submitted by either party within five (5) working days of receipt of the decision, the panel, by majority vote, may elect to review its decision and/or reopen the hearing for good cause shown.~~
- ~~(i) The parties to the grievance, by mutual agreement, or the panel chairman, may extend any or all of the time periods established in this section.~~
- ~~(j) Either party may petition the circuit court of Westmoreland County for an order requiring implementation of the decision of the panel.~~
- ~~(Ord. No. 152B, § 7; Res. of 1-9-86; Ord. of 239)~~

Sec. 2-49. Grievant to bear certain costs.

The grievant must bear any cost involved in employing representation or in preparing or presenting his case.
(Ord. No. 152B, § 7)

Set out below are the forms referred to in this article.

GRIEVANCE FORM: FORM A

Grievant Position & Unit

Date Submitted Date Grievance Occurred

Nature of Grievance

Specific Relief Expected

First Step Remedy

	Supervisor	Date
Acceptable Not Acceptable		
	Grievant	Date
Second Step Remedy		
	Management	Date
Acceptable Not Acceptable		
	Grievant	Date
Third Step Remedy		
	Management	Date
Acceptable Not Acceptable		
	Grievant	Date

PANEL HEARING: FORM B

Grievant Date of Submission

Nature of Grievance

Reason for Requesting Panel Hearing

Decision of Panel Hearing

Date of Hearing

Panel Members:

Place of Hearing

{Employee Selection}

{Agency Selection}

{Selected by Other Panel Members}

Issue:

Decision and Award

Signed			
	Panel Member	Panel Member	Panel Member

DETERMINATION OF GRIEVABILITY: FORM C

Grievant

Nature of Grievance

Grievable Not Grievable

Reason (only if not grievable)

	Agency Head	Date
Appeal — I wish to appeal the decision on grievability. Transmit to the appropriate circuit court your decision on grievability as required by law.		
	Grievant	Date

Secs. 2-~~3350~~—2-59. Reserved.

ARTICLE IV. UNCLAIMED PERSONAL PROPERTY³

³Editor's note(s)—Ord. No. 226, §§ 1, 2, enacted Dec. 11, 1986, purported to amend the Code by the addition of provisions to be designated as § 2-50. For purposes of classification these provisions have been codified as Art. IV, §§ 2-60, 2-61.

Cross reference(s)—Property defined, § 1-2; false statements to obtain property, etc. § 17-34; damaging, defacing, etc., property generally, § 17-40; police, Ch. 18.

Sec. 2-60. Disposition, notification, disposal of proceeds.

Any unclaimed personal property which has been in the possession of the Town of Colonial Beach Police Department and is unclaimed for a period of more than sixty (60) days may be disposed of in accordance with the procedures outlined herein.

- (1) *Disposition.* "Unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Section 55-210.1 of the 1950 Code of Virginia, as amended, et seq.).
- (2) *Notification.* Prior to the sale of any unclaimed item, the chief of police or public safety committee shall make reasonable attempts to notify the rightful owner of the property, obtain from the commonwealth's attorney in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in the newspaper of general circulation in the Town of Colonial Beach once a week for two (2) successive weeks, notice that there will be a public sale of unclaimed personal property. Such property shall be described in the notice, together with the date, time and place of the sale. The chief of police shall pay from the proceeds of sale the costs of advertising, removal, storage, investigation as to ownership and liens, and notice of sale.
- (3) *Disposal of proceeds.* The balance of the funds after the payment expenses outlined herein shall be held by the chief of police for the owner and paid to the owner upon satisfactory proof of ownership.

(Ord. No. 226, § 1)

Sec. 2-61. Claims for proceeds.

If no claim has been made for the proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the town. Any such owner shall be entitled to apply to the town within three (3) years from the date of the sale, and, if timely application is made therefor, the town shall pay the remaining proceeds of the sale to the owner without interest or other charges. No claim shall be made nor any suit, action or proceeding be instituted for the recovery for such funds after three (3) years from the date of such sale.

(Ord. No. 226, § 2)

Secs. 2-62—2-65. Reserved.

ARTICLE V. REVITALIZATION COMMISSION⁴

⁴Editor's note(s)—Ord. No. 242, §§ 1—5, adopted Aug. 13, 1987, provided for the addition of provisions to the Code, but did not specify the manner of inclusion, hence codification herein as Art. V, §§ 2-66—2-70, was at the discretion of the editor.

Sec. 2-66. Created.

There is hereby created within the Town of Colonial Beach, a Colonial Beach Revitalization Commission, consisting initially of seven (7) members and a designated member of the council to serve as liaison, all of whom shall serve at the pleasure of town council. The commission shall exist through December 31, 1993, and all new or reappointments shall be made by resolution of the town council.

(Ord. No. 242, § 1)

Sec. 2-67. Purpose.

The Colonial Beach Revitalization Commission is created for the purpose of encouraging the owners of property in selected areas within the town to rehabilitate, renovate and generally improve their properties, to upgrade and improve the economic and civic usefulness of these properties, to improve commerce within these areas, and to organize citizens and businesses to accomplish these purposes.

(Ord. No. 242, § 2)

Sec. 2-68. Members; terms of office; removal.

The commission shall be governed by a board of eight (8) members. One such member shall be a town councilman to act as a liaison without voting power. Other members shall be appointed by town council for a three-year term, provided initial appointments shall be two (2) for one year, three (3) for two (2) years, and two (2) for three (3) years. The commission may petition the council to remove any commissioner who misses four (4) consecutive meetings or more than one-third ($\frac{1}{3}$) of the meetings.

(Ord. No. 242, § 3)

Sec. 2-69. Authority.

The commission shall be empowered to:

- (1) Receive, hold, and disburse funds for the purposes outlined in section 2-67 and necessary expenses, provided said funds are held in a separate account of the town and checks are countersigned by the town treasurer.
- (2) Receive and expend such town and grant funds as town council shall from time-to-time appropriate to the commission.
- (3) Organize citizens and businesses to achieve the purposes of the commission, make press releases, and hold benefit functions.

(Ord. No. 242, § 4)

Sec. 2-70. Accountability.

- (a) The commission shall make a public report to the town council each year not later than the regularly scheduled council meeting in the month of September to include activities, accomplishments, and financial status for preceding fiscal year.
- (b) The town council may, at its discretion and cost, audit the finances of the commission. The commissioners are charged to cooperate wholeheartedly with any such audit.

(Supp. No. 89)

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(Ord. No. 242, § 5)

~~ARTICLE VI. TOWN TREASURER~~

~~Sec. 2-71. Office and general duties.~~

~~The town treasurer shall keep his or her office in such place as is provided for him or her by the town council and perform such other duties as the council may from time to time prescribe. Any and all references in the Code of the Town of Colonial Beach to the role or responsibilities of the town treasurer shall be interpreted as the role or responsibility of the chief financial officer unless specifically prescribed by the town council.~~

~~(Ord. No. 263; Ord. No. 521)~~

~~Secs. 2-72—2-74. Reserved.~~

~~Editor's note(s)—Ord. No. 521 deleted §§ 2-72—2-74, which pertained, respectively, to the requirement for the treasurer to keep cash books; inspection of and delivery to successor of same books; and treasurer statements to council, and derived from Ord. No. 263.~~

~~Secs. 2-71~~5~~—2-79. Reserved.~~

ARTICLE VII. TOWN FINANCES⁵

Sec. 2-80. Reserve account.

- (a) A reserve account is hereby established. Such account shall be invested and maintained in accordance with all applicable laws, statutes and regulations, including but not limited to sections 2.2-4500 et seq. of the Code of Virginia (1950) as amended, governing the investments of public funds. Seventy-five (75) percent of the interest income from said investments after expenses shall annually be transferred to the town's general fund and accordingly thereafter expended.
- (b) Funds in the reserve account may be transferred to the town's general fund and accordingly thereafter expended upon the affirmative vote of two-thirds ($\frac{2}{3}$) of all members elected to the town council, at a regularly scheduled town council meeting, following a duly advertised and conducted public hearing on such transfer.
- (c) The minimum value of the reserve account shall be an amount equal to ten (10) percent of the town's annual general fund. In the event that the value of the reserve account falls below said minimum as of the monthly statement date for the reserve account, then within sixty (60) days the town council shall devise a plan to transfer into the reserve account an amount sufficient to bring the value of the reserve account to at least said minimum amount.
- (d) This section shall be amended or repealed only upon the affirmative vote of two-thirds ($\frac{2}{3}$) of all members elected to the town council, at a regularly scheduled council meeting, following a duly advertised and conducted public hearing on such amendment or repeal.

⁵Cross reference(s)—Taxation, Ch. 20.

(e) This plan shall be reviewed as a part of the annual audit presentation.

(Ord. No. 284; Ord. No. 329; Ord. No. 349; Ord. No. 372; Ord. No. 374; Ord. No. 378; Ord. No. 456; Ord. No. 491; Ord. No. 513-05)

Sec. 2-81. Employee bonuses.

Every December, all full-time employees of the Town of Colonial Beach with more than six (6) months of continuous full-time employment with the town may receive an annual bonus in such amount as has been set forth in the annual budget. Full-time employees of the town who have been employed full-time by the town continuously for less than six (6) months may also receive an annual bonus in such amount as has been set forth in the annual budget.

Part-time employees of the town who have been continuously employed for more than six (6) months may receive a bonus in such amount as has been set forth in the annual budget. Part-time employees who have been continuously employed by the town for less than six (6) months may receive such bonus as has been set forth in the annual budget.

(Ord. No. 594)

Secs. 2-82—2-90. Reserved.

ARTICLE VIII. TOWN COUNCIL⁶

~~Sec. 2-91. Council meetings—Special meeting notice.~~

~~Pursuant to section 15.1-826 et seq. of the Code of Virginia, as amended, the town council hereby requires a forty-eight hour notice for all special meetings called pursuant to section 15.1-832 et seq. of the Code of Virginia, as amended, and once the special meeting has been called, the town clerk will notify all councilmembers prior to the special meeting notice and post the notice at the town hall and the public library. The forty-eight hour special meeting notice can be waived only upon the unanimous written consent or verbal notification of the members of the town council.~~

~~(Ord. No. 332)~~

~~Sec. 2-92. Same—Rules of order adopted.~~

~~The town council hereby adopts the most recent edition of Robert's Rules of Order to govern conduct and procedure at meetings of the town council.~~

~~(Ord. No. 334)~~

⁶Editor's note(s)—Ord. No. 332 and Ord. No. 334, adopted Mar. 10, 1994, did not specify manner of codification; hence, inclusion as Art. II, §§ 2-91 and 2-92, was at the discretion of the editor.

Cross reference(s)—Disrupting council meeting, § 17-16.

Secs. 2-9~~13~~—2-100. Reserved.

ARTICLE IX. MEMORIALS ADVISORY COMMISSION

Sec. 2-101. Establishment of the Memorials Advisory Commission; purpose.

The Memorials Advisory Commission is hereby established to advise and make recommendations to the town council on appropriate means of recognizing and awarding citizens from any field of endeavor who have made significant contributions to the health, welfare and prosperity of the town.

(Ord. No. 480)

Sec. 2-102. Membership.

The commission shall be composed of three (3) members, appointed by the town council. All members shall serve without compensation. Each member shall be a resident of the town at all times during his or her term of office. One (1) member of the town council may serve as a liaison between the commission and the town council. Such liaison shall not be considered a member of the commission.

(Ord. No. 480, 9-12-02)

Sec. 2-103. Terms of office.

One (1) member of the commission shall be appointed for initial terms of two (2) years. The remaining two (2) members shall be appointed for initial terms of four (4) years. After the expiration of said initial terms, all members shall be appointed for terms of four (4) years. The town council shall fill any vacancies through appointment. Any person appointed to fill a vacancy shall hold office for the remainder of the unexpired term.

(Ord. No. 480, 9-12-02)

Sec. 2-104. Officers.

The commission shall hold an annual organizational meeting, at which the first order of business shall be the election of a chairman, a secretary, and such other officers as the commission may deem appropriate. All officers shall serve for one-year terms.

(Ord. No. 480, 9-12-02)

Sec. 2-105. Meetings, quorum, minutes.

The commission shall adopt bylaws and shall employ Roberts Rules of Order for the conduct of meeting consistent with the provisions of this article. Special meetings may be called by the chairman, or by the written request of two (2) members of the commission. A majority of members present at a duly called meeting shall constitute a quorum. No action of the commission shall be valid unless authorized by the vote of a majority of members actually present. The secretary shall keep minutes of all meetings and adhere to other requirements of the Virginia Freedom of Information Act, section 2.2-3700, et seq. of the Code of Virginia (1950) as amended. Copies of all minutes shall be signed by the secretary or other person designated by the commission to take minutes and forwarded to the town clerk within twenty (20) days following each meeting.

(Supp. No. 89)

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(Ord. No. 480, 9-12-02)

Sec. 2-106. Types of recognition.

The commission shall develop appropriate means by which the town may recognize or commemorate such contributions. Such forms of recognition may include public testimonial celebrations, the naming of public facilities or streets, the dedication of statues, monuments, works of art, the creation of scholarships or other awards, the installation of memorial plaques or other suitable forms of recognition; and the receipt of awards or other forms of recognition by the town. Any cost associated with the recognition including the cost of constructing memorials shall be borne by the commission. However, the cost of maintaining memorials shall be borne by the town.

(Ord. No. 480, 9-12-02)

Sec. 2-107. Nomination for recognition, process.

The commission shall develop criteria for the nomination of persons and organizations deserving recognition by the town. Using such criteria each year the commission shall recommend to the council the names of up to five (5) citizens, living or deceased, who have significantly contributed to the health, welfare or prosperity of the town. The commission shall solicit nominations for recognition from the public. All deceased nominees must have been deceased for two (2) years before the commission can consider their nomination. The commission shall forward its recommendations including a justification statement along with any supporting documentation to the council for consideration.

(Ord. No. 480, 9-12-02)

Sec. 2-108. Authority over contributions.

The commission shall have the authority, on behalf of the town, to solicit and accept private contributions, gifts, bequests and other donations of property into a memorials fund to carry out the purposes of this article. All funds and other donations accepted by the commission shall be deposited with the town treasurer to the credit of the town for the exclusive use of, and at the direction of, the commission. The commission shall submit a report to the town council monthly of all receipts and expenditures from such fund.

(Ord. No. 480)

Secs. 2-109—2-120. Reserved.

ARTICLE X. CHIEF FINANCIAL OFFICER

Sec. 2-121. Office and general duties.

The chief financial officer shall keep an office in such place as is provided by the town council, and in addition to those duties enumerated in the Colonial Beach Town Code, the chief financial officer shall receive all taxes and other revenues and moneys from persons owing the same to the town, or which it is the duty of other officers of the town to collect and pay over to the town; disburse all moneys collected and received for the town in accordance with such ordinances and resolutions as the council may prescribe; and perform such other duties as the council may from time to time prescribe.

(Ord. No. 521)

(Supp. No. 89)

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Sec. 2-122. Books required to be kept.

The chief financial officer shall keep a cashbook showing all receipts and disbursements made. The chief financial officer shall also keep a book showing the condition of the school fund and other funds of the town, the condition and amount of the bonded and floating debt of the town, and all other accounts town council deems necessary to an accurate understanding of the financial affairs of the town.

(Ord. No. 521)

Sec. 2-123. Books and accounts subject to inspection and to be delivered to successor.

The books and accounts of the chief financial officer, and all papers relating to the accounts and transactions of the town, shall be at all times subject to the inspection of council, the town manager, town attorney, and such persons as the town council may appoint or employ to examine the same, and, together with any balance of moneys on hand, shall be transferred by the chief financial officer to the designated successor when the office is vacated.

(Ord. No. 521)

Sec. 2-124. Statements to council.

The chief financial officer shall render to the council such statements concerning the financial affairs of the town as the council may at any time require.

(Ord. No. 521)

ARTICLE XI. COLONIAL BEACH PARKS AND RECREATION ADVISORY COMMISSION

**Sec. 2-130. Establishment of the Colonial Beach Parks And Recreation Advisory Commission:
purpose.**

The Colonial Beach Parks and Recreation Advisory Commission is hereby established to advise and recommend development of policies, funding and programs to serve the recreational needs and enrichment of the citizens.

(Ord. No. 709)

Sec. 2-131. Membership.

The commission shall be composed of five (5) members, appointed by the town council. All members shall serve without monetary compensation. Members serve at pleasure of town council and may be removed at any time by town council.

(Ord. No. 709)

Sec. 2-132. Terms of office.

The first three (3) members of the commission shall be appointed for an initial two (2) year term. The remaining two (2) members of the commission shall be appointed for an initial one (1) year term. After the expiration of the initial terms, all members shall be appointed for two (2) year terms. The town council shall fill any vacancies through appointment. Any person appointed to fill a vacancy shall serve for the remainder of the un-expired term.

(Ord. No. 709)

Sec. 2-133. Duties and powers of the commission.

The commission has a duty to serve as a liaison between the town council, department of parks and recreation and the Town of Colonial Beach citizens to make recommendations on the development of policies, funding and programs to serve the recreational needs and enrichment of the citizens.

(Ord. No. 709)

Sec. 2-134. Officers.

The commission shall have two (2) officers: a chairperson and vice chairperson, whose term of office shall be for one (1) year or until their successors are elected and qualified. The commission shall elect the chairperson and vice chairperson. The commission shall have a clerk that is an employee of Department of Parks and Recreation for the Town of Colonial Beach as appointed by the chair.

(Ord. No. 709; Ord. No. 713)

Sec. 2-135. Duties and powers of officers.

The chairperson shall preside at all meetings and work closely with the director of parks and recreation. The vice chairperson shall perform the duties of the chairperson in the chairperson's absence or incapacity. The clerk shall keep all records of the commission and minutes from the monthly meetings.

(Ord. No. 709; Ord. No. 713)

Sec. 2-136. Meetings, quorum and minutes.

Meetings shall be held as determined by the majority or quorum of members. Meetings may be conducted in accordance with Robert's Rules of Order. Special meetings may be called by the chairperson, or by written request of two (2) members of the commission. No action of the commission shall be valid unless authorized by the vote of the majority of members present.

Minutes of meetings shall be kept and the commission shall adhere to all requirements of the Virginia Freedom of Information Act, § 2.2-3700, et seq. of the Virginia Code (1950) as amended. Copies of all minutes shall be signed by the chairperson and the person designated by the commission to take minutes and shall be forwarded to the town clerk within twenty (20) days following each meeting.

(Ord. No. 709)

Sec. 2-137. Authority over contributions.

The commission shall have authority, on behalf of the town, to solicit private contributions, gifts, bequests and other donations of funds to a Colonial Beach Parks and Recreation fund. All donations shall be deposited with the town for the exclusive use of the town and at the direction of the town council.

(Ord. No. 709)

Sec. 2-138. Advisors.

The commission may seek experts to serve as pro bono advisors to the commission.

(Ord. No. 709)

Sec. 2-139. Bylaws.

The commission shall accept bylaws, and any bylaws may be amended by vote of a majority of the commission voting on the question at the meeting where a quorum is present. Initial bylaws and all proposed amendments to the bylaws shall be provided to the town council prior to approval and shall be approved by town council.

(Ord. No. 709)

Sec. 2-140. Annual meeting.

An annual organizational meeting shall be held at the first meeting of each year to elect officers for the coming year.

(Ord. No. 709)

Chapter 8 ~~RESERVED~~ DEALERS IN PRECIOUS METALS AND GEMS

ARTICLE I. ~~IN GENERAL~~

~~Sec. 8-1 – 8-25. Reserved. Definitions.~~

~~For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:~~

~~*Dealer:* Any person engaged, at any location in the town, in the business of purchasing precious metals or gems or making loans for which precious metals or gems are received and held as security; provided, however, that retail merchants permanently located in the town shall be exempt as to purchases made directly from manufacturers or wholesalers of precious metals or gems for their inventory. This definition includes merchants whose business is permanently located in the town. As used herein, "dealer" includes employers and principals on whose behalf the purchase or loan is made and all employees and agents who personally make such purchases and loans. When any act is required of a corporation, it shall be performed by its president.~~

~~*Gems:* Any item containing or having any precious or semi-precious stones customarily used in jewelry or ornamentation.~~

~~*Precious metals:* Any item containing, as part of its composition in any degree, gold, silver, platinum or pewter.~~

~~*Seller:* One who sells precious metals or gems or one who gives precious metals or gems as security for a loan.~~

~~Sec. 8-2. Violations of chapter.~~

~~A violation of any provision of this chapter shall constitute a Class 1 misdemeanor.~~

~~Cross reference(s)—Penalty for Class 1 misdemeanor, § 1-10.~~

~~Sec. 8-3. Notice required when business not operated continuously and before change of business location.~~

~~If the dealer does not operate continuously from the date of obtaining a permit under this chapter, he shall notify the chief of police, in writing, of the cessation and restart of business; provided that, cessation of business over weekends or holidays shall not require such notification. Every dealer shall notify the chief of police, in writing, prior to any change of the location of his place of business.~~

~~Sec. 8-4. Identification and photographing of seller.~~

~~Dealers shall ascertain the name, address and age of sellers of precious metals or gems and shall require the seller to verify the same by some form of identification issued by a governmental agency, which identification must show, as a part of it, the picture of the person so identified. The dealer shall further insure that a photograph of the seller, taken simultaneously with the picture identification, is made. Such photograph shall be made by any means which shall have, as a result, a sufficiently clear image, so as to identify the seller with the picture on the identification. The photograph herein provided for shall be delivered to the chief of police at the time the copy of the bill of sale is delivered pursuant to section 8-5.~~

~~Sec. 8-5. Bills of sale.~~

~~(a) Every dealer shall maintain adequate records to reflect the following information, which shall appear on bills of sale, the form of which shall be provided by the chief of police:~~

~~(1) The name of the dealer and of his employer or principal, if any.~~

~~(2) A complete description of each item purchased, including the weight of precious metals or gems purchased by the dealer. Such description shall also include a description and listing of all marks, numbers, prints, letters and monograms on such items.~~

~~(3) The name, address and age of the seller.~~

~~(b) One copy of the bill of sale required by this section shall be retained by the dealer, one copy shall be given to the seller and one copy shall be delivered, during regular town work hours, to the chief of police, at his office, within twenty-four (24) hours of the sale. If the purchase or loan occurs during the weekend, the delivery to the chief of police shall be made no later than 10:00 a.m. of the next regular town work day.~~

~~Sec. 8-6. Prohibited purchases and loans.~~

~~No dealer shall purchase or make a loan on precious metals or gems from any seller who is under the aged of eighteen (18) years. No dealer shall purchase or make a loan on precious metals or gems from any person whom the dealer believes, or has reason to believe, is not the owner of such precious metals or gems.~~

~~Sec. 8-7. Retention of purchases.~~

~~Every dealer shall retain, either within the town or within the county, all precious metals or gems purchased or held as security for a minimum of ten (10) calendar days from the time of delivering the bill of sale to the chief of police pursuant to section 8-5. During such period of time, no change shall be made to any item containing precious metals or gems.~~

~~Secs. 8-8—8-16. Reserved.~~

ARTICLE II. PERMIT¹

~~Sec. 8-17. Required.~~

~~No dealer shall purchase precious metals or gems or make loans for which precious metals or gems are received and held as security, without first obtaining a permit from the chief of police. Possession of a permit issued in another locality shall not relieve a dealer from the obligation to obtain the permit required by this section.~~

~~Sec. 8-18. Application.~~

~~(a) Application for a permit required by this article shall be made to the chief of police on forms provided for that purpose. Such application shall include the applicant's full name, address and telephone number and that of the applicant's employer, if any, and the location of the applicant's place of business.~~

~~(b) It shall be unlawful for any person to make a false statement in an application submitted under this section. In addition, any such statement shall void the permit *ab initio*.~~

~~Sec. 8-19. Applicant's qualifications.~~

~~No permit shall be issued under this article, unless the applicant satisfies the chief of police of his good character and that he has not been convicted, within the past seven (7) years, of a crime of moral turpitude.~~

¹~~Cross reference(s) Business licenses, Ch. 13.~~

~~Sec. 8-20. Applicant's bond.~~

~~(a) — Every applicant for a permit under this article shall enter into and post with the chief of police a bond, with either one corporate surety or two (2) personal sureties known to the chief of police, such bond to be payable to the town, in the penal sum of five thousand dollars (\$5,000.00) and conditioned upon due observance of the terms of this chapter. In lieu of posting such bond, the applicant may post cash or a letter of credit from a recognized financial institution, the terms of which are satisfactory to the chief of police.~~

~~(b) — Any person aggrieved by a dealer's violation of the provisions of this chapter, who shall recover a final judgment against such dealer therefor, may maintain an action, in his own name, upon the bond provided for in this section.~~

~~Sec. 8-21. Fee.~~

~~(a) — The fee for a permit required by this article shall be twenty five dollars (\$25.00), which fee shall be paid at the time application is made for the permit.~~

~~(b) — There shall be no refund or abatement of the fee paid under this section by reason of the fact that the dealer exercises the privilege for any period of time less than that for which the permit was granted.~~

~~Sec. 8-22. Issuance.~~

~~The permit required by this article shall be issued by the chief of police or his designee, upon payment of the prescribed fee and satisfaction of the requirements of this article.~~

~~Sec. 8-23. Display.~~

~~A permit issued under this article shall at all times be displayed prominently by the dealer on his business premises.~~

~~Sec. 8-24. Not transferable.~~

~~A permit issued under this article shall be a personal privilege and shall not be transferable.~~

~~Sec. 8-25. Expiration; renewal.~~

~~A permit issued under this article shall expire six (6) months after the date of issuance. Such permit may be renewed in the same manner as the initial is obtained.~~

Chapter 11 RESERVEDGAMBLING

~~Secs. 11-1 – 11-11. Reserved. Definitions.~~

~~For the purpose of this chapter, the following words and phrases shall have the meaning ascribed to them in this section:~~

~~**Gambling device.** A "gambling device" includes:~~

- ~~(1) Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity, and~~
- ~~(2) Any machine, apparatus, implement, instrument, contrivance, board or other thing, including, but not limited to, those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices.~~

~~Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations, but not all the operations, nor are they any less gambling devices because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.~~

~~**Illegal gambling.** The making, placing or receipt of any bet or wager in this town of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of this town, shall constitute illegal gambling.~~

~~**Operator.** An "operator" includes any person who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.~~

~~**State law reference(s)**—Similar provisions, Code of Virginia, § 18.2-325.~~

~~Sec. 11-2. Illegal gambling generally.~~

~~Except as otherwise provided in this chapter, any person who illegally gambles shall be guilty of a Class 3 misdemeanor. If any association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.~~

~~Cross reference(s)—Penalty for Class 3 misdemeanor, § 1-10.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-326.~~

~~Sec. 11-3. Winning by fraud.~~

~~If any person, while gambling, cheats or by fraudulent means, wins or acquires for himself or another money or any other valuable thing, he shall be fined not less than five (5) nor more than ten (10) times the value of such winnings. This penalty shall be in addition to any other penalty imposed under this chapter.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-327.~~

~~Sec. 11-4. Permitting gambling to continue in one's premises.~~

~~If the owner, lessee, tenant, occupant or other person in control of any place or conveyance knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified a law enforcement officer of the presence of such illegal gambling activity, he shall be guilty of a Class 1 misdemeanor.~~

~~Cross reference(s)—Penalty for Class 1 misdemeanor, § 1-10.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-329.~~

~~Sec. 11-5. Aiding or abetting operation of illegal gambling activity.~~

~~Any person, other than those persons specified in other sections of this chapter, who knowingly aids, abets or assists in the operation of an illegal gambling activity shall be guilty of a Class 2 misdemeanor.~~

~~Cross reference(s)—Penalty for Class 2 misdemeanor, § 1-10.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-330.~~

~~Sec. 11-6. Manufacture, sale, possession, etc., of gambling devices.~~

~~It shall be unlawful for any person to manufacture, sell, transport, rent, give away, place or possess any gambling device, or conduct or negotiate any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of any illegal gambling activity. A violation of any provision of this section shall constitute a Class 1 misdemeanor.~~

~~{Ord. No. 30}~~

~~Cross reference(s)—Penalty for Class 1 misdemeanor, § 1-10.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-331.~~

~~Sec. 11-7. Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise.~~

~~All money, gambling devices, office equipment and other personal property used in connection with an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any town police officer or which shall lawfully come into his custody, shall be forfeited to the town by order of the court in which a conviction under this chapter is obtained. Such court shall order all money so forfeited to be paid over to the town and, by order, shall make such disposition of other property so forfeited as the court deems proper, including award of such property to any town or state agency or charitable organization for lawful purposes, or in case of the sale thereof, the proceeds therefrom to be paid over to the town. Such forfeiture shall not extinguish the rights of any person without knowledge of the illegal use of such property who is the lawful owner or who has a lien on the same which has been perfected in the manner provided by law.~~

~~{Ord. No. 30}~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-336.~~

~~Sec. 11-8. Certain acts not deemed "consideration" in prosecution under chapter.~~

~~In any prosecution under this chapter, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing or delivery of an entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding; or any one or more thereof, where no charge is made to, paid by, or any purchase required of him in connection therewith.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-336.~~

~~Sec. 11-9. Exceptions from chapter—Contests of speed or skill.~~

~~(a) — Nothing in this chapter shall be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles, where participants may receive prizes or different percentages of a purse, stake or premium dependent upon whether they win or lose or dependent upon their position or score at the end of such contest.~~

~~(b) — Any participant who, for the purpose of competing for any such purse, stake or premium offered in any such contest, knowingly and fraudulently enters any contestant, other than the contestant purported to be entered, or knowingly and fraudulently enters a contestant in a class in which he or it does not belong, shall be guilty of a Class 3 misdemeanor.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-333.~~

~~Sec. 11-10. Same—Games of chance in private residences.~~

~~Nothing in this chapter shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games of chance and there is no operator, as defined in section 11-1.~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 18.2-334.~~

~~Sec. 11-11. Same—Authorized bingo games and raffles.~~

~~Nothing in this chapter shall apply to any bingo game or raffle conducted pursuant to and in accord with the provisions of sections 18.2-340.1 through 18.2-340.12 of the Code of Virginia.~~

Tab C



TO: Town of Colonial Beach Town Council
FROM: Vivian Seay Giles, Town Attorney
COPY: India Adams-Jacobs, Town Manager
SUBJECT: Disposition of Town-owned Real Property
DATE: August 17, 2022

SUMMARY:

Ms. Sandra Kennedy owns the real property located at 353 7th Street, which property adjoins a small parcel of Town-owned real property. Ms. Kennedy's carport encroaches a few feet onto the Town's property and she would like to purchase all or a portion of the Town property to remedy the encroachment issue as well as other property maintenance concerns.

BACKGROUND:

Several years ago, Ms. Kennedy was granted a permit to build, and did build, a carport next to her house. It was later discovered that the carport encroaches onto Town property. In addition, there are trees located on the Town lot that are in need of regular maintenance, including recent fallen limbs.

The Town property adjoining Ms. Kennedy's property is a narrow strip of land owned by the Town on which a sanitary sewer gravity main is located. Staff believes the sanitary sewer line to lie very close to, if not on, the property line with Ms. Kennedy.

ISSUE:

Ms. Kennedy would like to purchase all or a portion of the Town property adjoining her real estate in order to remedy the carport encroachment issue as well as to assume maintenance of existing trees.

ALTERNATIVES:

This matter is set for public hearing upon the instruction of Town Council for consideration of the following alternatives:

1. Do nothing; the Town will retain ownership of the property.
2. Effect a boundary line adjustment to remedy the encroachment of Ms. Kennedy's carport onto Town-owned real property while retaining a utility easement.
3. Sell to Ms. Kennedy a portion of the Town-owned real property while retaining a utility easement.
4. Sell to Ms. Kennedy all of the Town-owned real property while retaining a utility easement.

FISCAL IMPACT:

Disposition of Town-owned parcels of real property that are not currently in use and are not likely to be needed by the Town in the future would provide a significant economic benefit to the Town. The economic benefit to be realized by the Town would consist of one or more of the following:

1. Sale price.
2. Reduced man-hours associated with routine maintenance (mowing).

3. Reduced man-hours or contract costs for tree maintenance.
4. Reduced risk associated with potential tree damage to adjoining properties.

RECOMMENDATION:

Staff recommends a comprehensive review of Town-owned real properties to more closely evaluate the benefits of retaining full ownership of these parcels when easement rights and access could be retained instead. The benefits of accessing and using the properties - including the property adjoining Ms. Kennedy - could be retained while relieving the Town of the corresponding maintenance obligations and ownership risks.

