



TOWN COUNCIL
Joint Work Session with Historic District Review Board,
Special Meeting & Executive Session

August 1, 2019
Cape Charles Civic Center
6:30 PM

1. Call to Order: Roll Call
 - a. Town Council Work Session, Special Meeting & Executive Session
 - b. Historic District Review Board Work Session
2. Joint Work Session with Historic District Review Board
3. Adjournment of Historic District Review Board Work Session
4. Public Comments re: Agenda Items Only (3 minutes)
5. Order of Business:
 - *A. Re-Appointment of Library Board Member
 - B. Leash Law
6. Recess to Closed Session
7. **Code of Virginia § 2.2-3711-A, Paragraph 7:** Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probably litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

Specifically: Update on pending litigation case
8. Return to Open Session

Certification to the best of each member's knowledge (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.
9. Adjournment

Proposed Agenda for 8/1 Work Session: TC and HDRB

1. Mayor's statement as to what he wants to accomplish at this meeting.

2. Develop the steps necessary for the appeal process (e.g., suggestions below)
 - a. The material for the TC review should include;
 - i. The original material sent to the HDRB
 - ii. A Staff Report by the Zoning Administrator
 - iii. the written denial for a certificate of appropriateness sent to the applicant that is developed by the chair and issued to the applicant by the town planner. (Not the draft meeting minutes)
 - b. The order for presentations should be for each denial;
 - i. Zoning Administrator
 - ii. Applicant
 - iii. HDRB member
 - c. Material to be distributed 1 week in advance.
 - d. Review of the meeting's video is not required to guess what the denial was based on.

3. A Statement or Re-statement as to our vision for the future of our town relative to our historic district.



This is an important step in laying the groundwork for the content to the historical guidelines and development of over-arching guiding principles. Normally, this would be re-reviewed during the comprehensive plan update or preservation plan development, but that will take extended time. I feel that this should be developed now to allow us to proceed with changes and re-reviewed/amended during these plan updates. Ultimately, this requires public buy-in.

4. Development of Guiding Principles

I would propose that jointly we need to come to terms with a path forward and development of guiding principles will help get us there. I have spoken to Susan, Zack, and Cela to attempt to develop a list of these for purpose of at least having a starting point. Of course, other principles or modifications will be entertained during this meeting. There will not be an attempt to reach common ground prior to the meeting because of time and schedules, but each individual will develop their own list that I will compile into one. From this list we will see where we four share

common principles and where decisions will have to be made. This list will be made part of the agenda.

Example

<ul style="list-style-type: none">• Decisions made by TC or HDRB will not jeopardize the historic designation of the town.	Paul
--	------

5. As time permits, TC to review the process changes developed by Zach, Cela and Paul, and subsequently reviewed by the HDRB at their last work session. The document depicts where consensus was reached or not. At this meeting, we can discuss the differences that the TC will ultimately take action on or not.

6. Setting of the next TC/HDRB work session.

I don't expect the items above will be finished in one meeting. A set of proposed dates should be brought to the meeting.

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Reappointment of Library Board Member		AGENDA DATE: August 1, 2019
	SUBJECT/PROPOSAL/REQUEST: Reappointment of Library Board member		ITEM NUMBER: 5A
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: Larry DiRe, Town Manager	

BACKGROUND:

The Library Board meets monthly and consists of seven members each serving four-year terms.

DISCUSSION:

Roger Moyer serves on the Library Board and his term expires August 8, 2019. Mr. Moyer has expressed his interest in continuing his service on the Library Board for another term.

RECOMMENDATION:

Staff recommends Council reappoint Mr. Roger Moyer to the Library Board for another four-year term.

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Leash law.		AGENDA DATE: August 1, 2019
	SUBJECT/PROPOSAL/REQUEST: Proposed draft ordinance language to change from “under control” standard to required physical restraint\leash control standard for domestic canines.		ITEM NUMBER: 5B
	ATTACHMENTS: None.		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Larry DiRe\Chief Pruitt	REVIEWED BY:	

BACKGROUND:

Town code section 50-191 reads as follows:

Sec. 50-191. - Animals on beach and other public places.

(a) Animals prohibited during certain period.

(1) It shall be unlawful for any person owning, having control of any animal to permit such animal to be on the public sand beach, the boardwalk or the grassy area west of the boardwalk during the period from 9:00 a.m. through 9:00 p.m. between April 1 and Labor Day of each year, such period hereinafter referred to [as] the "season".

(2) It shall be unlawful for any person who owns or has control of any animal to permit such animal to run at large at any time. For purposes of this section, an animal shall be deemed to run at large while roaming, running, or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

The Town of Cape Charles does not have a leash law for domestic canines, or other animals.

ITEM SPECIFICS:

The Code of Virginia states as flows relative to the control of domestic canines:

§ 3.2-6538. Governing body of any locality may prohibit dogs from running at large The governing body of any locality may prohibit the running at large of all or any category of dogs in all or any designated portion of such locality during such months as they may designate. Governing bodies may also require that dogs be confined, restricted or penned up during such periods. For the purpose of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits his dog to run at large, or remain unconfined, unrestricted or not penned up shall be deemed to have violated the provisions of this section.

1984, c. 492, § 29-213.63; 1987, c. 488, § 3.1-796.93; 2008, c. 860.

§ 3.2-6539. Ordinance requiring dogs to be kept on leash The governing body of any locality may adopt ordinances requiring that dogs within any such locality be kept on a leash or otherwise restrained and may, by resolution directed to the circuit court, request the court to order a referendum as to whether any such ordinance so adopted shall become effective. Such referendum shall be held and conducted, and the results thereof ascertained and certified in accordance with § 24.2-684. The court shall require the governing body to give appropriate notice of the time, place and subject matter of such referendum.

The results of the referendum shall not be binding upon the governing body of the locality but may be used in ascertaining the sense of the voters.

1984, c. 492, § 29-213.65; 1987, c. 488, § 3.1-796.95; 2008, c. 860.

The current Town ordinance above covers “any animal” while the Code of Virginia sections cited above pertain specifically to “dogs” (domestic canines). Both reasonable application of the current Town law and lived experience recognize that a wide range of animals covered under the “any animal” standard do not pose a potential threat to the health and safety of residents and/or property. For example, pet turtles pose no threat of “roaming, running, or self-hunting” as a public menace, nor could a police officer reasonably expect such pet owner to demonstrate the animal is under “immediate control.” It’s a turtle, they don’t respond to voice commands. Same can be said for a variety of birds, reptiles, insects and arachnids, fish, rodents, and other animals typically kept as domestic pets currently legislated under section 50-191. The purpose of law is to provide for the general wellbeing of the community and not create an unenforceable situation for those entrusted to uphold the law. A good law is also not absurd on its face as the turtle scenario demonstrates.

At the same time, both the Code of Virginia and lived experience recognize that dogs potentially pose a public health and safety risk by “roaming, running, and self-hunting” and can be regulated differently from other creatures currently under the “any animal” standard. Credible reports of pedestrians (including town staff in the course of exercising their job duties) and pets being approached and menaced by dogs have been cited in the public record at several recent public meetings and received by staff through a variety of sources. In some instances, these reports are unsubstantiated as made, or mere exaggerations of conditions that upon investigation do not pose an immediate health and safety concern. But the potential threat is real, as is the fear experienced by some people from past experiences with dogs. As part of its police powers, government is established to make laws and provide enforcement to mitigate potential threats to the general public health and safety.

As a practical matter, easier to understand and enforce, the “any animal” standard can be replaced, and a dog-specific code section written. Such a section would include much of the language from the Code of Virginia section 3.2-6538 and incorporate the “leash or otherwise restraint” control standard in certain places and times of the year from section 3.2-6539. For example, use-specific public facilities (for Cape Charles those include town hall, the Civic Center, the library, the children’s playground, the tennis courts, and the fishing pier) can be designated dog-free at all times since these are limited in space and structured for uses that can only occur at those facilities. The beach, the boardwalk, and Central Park are more flexible use facilities and can be regulated under different (more flexible) place and time limitations. Some of these matters were considered and addressed by the “dog committee” established in 2014 and reported to Council at the March 19, 2015 regular monthly meeting. Over time should macaws, box turtles, and/or guinea pigs (each included under the current “any animal” standard) pose a public health and safety risk, those risks can be investigated, evaluated and brought to Council for necessary legislative action to address the respective issue.

The proposed revised text reads as follows:

Sec. 50-191. – Domestic animals in public places.

(a) Domestic canines.

(1) It shall be unlawful for any person owning, or having custody of, any domestic canine to permit such canine to run at large at any time. For purposes of this section, a domestic canine shall be deemed to run at large while roaming, running, or self-hunting off the property of its owner or custodian. Time and place exemptions to this section are at the discretion of the Town Council, as approved during a regular or special meeting and as publicly advertised according to the Code of Virginia.

(2) It shall be unlawful for any person owning, or having custody of, any domestic canine to permit such canine to be off a leash or other physical restraint. Time and place exemptions to this section are at the discretion of the Town Council as approved during a regular or special meeting and as publicly advertised according to the Code of Virginia.

(3) It shall be unlawful for any person owning, or having custody of, any domestic canine to permit such canine to be in the following public facilities at any time: town offices, Civic Center, library, tennis courts, children’s playground, fishing pier.

(4) It shall be unlawful for any person owning, or having custody of, any domestic canine to permit such canine to be in the following public facilities at any time except for times and places approved by Town Council: town beach.

(5) It shall be unlawful for any person owning, or having custody of, any domestic canine to be in Central Park off a leash or other physical restraint except for times and areas under a town facility use form for specific events and/or activities. Time and place exemptions to this section are at the discretion of the Town Council as approved during a regular or special meeting and as publicly advertised according to the Code of Virginia.

(6) Service dogs are recognized as a regulated animal and are exempt from the requirements of this section.

The overall purpose of this revised language is to separate the demonstrable dog issues from any non-existing issues associated with the current “any animal” standard. Making those issues and non-issues reconcile under uniform language was resulting in language difficult to understand and enforce. Treat dogs as dogs. The proposed language also grants legislative flexibility to address dynamic situations as they occur.

RECOMMENDATION:

Pending further Council discussion provide direction to staff.