



## **TOWN COUNCIL**

### **Work Session**

November 7, 2024

Cape Charles Civic Center

Immediately Following the Special Meeting

1. Call to Order:
  - A. Roll Call
  
2. Items for Discussion:
  - A. [2024 Draft Community Citizen's Survey](#)
  - B. [Discussion of Recent Zoning Decisions & Possible Associated Zoning Code Changes](#)
  
3. Adjournment

# Memorandum



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**From:** John Hozey, Town Manager

**Date:** November 7, 2024

**To:** Town Council

**RE:** 2024 Citizen's Survey

It's that time of year again when we finalize our annual Community Strategic Plan Citizen's Survey. This has become a very useful tool over the past four years to gauge the community's sentiment on issues of concern which then helps the Town prioritize its limited resources.

This annual survey is actually the first step in the budget development process each year. Its timing is critical to enable data to feed into the annual update of the Community Strategic Plan, which then feeds into the development of the annual budget.

We therefore release this survey every year around Thanksgiving and leave it open until just after New Years. Note that the first eight questions are the same every year. This enables us to gather demographic information and track resident satisfaction over time. Questions nine and ten are typically reserved for the timely issues of the year, which usually look forward to the upcoming year and seek community guidance on the development of our work plan for that year. Also of note, we've learned that with this survey, less is usually more; and that we get the best response by keeping the survey to no more than two pages. This also facilitates our ability to mail it out with our monthly billing.

In preparation for this year's release, I have prepared a draft survey for Council's review and comment. Working from the existing priorities in the current Strategic Plan, this draft survey focuses on gathering information necessary to continue working on those priorities.

I look forward to answering any questions and incorporating Council input during tonight's work session.



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## *Community Strategic Plan Citizen Survey - 2024*

**1. Please choose the closest one that applies to you:**

- \_\_\_\_\_ Full-time resident living within the corporate limits of Cape Charles
- \_\_\_\_\_ Full-time resident within the town limits, who also owns additional property within the town limits
- \_\_\_\_\_ Resides in Northampton County but outside the corporate limits of Cape Charles
- \_\_\_\_\_ Owns property within the corporate limits of Cape Charles but maintains a primary residence outside of the town
- \_\_\_\_\_ Resides outside Northampton County but a frequent visitor to Cape Charles

**2. How long have you lived or owned property in Cape Charles? \_\_\_\_\_ N/A**

**3. Do you own a business in Cape Charles? Yes \_\_\_\_\_ No \_\_\_\_\_**

**4. Are you employed? Circle the closest one that applies:**

Full time      part time      retired      between jobs      prefer not to answer

**5. Is your employment based primarily from your home? Yes \_\_\_\_\_ No \_\_\_\_\_ N/A**

**6. Do you think Town public services are appropriate for a community of our size?**

Yes \_\_\_\_\_ No \_\_\_\_\_ (Please feel free to attach comments)

**7. Are you satisfied with the quality of Town public services?**

Yes \_\_\_\_\_ No \_\_\_\_\_ (Please feel free to attach comments)

**8. Do you feel the Town has maintained or improved its small-town character in recent years?**

Yes \_\_\_\_\_ No \_\_\_\_\_ (Please feel free to attach comments)

**9. The currently vacant railroad property north and east of the harbor has captured the imagination of residents for many years. The issues surrounding clear title to this property that have hampered development are now close to being resolved. As a result, formal planning to guide potential development in this area is ripe for discussion. Please indicate your opinion on the following statements from 1 to 5 (with 1 meaning the least agreement and 5 being the strongest agreement).**

- \_\_\_\_\_ Development of this area should strive to diversify our economy beyond tourism as much as possible (though it should not detract from existing tourism)

- \_\_\_\_\_ The character of the current historic district and Mason Avenue should be replicated into this area where appropriate
- \_\_\_\_\_ Open space, parks, or recreational areas should be included
- \_\_\_\_\_ Continuation of the existing street pattern to the south should be considered
- \_\_\_\_\_ ?? \_\_\_\_\_ ??

What other ideas or concepts should be considered in the development of this area:

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**10. Other than the topic above, what will be the most pressing issue or need for the Town in 2025?**

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**11. What tools do you use to stay in touch with town happenings?** Circle all that apply:

- Facebook posts    Gazette    Nixle    Town website    Weekly staff reports    Word of mouth
- Watch meetings on Facebook    Newspapers    CC Happenings    Mirror
- Other \_\_\_\_\_

**12. Your Name:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Note: anonymous surveys cannot be counted**

**May we contact you regarding this survey?**                      Yes \_\_\_\_\_ No \_\_\_\_\_

**Responses are due back to Town Hall no later than 2:00 pm, January 10, 2025**  
**Surveys may be dropped off, mailed (2 Plum St), or scanned and emailed to [Clerk@capecharles.org](mailto:Clerk@capecharles.org)**  
 An [electronic version](#) of this survey is also available on the Town’s website

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# Memorandum



**From:** John Hozey, Town Manager

**Date:** November 7, 2024

**To:** Town Council

**RE:** Recent BZA Precedents

On October 8, 2024, the Board of Zoning Appeals (BZA) met to hear appeals of two recent Zoning Administrator (ZA) decisions. One was regarding work done to a home at 204 Bay Avenue without receiving a prior zoning clearance. The other was a challenge to the determination that vehicles cannot be stored on vacant lots, specifically in the 500 block of Madison Avenue. The BZA approved both appeals, and in doing so potentially created undesired precedents.

The Town has three options when BZA appeal decisions create unwanted precedents:

1. Appeal the BZA decisions to the Circuit Court
2. Change the Zoning Ordinances to clarify the Council's intent regarding these matters
3. Do nothing and allow the precedents to stand

After consultation with the Town's attorney, I recommend option #2 regarding both decisions.

In the matter of the first appeal regarding the prosecution of work without appropriate advance review; the BZA did not focus on the correct issue, a procedural question. They instead focused on the merits of whether that specific work required HDRB review or not (typically the Zoning Administrator's decision). But in this case, the ZA never got the chance to rule on whether this work required HDRB review, because the applicant never came to the Town to ask for the ZA's interpretation.

Had the applicant followed our procedure and requested a zoning clearance in advance of the work, the ZA, after having the opportunity to review all the information, would have likely agreed that HDRB action was not required, and that the work could have been approved administratively.

But in this case, the applicant reviewed the ordinances on his own and decided unilaterally that the Town did not need to be contacted about this work. When the ZA was notified after the fact that the work had been done, and not knowing exactly what that work entailed, she issued a violation for not getting a zoning clearance before starting the work. It was that violation of procedure (not the question of minor work) that the applicant appealed to the BZA.

The Town Council has vested the authority to determine what is, or what is not, minor work in the ZA, not in the applicant. But by focusing on the work being done rather than the process not being followed, the BZA approval inadvertently vested that authority in the applicant; essentially upholding his right to work on his home based solely on his own interpretation of the ordinances.

The BZA simply got this one wrong; and as a result, any enforcement regarding work done in the historic district without first obtaining a zoning clearance has been suspended pending clarification of this issue with the Town Council.

If it is the Council's intent to allow each individual applicant to decide whether a zoning review is required or not, then no action is required. But if the Council still wants the ZA to make this determination, clarifying language needs to be inserted into the ordinances to remove any ambiguity. Once this clarification is made to these ordinances, it will nullify any unfortunate precedent the BZA may have inadvertently created in this case.

In the matter of the second appeal regarding the ability to store parked cars on vacant lots, the BZA reviewed the ordinances associated with this issue, and based primarily on their interpretation of the definition of parking lots in the ordinance, overruled the Zoning Administrator and approved the appeal.

Unlike the first appeal described above, the BZA focused on the correct issues and made the call as they saw fit. But this ruling creates a problem for the Town in that it is in contradiction to many other similar enforcement actions the Town has historically taken that were never appealed. Since the Zoning Administrator assumed her role, there have been 6 other similar cases of parking on vacant lots which were eventually cured as a result of a violation, resulting in the removal of the offending vehicles. This BZA ruling however, will stop all future similar enforcement actions.

Since parking has become an important topic of conversation recently, Town Council direction on this matter is requested. If the Council has no concern regarding the appearance of vehicles being stored on vacant lots in the historic district, then no action is required. But if the Council has any concerns with how this might impact the charm of the historic district, and perhaps would like to discuss some side rails or parameters regarding this issue, guidance is needed and clarifying language must be inserted into the ordinance describing the Council's intent.

One additional item also needs clarification, as it pertains to the assertion that in a Dillon Rule state, actions or uses not specifically authorized by zoning are prohibited. During deliberations of this appeal, some BZA members may have been under the mistaken impression that the opposite was true; that unless prohibited, uses are authorized. This is something that all BZA members must get right, and so if we are making text amendments to clarify other intentions, we should also clarify this important pretext of zoning.