

**MINUTES OF TOWN COUNCIL MEETING HELD
THURSDAY, APRIL 8, 2010 – 7:00 P.M.
COLONIAL BEACH TOWN CENTER**

MAYOR:	FREDERICK C. RUMMAGE
VICE MAYOR:	TRISH KING
COUNCIL:	DAVID COOMBES
	STEPHEN KENNEDY
	BURKETT LYBURN - tardy
	KAREN PAYNE
	RONALD RIDGELY
TOWN MANAGER:	VAL FOULDS
TOWN ATTORNEY:	ANDREA ERARD
CHIEF FINANCIAL OFFICER:	JOAN GRANT
TOWN CLERK:	BARBARA A. GOFF

PRAYER:

Let us Pray. We thank you for this day and thank you for your presence here with us tonight. We ask your guidance upon this meeting so that the needs of our community will be met and for your blessing on all of the citizens of the Town. Amen.

PLEDGE OF ALLEGIANCE:

I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one Nation under God, indivisible with liberty and justice for all.

CALL TO ORDER:

Mayor Rummage called the Town Council Meeting of Thursday, April 8, 2010 at 7:00 p.m.

ROLL CALL OF MEMBERS: Mr. Ridgely, Ms. King, Ms. Payne, Mr. Kennedy, Mr. Coombes, Mayor Rummage were present.

ANNOUNCEMENT OF ABSENCES: Mr. Lyburn was tardy.

ADDITIONS TO THE AGENDA: Motion was made by Ms. Payne to add discussion pertaining to the Department of Environmental Quality reports for underground storage tanks in the Town.

APPROVAL OF THE AGENDA: Motion was made by Mr. Ridgely to approve, second by Ms. Payne. With no objection the agenda was approved as presented. *Motion Carried.*

APPROVAL OF THE MINUTES: Motion was made by Ms. Payne, second by Ms. King to approve the minutes of the regular meeting of Thursday, March 11, 2010, the Special (Emergency) Meeting of Wednesday, March 17, 2010 and the Budget Committee/Town Council Meeting of Thursday, March 25, 2010. Motion carried and the minutes were approved as presented. *Motion Carried.*

PRESENTATIONS:

Police Department Accreditation:

Chief Hawkins introduced Mr. Ken Paul with the Department of Criminal Justice Services.

Mr. Paul stated we are a State agency that provides numerous services to various components to the Criminal Justice System including law enforcement. The accreditation program is staffed out of our agency. We have an accreditation center which was established by statute in the Virginia Code. I bring you greetings and congratulations from our new director, Mr. Wheeler and from Secretary of Public Safety, Mr. Decker. With me today is the Town of Herndon Police Chief, Toussaint Summers from the executive board of the Virginia Law Enforcement Professional Standards Commission. That is the body which determines which law enforcement agencies in Virginia who will be accredited or not. We are here to recognize the Colonial Beach Police Department for their commitment to law enforcement excellence as evidenced by their successful completion of the certification process of the Virginia Law Enforcement Accreditation Program. Our accreditation programs are designed to measure and confirm compliance of the participating agency with the professional standards in whatever discipline or profession they are involved. It is one of the only ways citizens and government leaders can be assured that an agency is maintaining the high performance marks for which the community has a right. Virginia law enforcement agencies can seek an accreditation status but they are not required to. Accreditation in Virginia is voluntary. This fact further distinguishes your police department and your community for their commitment to professionalism and their willingness to be measured by and compared to the best in the profession. The Virginia Law Enforcement Standards Commission was formed in the early 1990's to provide law enforcement agencies in the Commonwealth with an avenue to demonstrate that they meet 180 successive standards for efficient and effective agency operation. Since that time out of the 417 eligible law enforcement agencies, approximately 82 of those have actually become accredited under this program. Each agency that participates must meet or achieve the criteria from each standard as demonstrated through the commission that they possess, utilize and follow the adopted standards in that area contained within their own policies, rules and regulations. A team of certified assessors assessed the police department. They issued their report to the executive board advising that they were in compliance with all applicable standards as required by the accreditation program. On March 11th, the executive boards met and unanimously approved your police department for VLEAC Accreditation. Once accredited the agency's active participation in this program does not cease. All agencies must maintain their accreditation files on an ongoing basis and submit annual verification compliance as required by the commission. On behalf of the Department of Criminal Justice Services, the Secretary of Public Safety, I congratulate you and the entire police department, Accreditation Manager, Monroe Bryant, for paying attention to detail and for maintaining the volumes of files required for the program. I congratulate the men and women, and sworn civilians for their hard work and perseverance and dedication to excellence in completing this project.

At this time Chief Toussaint Summers from the VLEAC Executive Board of the Commission was asked to make the official presentation.

Chief Summers stated it was a true honor for him to be present at this meeting. He also stated that he saw many faces that he recognized. To a community, it is most important to have a partnership between the police and the community. It is impossible to develop that partnership if you don't have the trust in your police department. How can you have trust in your police department if your police department is not transparent, is closed or secretive? I can tell you by the mere fact that your department has achieved its goal that this is an open police department. A police department that is willing to have other professionals come in and take a look. Police departments across the State of Virginia have stopped by your community and found your department to be in compliance with the standards. I am here representing the executive board, Sherriff Newman is the Chairman and I want to say congratulations to you. I want to say the worst now begins. Obviously you have supported the Chief in getting this mark. I understand what it is when you are a smaller agency and have to measure up to this level of professionalism. It requires resources. I don't know if the Chief knows it or not, but maintaining compliance, maintaining those files and have people come in and say okay, being in compliance requires a lot of work. My department is a small department too, but I have one full time person totally dedicated just to keeping the files straight. Not to mention the numerous sergeants, lieutenants and captains who go through all of the files to make sure we have our general orders and our policies and procedures up to date so as to conform with the new laws that are passed during the year. It is a lot of work and I think you have a good man in the Chief and I know with your support from the Mayor, Council and the community, you will be in good shape. At this time Chief Summers presented the Accreditation Certificate to the Chief of Police and the department which stated:

Certificate of Accreditation which certifies that the Town of Colonial Beach Police Department came before the Virginia Law Enforcement Professional Standards Committee 2010 and has met the requirements that were set forth by the said Commission and is hereby, therefore certified as an Accredited Agency for a period of 4 years.

Chief Summers also stated he is a property owner in the Town and visits the Town quite often. I am particularly happy to have a professional police department.

At this time Certificates were presented to: Ms. Bertha Peyton, Major Kenneth Blevins, Captain William Seay and Monroe Bryant.

Chief Hawkins stated through this whole process, the Mayor and Town Council, every employee of the department, Ms. Goff and Ms. Grant and outside of the department everyone has helped, but these four are the ones who had to eat, sleep and breathe it every single day to the point where they wanted Monroe to just go away. It was a transformation where everyone stayed in there to help because they wanted to. No one made them do it. I credit Mr. Bryant with a lot of that because he really had everyone pumped through this process. Bertha has had the brunt of it with a lot of typing and file keeping. Major Blevins worked all the felony cases and he had to do a lot of research to show that we were doing things we were supposed to do as far as following proper protocol. He has a lot of work in that and transformed the way we do investigations of criminal cases. Captain Seay has worn many hats and spent a lot of time on this process on the evidence side. He has developed a system with the criminal side of the house to make sure we are doing what we are supposed to do. Monroe Bryant has already started the reaccreditation

process and is deep in that process. He has never let up and he is still with us. We have had a lot of people helping us and Ms. Foulds is one of them. There are things that have to be done and I had to get approval from Ms. Foulds and when it comes to accreditation she was behind us 100%. It made things move along a lot faster. There were things that she said no to, but she had to. I appreciate everything she has done for us. The police department has enjoyed the luxury of having things approved at the committee level for us to move forward. That was also a critical part.

Mr. Lyburn thanked the police department and everyone who has supported them and stated how hard the police department has worked to get where they are today.

Mayor Rummage stated we are certainly proud of our police department. I was most impressed as were a lot of you here this evening. I was there when it was verified in Richmond. I was not only impressed with the amount of work that had to go into the preparation by the Chief and his officers, but also the formality of the whole process in Richmond. I should expect no less from law enforcement in the State of Virginia.

Board of Supervisors:

Mr. Roberson congratulated the Chief and his police department for an outstanding job. The county is working on a budget now that all of the state figures are in. We have a May 1st deadline so we will have our first work session on the budget on Monday afternoon at 3:00 p.m. Our regular meeting will then be at 6:00 p.m. on Monday at the A.T. Johnson Building. I am trying to get a date for when the paving of Santa Maria can start and the highway department won't quite give it to me. They tell me real soon. It's that time of year again that the county does the revenue sharing on paving roads. The county has some money to match and I am here to ask the Town if they want to participate. We don't know how much the highway department will match or if they will have any money to match, but the county has some like they did in the past and they will continue on. I leave that in your hands if you have anything that you would like to help pave a section or part of it. We will match what you put up.

Mr. Lyburn asked if the counties amount of revenue sharing was going to be the same as last year or did it go up?

Mr. Roberson responded he would like to think that but the county's budget did not go up but I think we can handle the amount we talked about last year.

Mayor Rummage stated as you know I have tried to get this done in the past. I think Phase I is completed. The money is there. The \$200K is there. I think you are talking about Phase II which will be a continuation of that project in that area. I would hope that this Council will somehow find another \$50K. It is not just our \$50K. It is \$50K from the county plus \$100K from VDOT. These monies from VDOT are not in the current budget, those are the monies that have been set aside. I think the monies are there and it is up to us to make a move in that direction. I want to go on record for pushing this as I have before and I would like to see that item on the agenda for our next meeting.

Mr. Roberson stated he could not speak for the highway department, but he could speak for the county. We plan to continue with a match.

Mayor Rummage stated in order for us to get any cooperation in this regard from the State, we have to go through the county. They look to the county. We have 95 counties in this State, and they can't deal individually with towns. They have to deal with the county whether we like it or not. I like the report I am hearing tonight from Mr. Roberson. At the next committee meeting I would like it on the appropriate agenda and then I would like to see it on the next monthly Town Council agenda.

Ms. Payne – Addition to the agenda:

Ms. Payne stated this report is the result of discussions that took place at the Public Safety Committee Meeting several weeks ago. For those of you in the public there is a handout on the table. I apologize for the small print, but this is how it came from DEQ. This is a report directly from the Department of Environmental Quality. I asked them for all of the registered underground storage tanks located in the Town of Colonial Beach. On this sheet, there are a couple that are outside of the Town limits. I think they did a search under the zip code of 22443.

Mayor Rummage asked Ms. Payne to run down the list and identify those that are in Town.

Ms. Payne agreed. The **7-11** on Colonial Avenue does have diesel, gasoline and kerosene tanks currently in use. The **Colonial Beach Yacht Center** has one above ground storage tank still in use. **Curley's Packing Company** had two and they have been removed from the ground so they no longer have any according to this report. The **Chevron Gas Station** on the corner of Colonial and Kintz Street at one time had five gasoline tanks that have been removed. **Colonial Beach Amoco** has one kerosene tank. The category Permanently out of Use, is the one category that raises more concern than any because they have not been removed from the ground and have not been formally closed meaning having substance concrete or whatever. I did specifically request from DEQ the definition of what "Permanently out of Use" means, and they reported, *the term is applied to tanks that remain in the ground but have not been through the closure steps for closed in ground so they may have product in them. This may occur when the tanks were last used before 10-25-89 and there is no legal duty to pump out the tanks or remove them if they were last used before this date. This may also occur when the registered tank owner is a defunct entity and the current property owner never operated the tanks in which case there is no entity with the duty to perform the tank closure. Permanently out of Use also means when you have a data base record saying the tanks were registered for a facility but the current facility owners nor the DEQ inspector can find any trace of the tanks.* That one category is perhaps the most questionable out of these on the list. **Darl Concrete** has one fuel oil which is an above ground tank still in use. **McDonalds former Monroe Texaco** has been removed and permanently out of use and unknown. That is one we may need to look into. **Knobloch Country Store** is outside of town. **Colonial Beach Get & Zip** has three gasoline tanks and one kerosene tank permanently in use and they had one diesel and one gasoline removed the ground.

Mr. Kennedy corrected McDonalds and stated they had three gasoline tanks removed from the ground.

Ms. Payne acknowledged the correction. **Stanfords Marine Railway** has one diesel and one gasoline tank removed from the ground. **Deatley Service Center** is out of town. **James Powell** is out of town. There is another listing for **McDonalds former Monroe Texaco Station**, which has been removed from the ground. There are quite a few for **Norman Oil Company** and some are out of town, **Albert Gouldman, Elgin Nininger, and Harry Powells**. **Pearson's Seafood** is in Town and that has one "Temporarily out of Use". **Town of Colonial Beach** is at the old public works station which is "Permanently out of Use". **Colonial Beach Police and the Colonial Beach Rescue Squad** is listed as "Permanently out of Use" and we looking into whether they are out of the ground. **Beach Service Center** has one closed in the ground. **William Atwell 300 Monroe Bay Avenue** has one that has been closed in the ground. There is one tank that on **1212 Monroe Bay Avenue** that has been closed in. **Wilkerson's** has one that is currently in use according to this. **Westmoreland Pallet** is out of town. **George Washington Birthplace** is out of town. **Pearson's Seafood** is one tank "Permanently out of Use" diesel tank. **Colonial Beach Amoco** has four tanks removed from the ground. **Colonial Beach Visitor's Center** has two removed from the ground. **Deatley's** is out of town. **VDOT Potomac Beach Area Headquarters** is out of town. **Douglas Avenue former School Site** has one that is listed as "Permanently out of Use".

Ms. Payne stated she noted in the email from DEQ that there is no legal authority that we would have as far as following up on these other than finding out the status particularly of the ones that belong to the Town. I would suggest the one thing we can do with the concurrence of Council is ask the Town Manager to talk to the department heads on this if any of these properties that still have these, if we could note it in the files because 10 years down the line if somebody wants to come in and start digging for something, we will know right off the bat that there is a tank there.

Mayor Rummage stated that is the reason for the study and I thank you for initiating it and following through. I think Mr. Coombes red flagged this initially.

Mr. Coombes stated it was well done.

Ms. Payne also stated she had emails available or if they needed a copy of this she would be happy to forward if she had their email address.

CITIZEN INPUT:

PETER FAHRNEY – COLONIAL BEACH FOUNDATION

Mr. Fahrney stated there are three things that the Colonial Beach Foundation is doing that were worthy of bringing to everyone's attention. 1) The first limb that I brought to your attention last month concerning the beaches and waterfront coalition had a very interesting seminar a couple of weeks ago based with the Tidewater Oyster Gardener's Association. There are about 50 citizens who came to the presentation. We built as a group 12 oyster floats and this will be filled with oyster spats that will be about 5,000 baby oysters out of possibly 50,000 which is the goal of this organization. That is a very successful kick off to this coalition. I would like to announce that we are going to have also in conjunction with the Chamber of Commerce Candidates Forums for Council and School Board. The School Board will be April 21, 2010 at 7:00 p.m. in this room. The Town Council forum will be April 28, 2010 at 7:00 p.m. in this room. The other item of

interest that you may be interested in and it was highly successful last year and we are repeating is the Colonial Beach Foundation's sponsoring or getting scholarships to deserving young people in our community to go the Virginia Extension Service 4H Summer Camp. The time is drawing nigh and we would certainly like donations from anyone who is interested in helping us with some of our youth to summer camp this year.

WALTER KERN – 813 ROOSEVELT COURT

Mr. Kern stated his statement has to do with the underground and above gas tanks in Colonial Beach. One thing is that the above grounds are just as important from a safety standpoint as the below ground. I also have a list that is easier to read which states the capacity of the tanks and what is in them, steel, fiberglass, double lined or whatever.

Mayor Rummage asked Mr. Kern where he got his copy of the tanks information?

Mr. Kern responded he got his from the Department of Environmental Quality, the tank division. Anyway, there are several things that were brought to my attention. One of them does involve the Town's storage tanks at the Town yard. They are in the flood zone, they are above ground, they are not anchored and there is no containment wall. The information I got from Kevin Jones of the tank facility states the removal of gas tanks can be handled locally through the Building and Zoning Department and unfortunately it is sad enough we lost a life, but it could have been a whole lot worse. When it comes to public safety, I am an advocate for that department.

Mayor Rummage asked that Mr. Kern give a copy of his report to Ms. Payne.

UNFINISHED BUSINESS:

There were no issues in unfinished business.

NEW BUSINESS:

PUBLIC HEARING:

ORDINANCE - #582 – AMENDMENT TO TOWN CODE OF ORDINANCES THAT COMPLETELY REWRITES ARTICLE III, “NOISE ORDINANCE” OF CHAPTER 15 “NUISANCES”

TERRI RANKIN – 622 MONROE BAY AVENUE

Ms. Rankin stated she was concerned that the Noise Ordinance doesn't address noise in a residential area during regular business hours. It looks like it addresses noise in residential areas from 12:00 to 7:00 a.m. but nothing during the course of the day. Clearly anyone or my neighbors, can set up a rock and roll band in their front yard and play it at decibel levels that are really loud and there is nothing that we can do about it. I am curious how that will be addressed.

Mayor Rummage stated Ms. Rankin's comments will be addressed and are being recorded.

Ms. Rankin also was concerned about the noise in connection with gardening and tree maintenance. We have had incidents where people are doing leaf blowing at 7, 8 and 9 o'clock on a Sunday evening and it seems a bit much. I didn't realize there are people who need to clean their lots at 10:00 at night on a Sunday and I think that could be adjusted also.

WANDA GOFORTH – 500 MARSHALL AVENUE

Ms. Goforth stated she was not against the noise ordinance, in fact I am in favor of it, but my one concern is, that it doesn't reference a decibel restriction, only noise that can be heard 50 feet away. That to me is very obscure. Sound travels very easily over the water and I think that could be very easily confused and abused. I am not in favor of it the way it is written. I object to that. I think it should be rewritten with a decibel restriction especially with the sounds being are what they are at night.

Mayor Rummage stated the Chief of Police will discuss it with you.

With no further discussion on Ordinance - #582, this portion of the meeting was closed.

**ORDINANCE - #583 – AMENDMENT TO THE TOWN CODE OF ORDINANCES
“CHAPTER 14 MOTOR VEHICLES AND TRAFFIC,” ARTICLE I “IN GENERAL”,
SEC. 14-1.1, “APPLICATION OF CHAPTER TO CERTAIN PARKING LOTS,”
ARTICLE III, “PARKING”**

MARGARET MCMULLEN – 615 WASHINGTON AVENUE

Ms. McMullen stated Sec. 14-48 which states certain vehicles are not to be parked on a waterfront street or town-owned property between 1:00 a.m. and 5:00 a.m. to me begs the question of why just along the waterfront, it seems to be a problem everywhere. Maybe I don't understand what the problem is. Why doesn't it apply to everyone in Town?

TERESA HIGGINS – 208 3RD STREET

Ms. Higgins stated she knew a couple of people who have gotten tickets in our neighborhood for parking in front of houses. I have a small driveway and my friends park at the end of my driveway, are they going to get a ticket? I don't want someone getting a ticket if they come to visit me.

Chief Hawkins stated he would speak to Ms. Higgins after the meeting.

With no further discussion on Ordinance - #583, this portion of the meeting was closed.

**ORDINANCE - #584 – AMENDMENT TO THE TOWN CODE OF ORDINANCES
CHAPTER 5, “BEACHES AND WATERWAYS”**

ALLEN JARVIS – 225 BOUNDARY STREET

Mr. Jarvis stated for someone who really likes his bike, I would like to point out on Sec. 5-4 I would also like to include skateboards, skates, rollerblades and that sort of thing where you can use them on the Boardwalk between 6:00 a.m. and 9:00 a.m. but no other time. Sec. 5-10 Animal control on beaches – it shall be unlawful for any person who owns or has control of any animal . . . however, it is open on the Boardwalk from April 1st to September 30th. I would like to speak for myself and the kids in Town. If someone can walk a bitch along the Boardwalk, would it be okay for that same period of time to let the kids on the skateboards and my bike on the Boardwalk at that time?

Ms. Erard responded that both of those provisions are existing and are not newly proposed sections.

Mr. Jarvis stated he wanted to see if that period of April 1st through September 30th, in the off season that we also can use on the Boardwalk skateboards, bicycles and not just be limited to only 6:00 a.m. to 9:00 a.m.

Mr. Kennedy stated it could probably take place from September 1st to April 1st.

Ms. Erard stated she understood the comment. I just wanted you to understand this is not a new rule.

Mr. Jarvis stated he understood, but wanted the change to reflect that.

ANDREE JOHNSON – 526 POTOMAC RIVER DRIVE

Ms. Johnson stated she was concerned about the condition of the Boardwalk between Maryland Avenue and Lincoln Avenue. When I bought my house in 1997, we had people on the beaches but after Isabelle we have lost a lot of the beach. I am very concerned because I can see a year from now, the water will be up my walk.

Mayor Rummage stated he shared Ms. Johnson's sentiments on the Boardwalk in that area and the comments have not gone unnoticed. I live not too far from there. A lot of your neighbors have complained to me about it. I have spoken to the Town Manager at length and it will not go unnoticed. As far as the erosion is concerned, we have to have some Federal assistance which only the Corps of Engineers can do something about that, but we will follow up on that as well. If the economy ever gets straightened out, I am assuming the Corps of Engineers will have some money to spend.

LINDA WEAVER – POTOMAC RIVER

Ms. Weaver stated she had the same concerns as Ms. Johnson, but would like to add one additional thing. I know that the beach is eroding and creating a nature problem for us that needs to be addressed by the Corps of Engineers. However, we have a secondary problem in our Town that we can take care of and that is the fact that the beach continually creeps up and encroaches upon the Boardwalk. There are two things that I think could be done in the interim while we are waiting for the Corps of Engineers to help our beach and that is for the Town to be a little more efficient and timely about cleaning the sand off the Boardwalk and not just when neighbors complain, but on a regular basis make this part of their routine. We know it happens all the time. I see everyday people coming down to walk that Boardwalk and walk to the end and have to turn around at the American Legion because it is not passable anymore. At this point in time after we get to Virginia Avenue, it is impassable, it is dangerous, and we also have other things which need to be checked before someone gets hurt and that is that the telephone poles are under water most of the time now. The steel that the poles are in is being exposed and there are two telephone poles leaning currently and those will cause trouble when we lose power. Who knows when the poles will decide to fall over? That needs to be watched and the Boardwalk needs to be cleaned off regularly. Sec 5-1 Removal of dangerous or obstructing piers, bulkheads, vessels,

etc. – you are holding your citizens accountable for cleaning these things up and making sure that they are not dangerous so I want to hold the Town accountable for doing the same for their easements.

WALTER KERN – 813 ROOSEVELT COURT

Mr. Kern stated there is a pier on the 900 block of Monroe Bay Avenue in the vicinity of Parker's pier that is abandoned and has No Trespassing signs on it and the key to this is the person who owns it doesn't reside in Colonial Beach. He is a King George County resident. One of the things that a lot of people may not realize when you have a pier, if John Doe in Monroe Bay breaks down whether you have No Trespassing signs or not, he is allowed to dock at that pier and of course you have to make the necessary arrangements to tow the boat or repair the boat. That is one right the boaters have. I may own the dock, but I have to give the right to whoever is operating the boat. It is a marine law on the river or bay. I would like to see that pier removed. It is a safety issue.

Ms. Payne asked Mr. Kern if he knew the address of the pier?

Mr. Roberson responded that gentleman has owned that pier for years and years.

MARGARET MCMULLEN – 615 WASHINGTON AVENUE

Ms. McMullen stated on Sec. 5-1 Removal of dangerous or obstructing piers, bulkheads, vessels, etc., I noticed in absence of any responsibilities of either the State of Maryland or the County of Westmoreland and the waters are run by them, it is somewhere their responsibility. It should be their responsibility. Regarding bicycles prohibited on the Boardwalk and the control of animals which someone else addressed, I have run into people in the last six years who will no longer come to Colonial Beach because they cannot walk their dogs on the Boardwalk. People in cities or urban areas will take the weekend or a day to go somewhere they can walk their dogs or have lunch and relax. There is a huge market between Richmond and Northern Virginia and Washington. I would just hope that we can lighten that up as much as possible. There are several weekends during the summer where we are full of people but 99% of the time there is no one on that Boardwalk. I hope you will consider giving more leeway to our guests and mostly people who we see during big events are young families with their children and I think it would be helpful if they would be able to walk their dogs.

With no further discussion on Ordinance - #584, this portion of the meeting was closed.

RESOLUTION - #14-10 – APPROVAL OF LEASE OF TOWN OWNED PROPERTY ON BOARDWALK – 108 TAYLOR STREET

There were no comments on the Resolution - #14-10.

This portion of the meeting was closed.

Public Hearings closed at this time.

NEW BUSINESS:

ORDINANCE NO. 582 IS AN ORDINANCE THAT AMENDS THE COLONIAL BEACH TOWN CODE BY COMPLETELY REWRITING ARTICLE III, "NOISE ORDINANCE," OF CHAPTER 15, "NUISANCES." ORDINANCE NO. 582 DELETES SECTIONS 15-26 THROUGH 15-54 AND CREATES SECTION 15-26, "LOUD NOISES PROHIBITED," SECTION 15-27, "EXEMPTIONS," AND 15-28, "15-28, "PENALTY AND ENFORCEMENT." ORDINANCE NO. 582 PROHIBITS NOISE THAT IS AUDIBLE WITHIN 50 FEET FROM DWELLINGS AND VEHICLES AND PROVIDES THAT ANY PERSON CONVICTED OF VIOLATING ANY OF THE PROVISIONS OF SECTION 15-26 SHALL BE PUNISHED BY A FINE NOT TO EXCEED \$ 500. ANY PERSON CONVICTED OF A SECOND OFFENSE WITHIN LESS THAN FIVE YEARS AFTER A FIRST OFFENSE SHALL BE PUNISHED BY A FINE NOT TO EXCEED \$ 1,000. ANY PERSON CONVICTED OF A THIRD OFFENSE WITHIN LESS THAN TEN (10) YEARS AFTER A FIRST OFFENSE SHALL BE PUNISHED BY A FINE NOT TO EXCEED \$ 2,500. ORDINANCE NO. 582 IS CONSIDERED PURSUANT TO THE GRANTS OF AUTHORITY CONTAINED IN CODE OF VIRGINIA, §§ 15.2-917, 15.2-919.

BE IT ORDAINED BY THE COLONIAL BEACH TOWN COUNCIL THAT CHAPTER 15, "ARTICLE III, "NOISE ORDINANCE, SHALL BE COMPLETELY REWRITTEN TO READ IN ITS ENTIRETY AS FOLLOWS:

"ARTICLE III. NOISE ORDINANCE

Sec. 15-26. Loud noises prohibited.

It shall be unlawful for any person:

- (a) To use, operate or play any radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is plainly audible inside the confines of the dwelling unit, house or apartment of another person or (ii) at 50 or more feet from the device, except for devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (b) To allow noise that is plainly audible either inside the confines of the dwelling unit, house or apartment of another person or at 50 or more feet when the noise is generated from a gathering of ten or more people.
- (c) To allow any animal or bird to create noise such that it is plainly audible at least once a minute for ten consecutive minutes (i) inside the confines of the dwelling unit, house or apartment of another; or (ii) at 50 or more feet from the animal or bird.

(d) To operate, install, have, or permit on the outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker or other sound-producing or reproducing device capable of emitting music, noise, sounds, tapes or voice in such manner that it is plainly audible on any public sidewalk or street unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.

(e) To play or permit the playing of any radio, stereo, tape player, compact disc player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, which is located within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles, nor shall it apply to motor vehicle alarms or other security devices. This provision shall also not apply to the playing of music or jingles by an ice cream truck or similar mobile food-service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 7:00 A.M. and 9:00 P.M.

(f) To create plainly audible noise in residential areas between 10:00 p.m. and 5:00 a.m. in connection with the loading or unloading of refuse, waste or recycling collection vehicles.

(g) To create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal and other landscaping, lawn or timbering activities.

Sec. 15-27. Exemptions.

The prohibitions of section 15-26 shall not apply to any sound or noise generated by any of the following:

1. Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.
2. Sound or noise which is necessary for the maintenance or construction of roads and/or highways.
3. Radios, sirens, horns and bells on police, fire or other emergency response vehicles.
4. Parades, fireworks displays, school-related activities and other such public special events or public activities.
5. School band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges or universities.
6. Athletic contests and other officially sanctioned activities on public property.
7. Fire alarms, burglar alarms and car alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises or vehicle served by any such alarm to turn off the alarm.

8. Religious services, religious events or religious activities or expressions, including, but not limited to music, singing, bells, chimes and organs which are part of such service, event, activity or expression.
9. Amateur and professional competitions and competition-related events, provided that the competition is sanctioned and complies with all applicable laws, regulations and ordinances, including any permit terms and conditions, if any.
10. Political gatherings and other activities protected by the First Amendment to the U.S. Constitution.
11. Activities for which the regulation of noise has been preempted by federal law.

Sec. 15-28. Penalty and enforcement.

No person shall be charged with a violation of the provisions of section 15-26 unless:

1. The complainant appears before a magistrate and requests a summons to be issued; or
2. The violation is committed in the presence of a police officer.

Any person convicted of violating any of the provisions of section 15-26 shall be punished by a fine not to exceed \$ 500. Any person convicted of a second offense within less than five years after a first offense under this article shall be punished by a fine not to exceed \$ 1,000. Any person convicted of a third offense within less than ten (10) years after a first offense under this article shall be punished by a fine not to exceed \$ 2,500.

Each day that a violation continues unabated shall constitute a separate offense.

Criminal enforcement against a person violating this article shall not be a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia, as amended, to abate the violation.

This Ordinance shall take effect upon adoption.

Mr. Kennedy stated the only thing I would like to see is Sec. 15-27, #5 amended to say "*School*". We need to differentiate between garage bands and the intent of this and it has to do with school bands and school activities and not just any band.

Mr. Coombes stated can I get someone to explain the rationale for limiting the violations from 12:01 a.m. to 7:00 a.m. only. Like the speaker indicated, what happens when the noise becomes difficult let's say at 9:00 p.m. or 8:00 p.m.? I am talking about Sec. 15-26 (a) & (e). I don't understand the rationale for starting the prohibition at 12:01 a.m.

Chief Hawkins stated when this was being discussed originally it was to free up as much time as possible. We usually get calls for service from citizens when the noise is unbearable.

Mr. Coombes stated when you get those earlier calls the way the ordinance is constructed at the moment you have no legal recourse to do anything.

Chief Hawkins agreed, we do not have any legal recourse. Most of the time when we go out on a call, people will comply but they may not.

Mr. Coombes stated his recommendation was to change that late hour 12:01 back to something more reasonable. I have had several people talk to me about very difficult situations that take place for hours before 12:01, have you not had those calls?

Chief Hawkins agreed.

Mr. Coombes felt we are doing a disservice. If they call and they want a loud noise stopped at 8:00 in the evening so that their babies can sleep and that was one of the situations, what the Chief is saying is there is no legal recourse for him to do anything.

Chief Hawkins stated we need to structure the ordinance for what is normally allowed on a permit. If we allow loud speaker permits in a certain area, most of the time we shut it off at the latest between 11:00 and 12:00. I think we can try to tailor that. We do get calls 10:30 or 11:00 and the people are highly upset about the noise.

Mr. Coombes stated and with this ordinance, you will be unable to do anything that is right except reason with the people who are committing the offense.

Chief Hawkins agreed.

Mr. Coombes stated what about the speaker who came up and said something about decibel. Is there a new state law that deals with the decibel situation?

Ms. Erard responded there was a Supreme Court decision out of Virginia Beach that has changed the way localities are approaching noise ordinances and there are two ways that we know of right now that we can go. One is this way which is a plainly audible standard and the other is to use a decibel standard. The difficulty with that is in order to make it enforceable you will need decibel meter equipment for every officer in order for the ordinance to be enforced. It is my understanding that it is quite costly.

Mr. Coombes stated we had those meters at some point in every police car.

Chief Hawkins responded they may have had them previously, but they did not have them when I came. They are normally around \$300 a piece and there are some calibration requirements to keep them up to date.

Ms. Payne stated the officers have to be specifically trained in the use and the equipment has to be calibrated and tested on a regular basis.

Mr. Coombes stated we went through all of this with Steve's Restaurant and those bands. It was a nightmare.

Ms. Payne stated she used one of the decibel meters when I was at the zoning office. I believe we had two of them at that time.

Chief Hawkins responded he had seen one since he has been here and the other one may still be with Building & Zoning, but they are so outdated and antiquated.

Mr. Coombes stated he did have a major problem with the late hour of implementing this noise ordinance. We have families with children etc. and there are pockets in Town where heavy noise occurs on a regular basis. I don't know what the hour should be, but it should be reasonable for families so kids can sleep and sick people will not be under duress etc.

Ms. King asked if we have to state a timeframe or would it be up to the discretion of the officers?

Mayor Rummage stated when you draft something as extensive as this and as intricate as this is, the best way to handle it is to pass it as it is and then review it constantly. As the Police Chief has indicated, he uses the power of persuasion. When an officer in uniform calls upon a resident and tells them they are making a lot of noise and your neighbors are complaining about it, 99 people out of 100 are going to respond.

Mr. Coombes stated he must be dealing with the only two situations that are the exception. I do think we should bring the hour down to a reasonable hour or like the Vice Mayor said, don't have any hours in it and it could be applicable all day long.

Mr. Kennedy stated it seems we have something that addresses animals and the noises they make. If it lasts more than 10 consecutive minutes and I agree with Mr. Coombes that there are circumstances that arise, the annoyance could happen at 12:00 in the afternoon and if it is disturbing the peace and tranquility of which one is entitled than I think it has to be case by case. Vote on this as it is and like the Mayor said, tweak it.

Mr. Coombes stated he did not want to be adversarial, but I don't think we need to take it as it is and then come back at a later date. Some of these things that are supposed to come back at a later date they never come back.

Mayor Rummage stated he would recommend that it be referred back to the committee to be worked on in those particular points. That is the only way to handle it.

Mr. Ridgely felt that the lady on the 600 block of Monroe Bay Avenue has just as much right to enjoy her yard as the people making the noise. I don't care if it is 10:00 a.m. or 10:00 p.m. They have just as much right to enjoy their property as the people raising cane. I really object to passing something and then coming back to tweak it. I don't think that is the way we should handle this.

Ms. Erard stated you could tweak the hours or change the hours.

Mayor Rummage stated there is always a danger of going through amendments. I made a recommendation to refer it back to the committee to work on it to make sure that changing the hours here is not going to have an adverse effect on some other part of the ordinance. I am not so certain.

Ms. Payne asked for a Point of Order and stated at what point do these amendments come to the level of having to re-advertise, as this seems to me to be a pretty substantial change?

Ms. Erard stated we did not specify the hours in the advertisement and I think if you wanted to change that this evening, it would be permissible. On the other hand it would be appropriate to send it to the committee and bring it back. The only other comment that I would share is it is increasingly costly to re-advertise because it runs once a week for two weeks.

Mr. Coombes made a motion for Sec. 15-26 (a) that the hours were to be taken out and in (b) that the hours be taken out and this become applicable all day long.

Second was made by Mr. Kennedy.

Ms. Erard stated the only other option that I could see is if the Town Council wanted to continue this discussion and simply vote on it in May, it would allow for committee discussion and provided the changes were not substantial it would not require another re-advertisement. There are three ways to go.

Mayor Rummage stated that is what he was recommending.

Ms. Payne stated I would like to see us to do something because I understand the citizen's concern and I would like the opportunity to look at it and look at the ramifications of it keeping in mind that this is a resort community and to make sure that we are not doing something arbitrarily that we haven't really had a chance to go through and see what the implications are in the rest of the ordinance. I would like to see it go back to committee and allow us another month to take a look at it and not have to re-advertise and make sure that we are covering our bases.

Mr. Coombes did not agree.

Mr. Lyburn did agree that it should go back to committee and let them look over it again.

Mayor Rummage stated there is a motion on the floor. Mr. Coombes made the motion and it was seconded by Mr. Kennedy.

Mr. Ridgely asked if it was a motion to approve.

Ms. Erard stated that would be Sec. 15-26, (a) & (b).

Mayor Rummage asked are we ready to vote on the amendment, two amendments really? Mr. Ridgely **aye**, Ms. Payne **nay**, Mr. Coombes **aye**, Ms. King **aye**, Mr. Kennedy **aye**, Mr. Lyburn

nay, Mayor **nay**, motion carried and the **Amendment to Remove the Hours from Sec. 15-26 (a) & (b) was Approved. Motion Carried.**

Mayor Rummage asked if there was any further discussion on Ordinance - #582.

Mr. Coombes asked about Mr. Kennedy's amendment?

Mr. Kennedy asked if the word *school* could be added to Sec. 15-27 (5).

Ms. Erard stated you could do a motion to insert the word *school* at the beginning of paragraph 5, Sec. 15-27.

Second was made by Mr. Ridgely.

Ms. Erard asked if the motion was simply to add the word *school*, or was it to add the word *school* and approve the ordinance we just voted on?

Mr. Kennedy asked to approve the ordinance with the changes that we just voted on.

With no further discussion on the amendment, Mayor Rummage called for a vote. Ms. King **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Ms. Payne **nay**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Mayor **aye**, motion carried and the **Amendment to add the Word *School* in Sec. 15-27 #5 was Approved. Motion Carried.**

Mayor Rummage asked if there are any other amendments to Ordinance #582?

Mayor Rummage asked if there is any further discussion or debate on Ordinance #582?

Ms. Payne asked was that to approve the ordinance?

Mr. Ridgely stated the word *school* was added and the hours taken out so that was approving the ordinance.

Mayor Rummage stated he thought that was on the amendment.

Mr. Ridgely responded no sir, the motion was to add the word *school* in #5 and approve the ordinance as presented.

Mayor Rummage stated I thought legal counsel said that had to be voted on.

Ms. Erard responded yes, I said the ordinance had to be voted on by a roll call vote.

Mayor Rummage stated I was just getting ready to do that, but if we have already done that, than we don't have to do it again.

ORDINANCE NO. 583 AMENDS THE COLONIAL BEACH TOWN CODE, “CHAPTER 14, MOTOR VEHICLES AND TRAFFIC;” ARTICLE I, “IN GENERAL;” SEC. 14-1.1, “APPLICATION OF CHAPTER TO CERTAIN PARKING LOTS;” ARTICLE III, “PARKING,” DIVISION 1, “GENERALLY,” SEC. 14-45, “AUTHORITY OF TOWN MANAGER AS TO PARKING” (TOWN MANAGER AUTHORIZED TO RAISE PARKING FEE UP TO \$ 50); SEC. 14-50, “PARKING VEHICLE WITHOUT CURRENT LICENSE DECAL” (PENALTY INCREASED UP TO \$ 50); SEC. 14-52, “GENERAL PENALTY FOR PARKING VIOLATIONS;” SEC. 14-54, “PROCEDURE FOR DELINQUENT PARKING CITATION” (TOWN MANAGER AUTHORIZED TO ENFORCE); DIVISION 2, “PARKING METERS,” SEC. 14-60, “DEFINITIONS;” SEC. 14-61, “INSTALLATION, LOCATION, ETC., OF METERS; MARKING METER ZONES” (AUTHORIZES TOWN MANAGER TO ESTABLISH); SEC. 14-63, “PAYMENT; OVERTIME PARKING—GENERALLY;” SEC. 14-65, “PENALTY FOR PARKING IN VIOLATION OF DIVISION;” SEC. 14-66, “DEPOSIT OF SLUGS;” SEC. 14-67, “PARKING METER RATE” (AUTHORIZES TOWN MANAGER TO SET THE RATE); AND ADDS SEC. 14-68, “SNOW EMERGENCY ROUTES” (ESTABLISHES THE FOLLOWING STREETS AS SNOW EMERGENCY ROUTES: BOUNDARY ST., MONROE BAY AVE., WASHINGTON AVE., COLONIAL AVE., FIRST ST., MEADOW AVE., TWELFTH ST., BEACH ST., DWIGHT AVE., MYERS AVE. AND IRVING AVE., AND PROVIDES THAT THE TOWN MAY RECOVER COSTS OF VEHICLE REMOVAL AND STORAGE IN ADDITION TO A FINE OF \$ 50.) ORDINANCE NO. 583 SUBSTANTIALLY REVISES MANY PROVISIONS IN THE TOWN CODE RELATED TO PARKING.

Chapter 14 MOTOR VEHICLES AND TRAFFIC

ARTICLE I. IN GENERAL

Sec. 14-1. Compliance with chapter; general penalty for violations.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this chapter or any rule or regulation promulgated pursuant thereto. Unless otherwise specifically provided, a violation of this chapter or any such rule or regulation shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00).

State law references: Similar provisions applicable to violations of state traffic laws, Code of Virginia, § 46.2-113; town prohibited from imposing penalty for traffic violation which is greater than penalty imposed by state for similar offense, § 46.2-1300.

Sec. 14-1.1. Application of chapter to certain parking lots.

The provisions of this chapter shall apply to vehicular and pedestrian traffic upon parking lots within the town which are open to the public, except those provisions which, by their nature,

could have no application upon such a lot. No such provision shall be enforced upon such a lot, if it is in conflict with state law or regulations of the state department of highways and transportation for traffic control at a particular location.

Sec. 14-2. Arrest procedure for violations of chapter--Generally.

(a) Whenever any person is arrested, including an arrest upon a warrant, for a violation of any provision of this chapter, except of section 14-5, the arresting officer shall, except as otherwise provided in section 14-3 or any other section of this chapter, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours, at a convenient hour, and before a court having jurisdiction. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place, forthwith release him from custody.

(b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction under this chapter.

(c) Any person who willfully violates his written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor, regardless of the disposition of and in addition to, the charge upon which he was originally arrested.

(d) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a police officer for other misconduct in office.

Sec. 14-3. Same--When arrested person to be taken before judicial officer.

If any person arrested for a violation of this chapter is believed by the arresting officer to be likely to disregard a summons issued under section 14-2, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail, in lieu of issuing the summons required by section 14-2, and such judicial officer or other person shall determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or a warrant, as is determined proper.

Sec. 14-4. Same--Traffic infractions treated as misdemeanors for arrest purposes.

For purposes of arrest, traffic infractions shall be treated as misdemeanors. Except as otherwise provided by this chapter or state law, the authority and duties of arresting officers shall be the same for traffic infractions as for misdemeanors.

Sec. 14-5. Adoption of state motor vehicle law.

Pursuant to Code of Virginia § 46.2-1313 as amended, all the provisions and requirements of the laws of the state contained in Code of Virginia, Title 46.2, and Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, all as amended, are adopted and incorporated mutatis mutandis, and made a part of the town Code as fully as though set forth in their entirety. It shall be unlawful for any person to violate or fail, neglect or refuse to comply with this section; provided, however, that in no event shall the penalty imposed exceed the penalty imposed for a similar offense under Code of Virginia, Title 46.2 and Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2. Reference 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.

Sec. 14-7. One-way streets.

(a) The town manager is hereby authorized to designate, for and on behalf of the council, streets within the town upon which vehicular traffic shall be limited to one direction only. When such a designation is made, the town manager shall provide such signs on the one-way street as will apprise an ordinarily observant person of the fact that vehicular traffic is limited to the direction indicated. Notwithstanding the foregoing provisions, no such designation shall be made without authorization from the state department of highways and transportation, if such authorization is required by state law.

(b) Except as otherwise provided in this section, it shall be unlawful for any person to drive any motor vehicle on a one-way street in a direction other than that indicated by the signs provided for in subsection (a) above.

(c) When it can be demonstrated to the satisfaction of the town manager or his duly authorized representative that the strict enforcement of subsection (b) above will cause an unreasonable hardship on some particular person relative to the loading or unloading of trucks or other vehicle on a one-way street, the town manager or his duly authorized representative is authorized to issue a special permit to such person permitting a variance from the provisions of subsection (b) above. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the satisfaction of the town manager or his duly authorized representative that the granting of such permit will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience to the person who seeks such permit.

Sec. 14-8. Blocking intersections or marked crosswalks.

No operator of a vehicle shall enter an intersection or a marked crosswalk, unless there is sufficient space beyond such intersection or crosswalk, in the direction in which such vehicle is

proceeding, to accommodate the vehicle, without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

Sec. 14-9. Noise from motor vehicles.

It shall be unlawful for any person in operating a motor vehicle or motorcycle within the town to create any unreasonably loud, disturbing or unnecessary noise. In operating a motor vehicle or motorcycle the following acts, among others, are declared to create loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

- (1) The use of a motor vehicle or motorcycle so out of repair as to cause thereby loud and unnecessary grating, grinding, rattling or any of such noises or any other unnecessary noise.
- (2) The practice of unnecessarily racing the motor of a motor vehicle or motorcycle while standing or moving, thereby causing unnecessary noise from such motor.
- (3) The practice of unnecessarily retarding the spark to the motor and thereby causing unnecessary loud and explosive noise from the motor.
- (4) In starting a motor vehicle or motorcycle from a standing position, the practice of gaining speed unnecessarily quick and thereby causing unnecessary and loud noise from the motor and the screeching of tires, or either of such noises.
- (5) The practice of coming to an unreasonably quick stop with a motor vehicle or motorcycle and thereby causing unnecessary grinding of brakes and screeching of tires, or either of such noises.

ARTICLE III. PARKING

DIVISION 1. GENERALLY

Sec. 14-45. Authority of town manager as to parking.

(a) The town manager is hereby authorized to designate, for and on behalf of the council, the times and places when and where motor vehicles may be parked on the streets of the town or on parking lots owned or operated by the town and the method of such parking. The town manager is further authorized to designate no parking or limited parking zones for and on behalf of the council. Further, the town manager is authorized to assess parking fees not to exceed fifty dollars (\$50.00) per vehicle, per day for town-owned parking lots. The town manager may contract with others for the management and operation of such parking lots for a fee not to exceed fifty (50) percent of the parking fees collected. The town manager shall have the further authority to engage town organizations (e.g., town fire department, rescue squad, chamber of commerce, etc.) to operate such parking lots during town functions for a fee not to exceed fifty (50) percent of the parking fees collected during such functions.

(b) The town manager shall notify the public of any designation made pursuant to this section, by the erection of appropriate signs or markings giving the effect of such designation. It shall be unlawful for any person to park a vehicle in violation of the directions indicated by such signs or markings.

(c) No designation by the town manager under this section shall be in conflict with any provision of this article or other ordinance of the council.

Sec. 14-46. General parking prohibitions.

No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

- (1) In front of a public or private driveway.
- (2) Within an intersection.
- (3) Within fifteen (15) feet of a fire hydrant.
- (4) On a crosswalk.
- (5) Within twenty (20) feet of a crosswalk at an intersection.
- (6) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
- (7) Within twenty (20) feet of the driveway entrance to any fire station or police station and, on the side of a street opposite the entrance to any fire station or police station, within seventy-five (75) feet of the entrance, when properly signposted.
- (8) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
- (9) On the roadway side of any vehicle parked at the edge or curb of a street (double parking).
- (10) On a roadway or street, with yellow curbing.

Sec. 14-47. Method of parking on streets.

No vehicle shall be parked on any street in the town, except within two (2) feet of and parallel to the edge of the curb or roadway, headed in the direction of lawful travel.

Sec. 14-48 – Certain vehicles not to be parked on water front street or town-owned property between 1:00 a.m. and 5:00 a.m.

It shall be unlawful for any person a truck over one-half ton or a trailer or semitrailer on any waterfront street in the town or on town-owned property, between the hours of 1:00 a.m. and 5:00 a.m. of any day.

Sec. 14-49. Parking on shopping center parking lot between 1:15 a.m. and 6:30 a.m.

(a) It shall be unlawful for any person to park any vehicle in or on the parking lot of the property within the town commonly known as the "Shopping Centers", between the hours of 2:30 a.m. and 5:00 a.m. on any day. This prohibition shall not apply to vehicles of legitimate employees of shopping center tenants, which vehicles are to be identified with properly authenticated permits.

(b) This section is enacted pursuant to the provisions of section 46.2-1219 of the Code of Virginia, the owners and lessees of the shopping center, having requested the council to enact this section.

Sec. 14-50. Parking vehicle without current license decal.

(a) It shall be unlawful for any person to park a vehicle subject to licensing under article II of this chapter on any street or highway in the town, unless such vehicle has a current town license decal visibly displayed thereon. The decal shall be placed in the center of the triangle of the slow moving vehicle emblem.

(b) The penalty for a violation of this section shall be a fine not to exceed fifty dollars (\$50.00).

Sec. 14-51. Manner of using loading zones.

Where a loading and unloading zone has been set apart by the town manager, the following regulations shall apply with respect to the use of such zone:

(1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zone are in effect. All delivery vehicles, other than regular delivery trucks, using such loading zones shall be identified by the owner's or company's name in letters three (3) high on both sides of the vehicle. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes.

(2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of and while actually engaged in, loading or unloading passengers or bundles, when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading zone.

Sec. 14-52. General penalty for parking violations.

Any person convicted of parking a vehicle in violation of any provision of this article for which a specific penalty is not provided shall be fined up to fifty dollars (\$50.00)

Sec. 14-52. General penalty for parking violations.

Any person convicted of parking a vehicle in violation of any provision of this article for which a specific penalty is not provided shall be fined twenty-five dollars (\$25.00).

Sec. 14-53. Reserved.

Sec. 14-54. Procedure for delinquent parking citations.

(a) The Town Manager or his/her designee shall cause a complaint or summons to be issued for delinquent parking citations or tickets.

(b) Notwithstanding the provisions of subsection (a) above, before any summons shall issue for the prosecution of a violation of this Code or other ordinance of the town regulating parking, the violator shall have been first notified, by registered mail at his last known address or at the address shown for such violator on the records of the state division of motor vehicles, that he may pay the fine provided by law for such violation, within five (5) days of receipt of such notice, and the officer issuing such summons shall be notified that the violator has failed to pay such fine within such time. The notice to the violator, required by the provisions of this section, shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed on the face thereof in type at least one-half inch in height.

Sec. 14-55. Disabled/handicap parking.

Pursuant to Code of Virginia, section 46.2-1237, the town council hereby ordains that it shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard . . . to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk.

Sec. 14-56. Parking in designated fire lanes.

It shall be unlawful for a vehicle to be parked in a designated fire lane on public property or on privately owned property open to the public. The penalty for violation of this section shall be one hundred dollars (\$100.00).

Sec. 14-57. Certain vehicles exempt from parking fees.

Notwithstanding any provision in this division to the contrary, it shall be lawful for vehicles displaying any of the following designations on their license plates to park in any town owned parking lot or facility without the payment of any parking fees: Former POW (section 46.2-746) or Purple Heart (section 46.2-742). Additionally, it shall be lawful for vehicles displaying

disabled plates/placards (section 46.2-731) to park in any town owned parking lot or facility without the payment of any parking fees.

Secs. 14-58--14-59. Reserved.

DIVISION 2. PARKING METERS

Sec. 14-60. Definitions.

The term "parking meter," as used in this division, shall mean a mechanical or electronic device located upon a street, public land or sidewalk.

Sec. 14-61. Installation, location, etc., of meters; marking meter zones.

(a) The Town Manager of his/her designee is hereby authorized to install parking meters and to mark parking lots properly on such streets or part of streets or public land as the town council shall designate. The parking meters shall be clearly marked to designate which individual parking space may be utilized in association with each meter

(b) Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of such payment of the United States therein as the town council may determine, for such period of time as the council may establish, and each parking meter shall continue in operation from the time of depositing the payment until the expiration of the time for which the payment was deposited. Each parking meter shall be so arranged that, upon expiration of the time paid for by the deposit of the payment it will indicate, by a mechanical or electronic operation, that the lawful parking period has expired.

Sec. 14-62. Vehicle to be parked entirely within marked spaces in meter zones.

Any vehicle parked in any parking meter zone shall be parked entirely within the lines marked on the street for such parking.

Sec. 14-63. ~~Deposit of coin~~ Payment; overtime parking--Generally.

(a) When any vehicle is parked in any parking lot, the owner or operator of the vehicle shall, upon entering the parking space, immediately deposit such payment of the United States as is indicated on the meter which space may then be used by such vehicle for the period of time as shown on the parking meter. If the vehicle shall remain parked in any such parking meter space beyond the time limit fixed for the insertion and deposit of the payment, the parking meter shall indicate such illegal parking and, in that event, such vehicle shall be considered as parking overtime, and the parking of a vehicle overtime in such parking space shall be unlawful.

(b) In the event any parking meter space is unoccupied by a person who has paid for the same and the meter for the space indicates that the time paid for has not expired, any person may use the space for the unexpired time, without depositing a payment. If any user of this free time

allows a vehicle to remain in the space after the meter indicates that the legal parking time has expired, such vehicle shall be considered as parked overtime.

(c) This section shall be in effect each and every day of the week from the first day of April until the first day of December of each year.

Sec. 14-64. Same--Exceptions.

(a) Notwithstanding any provision in this division to the contrary, it shall be lawful for persons operating delivery vehicles to park such vehicles in any parking space, without the payment of parking meter fees, for such reasonable time as is actually required for the expeditious loading or unloading of merchandise or other materials. Such vehicles shall be parked as nearly as possible in a single metered space and in the manner required for parking in such space.

(b) Notwithstanding any provision in this division to the contrary, it shall be lawful for members of the volunteer fire department or any other emergency corps to park their vehicles in any parking space, without the payment of parking meter fees, while such members are actually engaged in the fighting of a fire or actually engaged in participating in a fire drill or any other emergency which necessitates the use of an emergency vehicle.

(c) Notwithstanding any provision in this division to the contrary, it shall be lawful for vehicles displaying any of the following designations on their license plates to park in any parking space, without the payment of parking meter fees: Former POW (section 46.2-746) or Purple Heart (section 46.2-742).

Sec. 14-65. Penalty for parking in violation of division.

Any person who shall park a vehicle in violation of this division, or permit a vehicle owned by him or under his control to be so parked, shall, upon conviction thereof, be fined not more than fifty dollars (\$50.00).

Sec. 14-66. Deposit of slugs.

It shall be unlawful and a Class 1 misdemeanor for any person to deposit, in a parking meter, any slug or other device or metallic substitute for a payment.

Sec. 14-67. Parking meter rate.

The Town Manager shall set the rate for the parking meters and lots.

Sec. 14-68. Snow Emergency Routes.

In the event of snow, sleet, hail, freezing rain, ice, water, flood, high wind, storm or the threat thereof vehicles may not be parked on the following streets: Boundary St., Monroe Bay Ave., Washington Ave., Colonial Ave., First St., Meadow Ave., Twelfth St., Beach St., Dwight Ave.,

Myers Ave. and Irving Ave. These streets shall be designated and posted as snow routes and the Town Manager shall be authorized to remove any vehicles that are stalled stuck, parked or abandoned in a snow route. Violations of this section shall be punishable by a fine of \$ 50 in addition to the cost of the removal and storage of the vehicle.

Sec. 14-69--14-76. Reserved.”

This ordinance will take effect upon adoption.

Motion was made by Mr. Kennedy to approve, second by Mr. Lyburn.

Ms. Payne stated one of our citizens had a very good point tonight – Sec. 14-48 about the ½ ton truck, semi-trailers not being allowed to park on waterfront or Town-owned property between 1:00 a.m. and 5:00 am.. What is the purpose of not including this type parking in all areas of the Town? Is there a legitimate reason?

Mr. Kennedy asked Chief Hawkins didn't we address this same issue about a year ago?

Chief Hawkins responded the one a year ago had to do with commercial motor vehicles being parked in town overnight and you all voted not to allow that because they were leaving the engines running at night and disturbing the neighbors and damaging the street. This has to do with a vehicle over ½ ton or trailers.

Mr. Coombes asked if there has ever been a particular problem with this situation?

Mr. Ridgely responded there is especially on Irving Avenue.

Mr. Kennedy stated it was on Euclid also.

Mr. Ridgely stated one of the problems with this is that you have someone with a ¾ ton pickup and parking it in front of their house.

Mr. Kennedy stated you have a lot of people who have pickup trucks.

Mr. Ridgely stated the original interpretation is two people parking all night and going fishing and they have the heavy trucks on Euclid Avenue. You have to be careful. You can't restrict someone from parking in front of their house.

Ms. Payne stated Mr. Ridgely has a good point. The way it is written now, someone on a waterfront street with a ¾ ton pickup truck wouldn't be able to part their vehicle there.

Mr. Ridgely stated if you live on the 500 block of Irving Avenue you can't park a pickup truck there.

Ms. Payne stated this is an existing section of the ordinance. This is not something new. I don't know why it was there but taking a look at this you may want to . . .

Ms. Erard stated the other thing you could do is approve the ordinance tonight, and we could still pull this section out and send it to committee at the end of the month and then make a further revision.

Ms. Payne asked if we pull out that section of the ordinance, would it require us to re-advertise the ordinance?

Ms. Erard responded yes, because this was a change that wasn't advertised in the first place.

Mr. Coombes stated this is not new as it has been in here since it was revised the last time. Have we had any problems with waterfront parking like this?

Chief Hawkins stated we have only been ticketing commercial motor vehicles. If we enforce this because someone parked a pickup truck in front their house, then we would write up everyone on the whole street. No sir, we have not been enforcing this.

Mr. Coombes asked if there have been any complaints to the police about parking on the waterfront with these larger vehicles?

Chief Hawkins responded in general, no sir. Part of the issue was it pertained to the meter space and the bigger vehicles. If a vehicle hits the sidewalk, it is a violation.

Ms. Erard asked how much does a pickup weigh?

Chief Hawkins responded it weighs anywhere from 3,500 to 4,000 pounds.

Mr. Coombes asked if the whole section pertaining to this could be taken out of the Town Code of Ordinances? The attorney said we could take the whole section out and consider it in committee. Why not just obliterate the whole thing?

Ms. Erard responded it was not a section of the Code that was advertised with no change. You are interpreting a gray area. In the first instance we advertised a change to that section imposing a restriction so when you are modifying a restriction that is understandable. In this instance we would make a change that was not advertised at all. I suppose you could do it and then if it were challenged perhaps we could just fix it or you could pull it out and send it to committee and just re-advertise that one little part which would not be lengthy. It is the whole ad that is expensive.

Mr. Kennedy stated would they have to go above 1 ton?

Chief Hawkins responded that would serve the purpose as the way it was intended before if you could change the weight.

Mr. Kennedy stated this will affect a lot of people in this town. If you go above 1 ton, it would take into account those types of vehicles.

Mayor Rummage stated the worst thing in the world is to amend a statute that has been in existence for sometime without having a real study done on it.

Ms. King stated sometime laws become antiquated and not useful on the books and you have to make a judgment call when you see something there, would this fall under that judgment for you and your officers whether or not you felt it was something you had to enforce or not enforce?

Chief Hawkins responded it could, but I personally don't get in the habit - if there is an ordinance on the books I wouldn't write a memo and say not to enforce the ordinance, so if they did chose to and it is taken to court, they could come after me and charge me with something.

Ms. Payne stated there is a motion on the floor and a second. I hate to see anything on the books that we don't enforce, but it hasn't gone before committee, maybe we should go ahead with the motion and second and the committee can take a look at it.

Mr. Coombes stated the motion on the floor is what?

Mayor Rummage stated to approve it.

Mr. Coombes stated we should go ahead and approve this, but take out Sec. 14-48 and send it to committee and then come back after the committee deals with it – we get hung up on some of these things and they go on for hours – let's just take it out.

Mayor Rummage stated why don't we just make a motion to refer this matter to committee? Let's vote on the ordinance and then we will recognize your motion.

Mr. Coombes stated he was not quite sure what we are doing.

Ms. Erard responded it was suggested that you approve the changes to the ordinance as they are presented and the Mayor is saying to take Sec. 14-48 which is not a section that is actually part of this ordinance because it is an existing section and that the section be referred to committee for recommendation.

Mr. Coombes stated that is what he was saying and it was the process that he didn't understand.

Mayor Rummage called for a vote. Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and the **Amendment to the Town Code of Ordinances “Chapter 14 Motor Vehicles and Traffic”, Article I “in General”, Sec. 14.1-1, “Application of Chapter to Certain Parking Lots,” Article III, “Parking” was Approved. Motion Carried.**

Motion was made by Mr. Coombes to refer Sec. 14-48 of Ordinance - #583 to the proper committee for further review, second by Ms. Payne.

With no further discussion on Ordinance - #583 and no opposing votes and with all of Town Council voting aye, the motion carried to refer Sec. 14-48 to the appropriate committee for further review. *Motion Carried.*

ORDINANCE NO. 584 AMENDS CHAPTER 5, "BEACHES AND WATERWAYS," ARTICLE 1, "IN GENERAL" OF THE COLONIAL BEACH TOWN CODE BY RENAMING CHAPTER 5 AS "BEACHES, WATERWAYS, BOARDWALK, PARK, RECREATIONAL AREAS & FACILITIES;" DELETES SECTION 5-5, "DUTY OF OCCUPANTS OF ABUTTING PROPERTY TO CLEAN BOARDWALK," AND SEC. 5-11, "COOKING IN DESIGNATED AREAS ALONG THE BOARDWALK," IN THEIR ENTIRETY. ORDINANCE NO. 584 ADDS GOLF CARTS TO SEC. 5-4, "VEHICLES PROHIBITED ON THE BOARDWALK," AND ADDS SECTION 5-12, "FEES, POLICIES PROCEDURES, RULES AND REGULATIONS PERTAINING TO THE USE OF TOWN PARKS, RECREATIONAL FACILITIES, AND PARKS AND RECREATION EQUIPMENT. ORDINANCE NO. 584 RENUMBERS SEC. 5-6, "REMOVAL OF SAND OR GRAVEL FROM PROPERTY ABUTTING WATERWAYS OR FROM BED OF WATERWAYS", AS SEC. 5-8, "OPERATION OF MOTOR VEHICLES ON BEACHES," AS SEC. 5-7; RENUMBERS SEC. 5-9, "ACTIVITIES PROHIBITED ON PUBLIC BEACHES," AS SEC. 5-8; AND RENUMBERS SEC. 5-10, "CONTROL OF ANIMALS ON PUBLIC BEACHES" AS SEC. 5-9 ORDINANCE NO. 584 SUBSTANTIALLY REVISES MANY PROVISIONS IN THE TOWN CODE RELATED TO THE USE OF BEACHES, PARKS AND RECREATIONAL AREAS AND FACILITIES.

BE IT ORDAINED BY THE COLONIAL BEACH TOWN COUNCIL THAT the Colonial Beach Town Code, Chapter 5, "Beaches and Waterways" be amended to read in its entirety as follows:

CHAPTER 5 – BEACHES, WATERWAYS, BOARDWALK, PARKS, RECREATIONAL AREAS AND FACILITIES

ARTICLE 1. IN GENERAL

Sec. 5-1 Removal or repair of dangerous or obstructing piers, bulkheads, vessels, etc.

- (a) The owners of such property located within the town shall, at such time or times as the town council may prescribe, remove, repair or secure any wharf, pier, piling, bulkhead or any other structure or vessel which might endanger the public health or safety of other persons, or which might constitute an obstruction or hazard to the lawful use of the waters within or adjoining the town. If such property is deemed to be abandoned, the town manager or any other official designated by the council shall ascertain the lawful owner of such property and have such owner repair, remove or secure such property.
- (b) The town council, through its own agents or employees, may remove, repair or secure any wharf, pier, piling, bulkhead or other structure or vessel which might endanger the public health or safety of other persons, or which might constitute a hazard or

obstruction to the lawful use of the safety of other persons, or which might constitute a hazard or obstruction to the lawful use of the waters within the town, when the owner of such property, after reasonable notice and reasonable time to do so, has failed to remove, repair or secure the same.

- (c) If the identity or whereabouts of the lawful owner is unknown or not able to be ascertained, after a reasonable search or after lawful notice has been made to the last known address of any known owner, the town council, through its own agents or employees, may repair such wharf, pier, piling, bulkhead or other structure or vessel or remove such property, after giving notice by publication once each week for two (2) weeks in a newspaper of general circulation in the area where such property is located.
- (d) In the event the town council, through its own agents or employees, removes, repairs or secures any wharf, pier, piling, bulkhead or other structure or vessel, after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owner of such property and, to the extent applicable, may be collected by the town as taxes and levies are collected.
- (e) Every charge authorized by this section with which the owner of such property shall have been assessed and which remains unpaid, to the extent applicable, shall constitute a lien against such property. Such lien shall be recorded in the judgment lien docket book in the circuit court of the county. Such lien may be released to a personal judgment against the owner.

Sec. 5-2. Abandoning, skinning, etc., boat in Monroe Bay.

It shall be unlawful for any person to abandon, leave, sink, destroy or forsake, in any manner, any boat of any kind or description within the waters of Monroe Bay within the corporate limits of the town. Any person violating any of the provisions of this section shall be deemed guilty of a Class I misdemeanor.

Sec. 5-3. Reckless or negligent operation of boats.

Any person who shall operate any motorboat or vessel within the corporate limits of the town in a reckless or negligent manner, so as to endanger the life, limb or property of any person shall be deemed guilty of a Class I misdemeanor.

Sec. 5-4. Vehicles prohibited on the boardwalk.

- (a) It shall be unlawful for any person to ride or in any way propel a bicycle, golf cart, motorcycle, moped, scooter, skateboard, skates, roller blades, or any blades, or any other vehicle on that certain sidewalk known and described as the "boardwalk"

adjacent to the Potomac River which extends from Lincoln Avenue to Hawthorn Street, to include that sidewalk providing access to the town pier. Bicycles, skateboards, skates and roller blades will be permitted between the hours of 6:00 a.m. and 9:00 a.m. daily. No bicycles, scooters, blades, or skateboards are permitted on the town pier at any time. Power assisted wheelchairs and like devices used for transportation for the handicapped, disabled, or infants will be permitted at all times. Police vehicles, bicycles and golf carts shall be exempt when used in the performance of official police functions.

- (b) Any person violating the provisions of this section shall be guilty of traffic infraction and, upon conviction, shall be fined not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00).
(Ord. No. 22C; Res. No. 23-93; Ord. No 522)

Sec. 5-6. Removal of sand or gravel from property abutting waterways or from bed of waterways.

- (a) It shall be unlawful for any person to dredge, dig or otherwise remove and carry away any part of any deposit of sand or gravel, or mixture of sand and gravel, from any part of the fast land, beach or bluff abutting upon any of the rivers, streams or other waters within the corporate limits of the town, or from any part of the bed of such rivers, streams or other waters, between high and low water marks. In case any such deposit extends uninterruptedly from the low water mark out into the bed of the such waters, it shall be unlawful to dig and carry away any part of such extended deposit lying between such low water mark and middle line of such waters.
- (b) This section shall not apply to the owner of any fast land, bluff, beach or bed of a stream, upon or in front of which such deposits may lie, nor to any person acting under written permission from, or contract with, such owner, nor to any person acting under the authority of the United States, necessarily removing such deposit in the lawful improvement or regulation of navigation of any waters subject to the authority of the United States.
- (c) None of the provisions of this section shall be deemed to interfere, in any manner, with the provisions of any law of this state relating to the taking of fish and oysters.
- (d) Any person violating the provisions of this section shall be guilty of a Class II misdemeanor.

Sec. 5-7. Sleeping on beaches, waterways, boardwalk, parks, recreational areas and facilities.

- (a) It shall be unlawful for any person to sleep on the sand shores or banks, on the boardwalk, sidewalks, in the parking lots, parks, recreational areas or facilities or any

other public area within the corporate limits of the town, between the hours of 8:00 p.m. and 8:00 a.m.

- (b) Any person violating this section shall be guilty of a Class IV misdemeanor.

Sec. 5-8. Operation of motor vehicles on beaches, parks and recreational areas.

- (a) *Unlawful.* It shall be unlawful for any person to operate, drive or park a motor vehicle or any other vehicle of any kind on the public beaches, grass footways, or elsewhere in the public parks, public playgrounds, or public recreational areas within the town.
- (b) *Certain official vehicles exempt.* Town vehicles operated while cleaning or working on the beach, town police and emergency vehicles of the Army Corps of Engineers or the Virginia Institute of Marine Sciences, shall be exempt from the application of this section.
- (c) *Certain other persons exempt.* Any persons, firms or corporations who rent portions of the town beach, or who operate businesses there from, may be exempt from the application of this section if such persons, firms or corporations have first obtained a permit from the town manager.
- (d) *Permit.* The town manager shall issue a permit to any person, firm or corporation, who rents or leases a portion of the town beach, or who operates a business there from, to drive upon the public beaches in the location where such business or rental parcel is located during those hours as may be reasonably necessary for the utilization of said property.

Sec. 5-9. Activities prohibited on public beaches, parks, recreation and parking areas, or other public area within the town.

- (a) The following activities are prohibited on the public beaches, parks, recreation and parking areas or any other public area within the town:
 - (1) No person shall be permitted to carry, place, use or possess any type of device used for cooking, including but not limited to fires or any other device or grill that is gas, wood, or coal fired. The town manager may grant a permit for a fire to civic organizations in connection with one-time events.
 - (2) No person shall litter. All litter shall be placed in appropriate refuse receptacles.
- (b) Any person violating this section shall be guilty of a Class I misdemeanor.
- (3) No person shall be permitted to carry, place, use or possess tents, unless permitted by the town manager or his/her designee. Canopies, umbrellas, or shades that provide unrestricted view of occupants and clear view of ground are permitted on the beach.
- (4) No person shall be permitted to carry, place, use or possess alcoholic beverages of any type.

- (5) No person shall be permitted to carry, place, use or possess glass containers.
- (6) No person shall cause, either directly or indirectly the obstruction of any sidewalk, walkway, or stairway so as to impede the ingress or egress of any public beach, recreation area, park or adjacent area is prohibited.
- (7) It shall be unlawful for any person to fish from the sand beaches or swimming areas except for between the hours of 6:00 a.m. – 10:00 a.m. and 6:00 p.m. – 10:00 p.m. The town pier shall remain open for fishing.
- (8) No person, group or organization shall hold, organize or sponsor any assemblage or gathering in any town beaches, parks and recreational facilities that will be attended by 25 or more people without first obtaining a permit from the town manager or his/her designee. Applications for permits must be received by the town manager at least 48 hours prior to any such event.
- (9) Fishing shall be prohibited by all persons on the rock shoreline public easement on Irving Avenue.

Sec. 5-10. Control of animals on public beaches.

- (a) It shall be unlawful for any person who owns or has control of any animal to permit such animal to be on the public sand beaches or the boardwalk between April 1 and September 30 of each year. Any person violating this subsection (a) shall be guilty of a Class IV misdemeanor.
- (b) This section shall not be applicable to a guide dog, hearing dog or service dog trained to accompany a person with a disability while accompanying such person, or to any dog in the custody or control of a law enforcement officer while such officer is in the performance of his duties.
- (c) For the purposes of this section, the term “animal” shall include, but is not limited to, any mammal, bird, or reptile.
- (d) For the purposes of this section, the term “boardwalk” shall refer to the town owned right-of-way running parallel to the Potomac River between Hawthorn Street and Lincoln Avenue. (Res. No. 61-93; Ord. No. 475)

Sec. 5-12. Fees, policies, procedures, rule and regulations pertaining to the use of town parks, recreational facilities, and parks and recreation equipment.

- (a) The town manager is hereby authorized to establish reasonable fees and adopt and enforce reasonable policies, procedures, rules and regulations pertaining to the use of town parks, recreational facilities, and recreation equipment.
- (b) The town manager is hereby authorized to prohibit swimming, wading or fishing at such times and at such areas as may be determined to be unsafe. Whenever an area has been determined to be unsafe pursuant to this section, it shall be unlawful for any person to swim or wade in such area if the area has been identified as unsafe by the posting of “no-swimming” flags or other appropriate markers, or after being informed by a police officer or other public official that the area has been determined to be safe.
- (c) Any person convicted of the unauthorized removal of these of “no swimming” flags or other caution markers shall be the subject to a two-hundred fifty dollar (\$250.00) fine.”

This ordinance will take effect upon adoption.

Motion was made by Mr. Lyburn to approve, second by Mr. Kennedy.

Mr. Ridgely stated we had comments from the public regarding the off season.

Ms. Erard stated that would fall into the same category as the discussion we just had. It is the existing ordinance and it is not a change.

With no further discussion on Ordinance - #584, Mayor Rummage called for a vote. Mr. Kennedy **aye**, Ms. King **aye**, Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and the **Amendment to the Town Code of Ordinances Chapter 5 “Beaches and Waterways” was approved. Motion Carried.**

Motion was made by Mr. Ridgely that Sec. 5-4 and 5-10 be sent to the proper committee, second by Mr. Lyburn. With no opposing votes and with all of Town Council voting aye, the motion carried and **Sec 5-4 & 5-10 were Referred to the Appropriate Committee for Further Review. Motion Carried.**

AGENDA - #14-10

RESOLUTION - APPROVAL OF LEASE OF TOWN OWNED PROPERTY ON BOARDWALK- 108 TAYLOR STREET

WHEREAS, the Town of Colonial Beach has conducted a duly advertised public hearing at a regular Meeting on April 8, 2010 to receive comments on a lease proposal for Town owned property at 108 Taylor Street; and

WHEREAS, the Town Manager has engaged in good faith negotiations with the prospective Lessee; and

WHEREAS, the Town wants to continue its commitment to support resort and recreational activities on the Boardwalk.

THEREFORE BE IT RESOLVED, that the Town Council meeting in regular session, Thursday, April 8, 2010 hereby agrees to lease the building located at 108 Taylor Street; and

THEREFORE BE IT FURTHER RESOLVED, that the Town Council authorizes the Town Manager to execute said lease for a term of two years for an amount of \$3,000 for the first year and an increase of 10% for the second year; payment for the first year shall be payable in five equal monthly installments beginning May 1, 2010 and the final installment being due September 1, 2010. Payment for the subsequent year shall be due on May 1, 2011.

Motion was made by Mr. Kennedy to approve, second by Mr. Ridgely.

With no discussion on Resolution - #14-10, Mayor Rummage called for a vote. Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mayor **aye**, motion carried and the **Approval of the Lease of Town Owned Property on the Boardwalk – 108 Taylor Street was Approved. Motion Carried.**

AGENDA - #15-10

RESOLUTION - REAPPOINTMENT TO THE REDEVELOPMENT & HOUSING AUTHORITY

WHEREAS, Anna M. Payne has served on the Redevelopment & Housing Authority since 1990; and

WHEREAS, Mrs. Payne has expressed a desire to be reappointed to the Redevelopment & Housing Authority.

BE IT RESOLVED, that the Town Council meeting in regular session, Thursday, April 8, 2010 hereby reappoints Anna M. Payne to the Redevelopment & Housing Authority for an additional four year term; such term expiring April 2014.

Motion was made by Mr. Ridgely to approve, second by Mr. Lyburn.

With no discussion on Resolution - #15-10, Mayor Rummage called for a vote. Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and the **Reappointment of Ms. Anna Payne to the Redevelopment & Housing Authority was Approved. Motion Carried.**

CLOSED MEETING:

There were no issues to discuss in closed meeting.

RECESS/ADJOURNMENT

Ms. Erard stated when ordinances are drafted and presented to the public for review, and the changes are indicated either by italics or underlining or strike through, those are the changes that are being proposed. We generally include the whole ordinance as you have pointed out

sometimes when you are changing one thing it makes sense to look at other things. I thought I would offer that clarification for the future so that you would know that.

Mayor Rummage stated as you can see this evening your comments certainly are more than welcomed.

With no further issues or statements to be made, Mayor Rummage called for a motion to adjourn.

Motion was made by Mr. Kennedy to adjourn the regular meeting of Town Council on Thursday, April 8, 2010 at 8:35 p.m. at the Colonial Beach Town Center. **Motion Carried.**

Respectfully submitted:

Barbara A. Goff,
Town Clerk

Frederick C. Rummage,
Mayor

