

MINUTES OF THE JULY 1, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
J. Arthur Leonard, Vice Mayor
Ellen W. Richardson, Councilwoman
John N. Jester, Jr., Councilman
Gene W. Taylor, Councilman
Tripp Muth, Councilman
Terry Howard, Councilman

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:00 p.m.

INVOCATION

Councilman Howard offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

Mayor Tarr made several presentations:



CERTIFICATE OF RECOGNITION

PRESENTED TO

Mrs. Louise Savage Quillen

WHEREAS, Mrs. Louise Savage Quillen is being honored by Mayor Tarr and the Chincoteague Town Council to celebrate her rewarding 96 years of life; and

WHEREAS, Mrs. Quillen was born on August 27, 1916, and has been a member of this community all of her life; and

WHEREAS, she married Newman Quillen in 1936 and this union was blessed with 2 children, 5 grandchildren, and 6 great grandchildren; and

WHEREAS, throughout her life, she has demonstrated in countless ways her dedication to the welfare of others and has earned the respect and affection of people from all walks of life and all ages;

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the Town of Chincoteague, I do hereby deem it an honor and pleasure to extend this tribute to Mrs. Louise Savage Quillen in celebration of her long and productive life and wish her many more happy years in the future.

DATED this 1st day of July, 2013.

Mayor John H. Tarr

Attest:

Robert G. Ritter, Jr., Town Manager



CERTIFICATE OF RECOGNITION

PRESENTED TO

Mrs. Lillie Mae Walker Birch

WHEREAS, Mrs. Lillie Mae Walker Birch is being honored by Mayor Tarr and the Chincoteague Town Council to celebrate her rewarding 91 years of life; and

WHEREAS, Mrs. Birch was born on September 11, 1921, and has been a member of this community all of her life; and

WHEREAS, she married Harry Arthur Birch and they were blessed with 60 years together prior to his passing. This union was also blessed with 2 children, 2 grandchildren, 4 great grandchildren, and 2 great great grandchildren; and

WHEREAS, throughout her life, she has demonstrated in countless ways her dedication to the welfare of others and has earned the respect and affection of people from all walks of life and all ages;

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the Town of Chincoteague, I do hereby deem it an honor and pleasure to extend this tribute to Mrs. Lillie Mae Walker Birch in celebration of her long and productive life and wish her many more happy years in the future.

DATED this 1st day of July, 2013.

Mayor John H. Tarr

Attest:

Robert G. Ritter, Jr., Town Manager

Mayor Tarr thanked Councilwoman Richardson for helping him put this together.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

There was none.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He advised that the Planning Commission made a recommendation to Council regarding the sign ordinance. He added that it will be discussed later in the meeting. He advised that there will be no Planning Commission meeting in July. They are hoping in the next 3 meetings to review the Subdivision Ordinance. He asked Council to let them know if they have any issues to be discussed. He stated that there will be a “minimum” zoning review of a subdivision of 2 lots or more. They are also interested in the sidewalk policy. He mentioned that the Transportation Technical Advisory Committee has two road segments that are due for a classification upgrade. He advised that VDOT is looking at the vehicle counts for this. He added that if there is an upgrade in classification, the road width may have to increase in the future from 10’ to 12’ per lane.

Town Planner Neville added that VDOT is planning to upgrade the functional classification of Route 175 (the Causeway) and Maddox Boulevard from the traffic circle to Assateague. He reminded Council that FEMA will be presenting the new Flood Plain Maps in Accomack on July 31st.

Vice Mayor Leonard asked if there was a report regarding the CCP.

Town Planner Neville stated that he was advised a couple of weeks ago that it was moving through the review process which could be 30-60 days. He stated that it is scheduled to be distributed by the end of August or first of September.

Vice Mayor Leonard feels that if the report was distributed prior to the summer months then visitors would have time to review it and express their concerns to their Senators.

Police Department

Sargent Fisher advised that the monthly report was included in the agenda packet. He added that at approximately 11:15 a.m. the 911 calls have been forwarded to Accomack 911 for a 30 day trial period.

Mayor Tarr advised that there will be a meeting mid-month and at the end of the month for an update.

Councilman Jester asked about the new moped/scooter law regarding helmets.

Sargent Fisher advised that they have advised the rental shops and campgrounds of the change and are planning to warn everyone they can.

Councilman Howard reiterated the law and asked if there were inquiries.

Sargent Fisher responded that there have been many inquiries. He advised that it has been put on the social media; Facebook and on the website. He also stated that according to the state law as of July 1st driving and texting is not legal. He added that if they see someone texting and driving they can stop them as it is now a primary offense. Sargent Fisher also advised that the helmet must be DOT approved.

There was further discussion regarding riders and age limits.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet. He advised of a study for Fowling Gut to be released next week.

There was brief discussion.

Councilman Howard mentioned the repair to a sinkhole on Church Street extended.

Public Works Director Spurlock advised that this was from a man-made storm drain that someone ran under the road that has caused that road to sink.

General Government

Town Manager Ritter reported that there were 77 EMS responses for the month of June which is up 2 from June 2012. He added that 44 were life support, 18 basic life support and 15 other. He reported that they will be advertising for the Downtown Revitalization Project in mid-July. They

should be able to start the middle to the end of September. He reported that the compliance review for the Eastern Shore Broadband grant went well.

Town Manager Ritter advised they attended an organization meeting regarding July 4th fireworks. There will be a staff organization meeting for Pony Penning on the 22nd. He reported that staff has been working on the end of the fiscal year closeout along with opening up the new fiscal year. He added that the newsletter will be going to the Beacon.

There was discussion regarding the end of year financial reporting.

Town Manager Ritter reported that the Eastern Shore Communications is in the process of obtaining their FCC license prior to beginning work. He advised they will be meeting this week. They would like to know when the 1 year trial period will begin.

Councilwoman Richardson asked if the Town has received any money from the cleanup from Hurricane Sandy.

Public Works Director Spurlock added that the Town has received part of the money from Hurricane Sandy. He explained that part of this comes from the VDEM and the other part comes from FEMA.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Muth motioned, seconded by Vice Mayor Leonard to adopt the agenda as presented. Unanimously approved.

- 1. Consider Adoption of the Minutes**
 - **Regular Council Meeting of June 3, 2013**
 - **Special Council Meeting of June 20, 2013**

Councilman Howard mentioned a section that needed a correction in the adoption of the state Vehicle Code. He also questioned the approval of only Task #2 for the Engineering Design Proposal for the Downtown fishing pier.

Councilwoman Richardson motioned, seconded by Vice Mayor Leonard to adopt the minutes as corrected. Unanimously approved.

- 2. Harbor Committee Report of June 6, 2013**

Vice Mayor Leonard stated that the fuel system is up and running. He also stated that the new ice machine is very convenient. He then reported that the dredging is complete they only dredged the boat slips, not the entrance.

Town Manager Ritter advised that the dredging company will be returning to dredge over to Wallops this winter and they use the Harbor with their tugs which also helps pump out the Harbor.

3. Discuss the Schedule for the Veterans' Memorial Park Boat Ramp Repairs

Town Manager Ritter reported that Mr. Dean Fisher advised he could begin August 15th. He stated that after he met with Public Works Director Spurlock, they decided to begin after Labor Day. He reported on the scope of work.

Councilman Howard asked how long it has been since they repaired the boat slip.

Town Manager Ritter believes it has been longer than 10 years.

4. Discuss the Possibility of Scheduling a Public Hearing on the Zoning Ordinance for Commercial Signs

Town Planner Neville reviewed the staff report. He advised that this addresses several specific problems. The Planning Commission was asked the question of whether there was a problem with the way the sign ordinance is constructed as it's applied to larger properties with multiple buildings with multiple businesses. He explained how this took shape. He advised that the Planning Commission has reviewed the revisions along with graphics to illustrate different scenarios. The Planning Commission has recommended moving forward with Town Attorney Poulson's recommendation. He advised that there were several choices to be made. They took a vote on the recommendations. He stated that depending on the outcome of this evening's comments, this should probably be discussed at a workshop allowing Town Attorney Poulson to review it once more prior to going forward with the public hearing.

Town Planner Neville stated that the existing regulation which limits permitted sign area based on building width would be deleted thereby allowing businesses to qualify for up to 100 square feet of permitted sign area for each main structure. He feels the intent is to solve the problem of a business with no available signage. He showed an example of the same illustration.

Town Manager Ritter summarized the Planning Commission's recommendations in Town Attorney Poulson's review and recommended choices.

Councilman Jester suggested that once they decide this, there should be some information to give to new businesses so they will know what the rules are regarding signage.

Town Planner Neville feels it is difficult to sort through every possible option. He feels the improvements that Town Attorney Poulson has recommended are good and they should decide between the choices he offered.

Councilman Jester suggested letting the Chamber of Commerce know about the recommended changes so they can contact the businesses for the public hearing. He added that this will allow some feedback.

There was discussion about freestanding signage.

Councilman Howard feels that this is a lot of information. He asked for clarification of having one business using up the 100 square feet of signage as opposed to several businesses advertising on the 100 square feet. He asked if they would have to divide up the sign.

Town Planner Neville stated that in recognizing this, the solution would be to keep the language in that if you're a 2nd or 3rd business in that building you would get an additional 20 square feet of signage.

Mayor Tarr agreed to have a workshop on the Planning Commission's recommendations.

There was further discussion.

5. Mayor & Council Announcements or Comments

Vice Mayor Leonard advised that the North Accomack Little League was participating in All-Stars.

Council commented on the middle school boys' baseball going undefeated this year.

Councilwoman Richardson stated that a citizen commented on how well the Robert N. Reed Downtown Waterfront Park is kept and looks.

Town Manager Ritter informed Council that the Transportation Enhancement Grant from Cleveland Street to the Fire Station back down to Bridge Street is \$427,000 with \$106,000 required as the Town's match which totals \$533,000. He added that this will include some improvements to Bridge Street. He stated that the Town's match will be discussed in next year's budget.

Adjourn

Councilman Howard motioned, seconded by Vice Mayor Leonard to adjourn. Unanimously approved.

Mayor

Town Manager

MINUTES OF THE AUGUST 5, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
J. Arthur Leonard, Vice Mayor
Ellen W. Richardson, Councilwoman
John N. Jester, Jr., Councilman
Gene W. Taylor, Councilman
Terry Howard, Councilman

Council Members Absent:

Tripp Muth, Councilman

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:00 p.m.

INVOCATION

Councilman Taylor offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

PRESENTATION

Mayor Tarr introduced Mr. Jeremy Eggers with NASA who is here to give an update on the new launch.

Mr. Eggers explained the challenges with public access to federal properties during the launch. He stated that they need to formally establish viewing sites. He also stated that LADEE is scheduled to launch September 6th as a night time launch. He added that this is the first deep space mission to the moon from Wallops. He explained the launch and what it means to NASA, Wallops Island.

Mr. Eggers talked about the hazard areas being bigger because of the size of the rocket. He would like to start formalizing the launch from a safety standpoint and determining the public viewing locations. They want to send volunteers to go to each launch site to give information regarding the launches. He stated that the launch time is as early as 11:27 p.m.

Mayor Tarr asked Town Manager Ritter if there were other viewing sites located.

Town Manager Ritter advised that the maps that the U. S. Fish and Wildlife reviewed on Friday shows Beach Road, east of the Museum being closed off for a viewing site. He suggested that there may need to be buses to transport people from the high school for parking to the sites. He also stated that the other location would be Mariners Point. There was a meeting with staff earlier today about the viewing sites. He advised that the problem with Mariners Point is there is no lighting. Another potential viewing site could be the Robert N. Reed, Sr., Downtown Waterfront Park with a blowup screen. He suggested each motel having rocket launch parties. Another suggestion for a viewing site could be the spur for Marsh Island. They would have to get permission from VDOT to use this.

Councilman Jester stated that this is a huge PR opportunity for NASA. He stated that at the Ocean City Air Show they had a good display of information. He suggested that NASA have their mobile exhibit at the Robert N. Reed, Downtown Waterfront Park during the day of the launch.

Town Manager Ritter advised that there was a Star Plan exercise at the Center which showed the viewing site as the beach. However, this is no longer a viewing site as it is in the hazard zone.

Councilman Howard asked why the beach isn't a viewing site.

There was discussion about the hazard area and debris zones along with the Causeway and no parking. They also mentioned charter boats and their viewing areas.

Mayor Tarr thanked Mr. Eggers for attending and offered the Town's assistance.

Mayor Tarr invited Mr. Pascaretti to give another update from the Broadband Authority.

Mr. Nick Pascaretti with the Eastern Shore Broadband Authority updated Council. He stated that construction is complete for Chincoteague. He also stated that they have expanded their network with grant funds. He added that all public schools in Accomack County and Northampton schools are using the network along with the medical facilities and cell towers. He stated that there are several programs to give an initiative for new connections. They are in support of the expansion across Wallops Island. He asked for questions.

Mayor Tarr asked when it would come to his home or business.

Mr. Pascaretti advised that they are looking into ways to make it happen and speeding up the process.

Town Manager Ritter stated that the contract with Eastern Shore Broadband Communications began August 1st.

Councilman Howard asked if there was anything slowing down the process.

Mr. Pascaretti stated that their concern is finding out what is and what isn't working.

Councilman Jester stated that his concern is with the rate for each small business and it may push them to pass the charge on. He feels if the rate is too high it will discourage broadband in the community.

Mr. Pascaretti advised that there is a small group of people in the organization and all the money goes into network expansion. He stated that if they lower the rate they will not be able to fund the expansion of the network in the local areas.

There was further discussion.

Mayor Tarr advised that the last presentation this evening is a Certificate of Appreciation to all the Employees from the Council as a body.



Mayor Tarr thanked the employees and directed Town Manager Ritter to print one for each employee to be signed by himself and the Vice Mayor.

Councilwoman Richardson advised that there were visitors in the Ladies Auxiliary stand who commented on how nice the people from Chincoteague were.

Councilman Howard reiterated and stated that he has heard the same comments.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Mr. Mike Meyers of Smuggler's Cove approached Council regarding his neighboring property. He advised his neighbor has been bringing in truckloads of sand and dumping it with some washing into his wetlands. He gave a list of actions he has taken and the people he contacted regarding this. He advised that he doesn't have a problem with the sand. Mr. Meyers stated that his neighbor advised that he was tired of Mr. Meyer's wetlands encroaching onto his

property and he was going to do something about it. He stated that the sand piles delivered in April have not been spread to date along the canal. He suggested that the neighbor is building a berm and block wall. He continued to list others he contacted and was advised that the block wall was an obstruction and a permit was necessary.

Mr. Meyers understands that this is beyond the Town's capabilities to regulate. Assistance was offered to the Town to help with their Code. He asked about the wall and advised that he wasn't going to allow this wall to sit there causing his property to flood during the upcoming storm season. He isn't concerned about the sand. He advised that the concrete wall is an obstruction. He feels that the Town has a problem with the permits being retroactive. He recommended that the Town make his neighbor remove the wall as it is obstructing the free flow of floodwaters. He stated that if the Town doesn't do anything then he is forced to go further up in FEMA. He threatened that the Town doesn't want FEMA involved.

Town Manager Ritter advised that the Building Code stated anything over 2 feet would be considered a fence and require a building permit.

Mr. Meyers advised the blocks are 4 feet long, 2 feet wide and 2 feet tall.

There was further discussion as to how it's regulated and who enforces it.

Town Planner Neville advised that he will address this in his report.

Mayor Tarr offered a meeting with staff at 1:00 p.m. Tuesday regarding any new development.

Councilman Taylor asked about permits.

There was further discussion about the blocks, the pictures, and the sand.

- Mr. Ray Rosenberger, Chairman of the Planning Commission, expressed his concerns about Mariners Point becoming a dog walk.
- Mr. David Johnson questioned the absence of mosquitoes. He asked if the Town is spraying anything different or better. He added that this is a pleasant puzzle.

Councilman Howard commented the Town for the mosquito control.

Public Works Director Spurlock made a remark about the different types of mosquitoes.

- Mr. Barry Abell approached Council about the Chincoteague Island Waterman's Memorial. He advised that as of today they have brought in donations and raffle ticket money of over \$25,000. He thanked everyone for their support. He advised that the drawing for the boat raffle is October 12th. Mr. Abell stated that they need to start planning for after the raffle. He stated that they are looking to put in the base for the memorial this Friday or Saturday morning with the assistance of Barry Fisher and his crew. He stated that WBOC and the Eastern Shore News will be there when they put it in place. He mentioned the Naval Air Station and the local

airmen that were lost along with their thoughts for a memorial. He asked Council for guidance for a memorial downtown to potentially be funded with grant money. He mentioned adding the Coast Guard on the memorial also.

Councilman Howard wanted to know what Mr. Abell was asking.

Mr. Abell advised that he is not asking for any money. He is asking for direction. He doesn't just want to put an anchor up. They want a formal monument with the names.

They discussed placement and planning.

Mayor Tarr advised that he will arrange a meeting with Council to discuss this further.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He advised that there is a summary of Committee activities. He stated that there is no new news for the Beach Access Committee and the CCP. He also stated that Mr. McCauley advised that the FWS lawyer is currently reviewing the document. He reviewed the Land Use Study from Accomack County. He stated that NASA is coming out with a Base Master Plan along with a large Environmental Statement.

Town Planner Neville also reported that the draft Floodplain Maps are at the Town Office for review. The Town has been asked to schedule public information meetings to provide multiple presentations. He also added that they met with FEMA regarding Mr. Meyers' neighbor. He advised that FEMA has asked the Town to do 2 things. He stated that they have to describe the ordinances that provides for this situation. He advised that the Ordinance states they should issue a zoning permit. He then stated that under zoning it states to combine the zoning permit with the building permit. He stated that this is a new request from FEMA to pick fill and grading out of the definition of development and regulate it in the building permit process. They agreed to work with FEMA who has offered to look at the Flood Ordinance and help.

Councilman Howard mentioned the new draft maps favoring Chincoteague more than in the past.

Town Planner Neville stated that certain areas of Chincoteague are coming out of the 100 year floodplain. He stated that the FEMA maps are hard to understand. He added that there will be a new map viewer that gives the before and after and is more readable.

Police Department

Chief Lewis advised that the monthly report was included in the agenda packet.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet.

Councilman Howard asked about the repairs to the culvert on Fowling Gut.

Councilwoman Richardson informed Councilman Howard that it was on the Public Works monthly report under upcoming projects.

Public Works Director Spurlock advised that the culvert has been inspected and believes it is structurally sound. He has contacted the representative of the manufacturer. The representative has scheduled an inspection.

Councilman Jester asked about the repair at the Captain Bob's area.

Public Works Director Spurlock advised he has already negotiated a repair to that.

Councilman Howard commented on the staff reports.

Councilman Taylor asked about putting the dog waste bags at Mariners Point. He also wanted to know the acreage at Mariners Point suggesting expansion of the area.

Public Works Director Spurlock advised that this is used as a spoil site which is owned and operated by the Army Corps of Engineers.

Councilwoman Richardson asked about Well 4.

Public Works Director Spurlock advised that A. C. Schulte will be here tomorrow.

Vice Mayor Leonard mentioned the overgrowth of vegetation on North Main Street.

Public Works Director Spurlock advised that it would be taken care of soon.

General Government

Town Manager Ritter reported that there were 120 EMS responses for the month of July which is down 12 from July 2012. He mentioned the Downtown Revitalization Project. He stated that Bowman Consulting has resubmitted the changes which pushed the date out a little. They're hoping to get the bids out by mid-August and open the bids by mid-September having VDOT approvals within 30 days. He stated that they would like to start construction by mid-October. Staff has completed the end-of-year work in preparation for the financial audit. Staff has completed work on the Blueberry Festival permitting for July. They have also been closing out the Broadband Compliance Grant along with the Trolley Grant Compliance Review.

Councilman Jester suggested continued contact with VDOT to expedite the project. He would also like to see the end of FY 13 closeout summary.

Councilman Howard mentioned the Blueberry Festival and asked if there were any problems.

Town Manager Ritter advised everything went through very smoothly.

Ms. Linda Clift asked Council to force Mr. Tull to repair the roads in Ocean Breeze. She didn't understand why the Town wouldn't do anything about it.

Mayor Tarr explained that it is a privately owned road and the Town can't use taxpayer dollars to repair private roads.

Town Manager Ritter suggested forming a civic organization of the residents in Ocean Breeze to either put their money together to fix the roads or to force Mr. Tull to repair the roads.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Taylor motioned, seconded by Vice Mayor Leonard to adopt the agenda as presented. Motion carried.

Ayes: Leonard, Jester, Richardson, Howard, Taylor

Nays: None

Absent: Muth

1. Consider Adoption of the Minutes

- **Regular Council Meeting of July 1, 2013**

Councilman Howard asked for a change from "slip" to "ramp" in the minutes.

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the minutes as corrected. Motion carried.

Ayes: Leonard, Jester, Richardson, Howard, Taylor

Nays: None

Absent: Muth

2. Accomack County Board of Supervisors Update

Supervisor Thornton complimented the Town of Chincoteague's staff, the Volunteer Fire Company and the Ladies Auxiliary for their hard work. She also commented on a suggestion to have the County repair a private road. She stated that tax money can't be used on private roads. She also spoke about the Meyers issue. She advised that she sits on the Soil and Water Conservation Board for the state of Virginia. She urged Council to use caution in changing anything until they know what changes are going through. She advised that she is trying to work out a meeting in Accomack County where all the corporate towns can attend to discuss new stormwater management requirements. She feels it's going to be challenge financially to implement this. She understands Mr. Meyers' dilemma, however, she understands someone trying to protect their property also. She stated that the new storm water regulations are going to resolve some of the issues but, people won't understand the associated costs. She advised that there is a meeting in September and would like the County's Board to meet also. She added that before they change any Code or Ordinance wait to see what the new regulations are going to entail. She added that the county is extremely concerned.

Supervisor Thornton reported that the Wallops Research Park is going to be a reality. There was controversy regarding the Board of Supervisor's pay increase. She added that she voted against it. She stated that the Board took action to permit central sewerage in a residential district with a conditional permit. She advised of a vacancy on the Wetlands Board. They will vote on the new

library at the August meeting. They limited part-time employees to 29 hours or less. The EDA funding was increased to \$25,000. She advised of a request to amend the fireworks code that the Board took no action on. She stated that she is opposed to the CBBT toll increase because of those in Northampton County and because it affects those on the Eastern Shore. They are going to raise it \$1 now and an increase in increments every 10 years.

3. Mayor & Council Announcements or Comments

Councilman Howard commented on the weather forecasts.

Councilman Taylor commented on the community being nice and is thankful for the Fire Company and volunteers.

Councilman Howard also mentioned all the volunteers on the Pony Penning Shuttle that made it a success.

Councilman Jester suggested sending a letter to the VMRC to consider restoring the oyster rocks to the public grounds. He suggested using some of the grant money. He also stated that he along with Vice Mayor Leonard flew out to the aircraft carrier Bush. They landed on the deck and were able to see the dedication of all the people who operate the ship.

Vice Mayor Leonard mentioned some the planes that are conducting takeoffs and touch-and-gos at Wallops are the same planes that are landing on the carriers.

Mayor Tarr stated that Public Works Director Spurlock and Supervisor Thornton also got their badges on the aircraft carrier.

Mr. Del Goddard also spoke about the roads in Ocean Breeze. He questioned Mr. Tull's ownership as he didn't show up to the meetings in regards to this. He advised that he has documentation stating such and asked the Town to look into this matter further.

Mayor Tarr advised that the Town's Attorney will review the paperwork.

There were further comments.

Mr. Goddard turned the paperwork over to the Town.

Vice Mayor Leonard stated the Athletic Boosters at the High School are planning to put in new concession stand. He stated that the Athletic Boosters step in and support athletes when the school is unable to. He gave Council a list of items they can do or fund to support the Boosters. He also added that if the Town would donate money to the Athletic Boosters, Chief Lewis would double it.

There was discussion as to where the new concession stand would be.

Town Manager Ritter advised that the Recreation and Community Enhancement Committee will meet in September. He also reminded Council of the Safety Committee meeting for tomorrow night.

Supervisor Thornton also mentioned that she is going to put on the agenda to have no parking along RT 175 during the launch. She feels that safety is an issue.

There was discussion as to a shuttle for parking for the launch and associated expenses.

Adjourn

Councilman Howard motioned, seconded by Councilwoman Richardson to adjourn. Motion carried.

Ayes: Leonard, Jester, Richardson, Howard, Taylor

Nays: None

Absent: Muth

Mayor

Town Manager

MINUTES OF THE SEPTEMBER 3, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
J. Arthur Leonard, Vice Mayor
Ellen W. Richardson, Councilwoman
John N. Jester, Jr., Councilman
Tripp Muth, Councilman
Gene W. Taylor, Councilman
Terry Howard, Councilman

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:00 p.m.

INVOCATION

Councilman Howard offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Mr. Todd Burbage with the Fairfield Inn came to thank Council. He advised that the new motel opened July 14th. He thanked everyone for all their efforts, especially the Town of Chincoteague. He advised they are looking forward to rebuilding the Chincoteague Inn.
- Mr. Mike Meyers approached Council once again regarding his neighbor filling in his land. He stated that since his last Council meeting the neighbor has spread over 100 loads of sand in his own back yard. He described the work that has been done to date. He pleaded with the Town to give him a cease and desist order because he is in violation to the National Flood Insurance Program. He again reviewed the accounts of his actions trying to stop his neighbor from filling in his own land. He stated that when the Town agreed to participate in the National Flood Insurance Program they agreed to abide by the minimum amount of regulations and requirements. He also stated that if they fail to abide by these regulations, FEMA can put the Town on probation and anyone who has flood insurance will automatically get a surcharge of \$90.00.

Mr. Meyers read from the Town Ordinance. He continued to give an account of his actions to date. He reviewed a handout from the Town. He quoted a statement on the handout, "Always check with the Building Department before you build on, regrade or fill in your property. A permit may be required to ensure a project may not cause problems on other properties." He feels that his neighbor's concrete/rock wall is an obstruction. He doesn't care about the sand.

There were further comments and complaints.

- Mr. Del Goddard, resident of Ocean Breeze, came back to Council with the paperwork mentioned from last month's meeting regarding Seaweed Drive. He thanked Council for having a concrete truck fill in the potholes. But, feels this is only a Band-Aid. He stated that this isn't about the side roads. It's about Ridge Road, a main road of Chincoteague. He feels there has to be a way to settle this. Mr. Goddard stated that it's getting worse by the day and suggested working with the owner. He feels that this involves everyone on Chincoteague. He showed where this was supposed to be turned over to the property owners, but wasn't because no one followed up on it and the corporation was terminated.
- Mr. Barry Abell stated that he was told that he will be part of the next Parks and Recreation Board meeting. He reminded Council of the discussion of a memorial at the Waterfront Park location. He feels it's important. He met with WCTG about supporting a downtown memorial. He read the broadcast that requested community support. He reminded everyone that the raffle will be held October 12th and raised over \$25,000. He thanked Council for putting him on the Board agenda.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He stated they will be meeting Tuesday, September 9th at 7:00 p.m. to review the Subdivision Ordinance and several of those sections. He mentioned the Commercial Sign Ordinance public hearing that is scheduled for October 7th and will allow the Planning Commission time to review the proposed changes. He provided an update about the CCP. The USF&W has received comments from the solicitor and have made changes based on those comments. He stated that the revised document should be ready by the end of October.

Town Planner Neville also stated that they have been reviewing the Flood Plain maps. They have been focusing on revisions and corrections. They have also been reviewing the issues Mr. Meyers has raised. They are continuing to coordinate with the County regarding the Sediment and Erosion Control Permit. They will have a dialog whether the minimum requirements are adequate. A letter was provided to FEMA that describes how the Town administers permits for fill and grading. There is a conference call schedule with FEMA later this week.

They commented on Mr. Lou Hinds retirement and who would be filling in for him.

Councilman Howard asked Town Planner Neville to explain the Soil and Erosion Ordinance.

Town Planner Neville stated that when someone is building a new house, in the permitting process there are check lists that FEMA wants the Town to complete. They do not issue the permit until they check with the state. He stated that what is at issue is that there was no "new" construction taking place in the Meyers matter. It was placement of fill initially. The Town has adopted a Town Code section for Erosion and Sediment Control which delegates the permit process to Accomack County. They have a full review process for fill and grading activity. The Town has been talking to FEMA about the active permit process and there may be some additional review necessary. He added that it isn't a broken process. They are trying to design a permit with the Agency's standards to be able to approve or disapprove the permit/application.

He added that currently with the fill activity, they can only refer to the Soil and Sediment Control process. FEMA recommended a Flood Plain Development Permit. He added that Building and Zoning Administrator Lewis suggested criteria and a fee schedule so that it's enforceable.

Police Department

Chief Lewis advised that the monthly report was included in the agenda packet. He reminded Council that Saturday, September 14th at 1:00 p.m. until 9:00 p.m. is the Annual Poker Run – Ride for Kids, Auction and Block Party.

Councilman Howard asked for clarification about the calls. He asked why the landline calls are listed separate than the wireless calls.

Chief Lewis stated that it is just for information purposes.

Councilman Howard was just unsure of why and how it was listed.

Chief Lewis briefly reviewed the report.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet. He reported on the culvert on the south end of Main Street. He stated that the manufacturer completed an inspection and advised that is structurally sound.

Councilwoman Richardson asked what he was planning to do to correct the erosion around it.

Public Works Director Spurlock stated that there is a material that can be pumped under the road.

Councilman Howard asked for clarification.

Public Works Director Spurlock explained the erosion because the water is infiltrating through the headwall. He explained the process to keep this from happening further.

Councilman Jester commented on how much better the roads look by using the tractor to cut the brush back.

Public Works Director Spurlock commented that the US Fish & Wildlife helped tremendously.

Councilman Taylor mentioned that the sight triangles need to be cut back also.

General Government

Town Manager Ritter reported that there were 94 EMS responses for the month of August which is down 13 from August 2012. He reminded Council that only half of Labor Day weekend fell within that timeframe. He stated that under Emergency Services the potential for the next Antares Rocket could be September 13th if the LADEE launch is successful. He reported that the Auditors were here August 12th through the 15th. There were excellent findings and they reviewed the Procurement Policy. They recommended that the Ordinance Committee review

this to bring it up to date. Staff has been working on delinquent taxes and turned them over to Mr. Elliott. He reported on the revenues. He advised that staff will begin working on the quarterly newsletter. He also stated that he will be attending an ICMA conference.

There was discussion of the revenues and explanations of the differences.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Vice Mayor Leonard to adopt the agenda as presented. Unanimously approved.

- 1. Consider Adoption of the Minutes**
 - **Regular Council Meeting of August 5, 2013**
 - **Special Council Meeting of August 15, 2013**

Vice Mayor Leonard motioned, seconded by Councilwoman Richardson to adopt the minutes as presented. Unanimously approved

- 2. Public Safety Committee Report of August 6, 2013**

Mayor Tarr entertained questions regarding the report.

Councilman Howard asked for information regarding the LADEE launch.

Town Manager Ritter stated that it is on the agenda to discuss.

- ~~**3. Discuss Keeping 911 Dispatch**~~

- 4. Discuss the LADEE Rocket Launch**

Town Manager Ritter reviewed the handouts and fact sheet for the LADEE Launch scheduled for Friday, September 6th at 11:27p.m. He explained the viewing sites and road closures. He reviewed the shuttle service and Pony Express routes along with the designated parking areas. He also reviewed the backup dates. He reported that all motels have been notified. He stated that there are 6 CERT members to assist in parking vehicles. He also advised that Atlantic Volunteer Fire Company will be on scene to light up the area around the traffic circle. Businesses have been contacted by the Chamber to stay open during this event.

Councilman Jester feels that it's important that the leadership from the Town go talk to the businesses to let them know that the Town has a Plan for safety and answer questions they may have.

Councilman Howard stated that he reviewed the launch windows and doesn't understand the report.

Town Manager Ritter reviewed the launch schedule.

Councilman Jester explained that the launch is very calculated for the window. He stated that if they don't launch within a certain amount of time they scrub the launch for that night.

Town Manager Ritter advised they have delivered the packets to all the motels. He stated that the shuttle service will start at 9:00 p.m.

There were further comments and discussions.

5. Approval of Repairs to Well Number 4

Public Works Director Spurlock explained that one of the main wells is in need of repair. There have been 2 proposals. He advised that A.C. Schultes submitted a proposal. He stated that the Town has done work with them before and recommended that Council consider approving the contract to A. C. Schultes in the total amount of \$40,939 (\$20,554 + \$20,385) for Well 4 redevelopment and pump repairs.

There was discussion about the Procurement Policy and funding.

Public Works Director Spurlock advised there will be a budget amendment.

Councilman Howard asked about the camera inspections. He is unsure of exactly what they're going to do with the well.

Public Works Director Spurlock advised that it is in the report and explained a little further.

Councilman Taylor motioned, seconded by Vice Mayor Leonard to approve the proposal from A. C. Schultes of Delaware, Inc. in the amount of \$40,939.00 for Well #4 redevelopment and pump repairs. Unanimously approved.

6. Possible Approval of the Skate Park Repairs

Town Planner Neville reported on an issue regarding needed repairs at the Skate Park. He advised that Skate Park ramps have previously been repaired through the manufacturer warranty. He also advised that there are other ramps in need of repair as they are a safety hazard. He stated that Public Works Director Spurlock has received an estimate for repair in the amount of \$2,620. He also stated that the Town has a Playground Reserve Fund. Town Planner Neville asked if Council wanted to have the repairs done or to remove the unsafe ramps.

Councilman Jester asked about the repairs made last year.

Town Manager Ritter advised they were manufacturer replacements.

Councilman Jester asked if these repairs were to the ramps that were repaired last year.

Public Works Director Spurlock advised they are not.

Councilman Howard asked about the use of this facility.

Councilman Muth advised that Wednesday nights during soccer practice it is being used.

Mayor Tarr asked why they're doing something different this year than last year.

Town Manager Ritter advised that last year the ramps replaced were still under warranty.

Councilman Taylor expressed the importance of the repairs and the Skate Park.

Councilman Howard motioned, seconded by Councilwoman Richardson to approve the repairs to the Skate Park in the amount of \$2,620. Unanimously approved.

7. Mayor & Council Announcements or Comments

Councilwoman Richardson commented on the Committee for 911. She requested that they keep the public informed.

Mayor Tarr assured her that the information from the 911 Committee would be in the agenda packet also.

Vice Mayor Leonard stated that he has been approached about the birds on the Causeway. He stated that it looks like a war zone. He is unsure if the Town can do anything but suggested contacting Game and Inland Fisheries. He feels this could be the cause of an accident. He suggested signage.

Mayor Tarr asked Town Manager Ritter to contact VDOT and the Refuge about the safety options.

Councilman Taylor mentioned 911 and feels the public should be made aware that 911 will be open as usual and nothing changes.

Town Attorney Poulson stated that Council should have received a copy of the final court order on the Carter matter.

Adjourn

Councilman Howard motioned, seconded by Vice Mayor Leonard to adjourn. Unanimously approved.

Mayor

Town Manager

MINUTES OF THE OCTOBER 7, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
J. Arthur Leonard, Vice Mayor
Ellen W. Richardson, Councilwoman
John N. Jester, Jr., Councilman
Tripp Muth, Councilman
Gene W. Taylor, Councilman
Terry Howard, Councilman

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:00 p.m.

INVOCATION

Councilman Taylor offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

Mayor Tarr introduced Supervisor Donald Hart, Chairman of the Board of Supervisors of Accomack County, who asked to speak to Council this evening.

Supervisor Hart advised that he was before Council as the Chairman of the Board of Supervisors. He expressed how special Chincoteague is to him. He stated that he has been on the Board of Supervisors since 1979 and a lot of issues have come up throughout his 33 years. He stated that Chincoteague is important to him and to Accomack County. He is hoping that as they move forward the good relationship continues. He understands that there have been members of the Board in the past that haven't been as Chincoteague friendly. He thanked Mayor Tarr for letting him come before Council. He asked everyone to realize that Accomack County is one big family.

Supervisor Hart added that Chincoteague is 25-35% of the County revenue. He knows there have been negative comments. He feels that being a family, although they may disagree, they should settle the disagreements just the same. There are many projects and they will need to work together. He stated that even though he won't be chairman after December, he will do everything in his power to see that the Communities and the County act as one.

He mentioned the Town's FEMA situation and advised that the County is going through that also. He also mentioned the beach and stated that they are in support. He advised that whatever Council decides regarding 911, the 911 Commission is in full support. He reminded Council that the County 911 Commission is a bi-county organization and suggested that perhaps Chincoteague should be added as a member of the Commission.

He reported that the County helped with the Convenience Center in upgrades. He advised that the Board voted to allow the school bus drivers to operate the shuttle buses for the rocket launch. He wants the relationship stronger between the County and Chincoteague. He stated that being on the Board for 33 years he has seen a lot. He has worked closely with Mr. Paul Merritt and Supervisor Wanda Thornton. He praised them for sticking up for Chincoteague. He told Council not to hesitate to contact the Board for whatever it is the Town needs. He revisited his younger days on Chincoteague. He stated that no matter what the issue, Accomack County is family and should work together.

Councilwoman Richardson thanked Supervisor Hart for standing behind the school renovations.

Mayor Tarr thanked Supervisor Hart for attending.

Ms. Jane Hook-Turlington thanked Supervisor Hart for his support throughout the years.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Ms. Jane Turlington came before Council regarding the safety of the intersection of Bunting Road and Willow Street. She expressed her concerns regarding the overgrowth of bushes and lack of visibility coming from Willow Street turning onto Bunting Road. She requested that the bush be removed or cut back.

Councilwoman Richardson advised that the owner has told her he would cut it back if the Town would call. She advised she would call him.

Ms. Turlington also mentioned the lights that are out at Memorial Park. She stated that she has called the Town and talked to ANEC. She stated that ANEC advised that this was an engineering problem and the lines would have to be reworked. They also advised they were working on those at that time. She asked Council if there was money in the Park fund to fix the lights and add lighting on the back side of the Park.

Public Works Director Spurlock advised that the lighting problem is from the salt water. He advised that ANEC is currently working to correct this matter. He also added that ANEC owns all the street lights on the Island. He stated that there is no money in the Memorial Park Fund and he will contact ANEC to see if they would be willing to install a few.

Ms. Turlington thanked Mr. Bryan Rush for the safety of the Island, Mr. Steve Jones for the way he evacuates the citizens and she thanked staff. She suggested that Council not vote on the 911 matter tonight. She stated that she has talked with several Council members about having a public hearing before a decision is made. She suggested collecting money from Assateague for 911 services also.

Mayor Tarr stated that this is a separate agenda item to be discussed a little later in the evening.

- Ms. Linda Rush addressed Council regarding the condemned mobile home in Ocean Breeze. She expressed her concerns as there are unsafe living conditions with the rats that have come from this property. She advised that she contacted several Councilmembers, the Police Department, Town Manager Ritter and Building and Zoning Administrator Lewis. She was referred to the Health Department who in turn sent her back to the Town. She advised that Building and Zoning Administrator Lewis gave her the name of the owner and advised she would have to contact the Health Department. She wasn't satisfied with this. She stated that she was advised that it wasn't the Town's responsibility to trap and get rid of the rats. She believes it is the Town's issue when they condemned the home.

Ms. Linda Rush feels this situation was not handled correctly. She requested that should this issue arise again in the future to inform the public. She suggested having a plan in place. She feels that safety is an issue as the rats are larger than cats. She and her neighbors got together putting rat poison all over. However, the rats are hiding a few streets over in vacant lots. She requested Council address this matter.

Councilman Howard mentioned the Nuisance Ordinance. He is not satisfied that one government entity would pass this on to another government entity and so on. He feels that someone is responsible for the safety and well-being of the people.

Ms. Rush stated that it isn't fair. She is a taxpayer and is unhappy with how she and her neighbors have been treated. She thanked Council for their time.

Councilman Howard feels that the Health Department should have addressed this matter.

Town Manager Ritter stated that in talking with Ms. Rush, he and Building and Zoning Administrator Lewis came up with a plan; they called the owner of the property. The owner advised that she was going that same day to put rat poison in and around the outside of the home. He stated that Building and Zoning Administrator Lewis then called Ms. Rush to inform her of this plan.

Mayor Tarr asked if they followed up on this to make sure it was done.

Town Manager Ritter stated that he will discuss this with Building and Zoning Administrator Lewis.

Councilman Jester asked if it was going to be demolished.

- Mrs. Eileen Skrobick expressed her concerns about demolishing the home. She stated that the house isn't boarded up. She feels it has become anybody's property. She added that the house has become a free-for-all for everyone in the area and on the island. She advised that when the Town came and cleaned it up they stacked all the debris and cages up and now it's strewn all over with trash everywhere. She asked about boarding up the place once it was condemned. She stated that she had to stop someone from taking the garbage can from the property. She also advised that there are still tons of cats and kittens. She asked Council what the plan is for the vermin and kittens on this property.

Town Manager Ritter stated that the owner advised she was going to have it cleaned or remove the mobile home.

Councilwoman Richardson asked if there was a deadline.

Town Manager Ritter advised that Building and Zoning Administrator Lewis again spoke with the owner and she advised what her plan was. He didn't believe a deadline was set at that time. However, he will speak with Building and Zoning Administrator Lewis to send a letter giving her a specific amount of time.

Councilman Howard asked about the windows and doors on the mobile home.

Ms. Skrobick advised that the doors and windows are intact. She advised someone is going in there because the door is sometimes open and sometimes closed.

Town Manager Ritter stated that if the windows and doors were not intact they would require them to be boarded up. He also stated that shedding light in the home is probably the best to keep vermin out.

Councilman Jester asked if the Town was going to give them a deadline.

Town Manager Ritter responded that there would be a deadline given.

Ms. Skrobick advised that the "Code Enforcement" vehicle has been by there. She added that the Town straightened up the yard and now you can tell someone has been there.

Town Manager Ritter advised that he will speak with Building and Zoning Administrator Lewis.

Mayor Tarr also requested that staff contact the lady that helps with cat rescue and animal control regarding the cats that are still there.

Public Works Director Spurlock stated that there was a spay and neutering session conducted this past weekend. He added that quite a few cats were caught in that vicinity.

Ms. Turlington informed Council that her church has been helping this lady for years. She advised that she has helped her get disability. She stated that their goal was to get her into assisted living. She also stated that every church has helped her by giving her furniture and money and she would never allow anyone to enter the home. She advised that the floors are rotten. She also added that the last time there was plumbing problems a member of the church had to roll out a tarp to lay on underneath the mobile home just to get to the leak. She feels this it is a very bad situation.

Ms. Skrobick added that the mobile home has become one with the earth where phragmites is growing inside.

Mayor Tarr directed Town Manager Ritter to speak with Building and Zoning Administrator Lewis and to contact the Health Department as to why they couldn't do anything about this.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He stated that later this month there will be an open house for the Wastewater Report along with the recommendations from the Committee. The open house is scheduled for October 23-25, 2013 from 8:00 a.m. to 5:00 p.m. with the public meeting on October 24, 2013 from 5:00 p.m. to 7:00 p.m. They feel this format is a good way to reach out to the community and plan to do the same in November with the Flood Plain Maps. He stated that the CCP hasn't been published as of yet. He mentioned that the revisions for the final construction plan of the Fishing Pier have been completed. There has been a VDOT approval for the contract for the Safe Routes to Schools Program. He stated that he will be providing more information regarding the Virginia Storm Water Management Program in the future.

Councilman Howard asked if the Wastewater Advisory Open House was for information only.

Town Planner Neville advised it was.

Councilman Howard feels that the way the Wastewater Advisory Committee has handled this is commendable.

Police Department

Chief Lewis advised that the monthly report was included in the agenda packet. He reported that they have completed the 9th Ride for Kids. He stated that to date they have raised \$271,965. He also stated that with the help of the Dispatchers, Police, Decoy Carvers and businesses that donated they have given back \$240,758 to the residents of Chincoteague over the last 9 years.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet. He reported, in addition to the report, that the Convenience Center is in the process of being enlarged.

Councilman Jester asked what the difference would be there.

Public Works Director Spurlock advised they are adding more dumpsters for recycling adding the containers for recycling oils along with more opportunities for other recycling items.

Councilman Howard advised that the Public Works Department deserves a big thanks for helping with the cemetery cleanup assistance.

General Government

Town Manager Ritter reported that there were 88 EMS responses for the month of September which is 12 less from September 2012. They have also received a new battery operated stair chair that assists in moving a patient down the stairs. He reported that bids were received for the

Downtown Main Street Revitalization Project and he hopes to get the award item added to the agenda this evening. Staff has worked on research, familiarizing with the Virginia Disability Program. He stated that bank interest rates have been researched. There will be a transfer from the LGIP account to another bank because of the rates. There is a banking resolution in the packet regarding this transfer. He also reported that staff has received 2013 personal property taxes and are hoping the real estate taxes will be here soon. He added that the quarterly newsletter will be published within the next two weeks.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Vice Mayor Leonard to adopt the agenda adding item 8b, Main Street Corridor Improvements, Phase 2C. Unanimously approved.

1. Consider Adoption of the Minutes

- **Regular Council Meeting of September 3, 2013**
- **Special Council Meeting of September 19, 2013**

Councilman Taylor motioned, seconded by Councilman Jester to adopt the minutes as presented. Unanimously approved

2. Joint Public Hearing for a Possible Sign Ordinance Revision

Planning Commission Chairman Rosenberger advised that the Planning Commission does have a quorum present this evening and requested permission to open the public hearing.

Councilman Jester motioned, seconded by Vice Mayor Leonard go into the joint public hearing with the Planning Commission regarding the Sign Ordinance Revision. Unanimously approved.

Mayor Tarr opened the public hearing and asked Town Planner Neville to review the changes.

Town Planner Neville stated that the item before them for consideration with the joint public hearing is an amendment to: **Town Code Appendix A – the Zoning Ordinance, Section 7.13 Permitted Signs in Commercial Districts, with changes including but not limited to an increase of permitted sign are and revision to the method of calculation for multiple businesses on a single lot of record.**

Public Notice requirements for the Town Code have been met. He stated that they appreciate the guidance provided by Town Attorney Poulson through this process, and note that he has provided the only comments during the notice period.

This Sign Ordinance Amendment is the result of months of consideration by the PC and TC on how best to solve a problem with larger commercial property that may contain more than one business in more than one building.

The current sign ordinance limits the number and amount of signage per lot. An example of the conflict that creates is illustrated with the new Fairfield Inn and Chincoteague Inn businesses located on the same lot. The BZA provided a temporary variance until the ordinance could be revised.

The proposed sign ordinance would connect the number and amount of signage, with the business use or the main structure that contains it, rather than the lot. Simply, this means that a larger property with more businesses and buildings can have more signage.

Several modifications were also made to:

- Organize the requirements into 3 basic types: one building/one business, one building/multiple businesses, multiple buildings/multiple businesses.
- Establish 100 square feet of sign area as a standard for each main structure regardless of size or number of businesses.
- Permit up to 40 square feet of sign area in addition to the 100 square feet for each business in a multiple business structure (20 square feet on the building and 20 square feet on a permitted freestanding sign).
- Revise the section for Free standing signs to allow a second freestanding sign when there are more than one separate main structures, and to allow up to 128 square feet per sign when there is more than one permitted business.

Staff recommends these well considered changes for approval subject to comments and concerns from the Public or Town Attorney Poulson. He then asked if there were any questions.

Mayor Tarr asked if there was anyone from the audience who had anything they'd like to say or ask during the public hearing.

- Mrs. Nancy Lane, Main Street, stated that the Fairfield Inn is across from her. She suggested considering the residential nature of the area. She doesn't want residential areas overwhelmed with signage. She mentioned the historic homes also.

There were no further comments.

Mayor Tarr closed the public hearing. He invited comments from the Planning Commission.

Chairman Rosenberger stated that they support staff's recommendation.

Town Attorney Poulson asked if his suggestions were taken into consideration.

Town Planner Neville advised that the Planning Commission have taken those suggestions incorporating them into the revisions.

Town Attorney Poulson expressed his concerns as a matter of policy. He mentioned multiple businesses in a structure along with his suggestions.

Town Planner Neville further explained the sections and several proposed changes.

Planning Commission Chairman Rosenberger called for a vote.

Mr. Papadopoulos motioned, seconded by Mr. Potts to send the recommended changes to Council for approval. Unanimously approved.

Mayor Tarr asked Council's pleasure for the recommended changes from the Planning Commission.

Councilman Jester motioned, seconded by Vice Mayor Leonard to adopt the changes to the Zoning Ordinance, Chapter 7, Section 7.13 – 7.13.1.12 as proposed with the recommended changes from Town Attorney Poulson and Town Planner Neville. Unanimously approved.

Sec. 7.13 Commercial districts

Within a commercial district, all business signs require a permit unless specifically exempted hereunder and are subject to the following provisions:

7.13.1.1 Lot of record occupied by one (1) business with existing business license issued by the Town of Chincoteague.

The number of signs for a permitted business on a lot of record with one (1) main structure occupied by a single permitted business shall be limited to two (2), not including incidental, directory, or directional signs, unless otherwise specifically provided for and permitted hereunder. The total combined square footage of all permitted signs shall not exceed one hundred (100) square feet in area. Sign bases not containing a commercial message are not included in the computation of area.

No sign shall exceed sixty four (64) square feet in area nor exceed a height equal to the lowest point of the roof of the structure to which it may be affixed, unless otherwise provided for and permitted under Sec. 7.13.1.7 Roof and mansard façade signs, and 7.13.1.8 Freestanding signs.

Two additional signs shall be permitted not to exceed twenty five (25) square feet each if the main business structure faces more than one public street or a navigable waterway.

7.13.1.2 Lot of record occupied by a building containing more than one business, "multi-business main structure", with an existing business license issued by the Town of Chincoteague.

The number of signs for a permitted business on a lot of record with one main structure occupied by more than one permitted business, a multi-business main structure, shall be limited to two (2) per business, not including incidental, directory or directional signs, unless otherwise specifically provided for and permitted hereunder.

The total combined square footage of all permitted signs for such businesses shall not exceed one hundred (100) square feet in area. Sign bases not containing a commercial message are not included in the computation of area.

No sign shall exceed sixty four (64) square feet in area per business, nor exceed a height equal to the lowest point of the roof of the structure to which it may be affixed, unless otherwise specifically provided for and permitted under 7.13.1.7 Roof and mansard façade signs, and

7.13.1.8 Freestanding signs.

In addition to the maximum allowed combined total area permitted for such businesses in a multi-business main structure, there shall be permitted one additional wall sign or projecting sign, not to exceed twenty (20) square feet for business identification for each such business, and permitted freestanding sign area not to exceed twenty (20) square feet.

Two additional signs for the multi-business main structure shall be permitted not to exceed twenty five (25) square feet each if the multi-business main structure faces more than one public street or navigable water.

7.13.1.3 Lot of record occupied by two or more separate main structures each containing one or more separate businesses, “multi-main structures” with an existing business license issued by the Town of Chincoteague.

The number of signs for a permitted business on a lot of record with two or more separate main structures, multi-main structures, whereon each such main structure may be occupied by one or more separate licensed businesses shall be limited to two (2) per business, not including incidental, directory, or directional signs, unless specifically provided for and permitted hereunder.

The total combined square footage of all permitted signs for such businesses shall not exceed one hundred (100) square feet in area within each such main structure. Sign bases not containing a commercial message are not included in the computation of area.

No sign shall exceed sixty four (64) square feet in area nor exceed a height equal to the lowest point of the roof of the structure to which it may be affixed, unless otherwise specifically provided for and permitted under 7.13.1.7. Roof and mansard façade signs, and 7.13.1.8 Freestanding signs.

In addition to the maximum allowed combined total area permitted for such businesses in a multi-business main structure, there shall be permitted one additional wall sign or projecting sign, not to exceed twenty (20) square feet for business identification for each such business, and permitted freestanding sign area not to exceed twenty (20) square feet.

Two additional signs for the separate main structure shall be permitted not to exceed twenty five (25) square feet each if the separate main structure faces more than one public street or navigable water.

7.13.1.4 Multiple incidental and directory signs.

Signs on the interior of a lot shall be allowed and do not require a permit. The square footage of these signs is not included in determining the total permitted sign area. Such signs must relate to the business being conducted on the lot and such signs shall not be advertising for a business located off premise.

7.13.1.5 Signs hung on marquees.

No sign shall be hung on a marquee, canopy, awning, or portico if such sign shall extend beyond the established street line. The area of any such sign shall be included in determining the total permitted area.

7.13.1.6 Signs, advertising occupants, etc.

Signs advertising only the name of the occupant of a store, office or building, the business or occupation conducted or the products sold therein may be placed on show windows; provided, that not more than 30 percent of the area of such windows shall be covered. The square footage of any such sign shall be included in determining the total permitted area of signs.

7.13.1.7 Roof and mansard façade signs.

Any such roof or mansard façade sign shall not exceed 32 square feet in sign area. The area of any such sign shall be included in determining the total permitted sign area. Signs on mansard façade shall not extend above the highest point of the mansard façade. Roof signs shall begin one foot from roof edge and not extend more than four vertical feet from that point.

7.3.1.8 Free standing signs

There shall be no more than one (1) free standing sign for any separate main structure whether occupied by one or more licensed businesses on a lot of record and not to exceed two (2) free standing signs per lot. The maximum area of any such free standing sign shall be sixty four (64) feet per licensed business or one hundred-twenty eight square feet (128) in total, and such free standing sign shall not exceed twelve (12) feet in height. The area of such sign shall be included in determining the maximum square footage area permitted any such business or structure, as applicable under Sec. 7.13. The height of the free standing sign shall be determined from existing grade within a radius not to exceed six (6) feet from the support system of the free standing sign. The base of any sign without a commercial message is not included in the computed permitted sign area. Sign bases are included in the overall height. Each free standing sign must incorporate a

legally assigned street number for the business that it identifies or advertises. Free standing signs shall not be placed within the established sight distance triangle.

7.13.1.9 Window signs.

A window sign shall be considered as a wall sign, and shall not exceed more than 30% of the window area in which they are displayed and shall not be placed higher than ten (10) feet above the entrance of the door sill plate. Such signs shall be limited to a maximum combined area of 64 square feet total and shall not exceed ten (10) feet in height. The area of any such sign shall be included in determining the total permitted sign area.

7.13.1.10 Flags, Commercial.

Two flags, displaying a commercial message, with a maximum area each of fifteen (15) square feet shall be permitted for any business. Flags must be mounted securely to a wall or from a permanent flag pole. A home occupation is allowed one flag with a commercial message no greater than 15 square feet. Flags not exceeding 15 square feet in area and displaying an art design which reflects merchandise sold on the premises without any commercial wording, or “open and welcome flags” are permitted. The area of any such flags shall not be included in determining the total permitted sign area.

7.13.1.11 Projecting signs.

One projecting sign shall be permitted for any licensed business fronting on any public road or parking lot with public entrance to such business. Any such sign shall not exceed twelve (12) feet in height from grade and shall not exceed twenty (20) square feet in area. Such sign shall maintain a vertical clearance from any sidewalk, adjacent to said business of not less than nine (9) feet and shall not extend beyond the outside edge of the public sidewalk. If such sign extends over a public right-of-way, a Land Use Permit is required. The area of any such sign shall be included in determining in the total permitted sign area of any such business.

7.13.1.12 Changeable letter signs.

Manually changeable sign(s) shall be permitted when built as an integral part of the business identification sign(s). The area of the changeable letters portion of the business identification sign(s) shall not exceed fifteen square feet or one third of the total area of the sign(s) whichever is less. The total area of the changeable letter area shall be included in determining the total permitted sign area for any such business and shall meet any applicable sign height restrictions.

Nonprofit and charitable organizations shall be permitted stand-alone changeable letter signs which conform to Section 7.4.2. Temporary signs nonprofit and charitable organizations.

Mayor Tarr thanked the Planning Commission for reviewing the Sign Ordinance as this has been an ongoing issue since 2002.

3. Discuss Keeping 911 Dispatch Service and Its Funding

Mayor Tarr stated that the Committee has met twice to simplify the math and list the pros and cons. He stated that in the Spring there were 4 part-time dispatchers who left at about the same time. He added that the Town's 911 Center had to hire and train 4 new employees. He stated that retaining part-time employees has been an ongoing problem. He reported that the 911 equipment has to be replaced at a cost of \$177,000 with a grant to pay all but \$26,000 in matching funds from the Town. He also stated that the dispatchers need to be brought up to specific standards having 2 dispatchers on duty at all times. He also mentioned all of the other duties that the Town's dispatchers do that most 911 Centers do not handle.

Mayor Tarr commended the 911 Center for all their hard work. He added that they compared the Town's 911 Service to the Eastern Shore's 911 Service. He stated that the Town allowed the 911 Service to be handled by the County's 911 Service under a 30 day trial basis. He feels the trial went very well and considered it a success. He also reported that there were 2 meetings with selected members from Council, the Fire Company and EMS and staff. They discussed dispatching 911 calls, upgrades to equipment, and the ability to run a 911 Center comparable to the Eastern Shore 911 Center. He feels there are two options:

- Option 1 is to continue dispatching 911 calls, upgrade the equipment and hire personnel. Mayor Tarr advised that staff recommends to hire 3 full-time positions – 2 dispatchers 24 hours per day, 7 days a week 365 days a year. He added they would increase training to include emergency medical dispatch and increase salaries to retain the employees along with continuing to upgrading the 911 system every 3-5 years.
- Option 2 is to turn dispatch over to the County, which would cause the Town to lose approximately \$85,000 per year. He stated that the Town would be at \$124,000 and this amount does not address the increase in the town's healthcare increase of 15%.

Mayor Tarr also stated that by selection Option 1 it would put the number of Town employees above 50 and will be affected by the Affordable Healthcare Act. He added that either of the options would bring the Town's 911 System up to standard for the public getting ambulances out with appropriate dispatching. He advised that there are rumors that they're closing the Dispatch Center. He stated that this is not true. He added that the Police, Fish & Wildlife along with the Park Service would be dispatched from the Town's Dispatch Center. He also added that they were told that the Eastern Shore 911 Center was owned by Accomack County and this is not true. I stated that it is a Commission made up of members from Northampton and Accomack Counties and at-large members. Someone from the Eastern Shore 911 Center and Fire Chief Harry Thornton was supposed to be at tonight's meeting but were held up across the bay because of the storm.

Mayor Tarr advised of questions from the public regarding reverse 911. He advised that this ability will still be intact. He advised that it is a huge increase in the budget and can be afforded the first year because of the grant, but won't pay for the next fiscal year.

Chief Lewis stated that the Police Department would still need to hire additional personnel as the Police calls are more than 75%. He agreed there have been system issues therefore needing the upgrade.

Mayor Tarr stated that Council has kept the Police Department in limbo and at risk as they're trying to run a good system. He apologized to Chief Lewis for the delay.

Councilman Muth asked Chief Lewis if he would need additional personnel to continue even without 911 Services.

Chief Lewis advised he would need the same amount of employees due to the amount of calls. He advised that they currently have 4 full time and 4 part-time employees.

Mayor Tarr stated that the numbers in the packet do not include the additional dispatchers. They would still need radio upgrades and not 911 System upgrades.

Town Attorney Poulson asked if the Town loses the \$80,000 by not having the 911 Service, does it net out what the difference is between \$124,000 and \$80,000.

Mayor Tarr explained that this is out of the \$38,000 the first year. He added that if they don't dispatch 911 in house there are other things they don't have to pay for.

Councilwoman Richardson asked what the Town was gaining.

Councilman Howard agrees that they need to get the information out to the public. He asked if anyone in the dispatch office would lose their jobs if 911 was handled by the Eastern Shore 911 Center. Mayor Tarr advised that they would not. He also stated that Chief Lewis and Major Mills are ready to move forward and start hiring. He added that there is no formal recommendation.

Councilman Jester added that for the money needed for the upgrade; hiring the appropriate full time personnel and training of everyone, there would be an additional amount to add to the budget each year. He feels that this would necessitate a tax increase of approximately 1 cent to cover this. He asked if Council would be willing to increase the taxes. He feels that they need to have trained emergency medical dispatchers as soon as possible. He also mentioned the delay in hiring and training before this happens as opposed to giving it over to the Regional Center.

Chincoteague Dispatcher and Police Department Administrative Assistant Steve Jones advised that it doesn't take long to be brought up to date with emergency medical dispatch training especially with dispatcher training already.

Councilwoman Richardson asked if this could be done online.

Mayor Tarr stated that he wants to direct questions to staff.

Mr. Jones advised he is also a taxpaying citizen. He asked what the citizens think about the 911 System going away.

Mayor Tarr stated that the right facts have to go out to the public and they are hard to get. He added that if they're going to dispatch 880 calls for fire and EMS, which was last year's total, would it be worth taxpayers paying \$124,000 more a year for those 800 calls when there is a Regional Center that is capable of dispatching those calls.

Mr. Jones stated that the public needs to know if the service is as good there as it is here, and that the citizens of the Island need to have input.

Mayor Tarr interjected that he feels at the present time the service is better there since the Town's 911 Center hasn't been staffed correctly by Council.

Mr. Jones added that when a call comes in and the caller refers to the location as next door to "Uncle Harry's" the dispatchers know who and where they're talking about.

Mayor Tarr responded that a couple of the dispatchers know but the rest do not. He advised that the Town is spending money on a CAD system that will give this information if they choose to keep 911 with the Town. Mayor Tarr advised that looking at the entire state of Virginia there are only 3 dispatch services left and that are probably not as small as the Town's.

Chief Lewis stated that they want the best service possible for every citizen on the island. He stated that at this time they don't have this service.

Councilman Howard stated that they are considering this along with everyone involved with the well being of every citizen of the community. He agreed that they do need to hear from the citizens as it could be a tax increase.

Mayor Tarr stated that it's not just raising taxes one time it is forever. He stated that there will be another tax increase down the road because of the increase in expenses.

Councilman Howard agreed that this needs to be taken into consideration.

Mayor Tarr advised that this was brought up by the Volunteer Fire Company along with letters from other EMS providers and leaders.

Councilman Jester stated that there are different protocols in the County than with the Town. Because the Town gets dispatched to the mainland and the mainland companies to the Island, there should be one set of protocols. He feels everyone would prefer to be self-reliant. He stated that there are 2 questions to ask; Can it be dispatched at the Regional 911 Center at a lesser cost to the Town or continue dispatching here at an additional cost to the Town.

Councilman Howard asked if they were anticipating a vote this evening.

Mayor Tarr advised that the Chief is in limbo and is worried about public safety.

Chief Lewis added that they have equipment that needs to be upgraded and can't until they make a decision.

Councilwoman Richardson advised that they have enough money to get them through this year. She wanted to know why they couldn't finish the year out and make a decision later.

Mayor Tarr advised that the system is failing nearly every other week. Councilwoman Richardson mentioned the grant for this new system.

Mayor Tarr stated that once they upgrade, they are locked in for another 5 years and they're still dispatching the way they were. He commended Chief Lewis for not just repairing the problems and training the dispatchers. He advised that Chief Lewis came to Council with the real problems and the real fix.

Councilwoman Richardson stated that when 20% of the calls are taken, the Town would still have to provide dispatch service for the remaining 80%. She asked what the Town would be gaining by going back to the County.

Mayor Tarr replied that they would be saving approximately \$124,000 per year.

Councilwoman Richardson feels a public hearing is necessary to give the citizens the opportunity.

Mayor Tarr agreed and feels this should be done in a fashion that doesn't put the public at risk.

Councilman Muth asked if the Eastern Shore 911 Center could take it over until a decision is made.

Mayor Tarr feels they shouldn't give it back again without a decision.

Councilman Taylor stated that he feels that the Eastern Shore 911 Center is capable of handling the calls. He strongly feels that they need to go to the citizens and if they're willing to pay an increase in taxes, then it should remain here. He commented that Chincoteague is being double taxed for this service. He asked Chincoteague Dispatcher and Police Department Administrative Assistant Jones if the Eastern Shore 911 System has ever requested our Dispatch Services to handle their calls.

Mr. Jones advised they have not.

Mayor Tarr added that the Town's Service is not a redundant system.

Chief Lewis advised that Chincoteague is not double taxed for 911 services. He added that the tax on the phone bill is for Chincoteague and the County does not tax Chincoteague for the 911 System.

Mayor Tarr stated that it comes from E911, Communications Tax, which is the \$80,000.

Councilman Howard asked who would receive the tax if Council voted to go with the County.

Finance Director Hipple advised that the tax would be paid to the County.

Mayor Tarr added that the state would have to send the County the 911 tax.

Councilman Muth stated that it is important to know that this system is not Accomack County. He also reminded that it is made up of 2 counties and others.

Ms. Turlington again asked to speak.

Mayor Tarr advised Ms. Turlington that at the next meeting she would have to speak during public participation.

Ms. Hook-Turlington stated that she agrees that there should be a public meeting. She feels that Council doesn't fully understand it and the public doesn't fully understand it. She added that Kevin Holloway is fully trained on this and was willing to come and train the dispatchers.

Councilwoman Richardson advised he is a paramedic and an instructor of EMS.

Finance Director Hipple advised that they are not asking dispatchers to be EMTs. She stated their EMS training does not help this situation.

Ms. Turlington asked if he was trained enough in his field that he could help out.

Mayor Tarr advised he was not a medical "dispatcher" instructor.

Ms. Turlington stated that Steve Jones does a wonderful job during storms informing the people of what's going on. She stated that the call comes from down the county to Bryan Rush.

Mayor Tarr advised they do not.

Ms. Turlington asked if the Town doesn't operate the 911 System anymore would the current system be able to have the knowledge and call out for evacuations.

Mayor Tarr advised all that is done through the Town and will continue.

Ms. Turlington advised that she was worried about that because they have done an excellent job keeping the residents informed.

Major Mills advised the system was called Global Connect and is currently transitioning over to a different company. He stated it's a web based system.

Mayor Tarr stated that it is the same system used by the school system that calls the parents when their children aren't at school.

Councilman Jester stated that this has nothing to do with the 'reverse 911' equipment.

Town Attorney Poulson advised that a public hearing on this matter is not a requirement and can be handled in any manner they wish.

There was a comment from the audience about being properly trained to give medical instruction.

Finance Director Hipple interjected that the problem is that there is only one dispatcher on duty and if someone is giving CPR instruction on the phone it cannot be stopped. She stated that if there is another call coming in they cannot stop to answer the other phone. She added that the proposal is to staff with 2 dispatchers 24 hours a day so that one can do the EMD. She also added that existing staff can be trained but can't instruct with only one dispatcher.

There was discussion as to the public hearing date and they decided on October 21st at 7:00 p.m. They also discussed advertising the meeting.

Councilwoman Richardson motioned, seconded by Councilman Taylor to have a public hearing Monday, October 21st, 2013 at 7:00 p.m. Unanimously approved.

4. Budget and Personnel Committee Report of August 28th & September 17th, 2013

Mayor Tarr advised that the report was in the packet and asked for questions or comments.

There were none.

5. Resolution of Irrevocable Election Not to Participate in Virginia Local Disability Program

Town Manager Ritter explained that the state passed a law requiring the Town to make a decision regarding long-term disability. He advised that this means current staff has a one-time option in January to go to the hybrid plan or stay with VRS. All new employees after January 1st, 2014 will be required to go through the new hybrid plan.

Councilman Howard asked what the benefit of changing would be.

Town Manager Ritter stated that the State is getting out of long-term disability and is requiring that employees get on short-term disability. They're getting out of the business for long-term disability. The Town will have to opt out for all new employees getting them on a different plan.

Finance Director Hipple advised that this has been structured by the General Assembly for the Virginia Retirement System. She stated that all current Town employees are covered under the current Virginia Retirement System. She added that the LEO personnel, such as the Police, are not affected by this. However, they must stay in their current retirement system. She stated that this new system is more like a 401K plan rather than strictly a retirement program. The current employees will have an option. She also stated that they will have the option to go to the hybrid plan but this plan has no long-term disability. She explained further that if they get injured "off

the job” they could not get benefits from the retirement program. Finance Director Hipple also stated that the Town is in a transition period and doesn’t know where we’re going with this.

Councilman Howard asked if it was over, provided the resolution was voted down tonight. Finance Director Hipple responded that if this isn’t approved, the Town will stay with the Virginia Long-Term Disabilities Program. She added that at this time it costs more. She stated that the Budget and Personnel Committee discussed that if the Town opts out now, they can shop around for the best price or program for long-term disability coverage.

Councilman Muth asked if opting out would give the Town the most flexibility.

Finance Director Hipple advised it would.

Mayor Tarr stated that there are other things that staff and Council will have to consider down the road.

Councilman Muth motioned, seconded by Councilman Howard to approve the Resolution of Irrevocable Election Not to Participate in Virginia Local Disability Program. Unanimously approved.

RESOLUTION

Irrevocable Election Not to Participate in Virginia Local Disability Program

WHEREAS, by enacting Chapter 11.1 of Title 51.1 of the *Code of Virginia*, the Virginia General Assembly has established the Virginia Local Disability Program (“VLDP”) for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code § 51.1-169; and

WHEREAS, for purposes of VLDP administration, an employer with VLDP-eligible employees may make an irrevocable election on or before November 1, 2013, requesting that its eligible employees not participate in VLDP as of the effective date of January 1, 2014 because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meets or exceeds the coverage set out in Chapter 11.1 of Title 51.1 of the *Code of Virginia*, with the exception of long term care coverage, by January 1, 2014; and

WHEREAS, it is the intent of the Town of Chincoteague, to make this irrevocable election to request that its eligible employees not participate in VLDP;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town of Chincoteague irrevocably elects not to participate in VLDP because it has or will establish, and

continue to maintain comparable employer-paid disability coverage for such employees; and it is further

RESOLVED that, as an integral part of making this irrevocable election, the Town of Chincoteague certifies that it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

Adopted in Chincoteague, Virginia this 7th day of October, 2013.

John H. Tarr, Mayor

6. Banking Resolution for Shore Bank

Finance Director Hipple advised that Banking Resolutions are done when the signature authority changes with the election of the new Vice Mayor.

Councilman Taylor asked if they were FDIC insured.

Finance Director Hipple responded that they are collateralized as FDIC will only insure up to \$250,000 for any deposits within that bank. She stated that they're talking about moving \$2.3 million because of the interest rates. She reminded him that these are not private funds they are public funds and the bank is responsible for seeing that those funds are guaranteed by collateralizing the deposit.

Councilman Howard asked about the LGIP account.

Finance Director Hipple stated that there is no FDIC insurance on the LGIP accounts. She explained that the bank itself will make the decision to guarantee and secure that deposit. She added that it is a state law and part of the State Code.

There was further explanation and discussion.

Finance Director Hipple stated that Shore Bank is guaranteeing the money and they have much better interest rates. She added that it is called the Public Funds Act under the Administration Code.

Vice Mayor Leonard motioned, seconded by Councilman Jester to approve the Banking Resolution for Shore Bank. Unanimously approved.

7. Public Works Committee Report of September 4, 2013

Councilwoman Richardson advised that the report was included in the packet. She mentioned the Fall Paving Contract, which will be discussed as an agenda item. She mentioned the self-contained cleaning unit. She explained that this is the new machine that the Committee voted for to help clean the public bathrooms.

Public Works Director Spurlock stated it is called a don't-touch cleaning system.

Mayor Tarr asked for the cost per unit.

Public Works Director Spurlock advised the cost is \$1,900 and there is a demonstration scheduled for Friday.

Councilman Howard asked what it cleans.

Public Works Director Spurlock stated it is for cleaning floors, ceilings and walls. He added that you can add up to 3 different chemicals.

There were further comments.

8a. Bids on the Fall Paving Contract #01-PAV-13

Public Works Director Spurlock reported that there was 1 bid received from Branscome Eastern Shore for the Fall Paving Contract. He explained the scope of work, adding that he has included the repairs to the culverts on South Main Street with this bid request. He recommended that the contract be awarded to Branscome Eastern Shore based on them being the lowest qualified bidder in the amount of \$427,047.

Councilman Howard motioned, seconded by Councilwoman Richardson to award the contract to Branscome Eastern Shore in the amount of \$427,047. Unanimously approved.

Public Works Director Spurlock also reported that he has received proposals from Branscome Eastern Shore for the repair of the two South Main Street Fowling Gut culverts. He advised that given the emergency nature of these repairs, coupled with the fact Branscome Eastern Shore was the only firm to submit a bid for the 2013 Fall Paving Contract, he also recommended this work be awarded accordingly. (South Culvert \$6,405 + North Culvert \$37,288 = \$43,693.00.) He added that all the work will be funded by the Virginia Department of Transportation Urban Maintenance Program.

Councilman Muth motioned, seconded by Councilwoman Richardson to award the contract for the repairs to the South culvert for \$6,405 and the North culvert for \$37,288, totaling \$43,693.00. Unanimously approved.

8b. Bids on the Main Street Corridor Improvements, Phase 2C Project

Town Manager Ritter advised that there were 3 bids received for the Main Street Corridor Improvements, Phase 2C Project, Branscome, Parkway and Conway. He advised that Branscome Eastern Shore was the low bidder. He stated that the Town budgeted \$706,412 for the Project, \$565,000 from the Transportation Enhancement Grant, \$141,412 was Town funds. He stated that the consultant recommended approving the bid and going into a contract with Branscome Eastern Shore in the amount of \$532,943.71

There was discussion as to the beginning and completion dates along with the grant money and funding.

Town Manager Ritter advised that should Council choose to go with the lowest bidder, the next step is to forward the bids to VDOT and if all bids meet the requirements they will decide within 30 days. He added that the engineer has reviewed this and recommended to approve Branscome's bid.

There was discussion about completion of the project and having one final paving for Main Street through the project area to smooth out the dips.

Mayor Tarr asked if the Town was using maintenance money as part of the match.

Public Works Director Spurlock advised the Town can't use the maintenance money.

Mayor Tarr stated that the good news is that the Town has received a grant in the amount of \$565,000 and there is a recommendation from staff to go with the low bidder, Branscome Eastern Shore in the amount of \$532,943.71. He advised that this is a fair bid. He asked Council's pleasure.

Councilman Howard motioned, seconded by Councilwoman Richardson to award the contract to Branscome Eastern Shore as the low bidder for the Main Street Corridor Improvements, Phase 2C Project, in the amount of \$532,943.71. Unanimously approved.

9. Recreation & Community Enhancement committee Report of September 10, 2013

Councilman Jester reported that there were 2 primary issues. He stated that the Veteran's Memorial Park was one issue. He mentioned removal of some trees and left as a bit of a "combat zone". He stated that the Public Works Staff has taken care of the issue. He suggested looking at the park funding for repairs to the skateboard ramps and possibly a new item in the playground area. He suggested budgeting money for the playground fund as it is a heavily used park.

Councilman Jester stated that the other issue is the Waterman's Memorial. He feels there is a lot of confusion as there are two different things going on. He stated that the Downtown Memorial would be a bronze statue. He advised of a discussion regarding placement of the statue/memorial. He stated that Town Planner Neville will research this matter and make a recommendation for placement.

Ms. Turlington asked again how much was in the playground fund.

Councilman Jester advised there is \$10,000. He added that this money is set to be used to replace some of the ramps in the Skate Park and to help in purchasing another piece of playground equipment. He stated that there won't be anything left. He explained that there is a separate fund for playground equipment as opposed to the other Park expenditures.

Town Manager Ritter stated that this \$10,000 is donated funds from the Poker Run that Chief Lewis sponsors each year.

Ms. Turlington stated that the park was underwater today and feels it's inappropriate to keep replacing the Skate Park equipment because of the water.

Public Works Director Spurlock clarified that a couple of the ramps in the Skate Park were replaced by the manufacturer, not the Town funds.

Ms. Turlington feels the Skate Park was put in the wrong place and should have been put on higher ground.

Mayor Tarr advised that Council will take this into consideration.

10. Ordinance Committee Report of September 12, 2013

- **Possible Revision to Chapter 2, Article V, Finance**

Councilman Howard reported that there were two items discussed. He advised that they discussed the Drainage Ordinance creating the Zoning Permit for fill. He asked if there was any feedback from FEMA regarding the new requirement.

Town Manager Ritter advised that FEMA did respond and stated that what they've approved sufficed and acknowledged that criteria which refers to a river basin does not apply. He stated that they have backed down on the flooding studies, however, still require the Zoning Permit.

Councilman Howard stated that this has now been addressed.

Mayor Tarr added that it has been addressed, but they have a 6 month time period to review and make corrections and additions to the overall Floodplain Ordinance.

Councilman Howard reported that they have also reviewed the revisions to Chapter 2, Article V, Finance of the Town Code. He stated that there are "number" changes along with the Town Manager and Department Heads acting as purchasing agents.

Town Manager Ritter explained that during the last audit, a recommendation was made to update the Finance Section of the Town Code. Staff has made an attempt to make the appropriate changes. He stated that it is boiler-plate wording from the VML portion regarding finance.

Councilman Howard explained a couple of the changes.

Town Manager Ritter also reviewed the revisions.

Councilman Howard added that this is basically housekeeping type of changes.

Town Manager Ritter further explained the changes.

There was further discussion regarding authorized agents per department and making the suggested changes.

Mayor Tarr asked if there were any other changes to the Procurement Policy. There were none.

Chief Lewis advised that Major Mills is also listed as the Assistant Chief of Police.

Councilman Howard motioned, seconded by Councilman Jester to approve the proposed revisions with the suggested changes to Chapter 2, Article V, Finance. Unanimously approved.

ARTICLE V. FINANCE*

DIVISION 1. GENERALLY

Secs. 2-181—2-205. Reserved.

*Cross references—Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract established or obligation assumed, by the town saved from repeal, § 1-6(a)(2); any fees and charges consistent with this Code saved from repeal- § 1-6(a)(13); taxation, Ch. 54.

DIVISION 2. PROCUREMENT

Subdivision I. In General

Sec. 2-206. Definitions.

The following words, terms, phrases and abbreviations, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

IFB means invitation for bids.

PO means purchase order.

PR means purchase requisition.

Purchasing agent means the town manager or his designee who is authorized and responsible for the procurement of supplies and services for town use.

RFQ means request for quotations.

Vendor means any person who or company that sells supplies or services.
(Code 1977, § 2-13)

~~Cross reference—Definitions generally, § 1-2.~~

State law reference—Definitions, Code of Virginia, § 2.2- 4301.

Sec. 2-207. Authority.

This division is enacted pursuant to the authority granted in Code of Virginia, § 2.2- 4300 et seq. (Code 1977, § 2-13)

Sec. 2-208. Objectives.

The objectives of this division shall be to:

- (1) Establish an ongoing centralized purchasing function capable of providing daily service and support on an organization-wide basis.
- (2) Introduce a greater measure of responsibility and accountability over implementation of the annual budget, specifically as related to the procurement of contractual services, materials, supplies, and capital outlay items.
- (3) Ensure realization of the principles of competitive purchasing and best buy at the least cost.
- (4) Assist management at all levels in reaching responsible, cost-effective decisions in the procurement of quality supplies and services for town use.
- (5) Formulate policies and procedures designed to systematize and enhance the efficiency of the town's procurement process and ensure procurement in a timely and proper manner.
- (6) Promote good will and clear communication in town-vendor relations and intra organization relations relative to purchasing.
- (7) Promote the realization of equal opportunity policies through procurement relations with vendors.

(Code 1977, § 2-14)

State law reference—Purpose of public procurement law, Code of Virginia, § 2.2-4300.

Sec. 2-209. Implementation.

The town manager shall develop a purchasing procedure based on the policies and procedures established in this division and shall promulgate such administrative regulations necessary for the implementation of the standards established by this division. (Code 1977, § 2-17-1)

Sec. 2-210. Centralized purchasing.

It shall be the policy of the town to maintain a ~~centralized~~ purchasing process with the town manager or ~~his designee~~ **department heads** as purchasing agent. It shall be the purchasing agent's responsibility to administer purchasing performance, negotiate and approve term contracts in connection with town departments, consolidate purchases of like or common items, analyze prices paid for materials and equipment and generally define how to obtain savings and to coordinate purchasing procedures.

(Code 1977, § 2-15-2)

Sec. 2-211. Sources of supply.

~~The purchasing agent shall select sources of supply in connection with the appropriate town department.~~ As a general policy, purchases shall be awarded, with local

vendor preference, on the basis of availability, best price, delivery and quality, taking into consideration the reputation and performance capability of the suppliers.
(Code 1977, § 2-15-3)

Sec. 2-212. Commitments.

In connection with town departments, the purchasing agent shall conduct and conclude all negotiations affecting vendor selection, price, terms, delivery, etc. No one other than the ~~purchasing agent~~ **town manager or department heads** shall commit the town to any purchase, vendor, or product. Exceptions to this include emergencies and purchases made from the petty cash fund.
(Code 1977, § 2-15-4)

Sec. 2-213. Interdepartment relations.

It shall be the policy of the town to promote an intelligent and harmonious relationship between the ~~purchasing agent and other~~ town departments relative to procurement.
(Code 1977, § 2-15-5)

Sec. 2-214. Vendor relations.

The ~~purchasing agent~~ **town** will develop and promote a program of fairness with all vendors and salespersons.
(Code 1977, § 2-15-6)

Sec. 2-215. Expediting.

Expediting or "follow-up" on the delivery of materials or orders will be accomplished by the ~~purchasing agent~~ **town manager or department heads**. Any information other town departments may acquire or be requested to acquire concerning the delivery status of ordered material should be passed on to the purchasing agent.
(Code 1977, § 2-15-17)

Sec. 2-216. Tax exemption.

The town is exempt from all state and federal sales and excise taxes.
(Code 1977, § 2-15-18)

Sec. 2-217. Compliance with federal grants.

The town may comply with mandatory federal requirements in grants or contracts not in conformance with this division only upon a written determination of the town council that acceptance of the applicable provisions is in the public's interest.
(Code 1977, § 2-15-19)

Sec. 2-218. Vendor selection.

Vendors will be selected on a competitive basis. Bids, quotations and proposals will be solicited by newspaper advertisement, by direct mail request to prospective suppliers, and/or by telephone. Purchase orders or contracts will be awarded to the lowest and best responsible vendor. All bids, etc., may be rejected if it is in the public's interest

to do so. In determining the lowest and best responsible vendor, in addition to price, the following will be considered:

- (1) The character, integrity, reputation, judgment, experience and efficiency of the vendor.
 - (2) The ability, capacity and skill of the vendor to perform the contract, fill the order or provide the service.
 - (3) The ability of the vendor to provide material or service promptly or within the time specified, without delay or interference-
 - (4) The quality of performance by the vendor on previous contracts, orders or services.
 - (5) The ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.
- (Code 1977, § 2-16-1)

Sec. 2-219. Invitation for bids; opening of bids; award of bids generally.

(a) When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services other than professional exceeds ~~\$30,000.00~~ **\$50,000.00** (Code of Virginia, § 11-41(F)), an invitation for bids (IFB) notice will be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice must appear not less than seven days and not more than 21 days before the due date for bid proposals. The IFB will include a general description of the items to be purchased and the bid deposit and performance bond required and shall state where bid blanks and specifications may be secured and the time and place for opening bids. The ~~purchasing agent~~ **town manager or department heads** may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

(b) Sealed bids will be opened in public by the town manager at the time and place stated in the IFB. The bids will be tabulated by the town manager. The results of the tabulation and the bid material will be examined by the town manager, the appropriate department head and the appropriate appointed committee to determine the best bid. Recommendations for the bid award will be submitted by the town manager to the town council at a public meeting. After the bid award is made by the town council, a purchase order and/or contract shall be prepared for execution by the successful bidder. After the purchase order is issued and/or the contract signed, all bid deposits will be returned to all unsuccessful bidders.

(Code 1977, § 2-16-2)

Sec. 2-220. Request for quotations or electronic or written or telephone quotes.

(a) Purchases of supplies, equipment and services of less than ~~\$30,000.00~~ **\$50,000.00** (Code of Virginia, § ~~11-41(F)~~ **2.2- 4303 (H)**) but of ~~\$500.00~~ **\$30,000.00** or more will require a **4 attempted** request for quotations (RFQ). An RFQ is similar to an IFB except that ~~legal~~ advertising in the local newspaper is ~~not~~ required and detailed specifications may ~~not~~ be appropriate. **Forward your quotes with your purchase order and check requisition to accounts payable.**

(b) Purchases of supplies, equipment and services of less than \$30,000.00 but of \$10,000.00 or more will require at least 3 attempted electronic or written quotes to be obtained by the department. Forward your quotes with your purchase order and check requisition to accounts payable.

(c) Purchases of supplies, equipment and services of less than \$10,000.00 but of \$1,000.00 or more will require at least 2 attempted telephone, catalog or electronic or written quotes to be obtained by the department. Forward your quotes with your requisition to accounts payable.

(d) The following procedures will be followed in obtaining a request for quotations:

- (1) Complete a request for quotations and distribute copies to vendors.
- (2) File unopened sealed quotations received, together with a machine copy of the original request for quotations.
- (3) On the designated date, remove the quotes received from the file.
- (4) Open the quotes and determine which vendor offers the item at the lowest price and issue a purchase order to the successful vendor.

(Code 1977, § 2-16-3)

Sec. 2-221. Open market purchases.

Purchases of less than \$500.00 ~~\$1,000.00~~ will be made in the open market without necessary resort to an IFB or RFQ. ~~Every effort will be made, however, to get the lowest and best price and to share the business among responsible vendors.~~ **No competition is required. Forward your purchase order and check requisition to accounts payable.**

(Code 1977, § 2-16-4)

Sec. 2-222. Emergency purchases.

Emergency purchases shall be exempt from this division, provided that an emergency exists which affects the public health, safety or welfare. The mayor shall certify that an emergency exists.

(Code 1977, § 2-16-7)

Sec. 2-223. Bidders' list.

With the aid of other town departments, the town manager shall compile and maintain a bidders' list. Vendors desiring to be listed shall advise the town manager, in writing, of the following:

- (1) Type of business;
- (2) Names of officers, owners or partners;
- (3) Persons authorized to sign bids, offers and contracts;
- (4) Type of equipment, supplies, materials sold and/or services provided; and
- (5) How long in the present business.

(Code 1977, § 2-15-10)

Sec. 2-224. Competitive bidding on state-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building by the town or any subdivision of the town for which state funds of not more than \$30,000.00 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection 2-296(c). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this division.

State law reference—Similar provisions, Code of Virginia, § ~~11-41.1~~ 2.2- 4305.

Sec. 2-225. Withdrawal of bid due to error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. One of the following procedures for withdrawal of a bid shall be selected by the town and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or (ii) the bidder shall submit to the town or designated official his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, such work papers, documents and materials may be considered as trade secrets or proprietary information subject to the conditions of Code of Virginia, § 11-52(D). The bids shall be opened one day following the time fixed by the town for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined in this subsection and withdraw his bid. The contract shall not be awarded by the town until the two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered as required in this subsection.

(b) The town may establish procedures for the withdrawal of bids for other than construction contracts.

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) If the town denies the withdrawal of a bid under this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. (Code 1977, § 2-15-12)

State law reference—Withdrawal of bid due to error, Code of Virginia, § ~~41-54~~ **2.2- 4330**.

Sec. 2-226. Bid deposits.

Bid deposits or surety may be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of that deposit or surety. A successful bidder, upon failure on his part to enter into a contract within the time specified after written notification of the bid award, shall forfeit, as liquidated damages, any surety deposited with the town.

(Code 1977, § 2-15-8)

State law reference—Bid bonds, Code of Virginia, § ~~41-57~~ **2.2- 4334**.

Sec. 2-227. Bid bonds.

(a) Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in the commonwealth, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) No forfeiture under a bid bond shall exceed the lesser of the following:

(1) The difference between the bid for which the bond was written and the next low bid; or

(2) The face amount of the bid bond.

(c) Nothing in this section shall preclude the town from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.00.

(Code 1977, § 2-15-14)

State law reference—Bid bonds, Code of Virginia, § ~~11-57~~ 2.2- 4336.

Sec. 2-228. Alternative forms of security.

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

(b) If approved by the town, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the town equivalent to a corporate surety's bond.

(Code 1977, § 2-15-14)

State law reference—Similar provisions, Code of Virginia, § ~~11-61~~ 2.2- 4338.

Sec. 2-229. Prequalification for construction.

(a) Any prequalification of prospective contractors for construction by the town subsequent to July 1, 1995, shall be pursuant to a prequalification process for construction projects adopted by the town. Such process shall be consistent with this section.

(b) The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. Such form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this section shall be considered a trade secret or proprietary information subject to Code of Virginia, § 11-52(D).

(c) In all instances in which the town requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this section to be accomplished.

(d) At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the town shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. If a contractor is denied prequalification, the written notification to such contractor shall state the reasons for such denial of prequalification and the factual basis of such reasons.

(e) A decision by the town denying prequalification under this section shall be final and conclusive unless the contractor appeals the decision as provided in Code of Virginia, § 11-63.

(f) The town may deny prequalification to any contractor only if the town finds one of the following:

(1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the town shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement;

(2) The contractor does not have appropriate experience to perform the construction project in question;

(3) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including but not limited to design-build or construction management;

(4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the town has not contracted with a contractor in any prior construction contracts, the town may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The town may not utilize this subsection to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

(5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including but not limited to a violation of (i) Code of Virginia, § 11-72 et seq., (ii) the Virginia Governmental Frauds Act (Code of Virginia, § 18.2498.1 et seq.), (iii) Code of Virginia, § 59.1-68.6 et seq., or (iv) any substantially similar law of the United States or another state;

(6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

(7) The contractor failed to provide to the town in a timely manner any information requested by the public body relevant to subsections (f)(1) through (6) of this section.

(g) If the town has a prequalification ordinance which provides for minority participation in municipal construction contracts, the town may also deny prequalification based on minority participation criteria; provided, however, that nothing in this subsection shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the commonwealth.

State law reference—Similar provisions, Code of Virginia, § ~~11-46~~ 2.2-4317.

Sec. 2-230. Use of brand names.

Unless otherwise provided in the invitation for bids, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named—it conveys the general style, type, character, and quality of the article desired—and any article which the town in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

(Code 1977, § 2-15-11)

State law reference—Use of brand names, Code of Virginia, § ~~11-49~~ 2.2-4317.

Sec. 2-231. Award of bid-based contracts.

The town council will award bid-based contracts on the recommendation of the appointed reviewing committee, which is to be created in each case, and the town manager. The award will usually be to the lowest and best responsible bidder. A full and complete statement of the reasons shall be prepared by the committee and town manager and shall be filed along with other papers relating to the transaction.

(Code 1977, § 2-15-16)

Sec. 2-232. Performance and payment bonds.

(a) Upon the award of any public construction contract exceeding \$100,000.00 awarded to any prime contractor, such contractor shall furnish to the town the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

(2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. The term "labor or materials" shall include public utility services

and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

- (b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in the commonwealth.
- (c) Such bonds shall be payable to the town.
- (d) Each of the bonds shall be filed with the town or a designated office or official thereof.
- (e) Nothing in this section shall preclude the town from requiring payment or performance bonds for construction contracts below \$100,000.00.
- (f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

(Code 1977, §§ 2-15-9, 2-15-14)

State law reference—Similar provisions, Code of Virginia, § 41-58. [2.2- 4337](#).

Sec. 2-233. Employment discrimination by contractor prohibited.

The town shall include in every contract of over \$10,000.00 the following:

- (1) During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) The contractor will include the provisions of subsections (1)a, (1)b and (1)c of this section in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

(Code 1977, § 2-15-15)

State law reference—Employment discrimination by contractor prohibited, Code of Virginia, § ~~41-51~~. **2.2- 4311**.

Sec. 2-234. Retainage on construction contracts.

(a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.
(Code 1977, § 2-15-13)

State law reference—Retainage on construction contracts, Code of Virginia, § ~~41-56~~. **2.2- 4333**.

Sec. 2-235. Deposit of certain retained funds; failure to timely complete contract.

(a) When contracting directly with contractors for public contracts of \$200,000.00 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, the town shall include in the bid proposal an option for the contractor to use an escrow account procedure for utilization of the town's retainage funds by so indicating in the space provided in the proposal documents. If the contractor elects to use the escrow account procedure, the escrow agreement form included in the bid proposal and contract shall be executed and submitted to the town within 15 calendar days after notification. If the escrow agreement form is not submitted within the 15-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

(b) In order to have retained funds paid to an escrow agent, the contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the commonwealth. The escrow agreement and all regulations promulgated by the town shall be substantially the same as that used by the commonwealth department of transportation.

(c) This section shall not apply to public contracts for construction for railroads; public transit systems; runways; dams; foundations; installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter; the installation or maintenance of telephone, telegraph or signal systems for public utilities; and the construction or maintenance of solid waste or recycling facilities and treatment plants.

(d) Any such public contract for construction, which includes payment of interest on retained funds, may require a provision whereby the contractor, exclusive of

reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

(e) Any subcontract for such public project which provides for similar progress payments shall be subject to this section.

State law reference—Similar provisions, Code of Virginia, § ~~41-56.1~~. **2.2- 4334**.

Sec. 2-236. Public construction contract provisions barring damages for unreasonable delays declared void.

(a) Any provision contained in any public construction contract entered into on or after July 1, 1991, that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor, if and to the extent such delay is caused by acts or omissions of the town, its agents or employees and due to causes within their control is against public policy and is void and unenforceable.

(b) Subsection (a) of this section shall not be construed to render void any provision of a public construction contract that:

- (1) Allows the town to recover that portion of delay costs caused by the acts or omissions of the contractor or his subcontractors, agents or employees;
- (2) Requires notice of any delay by the party claiming the delay;
- (3) Provides for liquidated damages for delay; or
- (4) Provides for arbitration or any other procedure designed to settle contract disputes.

(c) A contractor making a claim against the town for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the town and shall pay it for a percentage of all costs incurred by the town in investigating, analyzing, negotiating, litigation and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

State law reference—Similar provisions, Code of Virginia, § ~~41-56.2~~. **2.2- 4335**.

Secs. 2-237—2-265. Reserved.

Subdivision II. Purchase Orders

Sec. 2-266. When required; contents; procedures for approval.

(a) Purchase orders are required for all purchases over ~~\$25.00~~ **\$100.00**. The purchase must be approved in advance of the actual purchase, except in emergency situations.

- (b) The purchase order shall include the following:
 - (1) Items required;
 - (2) Quantity required;
 - (3) Price of each item;
 - (4) Date required;
 - (5) Tax exempt number;
 - (6) Short reason for the items required; and
 - (7) Classification of expense; budget line item account number shall be shown for each line if the items are not all the same on one purchase order.
 - (c) Authorization levels for purchase order approval shall be as follows:
 - (1) A purchase order of \$0.00 to ~~\$500.00~~ **\$2,000.00** may be approved by the following:
 - a. Town manager.
 - b. Finance director.
 - c. Chief of police.
 - d. Assistant chief of police (may approve only in the absence of primary authorized personnel for each department).
 - e. Public works director.
 - (2) A purchase order of ~~\$501.00~~ **\$2001.00** to ~~\$1,000.00~~ **\$4,000.00** may be approved by the following:
 - a. Town manager.
 - b. Public works director.
 - c. Chief of police.
 - (3) A purchase order of ~~\$1,001.00~~ **\$4,001.00** to \$10,000.00 may be approved by the town manager.
 - (4) A purchase order of \$10,001.00 and over may be approved by the town manager and the mayor with prior approval by the town council.
- (Code 1977, § 2-18)

Sec. 2-267. Notice to vendors; tax exempt number.

All regular vendors shall be notified that an approved purchase order is required before giving credit for any item or purchase over ~~\$25.00~~ **\$100.00**. The tax exempt number shall also be sent to each vendor where regular charge accounts are maintained. The tax exempt number is also printed on the purchase order, to ensure that no tax is charged to the town.

(Code 1977, § 2-18-6)

Sec. 2-268. Purchasing procedures.

As each purchase is made, the following must be accomplished:

- (1) The purchase order shall be approved if the purchase is going to be over ~~\$25.00~~ **\$100.00**,
- (2) When the purchase is made, whether over or under ~~\$25.00~~ **\$100.00**, the invoice must be approved.

(3) After the purchase is made, the invoice must be turned in for payment **requisition**.

(Code 1977, § 2-18-3)

Sec. 2-269. Payment approval procedures.

(a) *Responsibilities of office staff.* In the approval of payment for purchase orders, the office staff will be responsible for the following:

(1) Matching the purchase order to the appropriate invoice if the item/purchase is over ~~\$25.00~~ **\$100.00**, posting invoices to accounts payable on a daily basis and ensuring that invoices are scheduled for payment prior to the due date or earlier in order to obtain prompt payment discounts.

(2) Checking the actual purchases on the invoice to the items authorized for purchase on the purchase order, to ascertain that only authorized items were received for all purchases over ~~\$25.00~~ **\$100.00**.

(3) Mathematical verification of each invoice before approval by the town manager for all invoices whether over or under ~~\$25.00~~ **\$100.00**.

(4) No sales tax appears on the invoice.

(b) *Responsibilities of approving official:* The approving official shall verify that the following items of control have been accomplished before approving invoices for payment:

(1) The attached purchase order was appropriately authorized.

(2) The office staff member has verified items, quantities, and mathematical calculations on the invoices to the appropriate purchase order and the purchase order is in fact attached to the invoice.

(Code 1977, § 2-18-4)

Secs. 2-270—2-295. Reserved.

Subdivision III. Competitive Negotiation

Sec. 2-296. Procedures generally.

(a) Upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

(b) Upon a written determination made in advance by the town council that competitive negotiation is either not practicable or not fiscally advantageous, insurance

may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in Code of Virginia, § 11-37. The basis for this determination shall be documented in writing.

(c) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) For the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than \$500,000.00;

(2) For the construction of highways and any draining, dredging, excavating, grading or similar work upon real property; or

(3) As otherwise provided in Code of Virginia, § ~~11-41.2:2~~. ~~2.2-~~ 4303.
(Code 1977, § 2-16-5)

State law reference—Methods of procurement, Code of Virginia, § ~~11-41~~. ~~2.2-~~ 4303.

Sec. 2-297. Award of a service generally.

The town manager or his designee shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project. These discussions may encompass nonbinding estimates of total projects costs, including where appropriate design, construction and life cycle costs. Methods to be utilized in arriving at price for services may also be discussed. At the conclusion of discussion on the basis of evaluation factors published in the request for proposals and all information developed to this point, the town manager shall select in the order of preference two or more offerors whose professional qualification and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

(Code 1977, § 2-16-6)

Sec. 2-298. Procurement of professional services.

Where the cost of a professional service is expected to exceed \$30,000.00 in the aggregate or for the sum of all phases of a contract or project, the town shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence

to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man hours or cost for services. At the discussion stage, the town may discuss nonbinding estimates of total project costs, including but not limited to life-cycle costing, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this section, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the town shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the town determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

State law reference—Similar provisions, Code of Virginia, § ~~41-37~~. **2.2- 4301**.

Secs. 2-299—2-325. Reserved.

Subdivision IV: Ethics in Public Contracting

Sec. 2-326. Purpose.

The sections of this subdivision supplement, but do not supersede, other provisions of law, including but not limited to the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.), the Virginia Governmental Frauds Act (Code of Virginia, § 18.2-498.1 et seq.), and Code of Virginia, §§ 18.2-438 et seq. and 18.2-446 et seq. The sections of this subdivision apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

State law reference—Similar provisions, Code of Virginia, § ~~41-72~~. **2.2- 4367**.

Sec. 2-327. Definitions.

The words defined in this section shall have the meanings set forth throughout this subdivision.

Immediate family means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

Official responsibility means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary interest arising from the procurement means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.).

Procurement transaction means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee means any person employed by the town, including elected officials or appointed members of the town council.

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § ~~41-73~~. **2.2- 4368**.

Sec. 2-328. Penalty for violation.

Willful violation of any section of this subdivision shall constitute a **class 1** misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

State law reference—Similar provisions, Code of Virginia, § ~~41-80~~. **2.2- 4377**.

Sec. 2-329. Proscribed participation by public employees in procurement transactions.

(a) Except as may be specifically allowed by Code of Virginia, § 2.1-639.11(A)(2) and (3), no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the town when the employee knows that:

(1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or

(2) The employee, the employee's partner, or any member of the employee's immediate family:

a. Holds a position with a bidder, offeror or contractor, such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

b. Has a pecuniary interest arising from the procurement transaction; or

c. Is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(b) This section prohibits officers and employees who have dealt in a procurement capacity with a particular firm from accepting employment with that firm for a period of one year from cessation of the public employment, unless the officer or employee provides written notification to the town council prior to the start of employment with such private firm.

(Code 1977, § 2-15-7)

State law reference—Similar provisions, Code of Virginia, § ~~41-74~~. **2.2- 4369**.

Sec. 2-330. Solicitation or acceptance of gifts.

(a) No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The town may recover the value of anything conveyed in violation of this section.

(b) Accordingly, the town may terminate, at no charge to the town, any purchase order or contract if it is found that substantial gifts or gratuities were offered to a town employee. The town may also take disciplinary action, including dismissal, against a town employee who solicits or accepts gifts or gratuities of any value whatsoever.

(Code 1977, § 2-15- 7)

State law reference—Similar provisions, Code of Virginia, § ~~41-75~~. **2.2- 4371**.

Sec. 2-331. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the town unless the employee or former employee provides written notification to the town or a public official if designated by the town or both prior to commencement of employment by that bidder, offeror or contractor.

State law reference—Similar provisions, Code of Virginia, § ~~41-76~~. **2.2- 4370**.

Sec. 2-332. Gifts by bidders, offerors, contractors or subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

State law reference—Similar provisions, Code of Virginia, § ~~41-77~~. **2.2- 4371**.

Sec. 2-333. Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make or offer to make kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the town and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

State law reference—Similar provisions, Code of Virginia, § ~~44-78~~. 2.2- 4372.

Sec. 2-334. Participation in bid preparation; submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of a town shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the town determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the town.

State law reference—Similar provisions, Code of Virginia, § ~~44-78.1~~. 2.2- 4373.

Sec. 2-335. Purchase of building materials, supplies or equipment from architect or engineer.

(a) No building materials, supplies or equipment for any building or structure constructed by or for the town shall be sold by or purchased from any person employed as an independent contractor by the town to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in Code of Virginia, § 2.1-639.2.

(b) No building materials, supplies or equipment for any building or structure constructed by or for the town shall be sold by or purchased from any person which has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in such building or structure to the independent contractor employed by the town to furnish architectural or engineering services in which such person has a personal interest as defined in Code of Virginia, § 2.1-639.2.

(c) Subsections (a) and (b) of this section shall not apply in cases of emergency or for transportation-related projects conducted by the department of transportation and the Virginia Port Authority.

State law reference—Similar provisions, Code of Virginia, § ~~11-79~~. 2.2- 4374.

Sec. 2-336. Certification of compliance; false statements.

(a) The town may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with this subdivision.

(b) Any public employee required to submit a certification as provided in subsection (a) of this section who knowingly makes a false statement in such certification shall be punished as provided in section 2-328.

State law reference—Similar provisions, Code of Virginia, § ~~11-79.1~~. 2.2- 4375.

Sec. 2-337. Misrepresentations.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.

State law reference—Similar provisions, Code of Virginia, § ~~11-79.2~~. 2.2- 4376.

Secs. 2-338—2-380. Reserved

11. Mayor & Council Announcements or Comments

Councilman Taylor thanked Town Planner Neville and Staff regarding the FEMA matter. He mentioned the Town employees and appreciated that they fight for the community and go above and beyond. He appreciates their concerns and clarifying everything with the FEMA issue.

Councilman Jester agreed that staff has done a great job with FEMA.

Vice Mayor Leonard advised he had a couple of issues to address. He stated that several watermen approached him about the bridge openings. He asked if they should contact VDOT regarding a radio opening as opposed to the scheduled opening.

Councilwoman Richardson stated that the Coast Guard is the contact to have this changed.

Vice Mayor Leonard stated that it is every 90 minutes if requested or they have to wait. He stated that there have been a couple of “old head” citizens that have recently passed away and he hates to see them go because they had so much information.

Councilwoman Richardson advised that a citizen has volunteered to adopt and clean the Reed Cemetery on Deep Hole Road. She requested a sign to be put up regarding adoption. She stated that it is 98% complete.

She also reminded that the Cemetery Committee meeting is October 22nd, at 6:00 p.m. and they will be discussing the fall cemetery cleanup.

Councilman Howard advised that the cemetery volunteer is Mr. Alex Hubb.

12. Closed Meeting in Accordance with Section 2.2-37(A)(7) of the Code of Virginia.

• **Legal Matters**

Councilman Howard moved, seconded by Vice Mayor Leonard to convene a closed meeting under Section 2.2-3711(A)(7) of the Code of Virginia to discuss personnel matters.

Unanimously approved.

Councilwoman Richardson moved, seconded by Vice Mayor Leonard to reconvene in regular session. Unanimously approved.

Councilman Howard moved, seconded by Vice Mayor Leonard to adopt a resolution of certification of the closed meeting.

WHEREAS, the Chincoteague Town Council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711(A)(7) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

VOTE: Ayes-Jester, Leonard, Howard, Richardson, Muth, Taylor

Nays-None

Absent- None

Adjourn

Vice Mayor Leonard motioned, seconded by Councilwoman Richardson to adjourn.

Unanimously approved.

Mayor

Town Manager

MINUTES OF THE NOVEMBER 4, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
J. Arthur Leonard, Vice Mayor
Ellen W. Richardson, Councilwoman
John N. Jester, Jr., Councilman
Tripp Muth, Councilman
Gene W. Taylor, Councilman
Terry Howard, Councilman

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:00 p.m.

INVOCATION

Councilman Taylor offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Mr. Mike Meyers approached Council reading a statement regarding his neighbor's concrete fence. He feels this could potentially cause drainage issues during the rise of storm waters. He expressed his dissatisfaction of the Town's efforts to correct this issue. He referred to the Town Codes, the State Codes and mentioned FEMA. He further expressed his concerns.
- Ms. Kelly Jewett, co-founder of the Chincoteague Animal Rescue, also came before Council. She advised that over the years they have done 5-10 stray cat spays and neuters a month. She stated that about a year and a half ago the Town teamed up to do the Cat Roundup. She apologized for not coming to Council sooner to provide a report. She stated that she is offended by the articles in the paper and how the Town is portrayed. She advised Council that over the last year and a half there were 3 mega clinics. They have spayed or neutered over 600 stray cats along with issuing their rabies shot. She is unhappy with the way the Health Department has portrayed the Island. She reported that the last clinic they conducted 186 spays or neuters.

Ms. Jewett also advised that they will be doing another clinic in the Spring. She then mentioned the cat hoarder. She feels that this was a horrific situation. She commended the officers who went into the home. She advised that they set traps there during the last clinic and only caught a neighbor's cat. She stated that, to the best of her knowledge, there was one stray cat left that the cat hoarder was feeding. She added that there are not a lot of stray cats left in Ocean Breeze. She also advised of the low cost rabies clinic and suggested doing this again in the Spring.

Councilman Howard stated that there is a threat where rabies is concerned. He commended her efforts and the work she has been doing.

Ms. Jewett thanked Council for their support. She added that the veterinarians volunteer for the clinics. She again feels it isn't fair how the paper is portraying the Island. Councilman Jester feels that it's because of the lack of information regarding the situation. He stated that the article was written without all the facts.

Councilman Howard stated that he has never seen such a great effort to control the stray dog and cat population. Discussion continued.

Mayor Tarr thanked Ms. Jewett for leading this organization and having the clinics.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He also thanked those who attended the Wastewater Advisory open house. He said there were approximately 12 people who came with some feedback. He stated that the Committee will meet one more time to review the comments. He mentioned that the guest this evening is bringing up the topic of the beach and the relationship with the managing agencies of Assateague. He stated that with the one year anniversary of Hurricane Sandy there's been activity on the Federal level with projects to build sand dunes and beach nourishment, which is a good idea.

Town Planner Neville reported that it has been passed by Congress for the Army Corps of Engineers to prepare a North Atlantic Coast Comprehensive Study. This will look at 31,000 miles of coastline and report back to Congress the best ways to effectively reduce flood risks to vulnerable coastal populations and promote coastal resilient communities. He feels this is an opportunity for the Town to speak up. He also stated that with the grant monies it is also a way to partner with the U. S. Fish and Wildlife Service along with the Park Service to put proposals out there to help with coastal restoration. He advised of the deadline of January 31, 2014 for the proposals. He stated that it may be a good time for the Beach Access Committee to meet again.

Councilman Howard mentioned flood damage along the coastline. He asked if there was a deadline for the study.

Town Planner Neville advised that he will give Council the information.

Police Department

Chief Lewis advised that the monthly report was included in the agenda packet. He reported that they will be ready to turn the 911 Service over to the Eastern Shore 911 Commission, November 18, 2013.

Councilman Howard advised that when reviewing a report in the packet, he noticed that once more the Police Department has helped out another family on the Island. He stated that Chief Lewis and his Department do this community proud.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet. He also reported on the Fall Paving Project schedule. He mentioned replacing the 6" water main on north Main Street that will be done before paving. He also advised that they are putting up Christmas Decorations.

There was discussion regarding incorporating the sidewalk paving and with the roadwork. There was also brief discussion about a sidewalk easement on the corner of Rt. 175 and Main Street.

General Government

Town Manager Ritter reported that EMS has completed training on the new battery operated stair chair. He reported that the ORS3 will be launched November 19th – 26th with a 2 hour window each day at 1730. He stated that there will be another launch of the ORB to the International Space Station December 15th – 18th at 2300 with a 7 minute window. He reported that there was a preconstruction meeting for the Downtown Revitalization earlier today. He showed the picture of the plans for Phase 2C. Town Manager Ritter advised that the start date will be December 9th, which is after the Christmas Parade. He added that they will have 120 days, which puts the completion date at the end of April. He also stated that there was a meeting earlier today with the Contractor, Engineer and the Main Street Merchants. They are reviewing the contract and will try to make arrangements to accommodate those merchants.

Town Manager Ritter stated that staff has updated the Town Codes. He reported that staff is working on getting 2013 taxes in the mail, which are due December 5th. He reported that he attended a meeting with Harbormaster Merritt, the Army Corps and the U. S. Coast Guard. He stated this was regarding a report from Mr. Red McDonald about the waterway closing up around the bouy in front of the U. S. Coast Guard base. The U. S. Coast Guard is planning to bring in a dredge this week to clear it out. He mentioned the newsletter that went out in the Beacon.

Councilman Jester asked about the condition of the roads during the Downtown Revitalization Project. Public Works Director Spurlock advised that he has discussed this with Branscome who will help minimize the inconvenience.

Town Manager Ritter stated they will be ready by the end of the month to put out the bids for the fishing pier.

There was brief discussion about the update to the Code.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Vice Mayor Leonard to adopt the agenda as presented. Unanimously approved.

1. Consider Adoption of the Minutes

- **Regular Council Meeting of October 7, 2013**
- **Council Workshop Meeting of October 17, 2012**
- **Special Council Meeting of October 21, 2013**

Councilman Howard motioned, seconded by Vice Mayor Leonard to adopt the minutes as presented. Unanimously approved

2. Introduction to National Park Service, National Seashore Superintendent Deborah Darden

Mayor Tarr introduced Ms. Deborah Darden, the new Superintendent of the National Park Service, Assateague Island National Seashore.

Ms. Darden advised that she loves the seashore. She gave an account of her childhood and background. She also gave her employment background over the years. She advised that her first project is the General Management Plan. She feels that the draft will be released sometime after the beginning of the year. She stated that she hasn't gotten through the CCP as of yet.

Council welcomed Ms. Darden.

Councilman Howard commented.

Mayor Tarr stated that they would like to have her back for a meeting to review the CCP and GMP.

3. Discuss the 911 Dispatch Memorandum of Agreement with ESVA 911 Commission

Town Manager Ritter reviewed an email from Mr. Flournoy reporting from the Eastern Shore 911 Commission. He stated that the Committee would like to review the MOA making additions, deletions or corrections. He also stated that he would like Council and Town Attorney Poulson's input. Town Manager Ritter would also like to attend the meeting with Mayor Tarr and Chief Lewis and come back with a completed document for the Workshop meeting. He advised that the MOA was written by Mr. Flournoy and staff has made changes.

Town Manager Ritter also stated that they are going to speak with Ms. Dorothy Spears from VITA who issues the money. He stated that the State reassesses every 5 years and they're only 10 months in. He believes the money could still have to come to the Town, which will be included into the Town's budget to forward to the E. S. 911 Commission. Town Manager Ritter doesn't want to have to include it into the budget.

There was discussion about ownership of the new equipment, maintenance of the old equipment and who the equipment belongs to.

Town Attorney Poulson advised that if it belongs to the Commission there is no problem unless the Town takes the System back. He stated that if the Town takes it back they don't want to have to replace the new equipment they have put in. He suggested looking into something that the Town would have to pay to get it back. He also added that the Town shouldn't have to pay the new cost of the equipment if they get it back in 3 years.

Town Manager Ritter advised that he would contact Mr. Flournoy and set up a meeting.

Councilwoman Richardson stated that she voted a couple of weeks ago to send the 911 System back to the E. S. 911 Commission. She advised that this was a mistake. She informed Council of concerns expressed to her that if the County is going to raise the taxes they would rather pay those increased taxes to the Town and keep the 911 service. She stated that she was reluctant when she voted. She also stated that if Council had known back in May that this was a problem it would have been taken care of. Councilwoman Richardson also added that the Fire Company wants the System brought up to where it's supposed to be. She just wanted to go on record by saying she does not want it going back to the E. S. 911 Commission.

Councilman Howard stated that there is no guarantee that the County isn't going to raise fees or taxes. He feels that they have more confidence knowing that the Town could take it back down the road. He doesn't feel they will use this as a reason to raise taxes.

Councilwoman Richardson informed Council of an email from Mr. Flournoy in response to her questions about the percentage they expect from the Town. She also stated that she asked if any of the other Towns had a MOA and they do not. She stated that he advised that there is also no other Town providing 911 Service as the Town of Chincoteague has. She asked if the Town loses the 911 Communications Tax is there anything that says they can get it back if they take the 911 System back.

Mayor Tarr responded that those questions have been answered in the past. He stated that the E911 Tax and the Landline Tax is there because they were running a 911 System. He added that when they go out of the 911 System business, they can no longer receive those taxes. He also added that the reason there is no MOA with the other Towns in the County is because they do not receive any money from the Communications Tax or E911 Tax.

Councilwoman Richardson just wanted to express what other people and firemen were saying, that they didn't want it going back down there.

Town Attorney Poulson suggested adding in paragraph F regarding the 12 months' notice to the Commission; to notify the Commonwealth of Virginia also, if the Town elects to resume.

Vice Mayor Leonard asked if they had any indication as to when the Commission was going to meet to look at the agreement.

Councilman Howard advised that it stated 60 days.

Vice Mayor Leonard stated that it's going back to them November 18th.

Mayor Tarr advised that the Commission has already met, last Thursday evening.

Town Manager Ritter advised that they formed a small sub-Committee who has concerns.

Vice Mayor Leonard then stated that they are going to take it over before there is an agreement on the MOA. He feels that the Town is stuck

Mayor Tarr stated that the Town is still receiving the money. He isn't sure they need a MOA and they didn't have a MOA when the Town took it over, they applied to the State.

Town Attorney Poulson asked if there was another trial period until the MOA has been executed.

Mayor Tarr stated that its 60 days. He advised that there are other things going on also. He explained that they have to get rid of telephone lines and getting a new telephone system and things like that, which takes time. He also added that he doesn't believe they spoke with Mr. Flournoy before their meeting. He stated that Mr. Flournoy didn't know the Town's wishes when he went into that meeting. He stated that if the Town can't agree on the MOA the E. S. 911 Commission will still take it over in 2 weeks. He asked Chief Lewis if the deadline he mentioned was the E. S. 911 Commission's deadline.

Chief Lewis advised that he spoke with Mr. Flournoy and they decided on the 18th.

There were multiple comments from Council.

Mayor Tarr stated that Chief Lewis and Town Manager Ritter need to meet with Mr. Flournoy to make sure things happen.

Chief Lewis stated that the issue is the money. He explained that the money will come to Chincoteague and then Chincoteague will send it to the E. S. 911 Service. He added that in the state code the Town is locked in for 4 years. He advised they will be talking to Ms. Spears tomorrow.

There were further comments.

Chief Lewis advised that he received an email earlier that day stating that the Town will receive the money and then send it to the E. S. 911 Commission, Northampton County.

Discussion continued about the right of the Town to take the 911 Service back if they so choose.

Mayor Tarr stated that they need to get the MOA completed. He advised that they will meet with the E. S. 911 Commission's subcommittee to iron out the Agreement.

Council further commented.

4. Repeal of Town Code, Chapter 54, Article III, Division 3, enhanced Emergency Telephone Service

Town Manager Ritter stated that this is basically a housekeeping item. He added that the Code is regarding the former 911 Tax, adopting the Communications Sales and Use Tax. He advised that the State Code has since been repealed. Staff recommended repealing the Town's Code that refers to the repealed State Code and also since the 911 Service is going to the E. S. 911.

Town Attorney Poulson asked about the Town needing this for any reason whether the Town keeps the 911 Service or not.

Town Manager Ritter advised that if it comes back, the Town would need to adopt some type of language or Ordinance that has a Communications Sales and Use Tax from the 2006-2007 adoption and that Code number, but it is not this Code.

Mayor Tarr asked if the Town collects other Communications Tax.

Town Manager Ritter advised that this is specific to enhanced emergency telephone service.

Mayor Tarr added that the State Code references the Communications Tax in general. He asked if the Town would need to adopt something for the Communications Tax and if what the Town has references the State Code.

Town Manager Ritter advised he would check into that.

Mayor Tarr stated that Town Attorney Poulson's question was if the Town needs this at all, whether they have 911 or not.

Town Manager Ritter advised that they do not.

Councilman Howard motioned, seconded by Councilman Muth to repeal the Town Code, Chapter 54, Article III, Division 3, Sec. 216-223, Enhanced Emergency Telephone Service. Unanimously approved.

5. Purchase of Computer Aided Dispatch System and Phone System

Chief Lewis explained that as previously discussed the Police Department would like to purchase a CAD system to assist the dispatchers in efficiently obtaining information to dispatch a call. He explained the capabilities. He added that if 911 would ever come back it would handle that also.

Chief Lewis also explained that in order to turn the 911 System over to the E. S. 911 Commission, Verizon will be retrieving some computer programs they currently use. He added that they will not be able to use any longer. He advised that the current phone system is 10 years old and some of the equipment would have to be replaced by next year anyway. He is requesting that they replace it all at one time; the Police Department, Town Offices and Public Works.

Councilman Howard asked about the amounts.

Town Manager Ritter added that the current phone system is antiquated and the company that the Town currently uses is unable to do the maintenance. He advised that the phone system has been a good system from Delmarva TelePlus, Inc. He added that they haven't been called other than reprogramming a couple of the phones for the EOC. He explained the purchases of phones that are included in the total cost. He also explained the difference in phone types.

Councilman Jester asked how they proposed to pay for this.

Town Manager Ritter advised that it will come from the budgeted 911 upgrade of \$265,000. He added that \$150,000 was grant money and the remaining was from Town funds.

Councilman Jester motioned, seconded by Vice Mayor Leonard to approve the purchase of the Dispatch Essential Software from Southern Software, Inc. in the amount of \$27,716.00. Unanimously approved.

Councilman Howard motioned, seconded by Councilman Muth to approve the purchase of an upgraded phone system and phones with Delmarva TelePlus, Inc. in the amount of \$11,423.00. Unanimously approved.

6. Cemetery Committee Report of September 12, 2013

- **Proclamation designating November 9th-15th as Cemetery Cleanup Week**

Councilwoman Richardson stated that Mr. Alex Hubb has recently cleaned the Reed Cemetery on Deephole Road and advised that he will continue. She stated that they will be cleaning the Holy Ridge Cemetery on Ridge Road on Saturday at 9:00 a.m.. She asked for volunteers. She also read the Proclamation.



PROCLAMATION

WHEREAS, throughout our community there are many cemeteries and family burial grounds; and

WHEREAS, over the years many of the loved ones of those buried in our cemeteries have moved away or are no longer able to tend to these cemeteries; and

WHEREAS, many organizations and individuals throughout our community have volunteered to assist in the cleanup of those sites and common areas within these cemeteries; and

WHEREAS, these organizations and individuals need assistance from all citizens to accomplish their cleanup goals to beautify and preserve our family burial grounds.

NOW, THEREFORE, I, Mayor John H. Tarr do hereby proclaim the week of November 9TH through 15TH, 2013, as Cemetery Cleanup Week within the Town of Chincoteague and call upon our citizens to volunteer to organize and assist in the cleanup of our Island cemeteries.

DATED this 4th day of November, 2013.

John H. Tarr, Mayor

ATTEST:

Robert G. Ritter Jr., Town Manager

Councilwoman Richardson thanked the Town employees for cleaning up the local cemeteries.

Councilman Howard asked about Mr. Hubb adopting the Reed Cemetery.

Councilwoman Richardson stated that he has and wants to adopt more.

7. Mayor & Council Announcements or Comments

There were no further comments.

Adjourn

Councilman Howard motioned, seconded by Vice Mayor Leonard to adjourn. Unanimously approved.

John H. Tarr, Mayor

Robert G. Ritter, Jr., Town Manager

MINUTES OF THE DECEMBER 2, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
Ellen W. Richardson, Councilwoman
John N. Jester, Jr., Councilman
Tripp Muth, Councilman
Gene W. Taylor, Councilman
Terry Howard, Councilman

Council Members Absent:

J. Arthur Leonard, Vice Mayor

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:00 p.m.

INVOCATION

Councilman Taylor offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Mr. Michael Dendler came before Council regarding the Chincoteague Pony 4-H Club. He asked if they would entertain a presentation. Two members of the Chincoteague Pony 4-H Club presented Council with a card and ornament, and wished Mayor Tarr and the Town Council a very Merry Christmas.

Mayor Tarr read the card.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He also reported that the U. S. Fish and Wildlife Service and Park Service CCP will possibly be released in January. He advised that the Town made comments regarding the endangered species nomination of the Red Knot. He stated that they were expressing the Town's concern of establishing critical habitats along the recreational beach. Town Planner Neville also advised that the issues of the Watermen be considered in NASA's Land Use Study making sure the safety zones don't shut down the Inlet and fishing. He stated that there is a meeting January 9th to review the JLUS Plan. He added that the construction plans for the fishing pier are out for bids.

Councilman Howard asked about the endangered species called the Red Knot bird.

Town Planner Neville explained it is the size between a robin and a seagull. He added that it is important in the birding community because it migrates from the South Pole to the North Pole.

It's one of the longest commuting birds and stops over in this area to fill up on horseshoe crab eggs.

Police Department

Chief Lewis advised that the monthly report was included in the agenda packet. He reported that the Police Department will conduct the Annual Toy Drive on Saturday, December 7th at 11:00 a.m.

Councilman Jester requested an annual report of arrests and significant events that have happened in the Police Department. He also added to compare the report to 2012.

Councilman Howard requested that Chief Lewis report on the funds that were raised by the Department for the community.

Chief Lewis advised it was approximately \$240,000.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet. He reported that work has started on the culvert on South Main Street. He also reported that a leak was detected in the 8" water main on the Causeway.

There was discussion regarding the culvert repairs, the use of the 8" water main and the possible cause of the leak along with the new well pump.

General Government

Town Manager Ritter advised of a correction in the Emergency Medical Service report regarding calls of the Advance Life Support. He stated that they reported 15 and updated it to 25. He added that they reported that the Police number 336-0911 would be done away with. However, they decided to keep it. He reported of a correction on the Downtown Revitalization Project. He advised that on December 9th they will begin construction due to the annual Christmas parade. He mentioned the completion date of April 28th. Town Manager Ritter also advised that Umpco was hired as the computer IT service. He explained that they will also do computer offsite server backup and storage. He stated that Mr. Bobby Umphlett, Jr. is the owner. He reminded Council of the work on the upcoming quarterly newsletter. He concluded that the department evaluations have been completed.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Councilman Jester to adopt the agenda as presented. Motion carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard

1. Consider Adoption of the Minutes

• Regular Council Meeting of November 4, 2013

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the minutes of the Regular Council Meeting of November 4, 2013. Motion carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard

2. Discuss the 911 Dispatch Memorandum of Agreement with ESVA 911 Commission

Town Manager Ritter reviewed the additional changes made to the Agreement. He advised that the ESVA 911 Commission was in agreement and staff recommends to approve the Memorandum of Agreement.

Councilman Jester motioned, seconded by Councilman Howard to adopt the 911 Dispatch Memorandum of Agreement with the ESVA 911 Commission and the Town of Chincoteague. Motion Carried.

Ayes: Howard, Jester, Taylor, Muth

Nays: Richardson

Absent: Leonard

**Memorandum of Agreement Between
Eastern Shore of Virginia 9-1-1 Commission and Town of Chincoteague, VA**

I. Purpose

The purpose of this Memorandum of Agreement is to memorialize the request from the Town of Chincoteague, a municipal corporation, (“Town”) to transfer 9-1-1 services (defined as the reception point for 9-1-1 calls and the dispatch of Fire/EMS services for the Town of Chincoteague) to the Eastern Shore of Virginia 9-1-1 Commission (“9-1-1 Commission”) and to specify items of agreement associated with this transition of services. At the October 21st, 2013 Town of Chincoteague public hearing/council meeting, authorization was approved by vote of the Chincoteague Town Council to transfer 9-1-1 services pending execution of this Memorandum of Agreement.

II. General Terms and Conditions

The Eastern Shore of Virginia 9-1-1 Commission and the Town of Chincoteague agree to the following terms and conditions.

A. Effective on November 18th, 2013, 9-1-1 services for the Town of Chincoteague shall be transferred to the ESVA 9-1-1 Commission. The ESVA 9-1-1 Commission shall dispatch and provide dispatch related services for the Town of Chincoteague (as is done for other Fire/EMS agencies in Accomack County) and transfer law enforcement matters to the Chincoteague Police Department.

B. The Town shall notify the Commonwealth of Virginia of no longer being a primary Public Safety Answering Point (PSAP), effective November 18th, 2013, and an agreement between the ESVA 9-1-1 Commission and Town of Chincoteague. It is understood from

representatives from Virginia Information Technologies Agency (VITA) that the funds the Town of Chincoteague receives from the two revenue sources related to processing 9-1-1 calls (wireless E-911 surcharge and Communications Sales and Use Tax (percentage for 9-1-1 services)) are unable to be directly provided to the ESVA 9-1-1 Commission, or its fiscal agent. The Town of Chincoteague will forward to the Eastern Shore 9-1-1 Commission or its fiscal agent revenues received monthly, within forty-five days, as stated above from 9-1-1 tax collections (wireless E-911 surcharge and Communications Sales and Use Tax (percentage for 9-1-1 services) for tax imposed on or after December 1, 2013 or until such time the Commonwealth of Virginia disburses the revenue directly to the ESVA 9-1-1 Commission or its fiscal agent.

- C. The Commission shall assume ownership and maintenance responsibilities for the VHF Fire/EMS radio infrastructure used for fire/EMS Communications upon receipt of a complete inventory of the existing radio infrastructure owned by the Town. This inventory includes but is not limited to the VHF repeater, duplexer, and radio antenna system used for fire/EMS Communications with the Town of Chincoteague. The radio infrastructure does not include console related equipment/infrastructure. The Town warrants and represents that at the time of execution of this Agreement, all VHF infrastructure equipment is operational with no deficiencies and all infrastructure equipment and field equipment is compliant with any state and federal requirements. Should the town elect to resume 9-1-1 services, the Commission shall transfer the applicable equipment stated above back to the Town. The Commission shall offer the sale of such new equipment at a pro-rated amount based on depreciation. All aged and replaced equipment shall be delivered to the Town at such time of replacement.
- D. The applicable FCC license (VHF Fire/EMS radio system) shall also be transferred to the Commission within 6 months of the effective date of this Agreement. Should the town elect to resume 9-1-1 services; the Commission shall then effect the transfer of the applicable FCC license (VHF Fire/EMS radio system) back to the Town.
- E. Immediate (24/7) access shall be provided to ESVA 9-1-1 Center staff to the VHF Fire/EMS communications equipment for needed repairs, testing, and maintenance, with the Town of Chincoteague being responsible for security of all equipment.
- F. If the Town of Chincoteague elects to resume 9-1-1 services, twelve months' notice shall be provided to the ESVA 9-1-1 Commission and the Commonwealth of Virginia, unless otherwise agreed to by the ESVA 9-1-1 Commission and the Town of Chincoteague. Such notice shall be in writing from the duly authorized representative of the Town to the Chairman of the ESVA 9-1-1 Commission and shall be by certified or registered mail, or commercial delivery. Upon such termination of services by the Town, and the resumption of such services by the Town, all such funds as described under Paragraph B hereof then

being paid to the Commission for such services, whether forwarded by the Town or paid directly by the Commonwealth of Virginia, shall be, as of the effective date of termination, retained by the Town, forwarded by the Commission to the Town on a monthly basis within 45 days after receipt, or paid to the Town directly by the Commonwealth of Virginia, as applicable.

G. The term of this Memorandum of Agreement is for one year beginning on December 1, 2013. This Agreement shall automatically renew annually on December 1, each year unless notice of termination has been given as described in Paragraph F, in which case it shall terminate 12 months thereafter.

Approved this ____ day of _____, 2013 by the Eastern Shore 9-1-1 Commission and on the ____ day of _____, 2013 by the Town of Chincoteague, a Virginia municipal corporation, and executed by the ESVA 9-1-1 Commission Chairman and the Mayor of the Town of Chincoteague, VA:

ESVA 9-1-1 Commission

By: _____

Its: _____

Date: _____

TOWN OF CHINCOTEAGUE, VA

By: _____

Its: _____

Date: _____

3. Discuss Retaining the Lobbyist for Additional 6 Months

Mayor Tarr advised that this item is to obtain the services of Alcalde & Fay, which is a consulting firm who has helped us with the beach issues.

Town Manager Ritter advised that the budget allowed for the renewal for 6 months, however, staff is asking to budget for an additional 6 months. He added that there will be a budget revision in the February meeting. He stated that in January and February the Town will need their services as the CCP will be released. He also stated that Alcalde & Fay issued a Status Update and Future Plans Report that was included in the Council Packet.

Councilman Howard expressed his concerns that only the Town is paying to have them help with the access on the beach. He added that the Accomack County Board of Supervisors voted not to retain their services. He feels that the County is reaping a big benefit by keeping beach access. He asked Supervisor Thornton if the County would help in the expense.

Supervisor Wanda Thornton suggested attending a Board of Supervisors meeting to ask for help. She reminded Council that the County is receiving over \$450,000 in Transient Occupancy Taxes from Chincoteague and the Town receives nothing in return. She stated that the Town won't be heard in Washington unless they have a consultant such as Alcalde & Fay. She added that it's

nice to know the Congressmen. She strongly urged to put this in writing and also for all of Council to attend the Supervisor's meeting. She feels each Councilmember should speak.

Discussion continued.

Mayor Tarr stated that Alcalde & Fay has been with the Town for approximately a year and a half. He added that they have done more for the Town than just the beach issue.

Councilman Muth asked where the funds would come from to fund another 6 months.

Town Manager Ritter advised it will be from the Tourism and Recreation Reserve.

Mayor Tarr reminded Council that this item is only approved for 6 months at a time because it was thought to have been further along.

Councilman Muth motioned, seconded by Councilman Howard to approve the consultant Alcalde & Fay for an additional 6 months. Motion Carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard

4. Contract With Bowman Consulting for Phase 2D of the Downtown Rehabilitation Project

Town Manager Ritter advised that they have recently gone through another grant process for Phase 2D of the Downtown Rehabilitation Project. He added that the Town did not budget for Phase 2D in the current fiscal year and would like to obtain the engineer and submit the plans to VDOT as it is a very lengthy process. He also added that to be on the same track as the current phase for next year they would have to appropriate funds to go forward with Bowman Consulting. Town Manager Ritter advised Council of the 20% match.

The project area and completion dates were discussed.

Councilman Jester reviewed the plans and pointed out an error.

Mayor Tarr asked what the total design cost was for Phase 2C.

Town Manager Ritter advised he will get those costs.

There was further discussion as to the 20% and where it was coming from along with the plans.

Councilman Howard motioned, seconded by Councilman Taylor to approve the contract with Bowman Consulting for Phase 2D of the Downtown Rehabilitation Project not to exceed \$79,800. Motion carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard

5. Resolution to be Exempt from the Newly Created State Storm Water Regulation

Town Planner Neville explained that this is one step in the Town's response to reviewing the State Storm Water Regulations. He explained that the State has recently adopted a set of Water Quality Standards generally dealing with the Chesapeake Bay but is applying them to the whole state. He said that he has been working with Supervisor Thornton and the County staff. He advised that they provided comments suggesting that the Town be exempt as we are not located in the Chesapeake Bay watershed. He further explained that the State Water Control Board is adopting changes to the program in several pieces.

Town Planner Neville explained that the resolution requests that Chincoteague shouldn't be included in the regulations. He feels that by adopting the resolution it will help move the process forward to exempt the Town from the regulations or bring about changes to the requirements. Town Planner Neville also advised of a separate effort to be exempt from the Storm Water Regulation as a whole through changes to the legislation in the General Assembly. He stated that there is an existing sediment control permit process, a flood plain permit and adding to that a storm water permit. He explained that the effect of the regulations would be to set aside buildable land and open space to allow infiltration, and to require the installation of expensive storm water collection systems. He recommended passing the Resolution.

There was discussion.

Town Planner Neville also added that there is meeting on December 17th when the State Water Control Board will be reviewing the regulations and all comments that have been submitted. The comment period has been closed and any revisions will be addressed at that meeting. He added that the people who wrote the rules were thinking more about Fairfax County.

Mayor Tarr feels that this resolution should be sent to the elected officials with a cover letter that summarizes why the regulations do not work for Chincoteague Island.

Town Attorney Poulson asked what they are supposed to do at the meeting on the 17th and if they planned to consider the objections.

Town Planner Neville advised that they will be approving the revised regulations. He added that the meeting notice advised they were supposed to consider the objections. He read the notice and advised that the Town has officially submitted the comments.

Council asked Town Planner Neville to attend the meeting on the Town's behalf. He explained the response process.

Supervisor Thornton commended Town Planner Neville for the great job he's done. She advised that she is on the Soil and Water Conservation Board. She stated that when the Governor appointed her to the Board they weren't aware that there are places like Chincoteague, Tangier and Saxis when thinking about storm water problems. She added DEQ staff has not been involved in what island communities deal with. She advised that she has asked how those on the island would deal with storm water runoff. She stated that they couldn't answer their questions but approved the regulation anyway.

Supervisor Thornton advised that County staff have attended the DEQ workshops and are working on our problems. However, the water can't be contained on the island. She added that the erosion and sediment control people are very good but worried on how they are going to manage along with the costs. She also added that they can't implement some of the regulations. She suggested asking the Town's political consultant to help with this.

Discussion and comments continued.

Supervisor Thornton suggested having the Alcalde & Fay attend the meeting next week. She further commented. She added the importance to emphasize that this is an island town.

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the Resolution to be Exempt from the Newly Created State Storm Water Regulation by the State Water Control Board. Motion carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard



RESOLUTION

TO OPPOSE ADOPTION OF TECHNICAL CRITERIA BY REFERENCE IN PROPOSED STORMWATER MANAGEMENT REGULATIONS BY THE STATE WATER CONTROL BOARD

WHEREAS, the Virginia State Water Control Board is scheduled to take action on December 17, 2013 to adopt an amendment of regulation on stormwater management with an open comment period through November 20, 2013; and

WHEREAS, the Regulation incorporates by reference extensive Technical Criteria that will have a significant impact on the local economy and quality of life on Chincoteague Island; and

WHEREAS, the Regulations and Technical Criteria have been prepared for upland areas located in the Chesapeake Bay watershed to meet non-compliant water quality standards; and

WHEREAS, The Town of Chincoteague is located in a tidal special flood hazard district, located within a compliant Atlantic Ocean coastal bays watershed;

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Chincoteague opposes the proposed amendment of Stormwater Management Regulations and Technical Criteria; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Chincoteague requests assistance from the Department of Environmental Quality and our Congressional delegation to assure that an 'exemption' is granted for coastal watersheds until such time as the Regulations and Technical Criteria are revised accordingly.

ADOPTED on this 2nd day of December, 2013.

I certify that the foregoing is an accurate copy of the Resolution adopted by the Council of Town of Chincoteague on December 2, 2013.

Attest:

John H. Tarr, Mayor

Robert G. Ritter Jr., Town Manager

Mayor Tarr directed staff to forward this to everyone with a cover letter.

6. Harbor Committee Report of November 7, 2013

Councilman Jester advised that they are selling a lot of fuel and feels that it is successful and an asset to the community. He discussed the upcoming dredging and the new cameras.

7. Recreation & Community Enhancement Committee Report, November 12, 2013

- **Location of the Watermen's Memorial**
- **Citizens working Group to Establish a Plan for the Playground Equipment**
- **DCR Trails Grant**

Councilman Jester explained that the Committee discussed the Watermen's Memorial. He advised of their recommendation setting aside a certain part of land at the Downtown Park along the boardwalk for a statue or monument. He stated that a lot of money was raised with the raffle. The program to acquire more contributions will move forward and he feels that it is important to approve the placement of the statue.

Councilman Jester also discussed the Veteran's Memorial Park. He advised of the condition of the playground equipment. He stated that the PTSA is willing to raise the money to help with the replacement of the playground equipment. He added that they will assist in every way they can. Councilman Jester stated that the Kiwanis donated money and the American Legion expressed that they want to help with the purchase playground equipment. Councilman Jester asked Town Planner Neville to explain the DCR grant.

Town Planner Neville advised that the current DCR Grant for the trails program has opened up and they would like permission to apply. He added that this is an 80/20 grant. He explained that this would help to resurface the current paved trail in the Nature Park.

Councilman Jester also reported that the Leonard Family has approximately \$4,000 left to contribute in the Donald Leonard Park. He stated that Ms. Donna Leonard advised she would look into the possibility of installing a floating dock for kayak launching there. He stated that she will return to the Committee with her suggestions.

Town Manager Ritter advised of the discussions of placement of the memorial and requested clarification.

Councilman Howard stated that he feels that the Mariner's Memorial should be at the Curtis Merritt Harbor of Refuge. He also stated that this is where the vast majority of the working watermen go in and out of every day to see this. He added that they have the ship's mast at the Harbor and doesn't feel that the memorial should be at a different location. He urged Council to consider placing the memorial at the Harbor. He feels this would avoid the potential of any conflict. He expressed gratitude for the efforts of Mr. Barry Abell also.

Councilman Jester responded that there has been a lot of confusion about the statue size. He advised that it is a life sized statue on a block of granite. He added that the Robert N. Reed, Sr. Downtown Waterfront Park is the place most visited. He feels that a ship's mast down at the Harbor shouldn't be considered a memorial. He feels that the statue shouldn't be at the Mariner's Point because it isn't utilized as often.

Councilman Howard feels the memorial should be placed at the Harbor. However, he is in support wherever they decide it should be.

Mayor Tarr stated that Mr. Abell talked about it going in at the Downtown Park because it was discussed at several meetings. He they referred to a letter dated from 2006. He explained that at those meetings they discussed putting it in at the Robert N. Reed, Sr. Park. He added that Council's decision in 2006 was to put it in at the Downtown Park. He noted that the Mariner's Point wasn't there at that time. He suggested that Council should support this so that they can continue in the fundraising efforts.

Councilman Jester motioned, seconded by Councilman Taylor to approve the Robert N. Reed, Sr. Downtown Waterfront Park as the location for the Watermen's Memorial. Motion carried.
Ayes: Howard, Jester, Taylor, Muth, Richardson
Nays: None
Absent: Leonard

There was discussion as to the cause of the paving problems on the Hallie Whealton Smith Trail.

Councilman Muth motioned, seconded by Councilman Howard to approve the application for the DCR Trails Grant in the amount of \$53,750 with matching funds of in-kind services. Motion carried.
Ayes: Howard, Jester, Taylor, Muth, Richardson
Nays: None
Absent: Leonard

Councilman Jester advised that citizens interested in helping with the Playground master plan will meet in January during the regular Committee meeting.

There was discussion as to the funds that were set aside and the need to establish a means of funding for the future purchase of new playground equipment.

8. Ordinance Committee Report of November 14, 2013

Councilman Howard advised they reviewed the Flood Plain Ordinance. He stated that they sent the changes to the County and the Town Attorneys.

There was discussion as to a conflict with Town Attorney Poulson's schedule. He will be unable to have a report completed by January 9th.

Mayor Tarr recommended that the January 9th meeting be postponed until they receive the report from Town Attorney Poulson and Accomack.

9. Budget and Personnel Committee Report of November 19, 2013

- **Discuss Dispatch Salaries**
- **Resolution: Rescission of the Opt Out of the Virginia Local Disability Program**

Mayor Tarr advised that staff would like to have more time to review the dispatch salaries and compare those salaries within the Town's pay scale. He also explained that the Town opted out of the Virginia Local Disability Program and now because of a few changes want to opt back in.

Town Manager Ritter explained the changes to the percentages and VRS lowered their amounts. He discussed the rate change and changes to the Employee/Personnel Handbook regarding new employees. He added that it also makes the books easier to continue with VRS.

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the Resolution: Rescission of the Opt Out of the Virginia Local Disability Program. Motion carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard



RESOLUTION

Rescission of Election to Opt Out of the Virginia Local Disability Program

WHEREAS, by enacting Chapter 11.1 of Title 51.1 of the *Code of Virginia*, the Virginia General Assembly has established the Virginia Local Disability Program ("VLDP") for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Va. Code § 51.1-169; and

WHEREAS, the Town of Chincoteague, 55341, passed a resolution dated October 7,

2013, requesting that its eligible employees not participate in VLDP as of the VLDP effective date of January 1, 2014, because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees by January 1, 2014; and

WHEREAS, it is the intent of the Town of Chincoteague, 55341, to rescind this election;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town of Chincoteague rescinds its resolution dated October 7, 2013.

Adopted in the Town of Chincoteague, Virginia this 2nd day of December, 2013.

Authorized Signature Title

10. Committee/Commission Appointments and Recommendations

- **Building Code of Appeals**
- **Curtis Merritt Harbor Committee**
- **Planning Commission**
- **Recreation & Community Enhancement Committee**

Building Code Board of Appeals:

Mayor Tarr opened the floor for nominations.

Councilman Howard nominated Mr. Jerry Tarr to be reappointed to the Building Code Board of Appeals.

Mayor Tarr closed the nominations.

All were in favor except Vice Mayor Leonard who was absent.

Curtis Merritt Harbor Committee:

Mayor Tarr opened the floor for nominations.

Councilman Jester nominated Mr. Michael Handforth to be reappointed to the Curtis Merritt Harbor Committee.

Mayor Tarr closed the nominations.

All were in favor except Vice Mayor Leonard who was absent.

Planning Commission:

Mayor Tarr opened the floor for nominations for seat #1.

Councilman Muth nominated Mrs. Mollie Cherrix to be reappointed to the Planning Commission seat #1.

Mayor Tarr closed the nominations

All were in favor except Vice Mayor Leonard who was absent.

Mayor Tarr opened the floor for nominations for seat #2.

Councilman Howard nominated Mr. Jeff Potts to be reappointed to the Planning Commission seat #2.

Mayor Tarr closed the nominations

All were in favor except Vice Mayor Leonard who was absent.

Mayor Tarr opened the floor for nominations for seat #3.

Councilman Taylor nominated Mr. Ray Rosenberger to be reappointed to the Planning Commission seat #3.

Mayor Tarr closed the nominations

All were in favor except Vice Mayor Leonard who was absent.

Recreation and Community Enhancement Committee:

Mayor Tarr opened the floor for nominations for seat #1.

Councilman Howard nominated Mrs. Nancy Lane to be appointed to the Recreation and Community Enhancement Committee seat #1.

Mayor Tarr closed the nominations.

All were in favor except for Vice Mayor Leonard who was absent.

Mayor Tarr opened the floor for seat #2.

Councilman Jester nominated Mr. David Johnson to be appointed to the Recreation and Community Enhancement Committee seat #2.

Mayor Tarr closed the nominations.

All were in favor except Vice Mayor Leonard who was absent.

Board of Zoning Appeals:

Mayor Tarr advised that this seat is appointed by the judge and directed staff to send a letter to the Honorable Revell Lewis, Judge regarding his reappointment.

11. Mayor & Council Announcements or Comments

Councilman Jester commented that he hopes that Saturday evening is nice, for the Annual Christmas Parade.

Councilman Taylor thanked all those who volunteer for the committees as they do a great job and service to the town.

Councilman Howard also appreciated the volunteer committee members.

Mayor Tarr reminded that December 19th they will be judging the Christmas lights. He stated that the Committee Christmas gathering is 6:00 p.m., Friday December 6th. He also added that Council has been invited to walk in the parade on Saturday, December 7th.

12. Closed Meeting in Accordance with Section 2.2-3711(A)(1) of the Code of Virginia

• Personnel Matters

Councilman Howard moved, seconded by Councilman Taylor to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Motion carried.

Councilman Howard moved, seconded by Councilwoman Richardson to reconvene in regular session. Motion carried.

Councilwoman Richardson moved, seconded by Councilman Muth to adopt a resolution of certification of the closed meeting.

WHEREAS, the Chincoteague Town Council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711(A)(1) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

VOTE: Ayes- Jester, Muth, Howard, Richardson, Taylor

Nays- None

Absent- Leonard

Adjourn

Councilman Howard motioned, seconded by Vice Mayor Leonard to adjourn. Motion carried.

Ayes: Howard, Jester, Taylor, Muth, Richardson

Nays: None

Absent: Leonard

John H. Tarr, Mayor

Robert G. Ritter, Jr., Town Manager