

**MINUTES OF THE JANUARY 5, 2004**  
**CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman

**Council Members Absent:**

Glenn Wolffe, Councilman

**1. *Call to Order.***

Mayor Tarr called the meeting to order at 7:30 p.m.

**2. *Invocation.***

Councilman Howard offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Approval of Minutes of the December 1, and December 17, 2003 Council Meetings.***

Councilman Howard motioned, seconded by Councilwoman Conklin to approve the minutes as presented. Unanimously approved.

**5. *Council Information Items.***

- Councilwoman Richardson asked if Town Manager West had received a response from the letter sent to Mr. Mike Hill from the USNPS regarding the installation of a plaque at the approach to Assateague. Town Manager West stated that he had not had a response, but would follow up on the letter.
- Councilwoman Conklin asked why the Virginia Department of Rail and Public Transportation (VDRPT) wanted Star Transit to operate the trolley system for the coming season. Town Manager West stated that the trend of VDRPT was to recognize one regional transit authority, the Accomack-Northampton Transportation District Commission (A-NTDC), which recognized Star Transit as the provider.
- Councilman Frese asked why the Sign Committee of the Planning Commission had not conducted a survey to date. Town Manager West stated that he had not received any information thus far from the Committee.
- Councilman Howard asked if there was a possibility of further discussion with Mr. Eddie Tull regarding acquisition of the road in Ocean Breeze. Town Manager West stated that he would continue to ask Mr. Tull to turn the road over to the Town.

## **6. Committee Reports.**

- **Harbor Committee-** Councilman Frese commended Fisher Marine Construction on their work on the Harbor Rehabilitation Project. He stated that there was a minor delay due to the weather and the holidays.
- **Public Works Committee-** Vice Mayor Mason stated that the Committee met on December 9<sup>th</sup> and discussed several matters, including Mr. Holston's request to hook up his septic treatment plant to the Town's drainage system. He reported that the Committee received one bid for \$71,000 for the construction of a new tennis court at Memorial Park, but since it was over the Town's estimated amount, the project would be re-bid. Vice Mayor Mason stated that the Town received two proposals for the Geographic Information System (GIS) and that the Committee would meet with both companies. He also stated that the drainage problem around the traffic circle on Maddox Boulevard had been referred to Whitman, Requardt and Associates for possible remedies. Vice Mayor Mason added that the Committee would recommend to Council later in the meeting to get professional help with amending the Subdivision Ordinance.
- **Budget and Personnel Committee-** Councilwoman Conklin stated that the Committee met on December 16<sup>th</sup> with Town Auditor, Rob Leatherbury, who gave his report on the Town's audit. The report stated that the Town was in good financial standing. Councilwoman Conklin explained that the payoff of two bonds resulted in a \$700,000 negative balance in the Schedule of Expenditures, but that the payoff of the bonds had improved the Town's financial standing. She stated that Town Auditor Leatherbury advised the Town to develop a financial plan that included bonds and grants for the Capital Improvement Plan. Councilwoman Conklin added that there was a new accounting standard that the Town had to comply with, and that Town Auditor Leatherbury would work with the Town to insure compliance.
- **Cemetery Committee-** Councilman Howard stated that the Committee did not meet in December, but would meet again on January 27<sup>th</sup> at 6:00 pm.
- **Charter, Ordinance and Zoning Committee-** Councilman Howard stated that the Committee met on December 10<sup>th</sup> and discussed the go-cart issue. He stated that the Committee would give their recommendation regarding the matter later in the meeting. Councilman Howard stated that the next Committee meeting would be on January 21<sup>st</sup>.

## **7. Public Hearing.**

Mayor Tarr opened the public hearing at 7:45 pm.

Town Manager West explained that an application to vacate a property line was submitted to Council by Mr. Edward Tull and Mr. and Mrs. Chris Cuono and that the following ordinance enables the vacation of the property line as requested. The application and resulting vacation, if approved, would correct the mistaken placement of a mobile home over a property line. Town Manager West added that Mr. Tull was willing to sell additional property to the Cuonos to correct the error, provided the request was approved.

Vice Mayor Mason asked if the setback requirements would be met with the vacation of the property line and the acquisition of additional property from Mr. Tull. Town Manager West stated that the setbacks would be met.

Attorney Robert Turner explained the Cuonos' hardship. He stated that the mobile home had an addition and was on pilings, so relocation of the home would cost over \$10,000.

Mayor Tarr closed the public hearing at 8:43 pm.

Councilman Howard motioned, seconded by Councilwoman Richardson to vacate the property line as per the following proposed ordinance.

### **ORDINANCE**

#### **BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHINCOTEAGUE AS FOLLOWS:**

1. That the property line designated North 38° 20' 20" W dividing Lots 30 D 3 and 30 D 5 on that certain Plat entitled "FINAL SURVEY OF PART OF PROPERTY OF EDWARD L. TULL D.B. 480 P. 173 D.B. 426 P. 186 P.B. 28 P. 24 BEING LOTS 3003, 3004, 3005, 3006, 3007, 3008, & 3009 CHINCOTEAGUE THE ISLANDS DISTRICT ACCOMACK COUNTY, VA", which Plat is recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia in Deed Book 672, at page 65, be and it hereby is vacated, a copy of said Plat being filed with said Application and attached to this Ordinance.

2. That the new boundary lines dividing Lot 30 D 3 and 30 D 5 of S 38° 30' 00" W for a distance of Sixteen Feet (16.0 Ft.), N 38° 20' 20" W for a distance of Sixty and Thirty Two Hundredths Feet (60.32 Ft.) and N 38° 30' 00" E for a distance of Sixteen Feet (16.0 Ft.) as shown on the plat attached to the application be and hereby are approved.

3. That a certified copy of this Ordinance, together with a copy of said Plat showing the property line to be vacated and the new lot lines to be created, be recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia.

4. That the effective date of this Ordinance shall be upon adoption by the Town Council for the Town of Chincoteague.

Ayes:  
Nancy Conklin  
James Frese  
Terry Howard  
Ronald Mason  
Ellen Richardson

Nays:  
None

Absent:  
Glenn Wolffe

## **8. Public Participation.**

- Mr. Bill McDonough stated that he was concerned that the Town was not represented on the Public Service Authority (PSA), even though the Town would be affected most. Mayor Tarr stated that the Town had been attending meetings with NASA for more than a year and a half regarding the Town's representation on the PSA. Mayor Tarr added that the Town recently had a joint meeting with the Accomack County Board of Supervisors and with NASA and would continue to have meetings with them regarding this issue and the water and sewer program with NASA.

## **9. Recommendation of Ordinance Committee Regarding Go-Carts.**

Councilman Howard stated that in their December 10<sup>th</sup> meeting, the Ordinance Committee chose to recommend to Council that the wording of Section 2.8 of the Zoning Ordinance be modified to eliminate the phrase, *internal combustion engines*. After receiving much public input on the matter, in three meetings, they felt that go-carts with internal combustion engines should be permitted as an amusement, but also felt that restrictions may need to be placed on the amusement. Restriction considerations included:

- Permitting in commercial zones only
- Additional sound attenuation
- Possible development of a lighting ordinance
- Distance and area requirements
- Allowing the amusement through special exception or through a special use permit granted by Council

Vice Mayor Mason asked if the noise ordinance would be modified. Councilwoman Conklin stated that the designer of the go-cart track would have to stay in compliance with the noise ordinance, or the business would be shut down. Councilman Frese added that he felt that the noise ordinance time should be moved back to 10:00 pm from midnight. Vice Mayor Mason stated that if the noise ordinance was to be changed or a lighting ordinance established, it should be done beforehand.

Town Attorney Poulson stated that he, the Town Manager and the Ordinance Committee needed to formulate a draft ordinance and then bring the draft to Council for review. Council then needed to send the draft to the Planning Commission for review and then schedule a public hearing. Action may then be taken after the public hearing.

Mayor Tarr asked Town Manager West to give Town Attorney Poulson a copy of all of the information regarding the go-cart matter so that they could meet with the Ordinance Committee to formulate the draft by February 1<sup>st</sup>.

## **10. Council Nominations/Appointment to Chincoteague Recreational and Convention Center Authority.**

Mayor Tarr opened the nominations for the vacant seat on the Chincoteague Recreational and Convention Center Authority. Councilman Howard nominated Mr. William Fallon

for appointment to the Chincoteague Recreational and Convention Center Authority for a 4-year term. Mayor Tarr closed the nominations.

Ayes – Conklin, Frese, Howard, Mason, Richardson

Nays – None

Absent – Wolffe

### **11. Christmas Decoration Program Results.**

Councilwoman Conklin announced the 2003 Christmas Decoration Program results as follows:

#### **WINNERS**

Mrs. June Mohr, 6593 Church Street	\$100 Savings Bond
Mr. Robert Daisey, 7538 Beebe Road	\$50 Savings Bond
Mr. Ernest Dale Holston, 7236 Olga Drive	\$50 Savings Bond
Mrs. Juanita Turlington, 6238 Poplar Street	\$50 Savings Bond
Robert & Mary Kuhns, 5246 Main Street	\$50 Savings Bond
Mrs. Nancy Rosenberger, 7297 Sunset Drive	\$50 Savings Bond
Ms. Arlene Shreves, 4169 Ridge Road	\$50 Savings Bond

#### **HONORABLE MENTIONS**

Mr. Richard Conklin, 3775 Main Street	Certificate
Mr. James L. Stanfield, 7019 Pine Drive	Certificate
Mrs. Ginger Birch, 7079 Bunting Road	Certificate
Mr. Arturo Vigil, 5300 Meadow Drive	Certificate
Mr. Dino Johnson, 3510 Ridge Road	Certificate
Mr. Harry S. Thornton, 6195 Taylor Street	Certificate

#### **HONORABLE MENTIONS – COMMERCIAL**

1848 Island Manor House, 4160 Main Street	Certificate
Bill's Seafood Restaurant, 4040 Main Street	Certificate

Councilwoman Conklin also thanked the Downtown Merchants for decorating their businesses and the Public Works Department for putting up the flags, banners and decorations in town. Councilman Howard thanked Councilwoman Conklin and the judges for their work and efforts in the program.

### **12. Authorization of Lease Agreement for the Hallie Whealton Smith Trail.**

Town Manager West stated that the following lease agreement was necessary prior to further construction of the Hallie Whealton Smith nature trail on School Board property. The lease will satisfy the grantors of the project money, the Department of Conservation and Recreation, and the School Board.

THIS LEASE AGREEMENT, made this 1<sup>st</sup> day of December, 2003, by and between **THE COUNTY SCHOOL BOARD OF ACCOMACK COUNTY, VIRGINIA**, Lessor (hereinafter "School Board"), and **THE TOWN OF CHINCOTEAGUE, a Virginia Municipal Corporation**, Lessee (hereinafter "Town").

School Board, pursuant to the authority contained in §22.1-129B of the Code of Virginia of 1950, as amended, demises and leases to Town, and Town leases and takes from School Board the hereinafter described real estate upon the terms and conditions hereinafter contained:

**SECTION ONE  
DESCRIPTION OF PREMISES**

All that certain tract or parcel of land situated at Chincoteague, Islands Magisterial District, Accomack County, Virginia, shown as "Nature Trail," including the 20.00' trail easement, parking area and observation area(s) shown on the plat entitled, "SURVEY OF PART OF PROPERTY OF ACCOMACK COUNTY SCHOOL BOARD AND PART OF PROPERTY OF TOWN OF CHINCOTEAGUE SHOWING LOCATION OF PROPOSED NATURE TRAIL LOCATED ON THE ISLAND OF CHINCOTEAGUE THE ISLANDS DISTRICT, ACCOMACK COUNTY, VIRGINIA, MADE FOR TOWN OF CHINCOTEAGUE PUBLIC WORKS," made by Global Mapping Systems, Inc., which plat is attached to and made a part of this Lease Agreement.

**SECTION TWO  
TERM**

The term of this Lease Agreement shall be for a period of twenty-five (25) years beginning December 1, 2003 and ending on November 30, 2028, at midnight.

**SECTION THREE  
PAYMENT**

No rental by Town shall be payable to School Board. School Board shall have the right to use said Nature Trail as hereinafter provided and any improvements constructed thereon shall be retained by School Board at the termination of this Lease, at its option. Such shall be deemed to be sufficient legal consideration to the School Board for this Lease.

**SECTION FOUR  
USE OF PREMISES AND IMPROVEMENTS**

The Town shall use the subject premises as a Nature Trail for Town visitors, inhabitants, and other guests and invitees. Town shall not use or permit the subject property to be used for any other purposes, except with the express written consent of the School Board. The Town shall have the right to construct said trail and the other improvements shown on said Plat to be used in conjunction therewith. Any further improvements or alterations shall be submitted, in writing, to the School Board Superintendent, or his designee, for written approval prior to construction.

The Town expressly agrees to maintain said premises, and the improvements thereon, in good repair and condition during the term of this Lease, as well as a clean and orderly condition, which shall include the removal of all debris and trash from the premises on a regular basis.

At the termination of this Lease by time or otherwise, all improvements shall, at the option of the School Board, remain on said premises and become the property of the School Board. In the event the School Board does not elect to accept such improvements, such improvements or any parts thereof, as designated by the School Board, shall be removed by the Town within sixty (60) days of termination.

**SECTION FIVE**

## **COMPLIANCE WITH LAWS**

Town, at Town's costs and expense, shall promptly comply with all laws, orders, and regulations of Federal, State, and Town, and with any direction of any public officer or officers, pursuant to law that shall impose any such regulation, order or duty upon Town with the respect to the demised premises or the use and occupation of the demised premises as part of the Town operation.

## **SECTION SIX RULES AND REGULATIONS**

Town shall develop and implement reasonable rules and regulations for access to and the use of said Nature Trail, and the related facilities, by those persons utilizing same under Town auspices. Such rules and regulations shall contain reasonable time provisions, as well as provisions designed to maintain said Nature Trail and the related improvements, in a good and orderly condition and in its natural state.

## **SECTION SEVEN SUBLETTING AND ASSIGNMENT**

Town shall not sublet the demised premises or any portion of the demised premises, nor shall this Lease Agreement be assigned by Town, without the prior, express, and written consent of School Board, which consent School Board shall not be obligated to grant.

## **SECTION EIGHT USE OF PREMISES BY SCHOOL BOARD**

School Board, its officers, agents, employees, and invitees shall have the right to use said premises and all improvements thereon, but such use shall be in compliance with the rules and regulations promulgated by the Town whenever feasible.

## **SECTION NINE PEACEFUL POSSESSION**

School Board covenants and agrees that Town, so long as it performs its covenants and conditions herein, shall and may peacefully have, hold, and enjoy the demised premises for the stated term, with Town to deliver up the premises at the end of said term in good repair and condition.

## **SECTION TEN UTILITIES**

School Board shall be under no obligation to provide utilities to the demised premises. The cost of all utilities, if any, shall be the responsibility of Town and there shall be apportionment thereof by reason of any use by School Board.

## **SECTION ELEVEN INDEMNITY AND LIABILITY INSURANCE**

Town agrees to indemnify School Board from all claims and liability for losses of or damage to property, or injuries to persons occurring in or about the demised premises, except such claims, liability, or damages resulting from use of said premises by School Board and its officers, agents, employees and invitees, and which are determined to be the result of the acts or omissions of School Board, its officers, agents, or employees.

Town, at Town's own cost and expense, shall procure liability insurance in such limits as may be approved by School Board, covering Town and School Board against any and all actions, suits, damages, loss, claims, and judgments arising out of any property damages or injuries that may be suffered by persons lawfully using the demised

premises. A certificate of such insurance shall be immediately furnished to School Board upon issuance of the insurance policy or policies.

**SECTION TWELVE  
INSPECTION BY SCHOOL BOARD**

School Board shall have the privilege of inspecting the demised premises at any reasonable time and upon reasonable notice during the duration of this Lease Agreement.

**SECTION THIRTEEN  
EMINENT DOMAIN, AND OTHER USES, AND RIGHT TO ENCUMBER**

If all or any part of the property on which the demised premises are located shall be taken by public or quasi-public authority under any power of eminent domain or condemnation, this Lease Agreement, at the option of School Board, shall terminate.

School Board shall have the further right during the term of this lease to encumber, pledge, or otherwise secure with said real estate any obligation that it may have relative to the repayment of any funds that it may borrow for capital improvements, or other purposes relative to any of its real estate. This Lease Agreement shall be expressly deemed subordinate to any such encumbrance, pledge, or other instrument securing any such indebtedness without the necessity of the execution of any subordination instruments by School Board and/or Town.

**SECTION FOURTEEN  
DEFAULT BY TOWN**

Should Town default in any of the items and conditions of this Lease Agreement, specifically including, but not limited to, maintaining said premises in a good and sanitary condition, School Board may give Town written notice of such default, and if upon the passage of forty-five (45) days after such notice Town has failed to comply with or remedy the default, then this Lease Agreement, at the option of School Board, shall terminate without further notice.

Failure of School Board to act or insist upon the strict performance of any covenant or condition of this Lease Agreement shall not prevent a subsequent act that would have originally constituted a violation from having the force and effect of an original violation, nor shall Town's failure to act constitute a waiver of any then existing breach.

**SECTION FIFTEEN  
GOVERNING LAW**

It is agreed that this Lease Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Virginia.

**SECTION SIXTEEN  
NO WAIVER**

The failure of either party to this Lease Agreement to insist upon the performance of any of the terms and conditions of this Lease Agreement, or the waiver of any breach of any of the terms and conditions of this Lease Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

**SECTION SEVENTEEN  
EFFECT OF PARTIAL INVALIDITY**

The invalidity of any portion of this Lease Agreement will not and shall not be deemed to affect the validity of any other provision, In the event that any provision of this Lease Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

**SECTION EIGHTEEN  
ENTIRE AGREEMENT**

This Lease Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party except to the extent incorporated in this Lease Agreement.

**SECTION NINETEEN  
MODIFICATION OF AGREEMENT**

Any modification of this Lease Agreement or additional obligation assumed by either party in connection with this Lease Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

**SECTION TWENTY  
NOTICES**

For all purposes of this Lease Agreement, notices to the Lessor and Lessee shall be as follows:

<u><b>Lessor</b></u>	<u><b>Lessee</b></u>
Accomack County School Board County Office Building Accomac, VA 23301	Town of Chincoteague 6150 Community Drive Chincoteague, VA 23336

Vice Mayor Mason motioned, seconded by Councilwoman Conklin to adopt the lease agreement as presented. Unanimously approved.

**13. *FY 2003 Financial Report.***

Town Manager West stated that Town Auditor Leatherbury met with the Budget and Personnel Committee on December 20<sup>th</sup> and discussed the Financial Report for the Town for the fiscal year ending June 30, 2003. Town Manager West explained that the \$700,000 negative balance on the Schedule of Expenditures resulted from the payoff of two bonds, and that that had improved the Town's financial standing. Town Manager West added that Town Auditor Leatherbury's recommendations for the future included a plan on how to improve the Capital Improvement Plan and the Town's required compliance with a new accounting standard, GASB 34. Town Auditor Leatherbury pledged to help the Town with both of these recommendations.

**14. *Acquisition of Services for Subdivision Ordinance Review.***

Vice Mayor Mason explained that in several meetings, the Public Works Committee had considered changes to the subdivision ordinance, including roads, septic requirements and drainage. In many instances, the discussion focused on roads. The Committee felt that the Town would benefit from a review of the entire ordinance by a planner or attorney specializing in such work. Town Manager West stated that through the Virginia

Municipal League, he had contacted an attorney who was currently performing a brief review of the Town's ordinance.

Councilman Howard motioned, seconded by Councilwoman Conklin to pursue outside services to review the Town's subdivision ordinance. Unanimously approved.

### **15. Other Matters.**

- Public Works Director Jeffries thanked the Mayor and Council for remembering the Staff at Christmastime.
- Town Manager West stated that he had asked Council a few months ago to consider a gift of a small piece of land to the Island Library. He stated that the gift of land would probably require a public hearing, but he would review the matter with Town Attorney Poulson. Town Manager West also stated that the A-NPDC requested the Town's support of a grant application for a Hazard Mitigation Plan for the entire Eastern Shore. Town Manager West asked Council to consider approving him to write the A-NPDC a support letter for their grant application.
- Councilwoman Conklin stated that she enjoyed the Christmas gathering with the employees and hoped it would become an annual event.

### **16. Recess of Meeting.**

Councilman Frese motioned, seconded by Councilwoman Conklin to recess the meeting until January 15, 2004. Unanimously approved.

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Mayor

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Town Manager

## **MINUTES OF THE JANUARY 15, 2004 CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

### **Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
Glenn B. Wolfe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:33 p.m.

**2. Invocation.**

Councilman Howard offered the invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Draft Amendments to the Noise Ordinance and Section 2.8 of the Zoning Ordinance.**

Mayor Tarr stated that in the January 5<sup>th</sup> Council meeting, the Ordinance Committee recommended that Council consider eliminating the phrase, *internal combustible engine*, under Section 2.8 of the Zoning Ordinance. In addition, because of the elimination of this phrase, the Committee felt that changes should possibly be made to the Noise Ordinance.

Town Manager West presented drafts of the amendments to the Zoning Ordinance and the Noise Ordinance. He added that Town Attorney Poulson was asked whether a change to the Zoning Ordinance needed to be reviewed by the Planning Commission. Town Attorney Poulson referred Town Manager West to §15.2-2285 of the Code of Virginia that specifically details that all amendments to a zoning ordinance are to be referred to the Planning Commission for a recommendation. In addition, according to the same section, Council may prescribe a shorter time in which the Planning Commission is to act.

Councilman Frese stated that he felt it was unfair to send the matter back to the Planning Commission as the Commission had already reviewed it several times.

Councilwoman Richardson asked if [someone] could have electric go-carts. Mayor Tarr answered that electric go-carts were currently permitted and stated that amusements were only permitted in districts C-1 and C-2.

Vice Mayor Mason stated that since the potential for litigation was high if the Council chose not to amend the ordinance, he felt Council's action should be in accordance with the rules and regulations of the Code of Virginia, as interpreted by Town Attorney Poulson.

Councilman Wolffe stated that he felt it was never right to single go-carts out under the noise ordinance if this was the only reason they were prohibited. He asked Council to consider that if go-carts were allowed under the amusements section of the Zoning Ordinance, should setbacks be created to protect adjoining property owners? If so, should the setbacks be different distances for adjoining commercial properties as opposed to adjoining residential properties, such as 100 feet and 50 feet, respectively?

Councilwoman Conklin stated that she felt it was not fair to put restrictions on a particular use. Councilman Frese agreed with Councilwoman Conklin. Councilman Wolffe argued against trying to change zoning for one particular area on the Island. He stated that the change would affect the whole Island.

Vice Mayor Mason stated that he felt the Noise Ordinance time should be changed from 12:00 midnight to 10:00 pm. Councilwoman Conklin disagreed because she felt the current Noise Ordinance was effective since there was only one noise complaint during the past summer. Councilman Frese agreed with Vice Mayor Mason that the time should be changed to 10:00 pm.

Councilman Howard stated that he felt the amusement section under the Zoning Ordinance was discriminatory and that the phrase, *internal combustible engine*, should be taken out. He added that the time of the Noise Ordinance could be changed to 11:00 pm as a compromise.

Mayor Tarr stated that the Noise Ordinance should not be changed just because a new use was being introduced. He added that the Planning Commission, Council and the Ordinance Committee had discussed the matter of permitting go-carts several times since April 25, 2003. Mayor Tarr stated that a decision needed to be made.

Councilman Frese motioned, seconded by Councilwoman Conklin to accept the Ordinance Committee's recommendation to remove the phrase, *internal combustible engine*, from Section 2.8 of the Zoning Ordinance and to send this to the Planning Commission and schedule a joint public hearing with the Planning Commission during the February 19, 2004 recessed Council meeting. Possible changes to the Noise Ordinance would also be discussed. Unanimously approved.

## **5. Support for Development of Hazard Mitigation Plan.**

Town Manager West stated that the Accomack-Northampton Planning District Commission (A-NPDC) was in the process of preparing a Hazard Mitigation Plan. He stated that the A-NPDC requested that Council write a letter of support for their Hazard Mitigation Grant application and contribute \$500 in staff time to the project. Town Manager West added that the A-NPDC requested that the Town of Chincoteague appoint two employees, Bryan Rush and J. Wesley Jeffries, to the Hazard Mitigation Planning Committee for monthly meetings from February to November 2004.

Councilwoman Conklin motioned, seconded by Councilman Wolffe to support the A-NPDC's efforts in the development of a Hazard Mitigation Plan. Unanimously approved.

## **6. Resolution: Demonstration Grant Application.**

Town Manager West stated that Council was required to adopt the following resolution to apply for additional demonstration grant funds for the continuation of the trolley system.

## RESOLUTION

**BE IT RESOLVED** by the Chincoteague Town Council that the Chincoteague Town Manager is authorized, for and on behalf of the Town of Chincoteague, hereafter referred to as the **PUBLIC BODY**, to execute and file an application to the Department of Rail and Public Transportation, Commonwealth of Virginia, hereafter referred to as the **DEPARTMENT**, for a grant of financial assistance in the amount of \$94,900 to defray the costs borne by the **PUBLIC BODY** for public transportation purposes and to accept from the **DEPARTMENT** grants in such amounts as may be awarded, and to authorize the Chincoteague Town Manager to furnish to the **DEPARTMENT** such documentation and other information as may be required for processing the grant request.

The Chincoteague Town Council certifies that the funds shall be used in accordance with the requirements of Section 58.1-638.A.4 of the Code of Virginia, that the **PUBLIC BODY** will provide funds in the amount of \$4,995, which will be used to match the state funds in the ratio as required in such Act, that the records of receipts of expenditures of funds granted the **PUBLIC BODY** may be subject to audit by the **DEPARTMENT** and by the State Auditor of Public Accounts, and that funds granted to the **PUBLIC BODY** for defraying the expenses of the **PUBLIC BODY** shall be used only for such purposes as authorized in the Code of Virginia. The undersigned duly qualified and acting Clerk of the **PUBLIC BODY** certifies that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Chincoteague Town Council held on the 15<sup>th</sup> day of January, 2004.

\_\_\_\_\_  
James M. West, Clerk of Council

Date: \_\_\_\_\_

Councilman Howard motioned, seconded by Councilwoman Conklin to adopt the above resolution required for the Demonstration Grant application for the trolley system. Unanimously approved.

### **7. Request for Project Support.**

Mayor Tarr stated that BIC, Inc., Raymond and Donald Britton, applied for a permit to fill in 3,700 square feet of wetlands between BIC, Inc.'s two properties on South Main Street in order to build a 57-foot slip marina. Mr. Raymond Britton proposed a mitigation plan that offered a conservation easement of 22,050 square feet of upland adjacent to Hallie Whealton Smith Drive, of which 3,700 square feet would be lowered and wetland vegetation replanted to replace the square footage filled in on Main Street. In addition, the Town would be permitted to use the property as an extension of the proposed Hallie Whealton Smith Nature Trail.

Councilwoman Conklin motioned, seconded by Councilman Howard to write a letter for BIC, Inc. to be addressed to the Virginia Marine Resources Commission (VMRC) in

support of their marina project on South Main Street as well as the conservation easement adjacent to Hallie Whealton Smith Drive. Unanimously approved.

**8. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be on February 2, 2004. Councilman Howard motioned, seconded by Councilman Frese to adjourn the meeting. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE FEBRUARY 2, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
Glenn Wolfe, Councilman

**Council Members Absent:**

Nancy Conklin, Councilwoman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:37 p.m.

**2. Invocation.**

Councilman Howard offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Approval of Minutes of the January 5, and January 15, 2004 Council Meetings.**

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

**5. Council Information Items.**

- Vice Mayor Mason asked Town Manager West if he had received a response from the Attorney regarding subdivisions. Town Manager West stated that he had not.

- Councilman Wolffe asked if the Town could send a letter to Mr. Waverly Gregory, Jr., Chief of the Bridge Administration Section of the Coast Guard, stating Council's reasons for requesting the scheduled bridge openings. Mayor Tarr stated that a letter could be sent.
- Town Manager West stated that the Town had ordered a plaque to be displayed on the main bridge to Assateague and added that he did not foresee a problem with the National Park Service regarding the installation of the plaque.
- Town Attorney Poulson asked if the proposed change to the Amusement section of the Zoning Ordinance had been referred to the Planning Commission verbatim. Mayor Tarr stated that it was referred verbatim and that the Planning Commission would meet on February 10, 2004 to discuss the matter.

## **6. Committee Reports.**

- **Public Works Committee-** Vice Mayor Mason stated that the Committee met on January 13<sup>th</sup> and discussed the Public Service Authority (PSA) proposal with respect to NASA. The Committee reviewed proposals from Whitman, Requardt & Associates to do an assessment on the required maintenance of the two water towers. Vice Mayor Mason stated that the Committee also discussed drainage proposals for Wayne Road. Councilman Wolffe asked Vice Mayor Mason why the request to operate the lights on Maddox Boulevard in a flashing mode during the winter months was denied. Vice Mayor Mason responded that the request was denied due to a number of public safety issues. Councilman Wolffe also asked Vice Mayor Mason for an update on the Skate Park. Vice Mayor Mason responded that the Committee has discussed having the Skate Park on Town property adjacent to the Public Works building.
- **Cemetery Committee-** Councilman Howard stated that the Committee met in January and discussed having a vault company repair headstones and monuments in the local cemeteries free of charge. He added that the Committee also discussed cleaning up the Holly Ridge Cemetery off of North Main Street adjacent to Misty Meadows on February 21, 2004. Councilman Howard announced that the next Committee meeting would be on February 24<sup>th</sup>.

## **7. Public Participation.**

- Mr. Mike Meyers discussed the noise/light pollution matter with reference to deck bars, scrolling signs and go-carts. Mr. Meyers requested that Council deny the request to allow go-carts or other internal combustible engines on the Island. Mr. Meyers "proposed that Council develop competing long-ranged plans for Chincoteague that addressed the options and allow people to vote for their choice by means of a referendum".
- Mrs. Bev Fleming agreed with Mr. Meyers and asked Council to consider all that he said.

## **8. Winter Storage Policy: Curtis Merritt Harbor.**

Vice Mayor Mason explained the proposed winter storage policy. He listed the storage rates for slip- and non-slip holders. Vice Mayor Mason indicated the dry storage period, stated that the minimum storage charge would be one month, and added that payment for

the total storage period would be due on the first day of storage. Vice Mayor Mason advised that the boat owner would be responsible for the vessel while in storage and that the owner must provide keel blocks and jack stands. He added that drop cloths must be used to protect the pavement when painting or scraping the boat and that all rubbish must be removed daily from the work area.

Councilman Wolffe asked what would happen if the boat was removed early or if the owner didn't know how long the boat would be stored. Vice Mayor Mason stated that the owner would receive a rebate within one-half month intervals.

Mayor Tarr asked how the rates were established. Vice Mayor Mason stated that three locations were surveyed regarding the rates and added that he felt the rates were very competitive. Mayor Tarr asked if a penalty needed to be assessed if boats were not removed by April 15th. Town Attorney Poulson recommended assessing a penalty to encourage the owner to remove the boat, and if not successful, bring action against the owner in lower court. Mayor Tarr suggested assessing a \$10 per day penalty for failure to remove the boat by the end of the storage period. Councilman Wolffe suggested assessing a \$20 per day penalty and asked how long the waiting period would be before court action was taken. Town Attorney Poulson recommended that the policy state that the *additional charge* would be \$10 per day until the boat was removed voluntarily or ordered to do so by the court.

Councilman Howard asked if the owner would be allowed to work on the boat where it was being stored. Vice Mayor Mason stated that the owner would be allowed to work on the boat where it was stored, but would be required to use a drop cloth if the boat was on the pavement. Councilman Howard also stated that the penalties seemed strict for failure to clean up the work area daily. Councilman Wolffe suggested assessing the initial \$50 penalty if action for cleanup was not taken within 24 hours and then adding an additional charge of \$25 per day for up to three days. He suggested revoking Harbor privileges as the ultimate penalty. Councilman Wolffe also asked if the Town should allow boats to be worked on at the Harbor. Councilmen Frese and Howard stated that working on the boats should be allowed.

Town Attorney Poulson stated that the policy needed a provision to take steps to contain all debris so that it would not run into the Harbor. He also stated that the lease provisions should include that it was not the responsibility of the Harbor to safeguard boats during storms. Mayor Tarr added that not only should the debris be contained, but it also should be the responsibility of the boat owner to clean up any debris that ran into the Harbor.

It was the consensus of Council to have the Harbor Committee review the recommended changes to the proposed Harbor Policy for presentation to Council at a later date.

## **9. Authorization to Purchase a New Telephone System.**

Town Manager West stated that staff prepared a request for proposals for a new telephone system to replace the current system and to allow for voice mail capabilities. Two proposals were received; however, Tele-Plus fully and completely responded to all

requirements of the proposal, provided a more competitive price, provided reasonable maintenance costs schedules and is a certified installer of the system manufacturer. Tele-Plus's proposed cost of \$13,944.00 was within the FY 2004 budget amount of \$22,000.00. Therefore, staff recommended that Council allow the award to go to the low bidder.

Councilman Wolffe motioned, seconded by Councilman Frese to accept the low bid and award the contract to Delmarva Tele-Plus for the new phone system. Unanimously approved.

### ***10. Authorization to Develop a Geographic Information System and the Award of Relevant Services.***

Town Manager West explained the geographic information system (GIS) as a data integration system that organized many and varied data points by linking them to a geographic reference such as a parcel of land or a road. He added that it was a useful tool to document the Town's utilities. Town Manager West stated that staff had prepared a request for proposals for consulting services to help develop the system and had received two responses. The proposal from WorldView Solutions was more encompassing and inclusive than that of the other firm's proposal and called for phase funding of \$75,000 for the first year, and \$84,000 and \$87,000 respectively for the following years. Town Manager West explained that the budgeted amount for the first year was \$68,000, but stated that the shortfall could be handled as overrun or added to the following year in the upcoming budget.

Councilman Wolffe motioned, seconded by Councilman Frese to authorize the execution of an agreement with WorldView Solutions for the phased development of a Geographic Information System over three years. Unanimously approved.

Vice Mayor Mason thanked those who participated in the research and interviews for the GIS.

### ***11. Authorization to Develop a Plan and Agreement to Replace the Black Narrows and Chincoteague Channel Water Supply Main.***

Town Manager West stated that because of problems experienced with hanging the water supply pipe between bridge supporting beams in the design of the previous four bridges, he advised the Virginia Department of Transportation (VDOT) that the Town wanted an alternate method of replacement. Town Manager West requested that VDOT consider directional boring the replacement pipe. VDOT felt that if they could see a reasonable proposal, they would consider the alternate installation method. The Public Works Committee asked Whitman, Requardt & Associates to prepare such a proposal which was forwarded to VDOT. Town Manager West stated that VDOT was now prepared to substitute directional boring for their proposal and pay the cost of the replacement of the pipe on Black Narrows bridge up to \$973,000. Town Manager West stated that because of the economy of scale, the Public Works Committee and staff would also like to

consider directional boring of the Channel as well. Town Manager West added that negotiations with VDOT were necessary to determine the share of the cost that should be attributed to replacement of the Black Narrows Pipeline.

It was the consensus of Council to authorize negotiations with VDOT toward an agreement for them to pay the cost of directional boring of the Black Narrows bridge replacement pipe and to authorize staff and the Public Works Committee to proceed with an Invitation for Bid (IFB) for the directional boring of both crossings.

## **12. Other Matters.**

- Public Works Director Jeffries reported that the Department had a new Case backhoe.
- Town Attorney Poulson stated that the Town lease with the School Board for the Hallie Whealton Smith Trail had been delivered.
- Councilman Howard stated that he did not agree with the policy of the Chincoteague Center to allow alcohol or gambling tables to be used at that establishment on Town property. Councilman Wolffe disagreed with Councilman Howard. He stated that Memorial Park was an open park, so alcohol should not be used there. However, the events at the Chincoteague Center that included alcohol were paid events with invited guests, therefore being closed situations. Councilman Wolffe felt that the proximity of the Police Department had a positive impact on someone thinking twice before driving while under the influence of alcohol.
- Mayor Tarr commented on the remodeling of the Chincoteague Combined School. He stated that it was the intent of the majority of the School Board to keep the children on the Island and to keep the Chincoteague Combined School open.

## **13. Recess of Meeting.**

Councilwoman Richardson motioned, seconded by Councilman Howard to recess the meeting until February 19, 2004. Unanimously approved.

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Mayor

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Town Manager

### **MINUTES OF THE FEBRUARY 19, 2004 CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

#### **Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman

Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman  
Glenn B. Wolffe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:32 p.m.

**2. Invocation.**

Councilman Howard offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Temporary Recess of Meeting.**

Mayor Tarr announced that due to the large attendance, there would be a short recess and the meeting would reconvene at the Community Center. The meeting reconvened at 7:55 pm. Mayor Tarr began the meeting by explaining the agenda. He explained that there would be a presentation by a noise expert, followed by public hearings regarding the potential of changing the noise ordinance since the noise ordinance was so closely related to the issue of whether or not Council would permit go-carts on the Island. There would be two public hearings. One would be a joint public hearing with the Planning Commission and the other would be a public hearing to change the noise ordinance.

**5. Presentation: The Noise Consultancy.**

Mayor Tarr announced that two members of Council, Vice Mayor Mason and Councilman Howard, requested that Mr. Eric Zwerling, Director of Rutgers University's Noise Assessment Research Center, be added to the agenda so that he could give his presentation on noise. Mrs. Jane Wolffe introduced Mr. Zwerling.

Mr. Zwerling explained his expertise and stated that he had trained 3,000-4,000 officers. He stated that he took the ambient noise reading in the Town and measured the average noise level to be about 40 decibels. Traffic caused the decibels to increase to about 53. Mr. Zwerling stated that the noise ordinance in the Town was more lenient than some large cities in New Jersey. He recommended that a study be performed before Council made any changes to the noise ordinance. He explained the effects of distance on attenuating sound. He also educated the Council and the public on barrier walls and their effect on sound and how sound can actually bend around the walls or pass through the cracks in the walls. He added that trees don't necessarily attenuate sound because the sound can pass through them. Mr. Zwerling read from the Town's Comprehensive Plan that the Town's goals included having a 'quiet community'. Mr. Zwerling stated that the quietest Honda engines were about 75 decibels. He added that ten engines would be about 85 decibels. Mr. Zwerling stated that you would have to be 130 feet away from the engines to get down to the maximum daytime noise level of 70 decibels and 230 feet away from the engines to get down to the maximum nighttime noise level of 65 decibels.

Mr. Zwerling then moved outside and gave Council and the public a demonstration of what 70 decibels would sound like, which included an audio tape of a racetrack. The reading was taken at approximately 100 feet away from the source.

Mayor Tarr thanked Mr. Zwerling for his presentation. He stated that he would allow Council to ask Mr. Zwerling questions, as well as allow Mr. Kevin Martingayle, attorney for Mr. George Katsetos and Mr. Steve Katsetos, to ask him questions.

Mr. Martingayle began a line of questioning similar to a cross-examination. Mayor Tarr requested that Mr. Martingayle cease that particular type of questioning. Mayor Tarr asked Council and Staff if they had any questions. Town Attorney Poulson asked why there were two speakers utilized for the outside demonstration. Mr. Zwerling stated that the two speakers were used to recreate a real-life situation, such as stereo.

**6. *Public Hearing to Receive Comments on Amending Chapter 22, Article II of the Town Code (Noise Ordinance) and Joint Public Hearing of the Town Council and the Planning Commission to Receive Comments on Amending Article II, Section 2.8 of Appendix A-Zoning of the Town Code (Internal Combustion Engines in Conjunction with Amusement Devices).***

Mayor Tarr opened both public hearings at 8:55 pm. Mayor Tarr asked Town Manager West to read the rules of participation in the public hearings.

- Mr. Mike McGee stated that the Town got a noise meter about four years ago in order to perfect how the noise ordinance would be enforced. He felt that if Mr. Steve Katsetos abided by the law and within the parameters of the noise ordinance, then this type of business should be permitted.
- Mr. Joe Justice stated that he had a rental business nearby and requested that Council consider the health and welfare of the citizens that live nearby. He felt that the opening of a go-cart track would adversely impact them.
- Mr. Steven Riggio stated that he lived on Pine Drive and asked Council to consider carefully that what they were doing for the Katsetos family would also allow the go-carts in every C-1 and C-2 district. He asked Council what would stop the explosion of go-cart tracks on the Island. He added that this was not the kind of tourism that was wanted on Chincoteague.
- Mr. Jerry Byelich stated that he lived on Chicken City Road and felt that if the go-carts were done within the parameters of the law, they should be allowed.
- Ms. Carole Marchesano stated that she moved here because it was peaceful and quiet. She stated that she was disturbed by the ever increasing decibel levels and proposed that Council reduce the level of decibels, but grandfather those businesses that were already in existence. Ms. Marchesano also proposed a referendum to gather more comments and let the people vote on whether the go-carts should be allowed or not.
- Ms. April Stillson stated that she agreed with the referendum proposed by Ms. Marchesano. She stated that her business was adjacent to a golf course that would also like to install a go-cart track. Ms. Stillson added that customers dined on the outdoor

deck of her restaurant and that the go-carts would affect her business. She stated that the Town would lose meals tax money, as well as the quaintness and quietness of the Island.

- Mr. Jim Swift stated that the issue was not the noise ordinance, but whether the Town wanted businesses and economic growth. He stated that it was not quaint here in the summer and that our economy was built on tourism. He supported the go-carts because he thought businesses should thrive.
- Dr. John Peeters stated that he moved here because of the quiet. He asked why the decision wasn't being made when all of the residents were here, instead of this time of year. He also supported a referendum.
- Gordon Vincent, attorney for Edward Tull, was concerned that the amendment in the noise ordinance changed the location in which the reading would be taken. He thought that this would be very difficult to enforce. He added that Council needed to be aware that the change would apply to all properties in the C-1 and C-2 districts, and that Council should not count on the noise ordinance to enforce it. Mr. Vincent listed other concerns, such as fumes, transportation of fuels, and other types of amusements (dirt bikes, demolition derbies, etc.). He encouraged Council to take more time to review the matter before they made their decision.
- Mr. Kevin Martingayle, attorney for the Katsetos family, stated that he had appeared before Council six times, and hardly anyone showed up. He stated that they had received more support to amend the ordinance to allow the go-carts. Mr. Martingayle stated that there were too many laws now, and that this particular ordinance was discriminatory. He stated that go-carts were quieter now, and that the Town had a means of measuring the noise and enforcing it. Mr. Martingayle stated that a conditional use permit would be unfair and could be arbitrary. He added that people wanted less government. Mr. Martingayle stated that he wanted the Amusement Ordinance redefined as the amendment allowed. He felt that there were many remedies built in to the ordinance to enforce the noise.
- Mr. Les Bowmann asked Council to consider something for the kids to do. He stated that he was in support of the go-carts.
- Mr. Patrick Smith stated that the Island was built on the seafood industry, but that it was gone now. He stated that if go-carts could be run within the limits of the law, then they should be allowed.
- Mrs. Nancy Payne stated that the well being, health and safety of the people in the residential areas should be the primary concern of Council. She suggested hiring a professional to gather public comment and make plans for the future. Mrs. Payne added that the Town needed to stop governing by crisis management and that Council should be more proactive and less reactive.
- Ms. Jody Simpson stated that go-carts would give the kids something to do besides drugs and alcohol. She stated that this was a resort town that thrived on tourism; Chincoteague was no longer a quaint fishing village.
- Mrs. Lynne Ballerini stated that she opened Wack-A-Doo and was surprised at how much a place for the kids to have something to do was in demand. She added that the Town gained from tourism and that this was another tourist business. She questioned how it could not be right.

- Mrs. Kay Lewis stated that her business had diesel ambulances that were started early in the morning, and she never had a complaint. She asked how the go-carts could be a problem. She added that kids needed something to do.
- Mr. Rob Quillen stated that this was a tourist community and no longer a fishing village. He stated that the Town needed attractions for tourists and new guarantees for revenue based on tourism.
- Ms. Amanda Sheppard stated that she loved the Island and that the spirit of the Island lived within its residents. She stated that the Island would survive the decision regardless of what the outcome.
- Mrs. Carol Sue Winder stated that she opposed the go-carts. She stated that she worked at a motel and that the guests continuously told her how quiet and quaint the Island was. She stated that the go-carts would take that quiet away.
- Mr. Mike Perez stated that he lived on Vacation Park Lane and had moved here for the peace and quiet. He stated that if people wanted that type of entertainment, they should go to Ocean City.
- Mr. Billy Reed stated that he was against the go-carts, not Mr. Steve Katsetos or Mr. George Katsetos.
- Mrs. Ann Swift asked Council if anyone even knew what the noise level would be of the go-carts that Mr. Steve Katsetos would have. She wanted to know if the level had ever been measured.
- Mr. Matthew Reed stated that his father had invested a lot of money in his project located adjacent to the proposed go-cart location and that the project would be a total loss if the go-carts were allowed.
- Mr. Justin Byelich stated that the go-carts were quieter than many existing noises on the Island.
- Mr. Raymond Britton, Jr. stated that the current noise ordinance was working. He asked why Council was trying to fix something that wasn't broken.
- Mrs. June Mohr stated that she was concerned about the effect go-carts would have on the Island and wanted Council to have a written comment period in which to receive letters on the issue.
- Mr. Jesse Speidel asked if the bass levels could also be measured and/or considered when reviewing the noise ordinance.

Mayor Tarr closed the public hearing at 9:55 pm. Mayor Tarr asked Planning Commission Chairman, Mr. Michael Tolbert, for comments from the Commission.

Chairman Tolbert closed the Planning Commission's portion of the public hearing.

## ***7. Discussion and Consideration of Approval of Amendments.***

Planning Commission Chairman Tolbert invited comments from the Commission.

- Mr. David Ross thanked the noise expert for coming and for the presentation. He stated that the duration of the sound was as important as the level of the sound. He stated that he had submitted information to the Council on the effects of noise on property

values. For each ten-decibel increase in noise, the value of the property was reduced by five percent. Mr. Ross stated that he felt that Council was not anti-business. He also stated that Council had the ability to measure and control growth and asked Council to preserve our way of life.

- Mr. Eddie Thornton stated that he felt the real nuisances were mopeds, scooters and jet-skis and that the Town had never done anything to control them. He felt that Council needed to act on the matter and not delay it any longer.
- Mrs. Gladys Baczek stated that she ran a rental business and added that tourists come here for peace and quiet and for the beach and not for other amusements.
- Mrs. Mollie Cherrix urged Council to act on the matter and asked for Council's support for the change in the amendment.
- Mrs. Jane Wolffe stated that she dealt with tourists every day and added that her guests would not come to a noisy Island; therefore, her business would be ruined. She asked if the Town was ready to accept such losses from the collective businesses. Mrs. Wolffe stated that the Town would be sued from the destruction in property values of the collective businesses. Mrs. Wolffe urged Council to take more time to consider the matter. She added that amusement parks and go-cart tracks would change the atmosphere of the Island.
- Chairman Tolbert urged Council not to write ordinances for one person. At the same time, he understood that Council did not want to discriminate. If an amendment was allowed, the consequences of the whole Island should be considered. He stated that a 'nuisance noise' should be defined. He added that the effect of a continuous and stationary source of noise was different than trucks going up and down the street.

After receiving discussion on the matter, Mr. Thornton motioned, seconded by Mrs. Cherrix to recommend to Council that Section 2.8 of the Zoning Ordinance be amended as presented.

Ayes – Mr. Thornton, Mrs. Cherrix, Mrs. Richardson

Nays – Chairman Tolbert, Mr. Ross, Mrs. Wolffe, Mrs. Baczek

The motion was defeated. No recommendation was made to Council.

Mayor Tarr invited comments from Council.

- Mayor Tarr asked Town Attorney Poulson to comment on the legality of the ordinance that did not allow internal combustion engines as an amusement. He also announced that Town Attorney Poulson had been asked to research the matter. Town Attorney Poulson stated that the Town had some powers by Charter to prohibit certain uses, but the restrictions may not be arbitrary. The prohibitions that were allowed under the State Code would be things related to the health, welfare and safety of the public. Town Attorney Poulson felt that the proposed go-carts amusement under prohibition may not contribute to the health, welfare and safety; therefore, it may not be defensible that the prohibition was legal. Town Attorney Poulson recommended that Council allow such uses through a conditional use permit. He stated that Accomack County used a similar vehicle for uses that were not well defined or for various uses under zoning, rather than just allowing things outright.

- Vice Mayor Mason asked Mr. Zwerling what the decibel level would be for the whole community that would have very little impact. Mr. Zwerling replied that a decibel level of 55 was generally accepted in most communities. Vice Mayor Mason commented that the nighttime transition time should be set at 10:00 pm, and that he supported that change in the ordinance. He also asked Mr. Martingayle what his opinion was regarding conditional uses. Mr. Martingayle stated that it would be time-consuming and very arbitrary.
- Councilman Wolffe asked Mr. Martingayle how the Town would be able to distinguish which business was creating the noise when there were adjoining businesses making noise. He stated that it would be difficult to separate the two businesses to find out who was creating the noise. Councilman Wolffe also asked Town Attorney Poulson the same question. Town Attorney Poulson replied that it would be very difficult to know where the noise was emanating from.
- Mayor Tarr asked Town Manager West to read the proposed amendments to the Noise Ordinance. Town Manager West read through all of the changes to all of Article II.
- Councilman Frese felt that it was necessary to change the location of where the sound level was taken to be from the line of the property from which the noise was originating. He had prepared a supplemental amendment addressing this and asked Council to consider it.
- Councilman Howard, Councilwoman Conklin, and Councilman Wolffe commented that they did not think it was right to change that because it was too difficult to read measurements from the property lines, and felt that it was not fair to change the noise ordinance just because a new business that would create noise was being established.
- Town Attorney Poulson explained that two changes to Section 22-31 of the Noise Ordinance gave the police the right to enforce the Noise Ordinance on public property. He felt that it was a necessity to include this.

With no further discussion on the noise ordinance, Mayor Tarr asked for individual motions for the various amended sections of the Noise Ordinance.

Councilwoman Conklin motioned, seconded by Councilwoman Richardson not to amend Section 22-26 definitions of *daytime hours* from ‘7:00 am to 12:00 am midnight, local time’ to ‘7:00 am to **10:00 pm**’ and *nighttime hours* from ‘12:00 am midnight of one day through 7:00 am’ to ‘**10:00 pm** to 7:00 am’.

Ayes – Conklin, Howard, Richardson, Wolffe

Nays – Frese, Mason

The motion was carried. The amendment was not adopted.

Councilman Frese urged Council to consider the amendment that he prepared, in lieu of that which was advertised, which stated that the measurement would be taken from the line of the property from which the noise was originating.

Councilman Wolffe motioned, seconded by Councilman Howard to adopt the amendments to Section 22-30(a) and (b), Measurement of noises, as stated below.

Ayes –Howard, Mason, Wolffe

Nays – Conklin, Frese, Richardson, Tarr

The motion was defeated. The following amendments to Section 22-30(a) and (b), Measurement of noises, were not adopted.

Sec. 22-30. Measurement of noises.

(a) Wherever in this article any noise level is prohibited by or is to be determined by decibel level, the measurement of such emanating sound shall be conducted at the nearest **property line** of the real estate owned, possessed, or being lawfully used by any affected party who makes complaint thereof. **Such measurement shall be conducted at a height of at least three feet above ground and at least three feet from any reflecting surface. Any such prohibited decibel level will be exceeded when the sound level meter set for FAST response, using the A-weighting network, exceeds the specified level.**

(b) Measurement equipment shall be sound-level meters complying with ANSI S1.4, **1983, American National Standard Specifications for Sound-Level Meters, ANSI S1.4a-1985, and amendment to ANSI S1.4, or IEC 651-1979, “Sound Level Meters”**, of at least type 2 quality and sensitivity, comprising a microphone, amplifier, output meter and frequency weighting network. **The meter operation shall be as prescribed by the equipment manufacturer, from time to time.**

Councilman Howard motioned, seconded by Councilman Wolffe to adopt the following amendment to Section 22-31, Cease and desist, which would allow police officers to enforce the noise ordinance on public property. Unanimously approved.

Sec. 22-31. Cease and desist.

No prosecution shall be initiated under this article unless and until there has been a complaint by any affected person, firm or entity, excepting noises emanating from publicly used and/or owned property **and as described in Sec. 22-35(3)(b) and (4)**, and such violating person, firm or entity has been advised of the violation of this article and such person, firm or entity has failed to cease and desist such unlawful noise. For the purposes of this section, any such warning to any such violating person, firm or entity shall be continuous and sufficient for the 30-day period then following as to the same noise or the same type or similar or like noise, and no further warning shall be required during such period.

Councilman Howard motioned, seconded by Councilwoman Conklin to adopt the amendment to Sec. 22-35(1), Certain prohibited noises enumerated, which changed the designation of (dB) to (dBA). Unanimously approved.

Town Manager West commented that there was some technical jargon in Section 22-30 that was defeated by Council’s previous vote. He asked Council to reconsider because the second half of paragraph (a) and all of paragraph (b) dealt with the manner in which the Town was taking measurements and was a technical aspect. He thought that although it was Council’s desire to continue to read noises from the corner of the offended structure that the technical language was still necessary, so he asked Council to reconsider. Therefore, Councilwoman Conklin motioned, seconded by Councilman

Wolffe to rescind the prior vote on Section 22-30, Measurement of noises. Unanimously approved.

Having called for a new vote on Section 22-30, Measurement of noises, with the understanding that the amendment would be accepted in as far as the description of the equipment used and not where the reading would be taken, Councilman Howard motioned, seconded by Councilman Wolffe to adopt the first sentence of Section 22-30(a) as amended below.

Ayes – Howard, Mason, Wolffe

Nays – Conklin, Frese, Richardson, Tarr

The motion was defeated. The first sentence of Section 22-30(a) as amended below, which included the change in the location of where the measurement would be taken from, was not adopted.

Councilman Howard motioned, seconded by Councilman Wolffe to adopt the second sentence of Section 22-30(a) and all of Section 22-30(b) as amended below.

Unanimously approved.

Sec. 22-30. Measurement of noises.

(a) Wherever in this article any noise level is prohibited by or is to be determined by decibel level, the measurement of such emanating sound shall be conducted at the nearest **property line of** ~~corner of the main structure on~~ the real estate owned, possessed, or being lawfully used by any affected party who makes complaint thereof. **Such measurement shall be conducted at a height of at least three feet above ground and at least three feet from any reflecting surface. Any such prohibited decibel level will be exceeded when the sound level meter set for FAST response, using the A-weighting network, exceeds the specified level.**

(b) Measurement equipment shall be sound-level meters complying with ANSI S1.4, **1983, American National Standard** Specifications for Sound-Level Meters, **ANSI S1.4a-1985, and amendment to ANSI S1.4, or IEC 651-1979, “Sound Level Meters”**, of at least type 2 quality and sensitivity, comprising a microphone, amplifier, output meter and frequency weighting network. **The meter operation shall be as prescribed by the equipment manufacturer, from time to time.**

Mayor Tarr asked for Council’s comments and discussion regarding the zoning matter which was changing the definition of *amusements*.

- Vice Mayor Mason questioned whether there would be any validity in the assertion that a suit would be brought against the Town as a result of Council changing the ordinance. Town Attorney Poulson did not believe that there would be any claim or any justified suit as a result of Council adopting the change.
- Town Attorney Poulson summarized Council’s options as leaving the ordinance as it was, amending the ordinance or allowing for a conditional use permit.
- Councilman Wolffe stated that Council should be cautious as every property would be affected, not just the property in question. He stated that although he was supportive of the Katsetos family, he did not support the change since it would affect all of the properties on the Island.

- Councilman Frese commented that in 1996, the Town did not have a noise meter or a Noise Ordinance. As a result, the easiest way to enforce amusements with internal combustion engines was to ban them. He stated that now that the Noise Ordinance was in effect, the ban was unfair.
- Vice Mayor Mason stated that since every property in C-1 and C-2 would be affected, it was a larger issue than just the Katsetos property. He thought that the Town needed an Island-wide understanding of what the future and the vision were and that the Comprehensive Plan was where that resided.
- Councilman Howard stated that change was not always desirable, but it was inevitable.
- Councilwoman Conklin stated that there were many family-owned businesses here and were all a part of this community. She stated that she did not think it was fair to put restrictions on certain types of businesses.
- Councilwoman Richardson stated that she was in favor of amending the ordinance. She stated that change could not be stopped and that restricting this use would not be good for the youth.
- Mayor Tarr stated that he felt that allowing the activities, as well as all amusements, through a conditional use permit was the answer. He stated that people should be allowed to have the amusements, but should have certain restrictions applied, if necessary. The conditional use permit would allow for these restrictions.
- Councilman Frese asked if creating a method to use the conditional use permit would be feasible. Councilman Wolffe stated that he would prefer that instead of “blanket” permission; he thought it was something that could be reviewed on a case-by-case basis. Councilman Howard thought it was a good idea, but felt another hearing would be required because it appeared to be more restrictive use. Vice Mayor Mason and Councilman Wolffe stated that Council could possibly have another meeting on March 1<sup>st</sup> and propose the change that would include a conditional use permit.
- Councilman Frese stated that he felt it would be appropriate to have a conditional use permit and asked for Council’s concurrence. However, he felt that the time consumed would be too long, and he felt that the Katsetos family had met with Council numerous times and had waited long enough. Councilman Frese stated that he felt it was appropriate to amend the ordinance as presented with the understanding that Town Attorney Poulson, Town Manager West and Zoning Administrator Lewis would be working on the documentation and the verbiage necessary to begin allowing amusements by conditional use only.

Councilman Frese motioned, seconded by Councilwoman Richardson to adopt the amendment to Section 2.8 of the Zoning Ordinance as presented below.

Ayes – Conklin, Frese, Howard, Richardson

Nays – Mason, Wolffe

The motion was carried, and the amendment was adopted.

Sec. 2.8. Amusements.

Any type of amusement device that does not create excessive noise, **either singularly or in connection with such other or similar devices and/or other noise emanating activities on the subject property** in violation of the Town of Chincoteague’s noise ordinance.

**8. Other Matters.**

- Mayor Tarr announced that Delegate Lynwood Lewis would be at Chincoteague High School for a Town Hall meeting on Saturday, February 21<sup>st</sup> at 9:00 am.
- Mayor Tarr reported on his and Town Manager West's meeting with the Virginia Port Authority, as well as Senator Nick Rerras and Delegate Lynwood Lewis, to secure additional funding in the amount of \$160,000 for the Harbor Rehabilitation Project.

**9. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be held on March 1, 2004. Councilman Howard motioned, seconded by Councilwoman Conklin to adjourn the meeting. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE MARCH 1, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
Glenn B. Wolfe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:35 p.m.

**2. Invocation.**

Councilman Howard offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

#### **4. Approval of Minutes of the February 2, 2004 and February 19, 2004 Council Meetings.**

Councilman Howard motioned, seconded by Councilman Frese to approve the minutes as presented. Unanimously approved.

#### **5. Council Information Items.**

- Vice Mayor Mason asked about the status of the negotiations with the Virginia Department of Transportation (VDOT) regarding the bridge piping. Town Manager West stated that he would follow up his letter to VDOT with a telephone call.
- Councilman Frese asked when the sign survey from the Sign Committee of the Planning Commission would be available for review by Council. Town Manager West stated that the survey was complete and was being reviewed by the Planning Commission. The survey would be available to Council after the Planning Commission completed their review.
- Vice Mayor Mason asked if the attorney that was contacted regarding the Subdivision Ordinance would be retained and if he had summarized his needs in a proposal. Town Manager West stated that the attorney had not yet returned his call regarding such proposal. Mayor Tarr asked Town Attorney Poulson if Council should possibly consult a planner first, rather than an attorney regarding the Subdivision Ordinance. Town Attorney Poulson agreed and suggested also speaking with the Accomack-Northampton Planning District Commission (A-NPDC).
- Councilman Frese stated that the Town would receive a refund of \$40,000 from the Deep Hole Road project and requested the money be used to help fund the Harbor Rehabilitation Project. Town Manager West explained that it would be feasible as it was unexpected revenue that was not included in the budget and because it was not VDOT's maintenance money, but was a local match from prior years. Mayor Tarr suggested that the matter be sent to the Budget and Personnel Committee for review.
- Councilman Wolffe asked for an update on the development of a production well on NASA property. Public Works Director Jeffries stated that two bids had been received and would be presented to Council later in the meeting.
- Councilman Howard asked if there had been any response to the sign survey to date. Mrs. Jane Wolffe of the Planning Commission stated that the survey needed to be reviewed by the Planning Commission then reviewed and approved by Council prior to distribution.

#### **6. Committee Reports.**

- **Deer Task Force-** Councilwoman Richardson stated that the U.S. Department of Agriculture (USDA) had killed 54 deer in four hunts. She stated that the hunters hoped to kill about 50 more deer in four more hunts.
- **Harbor Committee-** Councilman Frese stated that the Committee met on February 11<sup>th</sup> and had received a report on the fish grinder from Harbor Master Lewis. He stated that the Winter Storage Policy was also discussed and would be explained by Vice Mayor Mason. Councilman Frese stated that the bulk-heading was three-fourths completed at the Harbor. He added that the progress of the Rehabilitation Project was very good.

- **Public Works Committee-** Vice Mayor Mason reported that the Committee met on February 10<sup>th</sup> and discussed the drainage beside Mechanics Cemetery. He stated that the bid on the third tennis court was the same as the previous bid which was very high, so the Committee would meet with the Tennis Association to discuss the matter. Vice Mayor Mason stated that the Committee held a special meeting on February 23<sup>rd</sup> regarding subdivision roads.
- **Budget and Personnel Committee-** Councilwoman Conklin stated that the Committee met on February 17<sup>th</sup> and discussed the large capital project funds. She added that the Town had planned over \$500,000 in water system upgrades. Councilwoman Conklin reported that the Committee discussed hiring an engineer or an engineering technician as a Town employee to help staff and to reduce engineer consultant fees. She stated that the Committee also discussed Student Government Day and the scholarship fund. The Town would provide one \$1,000 scholarship to a high school student this year. Councilwoman Conklin stated that the Skate Park was also discussed and would be considered by Council later in the meeting.
- **Cemetery Committee-** Councilman Howard stated that the Committee worked on the Holly Ridge Cemetery on North Main Street. He reported that the owner of the Holly Ridge Cemetery was the Red Men's group, the same group that owns the Red Men's Cemetery on Taylor Street.
- **Ordinance Committee-** Councilman Howard stated that the Committee was scheduled to meet on March 17<sup>th</sup>. Mayor Tarr requested that Mrs. Wolffe give the Committee a draft of the sign survey for review.

## **7. Public Participation.**

- Mr. Richard Conklin stated that he applied for permits to build 20 townhouses to replace the Anchor Inn Motel because the cost to upgrade the building was more than it was worth. He stated that he received from Zoning Administrator Lewis and Public Works Director Jeffries a list of 37 items that needed to be completed. Mr. Conklin attended a meeting with Town Manager West, Public Works Director Jeffries and Zoning Administrator Lewis to review the proposed items. He stated that the Town officials did not like the idea of the homeowners backing out onto Main Street. Town Manager West suggested having a driveway parallel to Main Street and having the homeowners back out onto the driveway. Mr. Conklin agreed with Town Manager West's idea and thought all of the issues were resolved. Mr. Conklin stated that the Town officials feared that Council would not accept his 30-foot road as proposed as public roads are required to be fifty feet. Mr. Conklin stated that it was not a road but a parking lot, just as it had been for forty years. Mr. Conklin attended the Public Works Committee meeting regarding the road matter. After much discussion with the Committee, he was told by Town Manager West that the matter was resolved. The next day, he was informed that Town Manager West had consulted Town Attorney Poulson on the matter. It was concluded that it would indeed be considered a road and not a parking lot and was instructed to go to the Board of Zoning Appeals (BZA) for a variance if he wanted to make the 30-foot road as proposed. Mr. Conklin consulted Mr. Will Cumming of VDOT who stated that under State regulations, it would be considered a parking lot. Mr. Conklin added that he did not

feel that the Town should take over and maintain parking lots because the taxpayers did not want to pay to maintain parking lots and private roads.

- Mr. “Mac” MacDowell stated that he was the Vice President of the Chincoteague Charter Boat Captains Association. He requested that Council support the Association on an adjustment on flounder regulations set by the Virginia Marine Resources Commission (VMRC). Their proposal included several options, one being a 16 ½-inch minimum fish with a maximum of eight fish per person and a closed season for four days at the end of July. Mayor Tarr stated that Council would support the Association, but wanted to know which option the Association would like to support.
- Mr. David Ross stated that he had encountered a serious problem with the lack of a sidewalk and/or bike path for the children on Hallie Whealton Smith Drive. He stated that the sidewalk/path ended on Deep Hole Road and forced children to ride on the road, directly into oncoming traffic [as two of the children he encountered did not ride on the correct side of the road] which was a serious safety problem. He asked if the Town had any plans to remedy the situation. Town Manager West replied that Mr. Will Cumming of VDOT was working with the Town to use road maintenance dollars to improve this situation.
- Mayor Tarr addressed Mr. Conklin’s concern regarding the road/parking lot matter. Town Attorney Poulson explained that the Town was bound by the definition of a road. He stated that the definition would have to be reviewed and possibly changed. Town Attorney Poulson stated that it might be more feasible and perhaps more practical to give the subdivision agent more discretion when reviewing and deciding on the road matter rather than having the developer appeal to the BZA.

## **8. *Winter Storage Policy: Curtis Merritt Harbor.***

Vice Mayor Mason stated that the Harbor Committee had met and discussed changes to the proposed Winter Storage Policy for the Harbor. He stated that the penalty per day would be changed to \$20.00 for failure to clean the area where the vessel was being worked on. He added that Harbor Master Lewis would have more discretion in special circumstances in the number of days that would be allowed before a penalty was assessed. Vice Mayor Mason stated that the word ‘shall’ was changed to ‘may’ in regards to the owner’s harbor privileges being revoked if the area remained unclean after the designated three days. Vice Mayor Mason stated that Harbor Master Lewis could give a verbal warning to the boat owners that would not accept a certified letter from the Town regarding cleanup of their area. Town Attorney Poulson suggested handing them a letter in person in lieu of just giving a verbal warning.

Mayor Tarr requested that some type of penalty for failure to remove the boat from storage by April 15<sup>th</sup> be added to the policy. He also requested that the Town be held harmless for any liability for run-off of materials into the Harbor and that the boat owner be responsible for the cleanup of such run-off. Vice Mayor Mason asked Town Attorney Poulson to help with the language for this section.

## **9. *Approval of New Skate Park Plan.***

Vice Mayor Mason described the search for the location of the skate park. He stated that the area on Accomack County School property behind the Community Center would not

be feasible due to the cost of preparation of the site and the requirement of the School Board's approval. The area located on Town property near the Public Works building would require a layout plan that was too disjointed and too costly for the site preparation. The Bicycling and Outdoor Recreational Committee considered three sites at Memorial Park located in the outfield of the existing ball field where the preparation cost would be less expensive. Vice Mayor Mason reported that the Committee recommended Site B, located behind center field, due to decreased preparation costs, proximity to restroom facilities and ample parking. Mayor Tarr recommended that when doing the request for proposals (RFP), give the dimensions of the area in two ways: as the proposed square and as a narrower, more elongated rectangle. He suggested asking the bidder to plan the layout according to these area dimensions.

Vice Mayor Mason motioned, seconded by Councilwoman Conklin to accept proposed Site B behind center field of the ball field at Memorial Park for the Skate Park and to send out an RFP which included requesting the bidder to plan the equipment layout according to the two proposed site shapes. Unanimously approved.

### ***10. Draft Amendments to Appendix B (Subdivision Ordinance) of the Town Code.***

Public Works Director Jeffries stated that the Public Works Committee had spent considerable time discussing the issue of private vs. public roads on the Island. He suggested reviewing each proposed amendment individually.

After a lengthy discussion of the first few proposed amendments, Mayor Tarr suggested postponing action on all of the proposed amendments until a planner and/or an attorney could review the Subdivision Ordinance. Councilman Wolffe stated that the planner should be directed not to affect structures, lots and developments that are not subdivision in nature when considering amendments to the Subdivision Ordinance. He added that the Town should try to apply to the General Assembly for a blanket exemption for the Island to allow less pavement and narrower right-of-ways for subdivision roads, but still allow the roads to be accepted into the State road system for maintenance.

Town Attorney Poulson asked if it was the intent to have all subdivision roads be public roads. Councilman Wolffe answered that it may be necessary in order to protect the homeowners against problems currently being encountered regarding private roads in subdivisions that are not being maintained.

Mayor Tarr asked Public Works Director Jeffries to research the exemption from the State's road system requirements. He asked him to research the statistics regarding the exemption as well.

Town Attorney Poulson stated that he, Mayor Tarr and Town Manager West would meet with Mr. Will Cumming of VDOT and the Planner for Accomack County to discuss the matter.

### **11. Award of a Contract to Develop a Production Well.**

Public Works Director Jeffries stated that over the past four years, the cost to develop a new production well had been estimated to cost between \$67,000 and \$90,000 in the budget. The work was not included as a separate line item in the current budget, but would be covered under the *Capital Improvement Plan for Water* line item. Public Works Director Jeffries announced that the Town had received two bids for the development of the well, one from A. C. Schultes for \$91,348 and the other from Sydnor Hydro, Inc. for \$147,591. Public Works Director Jeffries stated that A. C. Schultes had developed some wells for the Town in the past and currently did all of the major repairs to the Town's wells.

Councilman Wolffe motioned, seconded by Councilwoman Richardson to award the development of a production well to the low bidder, A. C. Schultes, in the amount of \$91,348. Unanimously approved.

Town Manager West stated that Ms. Caroline Massey of NASA was calling the well a 'test well' as opposed to a 'production well' until all Department of Environmental Quality (DEQ) tests and aquifer tests were performed and passed.

### **12. Discussion of Proposal for Conditional Use Permitting in Zoning.**

Town Attorney Poulson explained the proposed zoning changes which 1) removes Amusements from uses permitted as a matter of right in C-1 and C-2 Districts; 2) requires any use not specifically permitted as a use as a matter of right or specifically enumerated for a special use by the BZA, to be only permitted by Council under a conditional use procedure; and 3) establishes a fee for such conditional use application. Town Attorney Poulson stated that these amendments would create a system in zoning whereby there would be 1) permitted uses as a matter of right in districts; 2) specified special exceptions in districts which would require the applicant to go to the BZA; and 3) any other use only by conditional use permit granted by the Council.

Councilman Frese recommended that the Planning Commission review the proposal of the conditional use permitting procedure in zoning prepared by Town Attorney Poulson. Councilman Wolffe motioned, seconded by Councilman Howard to send the proposal to the Planning Commission for review with a request that the Planning Commission respond to Council by April 5<sup>th</sup>. Unanimously approved.

### **13. Other Matters.**

- Councilwoman Conklin asked Mayor Tarr to issue Certificates of Recognition to the Chincoteague Middle School and Chincoteague Elementary School BETA Clubs for their outstanding achievements at the 2004 Virginia Junior BETA Club convention.
- Councilman Frese praised the 911 dispatchers and the police department for their professionalism and excellent response during a recent situation at his business.
- Town Attorney Poulson read a proposed amendment to the Winter Storage Policy, which would be reviewed by the Harbor Committee at their next meeting.

- Mayor Tarr stated that the School Board's workshop would be held on March 2<sup>nd</sup> at Pungoteague Elementary School. He stated that there would be no public participation, but that the architectural engineers would discuss some of the options available for the renovation of Chincoteague Combined School. Mayor Tarr also stated that on March 12<sup>th</sup> at 7:00 pm at the Community Center there would be a joint meeting with him, School Board Representative, Travis Thornton, and Island Supervisor, Wanda Thornton, to discuss and receive comments on the different options that were being proposed.

#### **14. Recess of Meeting.**

Councilman Howard motioned, seconded by Councilman Frese to recess the meeting until March 18, 2004. Unanimously approved.

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Mayor

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Town Manager

### **MINUTES OF THE MARCH 18, 2004 CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

#### **Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman  
Glenn B. Wolffe, Councilman

#### **1. Call to Order.**

Mayor Tarr called the meeting to order at 7:34 p.m.

#### **2. Invocation.**

Councilman Howard offered the Invocation.

#### **3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

#### **4. Presentation: Beta Club Certificates.**

Mr. Chris Holland, Principal of Chincoteague Combined School, announced the awards won by the Middle School Junior Beta Club at the State convention, including first place

in the National Service Award. He praised Mrs. Linda Wright, Chincoteague Middle School teacher and Junior Beta Club Sponsor, for her efforts with the children and praised Miss LeeAnn Bailey, President of the Junior Beta Club, for her hard work. Mayor Tarr announced the awards won by the Elementary School Junior Beta Club at the State convention. He praised them for their hard work.

Mayor Tarr presented the Certificates of Recognition to both Beta Clubs and praised them again.

## **5. Public Participation.**

- Mr. “Mac” MacDowell stated that he attended the March 1<sup>st</sup> Council meeting and asked for Council’s support on the flounder regulations. He stated that the Charter Boat Association proposed a size limit of 16 ½ inches, with a maximum of 5 fish per person and a closed season of one day. He added that there must be a longer closed season if the size limit was to be 16 ½ inches. Mr. MacDowell reported that the Virginia Marine Resources Commission’s (VMRC) Finfish Committee had met and reached a compromise of a 16 ½-inch minimum size limit, with a maximum of 5 fish per person per day and a mid-season closure of eight days, from July 23<sup>rd</sup> through July 30<sup>th</sup>. He stated that these proposed regulations would be presented to the VMRC as a resolution from Council, which would be discussed later in the meeting.
- Ms. Donna Roeske requested that Council support the regulations not only by approving the abovementioned resolution, but also by attending the VMRC meeting on Tuesday, March 23<sup>rd</sup>. She stated that the VMRC may support a 16 ½-inch minimum size limit, but Northampton County had strong support for a larger fish size.
- Mrs. Ruth Patzig agreed with Mr. MacDowell and Ms. Roeske. She stated that she and her husband went out fishing a lot and in the past two years of recreational fishing, they had caught only one flounder that was over the minimum size limit. She asked Council to please support these proposed regulations, which included a smaller minimum size limit.

## **6. Winter Storage Policy: Curtis Merritt Harbor.**

Vice Mayor Mason explained the corrections made to the draft Policy and presented the final proposed Winter Storage Policy as stated below:

### **Winter Storage Policy**

The purpose of this policy is to give guidance, details and responsibilities to the boat owner while the vessel is placed in winter storage.

Storage rates:

Slip Holders or Chincoteague Residents  
Vessels 30 ft or less           \$35.00 per month  
Vessels 31 ft and greater       \$75.00 per month

Non-Slip Holders or Non-Chincoteague Residents

Vessels 30 ft or less           \$50.00 per month  
Vessels 31 ft and greater       \$100.00 per month

1 October until 15 April is the Winter Dry Storage period. The minimum storage charge is one month. After one month, charges will be pro-rated on a one-half month basis. Payment for the total storage period is required on the first day of storage.

The boat owner is responsible for the security and liability of the vessel while the vessel is in storage. The owner is responsible to ensure the vessel is secure in the event of strong winds and/or storms.

The boat owner is responsible to provide keel blocks and jack stands. No boats will be placed on any items other than what is listed above.

During any repair or maintenance work, the boat owner will be required to place drop cloths on the pavement and take all other steps necessary to ensure that no material enters the water adjacent to the harbor. Such owner shall indemnify and hold harmless the Town and/or any official or employees thereof from any claim, liability, or damages for such owner's failure or the failure of any agent, employee, or contractor performing such work to fully comply with this provision.

A \$20.00 fee will be assessed per day or any portion of a day that the vessel is placed or remains in storage other than the designated period of 1 October through 15 April.

ALL RUBBISH must be removed daily from the area where the vessel is being worked on during the winter storage period. The owner is responsible for his actions and the actions of any contractors hired by the boat owner. If action to clean the area is not corrected after the owner is notified by the harbor master, then a \$20.00 per day fine may be imposed by the harbor master until the area is cleaned. If the area remains unclean after three days from being notified of the violation, the owner's harbor privileges may be revoked.

While the boat is in winter dry storage, there will be no sleeping on the vessel.

Councilman Wolffe motioned, seconded by Councilwoman Conklin to adopt the Winter Storage Policy for the Curtis Merritt Harbor as presented. Unanimously approved.

## **7. *Resolution Regarding Flounder Limits.***

Mayor Tarr stated that the following resolution was prepared for consideration by the VMRC in their meeting on March 23<sup>rd</sup>.

### RESOLUTION

**WHEREAS**, regulations are once again being considered by the Virginia Marine Resources Commission to restrict the 2004 flounder fishery for Virginia,

**WHEREAS**, these regulations continue to have a devastating impact on recreational fishing in the Virginia waters surrounding Chincoteague Island, and

**WHEREAS**, the economic livelihood of Chincoteague Island is dependent upon tourism dollars with revenue being derived from transient visitors and recreational fishermen that choose to support our charter fishing and boat rental businesses and stay in campgrounds, motels and tourist rental properties which abound within the Island's community, and

**WHEREAS**, a great majority of these transient visitors choose Chincoteague Island as a destination due to its close proximity to Virginia waters and the availability of flounder fishing, and

**WHEREAS**, enacting flounder fishing regulations that are too restrictive would inflict an adverse economic impact on the tourism industry of Chincoteague Island, unlike other parts of the Commonwealth, with the possibility of enticing Chincoteague's tourist trade to go to neighboring states where such restrictions do not exist, and

**WHEREAS**, most recently during the 2003 recreational flounder fishing season, only 12 citations were awarded locally for flounder catches of the total statewide 755 citations, further demonstrating the severe impact to the Island's flounder fishing.

**NOW THEREFORE BE IT RESOLVED**, that the Chincoteague Town Council strongly suggests that for the Virginia Flounder Fishery, the Virginia Marine Resources Commission establish a minimum size limit of 16 ½ inches with a possession limit of five fish per person per day, and a mid-season closure of July 23, 2004 through July 30, 2004, for the 2004 Recreational Summer Flounder Fishing regulation.

**Adopted** this 18<sup>th</sup> day of March 2004.

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John H. Tarr, Mayor

Attest:

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James M. West, Town Manager

Councilman Howard motioned, seconded by Councilman Frese to adopt the resolution to the VMRC regarding summer flounder regulations as written. Unanimously approved.

## **8. *Requests from Accomack-Northampton Planning District Commission (A-NPDC)***

### **a. *Level Funding***

Town Manager West explained the request from the A-NPDC for level funding for the upcoming year. He stated that he felt that the benefits received have outweighed the costs of participation. Town Manager West stated that the Town's commitment to the

A-NPDC was minimal compared to Northampton and Accomack Counties, and requested that Council approve it to be added to the budget for next year.

Councilwoman Richardson motioned, seconded by Councilwoman Conklin to provide level funding to the A-NPDC in the amount of \$6,549 for FY2005. Unanimously approved.

**b. Support for SouthEast Crescent Authority Act**

Town Manager West explained that the SouthEast Crescent Authority Act was a program that provided federal financial assistance for economic and community development in Virginia and other southeastern states. He stated that the A-NPDC requested that the Town write a letter to Congressman Ed Schrock asking him to support the bill or be co-patron for the bill. Town Manager West stated that Accomack County had already written a letter requesting such.

Councilman Howard motioned, seconded by Councilwoman Conklin to send a letter to Congressman Schrock supporting the SouthEast Crescent Authority Act. Unanimously approved.

**9. Amendment to Section 5.62, Article V of Zoning.**

Town Manager West stated that the Planning Commission reviewed the requirements for average setbacks on non-conforming lots. The concern of the Commission was that the existing ordinance allowed structures to be built five feet from the property lines, which was especially a concern on corner lots or lots that front right-of-ways.

Councilman Frese motioned, seconded by Councilman Howard to send the Planning Commission a letter stating Council's position on the amendment that this problem is felt to already be covered by Article IV of the Town Code. Unanimously approved.

**10. Other Matters.**

- Town Manager West and Vice Mayor Mason stated that there were two vacancies on the Bicycle and Outdoor Recreational Advisory Committee and asked Council if he could advertise to fill these vacancies. Mayor Tarr stated that it was the general consensus of Council to advertise.
- Councilwoman Richardson stated that she was concerned with the use of the ball field at Memorial Park with regards to the Skate Park. She stated that she did not want to lose the use of the outfield. Mayor Tarr stated that there were only possibly two leagues that would not be able to use the field and four that would still be able to.
- Vice Mayor Mason asked Council to consider in a later meeting a change in the Harbor Policy regarding the size of the dock boxes at Curtis Merritt Harbor to 2' x 4' x 8' in lieu of a 4' cube due to the lack of available walking space after the boxes are placed on the finger piers.
- Councilman Howard asked if Council was in agreement to preserve the old barbershop on Ridge Road. He stated that he had asked Town Manager West to research the procedure for preserving an historical structure. Councilwoman Conklin and Councilman Wolffe asked what the proposed plan was for the structure. Mayor Tarr

stated that he supported the concept, but was unsure if the Town should pursue preserving the building, or if the Chincoteague Preservation Society should. He added that Council was in favor of the concept, but it should be researched as to what the future plans for the building were and what the cost to preserve it would be.

- Mayor Tarr asked the Budget and Personnel Committee if their meeting could be rescheduled from March 23<sup>rd</sup> to March 30<sup>th</sup>. He stated that the VMRC meeting was at noon on March 23<sup>rd</sup>. Mayor Tarr also stated that the School Board was having a special meeting on March 23<sup>rd</sup> at 7:30 pm regarding the renovation of Chincoteague Combined School.

### ***11. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for the Purpose of Discussion of the Acquisition or Disposition of Public Property.***

Councilman Howard motioned, seconded by Councilman Frese to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss the acquisition or disposition of public property. Unanimously approved.

Councilman Frese motioned, seconded by Vice Mayor Mason to reconvene in regular session. Unanimously approved.

Councilman Howard motioned, seconded by Councilman Frese 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- Conklin, Frese, Howard, Mason, Richardson, Wolffe  
Nays- None  
Absent- None

### ***12. Adjournment of Meeting.***

Mayor Tarr announced that the next meeting would be held on April 5, 2004. Councilman Frese motioned, seconded by Councilwoman Richardson to adjourn the meeting. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE APRIL 5, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
Glenn B. Wolfe, Councilman

**1. *Call to Order.***

Mayor Tarr called the meeting to order at 7:35 p.m.

**2. *Invocation.***

Councilman Howard offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Approval of Minutes of the March 1, 2004 and March 18, 2004 Council Meetings.***

Councilman Frese stated that Vice Mayor Mason's name needed to be corrected in the Public Works Committee Minutes. Councilman Howard motioned, seconded by Councilman Frese to approve the minutes as corrected. Unanimously approved.

**5. *Council Information Items.***

- Councilman Wolfe asked if a copy of the letter sent to Senator Rerras regarding an exception to the Virginia Department of Transportation (VDOT) road width requirements had been sent to Delegate Lewis. Town Manager West stated that a letter had been sent to both representatives.
- Vice Mayor Mason asked if consideration was given to hiring multiple part-time police officers as opposed to one full-time officer and one part-time officer. Mayor Tarr stated that both were considered in the Police Committee meeting, but no action was taken at that time.

- Councilwoman Conklin asked when the new well had started being drilled. Public Works Director Jeffries stated that it began on Friday, April 2<sup>nd</sup>.
- Councilman Wolffe asked if the Town was still moving forward on the Skate Park project and if the high school would still be able to use the ball field at Memorial Park as a practice field. Vice Mayor Mason stated that the bidders missed the first deadline, so the new bid opening would be on April 6<sup>th</sup> at 4:00 pm. He added that the high school would still be able to use the ball field for practice with the configuration of the Skate Park in the outfield.
- Councilman Wolffe asked when the nominations for the Planning Commission vacancies would be addressed. Mayor Tarr stated that they would be addressed in the May 3<sup>rd</sup> Council meeting. He asked when Council would give approval to the sign survey so that it could be distributed. Councilman Howard stated that it would be discussed in one of the May Council meetings. Councilman Wolffe also mentioned the Emergency Medical Services (EMS) report and invited the public to view the report. He commended both the paid and volunteer emergency service providers. Mrs. Betty Mullins asked for a copy of the report, and Town Manager West stated that he would give her one.
- Vice Mayor Mason asked about the status of possibly hiring an engineer or engineering technician. Councilwoman Conklin stated that it would be discussed in the Budget and Personnel Committee meeting on April 6<sup>th</sup> at 6:15 pm.

## **6. Joe Nace, AFMS**

Mr. Joe Nace of the Assateague Federation of Mobile Sport Fishermen (AFMS) asked Council for support of their upcoming event, Special Event for Special People, on June 5<sup>th</sup>. He stated that the AFMS had grown considerably since inception. Mr. Nace added that there was a large guest list for the event, including Mayor Tarr and the Town Council and the President and Vice President of the United States.

Mayor Tarr stated that Council had donated \$500 to the event last year. Councilwoman Richardson motioned, seconded by Councilman Wolffe, to donate \$500 to the Federation for the event. Unanimously approved.

## **7. Committee Reports.**

- **Chincoteague-Assateague Transportation and Access Committee-** Town Manager West stated that the Committee would meet on April 28<sup>th</sup> at 10:00 am to discuss the trolley system.
- **Harbor Committee-** Councilman Frese stated that Harbor Master Lewis had successfully obtained the dredging permit for inside the Harbor. He added that the fish grinder was received on Friday, April 2<sup>nd</sup>.
- **Public Works Committee-** Vice Mayor Mason reported that the Committee met on March 9<sup>th</sup> and received a lot of answers from Mr. Art Miles of the Health Department to questions regarding sewage. He stated that the Committee was working on a financial plan to coincide with the Capital Improvement Plan (CIP).

- **Bicycle and Outdoor Recreational Advisory Committee-** Vice Mayor Mason stated that the bids for the Skate Park were not received by the deadline, so the new bid opening would be on April 6<sup>th</sup> at 4:00 pm.
- **Mosquito Control Committee-** Councilman Wolffe stated that the Committee would meet on April 6<sup>th</sup> at 5:30 pm.
- **Cemetery Committee-** Councilman Howard stated that the Committee did not meet in March, but would meet on April 27<sup>th</sup> at 7:00 pm.
- **Ordinance Committee-** Councilman Howard stated that the Committee met on March 17<sup>th</sup> and most of the discussion centered on the directive of Council regarding the sign survey prepared by the Sign Committee of the Planning Commission. He stated that it was the consensus of the Committee that after the Planning Commission reviewed the survey, the Ordinance Committee would review it again in their next meeting on April 21<sup>st</sup> at 4:30 pm and send their recommendation to Council.

## **8. Public Participation.**

Mr. Jesse Speidel asked if Council could have the Planning Commission review zoning again regarding condominium regimes as relevant to subdivisions.

## **9. Agreements with VDOT and Whitman Requardt for Pipe Replacement.**

Council previously acted to allow negotiations toward implementing replacement of the water supply pipe for Black Narrows bridge through a directional bore method. Town Attorney Poulson reviewed the proposed (VDOT) agreement and advised that the words *'and for relocation and construction'* should be added to Section II, paragraph (a). He also stated that the agreement needed to include when the Town would be reimbursed by VDOT.

AGREEMENT  
 between  
 TOWN OF CHINCOTEAGUE  
 And  
 COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION  
 for  
 UTILITY RELOCATION ENGINEERING DESIGN AND CONSTRUCTION

THIS AGREEMENT, made and entered into as of the 7<sup>th</sup> day of April, 2004, by and between the TOWN OF CHINCOTEAGUE (hereinafter called UTILITY), and the COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION, (hereinafter called the STATE), acting by its Commissioner:

### **WITNESSETH**

WHEREAS, the STATE is proposing to construct a section of highway designated as, Project: 0175-001-V12, C-502, PPMS# 1896, which will necessitate changes in the UTILITY'S water facilities: and,

WHEREAS, the STATE and UTILITY wish to agree upon the terms and conditions under which the engineering design and construction, of the necessary relocations and installation of the UTILITY'S water facilities, will be made: and,

NOW THEREFORE, for and in consideration of the premises and of the mutual covenants herein contained, the parties hereto agree as follows:

#### SECTION I

(a) It will be to the best interest of the STATE and the UTILITY to have the adjustment of these water facilities completed prior to the highway contract, to be advertised and administered by the STATE.

(b) The UTILITY, under its contract with Whitman, Requardt and Associates, LLP, will engineer and design the necessary relocations to the UTILITY'S water facilities as well as betterment to existing facilities.

(c) The total cost for the utility design and construction required for Project: 0175-001-V12 is limited to a maximum of \$930,200.00 as outlined in the attached proposal from the Town of Chincoteague.

#### SECTION II

(a) It has been determined that the STATE is responsible for bearing 100.0% or a maximum of \$930,200.00 of the actual costs of engineering and design of utility plans for the relocation and construction adjustment of the water facilities **and for relocation and construction** as indicated in SECTION I(c).

(b) It has been determined that the UTILITY is responsible for bearing 0.0%, unless the actual costs of engineering and design of utility plans for the relocation and construction adjustment of the water facilities exceed the amount as indicated in SECTION I(c).

#### SECTION III

(a) The utility relocation plans prepared by the UTILITY'S consultant shall be subject to the review and approval of both the UTILITY and the STATE.

Councilwoman Conklin motioned, seconded by Councilwoman Richardson, to authorize the execution of the above agreement with VDOT. Unanimously approved.

In addition, the Public Works Committee and Staff received a proposal from Whitman, Requardt and Associates, LLP to provide engineering services for the pipe replacement project. Vice Mayor Mason motioned, seconded by Councilwoman Conklin, to award the engineering services for the project to Whitman, Requardt and Associates, LLP. Unanimously approved.

## **10. Award of Contract for Culvert Replacement.**

Town Manager West stated that the Town acquired a drainage easement traversing the remnant “Andrews Gut” from Mr. Eddie Tull and others. He added that this was a tributary to Fowling Gut and essential to drainage of Ocean Breeze and adjacent areas. Town Manager West stated that bids were solicited for replacement of the three large culvert pipes and repair of the pavement following replacement. He stated that only one bid was received from Interstate Construction of Delmarva, Inc., in the amount of \$37,484.00. Town Manager West requested that Council award the contract to this company.

Councilman Wolffe motioned, seconded by Councilman Howard, to award the contract for culvert replacement to Interstate Construction of Delmarva, Inc. in the amount of \$37,484.00. Unanimously approved.

## **11. Proposed Changes to Conditional Use Procedure/Schedule Public Hearing.**

Town Attorney Poulson described some changes that needed to be made to the proposed conditional use procedure:

- On pages 3 and 4, the Code of Virginia §15.1-431 should be changed to §15.2-2204.
- On page 8, in Sec. 8A.6.3, delete the word ‘*appeals*’.

Town Attorney Poulson discussed the following proposed changes received from the Planning Commission:

- He suggested not deleting the words ‘*except where there are more than 15 property owners within 500 feet, in which case notification of only the adjoining property owners will be required*’ in the last sentence of subsection e. on page 3 as it would require a very large number of people to be notified.
- He agreed with the suggested deletion of the words ‘*wells and*’ from subsection (10) on page 7.
- He suggested not deleting the word ‘*bureau*’ in section 8A.6.2 on page 8 as it was under the state statute.

Councilman Wolffe motioned, seconded by Councilman Howard, to advertise for a public hearing on the proposed conditional use procedure with the changes recommended by Town Attorney Poulson and the deletion of the words ‘*wells and*’ recommended by the Planning Commission. Unanimously approved.

## **12. Award of Contract for Phase II of Downtown Park.**

Town Manager West stated that Phase II of the Downtown Park project included landscaping, the construction of walkways, a pavilion, trellises, site furniture, kiosks, and landscaping on Main Street. He stated that after two solicitations the Town received only one bid in the amount of \$595,080 from Conrad Brothers, Inc. of Chesapeake, VA. Town Manager West stated that the work was divided into separate bid items. He recommended that an award be authorized in the amount of \$357,239.25 which represented the following bid items:

Bid Item 1: Demolition, site work, etc.	\$159,637.50
Bid alternate C: Walkway pavers	\$95,287.50
Bid Item 6: Landscaping	\$49,497.75
Bid Item 8: Screening	\$45,634.50
Bid Item 9: Southern Gateway	<u>\$7,182.00</u>
Total Proposed Award	\$357,239.25

Councilman Wolffe motioned, seconded by Vice Mayor Mason to award the contract to Conrad Brothers, Inc. in the amount of \$357,239.25 for bid items 1,6,8 and 9 and bid alternate C for Phase II of the Downtown Park project.

### **13. Other Matters.**

- Public Works Director Jeffries stated that the Sunnywood Manor drainage project was advertised for bids. He stated that the bid opening would be on April 30<sup>th</sup>. Public Works Director Jeffries added that the drainage test done on the traffic circle on Maddox Boulevard worked well and that a pumping station could possibly be designed for that area.
- Town Manager West stated that he had received a late request from the Food Bank for a donation to help the needy for Easter. Councilwoman Richardson recommended, and it was the general consensus of Council, that the Town donate \$500 to the Food Bank. Town Manager West also stated that the new radio station on Chincoteague asked if they could utilize the Downtown Park to do a Grand Airing. He stated that they would not be selling any items, but that it was still considered a business as opposed to a non-profit organization. Mayor Tarr recommended that the matter be put on the agenda for the recessed Council meeting on April 15<sup>th</sup>.
- Mayor Tarr announced that the Board of Supervisors would meet on April 7<sup>th</sup> at 4:00 pm to adopt a budget and possibly discuss funding for our school system.
- Councilman Howard asked when the plan for the possible pumping station on Maddox Boulevard would be implemented. Public Works Director Jeffries stated that he hoped to address the matter before the spring rains.

### **14. Recess of Meeting.**

Councilman Frese motioned, seconded by Councilman Wolffe to recess the meeting until April 15, 2004. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE APRIL 15, 2004**  
**CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman

**Council Members Absent:**

Glenn B. Wolfe, Councilman

**1. *Call to Order.***

Mayor Tarr called the meeting to order at 7:35 p.m.

**2. *Invocation.***

Councilman Howard offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Public Participation.***

- Mrs. Ruth Patzig stated that two young boys were setting off fireworks in her neighborhood. She asked why businesses in the Town sell fireworks if they are illegal to set them off here. Chief Lewis stated that certain fireworks are legal in the state of Virginia and that the businesses on the Island only sell these types. Mayor Tarr added that the police could be called if illegal fireworks were being set off.

**5. *Request for Use of Downtown Property.***

Mayor Tarr stated that Council had received a request from the new local radio station, WCTG, to use the Downtown Park for a grand opening event scheduled for early May. Mayor Tarr added that it would be a one-time event and that the station would not be selling anything.

Councilwoman Conklin stated that the Town was trying to encourage new businesses to start up and added that she felt there wasn't anything wrong with allowing the station to have the event in the Downtown Park. Councilman Howard agreed. Councilman Frese agreed and added that the Town needed to continue to be business-friendly as these businesses provided income to the Town's citizens through jobs and provided income to the Town through taxes. Vice Mayor Mason also agreed and added that the Town needed to promote business. He asked Town Manager West if the event would interfere with any work the Town was doing on the Park. Town Manager West stated that the station manager understood that the Park might be under construction at the scheduled time of the event.

Councilman Howard motioned, seconded by Councilwoman Conklin, to allow WCTG to have its Grand Airing at the Downtown Park. Unanimously approved.

## **6. New Position Requests.**

- **Budget & Personnel: Engineering Technician**

Mayor Tarr stated that Town Manager West developed a job description for an engineering technician. Councilwoman Conklin stated that the Committee felt that an engineering technician was more important than a planner at this time. Vice Mayor Mason suggested rewriting part of the description to include the qualifications of an engineer. He added that the words '*ability to write effectively*' needed to be added to the 'Knowledge, Skills and Abilities' section of the job description. Vice Mayor Mason stated that the words '*with a minimum of an associates degree from an accredited institution*' needed to be added to the 'Education and Experience' section to encompass the job descriptions of both an engineer and an engineering technician. Councilman Frese stated that he felt the candidate should have some education, but should also have experience. He added that the Town needed the position filled immediately due to the number of projects the Town has planned.

Councilwoman Conklin motioned, seconded by Councilman Frese, to hire an engineer or engineering technician, contingent upon a budget amendment in June. Unanimously approved.

- **Planning Commission: Certified Planner**

Councilwoman Richardson stated that since the Town had such an increase in building and in the development of subdivisions, the Planning Commission felt that the Town needed a certified planner. Councilman Howard felt that a certified planner might be necessary due to the recent increase in building and due to the direction that the Town's development was heading in, whereby property was being purchased by developers outside of this community for the construction of townhouses, condominiums and subdivisions. Councilman Frese stated that he agreed with Councilman Howard, but felt that the Town already had zoning in place that worked. Vice Mayor Mason stated that the Town had considered consulting an attorney regarding the recent development of subdivisions. He stated that one alternative to hiring a planner as a staff member was to hire a planner as a consultant. Mayor Tarr stated that Council had decided on having an all-day meeting with a certified planner to see which direction the Town should take. He added that the Town was a member of the Accomack-Northampton Planning District Commission (A-NPDC) and that the Town had the option of consulting their planners.

Mayor Tarr stated that it was the general consensus of Council to solicit a proposal for consulting services from the A-NPDC.

## **7. Proposed Budget Amendments.**

Town Manager West explained that the proposed budget amendments address changes in funding and shortfalls in the water department and Capital Improvement Plan (CIP), the Public Works Department, the Main Street Project, and the Harbor Rehabilitation Project.

Councilman Frese motioned, seconded by Councilwoman Richardson, to approve advertising for a public hearing toward adoption of the budget amendments. Unanimously approved.

## **8. Other Matters.**

- Town Manager West mentioned that the unveiling of the plaque on the Assateague Channel bridge in honor of the Chincoteague-Assateague Bridge and Beach Authority members would be on Thursday, April 22<sup>nd</sup> at 4:30 pm at the Herbert Bateman Center on Assateague and stated that also on April 22<sup>nd</sup> at the Herb Bateman Center, the U. S. Fish and Wildlife would have a meeting at 7:00 pm to discuss and receive public comment on their management plan. Town Manager West requested that Council consider naming the Downtown Park. He also reported on the scheduled bridge opening request that the Town submitted to the Coast Guard. He stated that a public hearing had not been scheduled because the Coast Guard did not have all of the statistics that they needed. Town Manager West also stated that there would be a progress meeting on the Geographic Information System (GIS) on April 26<sup>th</sup> at 1:30 pm.
- Vice Mayor Mason stated that the vacancies in the Bicycling and Outdoor Recreational Advisory Committee (BORAC) would be discussed in the May Council meeting.

## **9. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for the Purpose of Discussion of the Acquisition or Disposition of Public Property.**

Councilman Howard motioned, seconded by Councilman Frese to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss the acquisition or disposition of public property. Unanimously approved.

Councilman Frese motioned, seconded by Councilwoman Richardson to reconvene in regular session. Unanimously approved.

Councilman Howard motioned, seconded by Councilman Frese 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- Conklin, Frese, Howard, Mason, Richardson  
Nays- None

Absent- Wolfe

**10. Recess of Meeting.**

Councilman Howard motioned, seconded by Councilwoman Richardson, to recess the meeting until April 20, 2004 at 7:00 pm at the Community Center for a joint meeting with the School Board and County Supervisors. Unanimously approved. Mayor Tarr requested that Town Manager West notify Council if the meeting was cancelled.

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Mayor

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Town Manager

**MINUTES OF THE MAY 3, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
Glenn B. Wolfe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:34 p.m.

**2. Invocation.**

Councilman Howard offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Approval of Minutes of the April 5, 2004 and April 15, 2004 Council Meetings.**

Councilman Frese asked if the words 'Grand Airing' could be changed to 'Grand Opening' in the April 5<sup>th</sup> Council meeting minutes under the 'Other Matters' section. Town Manager West stated that the radio station's initial letter of request used the words 'Grand Airing'. Mayor Tarr stated that the minutes would be corrected if necessary.

Councilman Wolffe motioned, seconded by Councilman Howard, to approve the minutes as corrected. Unanimously approved.

**5. Proclamation: Safe Boating Week.**

Mayor Tarr explained the Safe Boating Week Proclamation. Councilman Frese motioned, seconded by Councilman Howard, to approve the following proclamation and publish it in the newspaper. Unanimously approved.

**PROCLAMATION**

Americans are increasingly heading to the water for recreation and relaxation as the opportunities for on-the-water activities grow each year. With this growth comes additional responsibility. It is vital that both novice and experienced boaters alike practice safe boating habits----especially wearing a life jacket. Approximately 88 percent of those who die in boating-related drownings were not wearing life jackets.

**WHEREAS**, hundreds of lives could be saved each year by wearing life jackets and the law requires that wearable life jackets be carried for each person on board a boat; and

**WHEREAS**, responsible boaters will learn the local boating regulations, follow the “rules of the road”, not drink alcohol and boat, wear their life jacket, and respect fellow boaters; and

**WHEREAS**, U.S Coast Guard Auxiliary, Flotilla 12-06 Chincoteague, provides safe boating instruction for all ages in order to prevent boating accidents and to teach rescue and survival techniques in case one does occur; and

**NOW THEREFORE, BE IT RESOLVED**, I, Mayor John H. Tarr, proclaim May 22 through 28, 2004 as Safe Boating Week within the Town of Chincoteague and encourage all boaters to wear their life jackets, boat responsibly, and enroll in a safe boating class.

**DATED** this 3<sup>rd</sup> day of May 2004.

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John H. Tarr, Mayor

Attest:

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James M. West, Town Manager

**6. Council Information Items.**

- Councilman Wolffe asked Town Manager West if there was a date established for beginning the work on Phase II of the Downtown Park. Town Manager West stated that he received a contract on April 30<sup>th</sup> and that the next step would be to send them a notice to proceed and schedule a pre-construction meeting. Councilman Wolffe also asked about the status of obtaining assistance from a planner from the Accomack-Northampton

Planning District Commission (A-NPDC). Town Manager West stated that a meeting was held on April 30<sup>th</sup> with Town Staff and the A-NPDC Staff to work through various planning scenarios. He stated that another similar work session could be scheduled with Council. Town Manager West added that the A-NPDC advised that it might be premature to hire a planner before the Council knew what it wanted to address.

- Councilman Howard asked Town Manager West about the outcome of the Trolley workshop. Town Manager West stated that fares, routes, scheduling and advertising were discussed. He stated that the fare would possibly be 50 cents and added that there would possibly be day passes, citizen passes and family fares. Town Manager West stated that there would be four trolleys this year and that there would be extended hours of service as a result. He added that there would be a weekly history tour every Wednesday beginning at about 4:00 pm.

## **7. Committee Reports.**

- **Harbor Committee-** Councilman Frese stated that they had several visitors at their April 14<sup>th</sup> meeting and that they had resolved a few minor problems. He stated that the fish grinder was received, but that the Department of Environmental Quality (DEQ) had put some restrictions on the grinder that included having to get a permit. Councilman Frese added that the rehabilitation of the Harbor was progressing well. He also commended Harbor Master Lewis on his professionalism and organization.
- **Public Works Committee-** Vice Mayor Mason reported that the Committee met on April 13<sup>th</sup> and discussed fencing the new wells on NASA's property and that the inspection report was received on the ground water tank and the elevated water tank. He stated that the Committee planned to have the maintenance work done on the ground water tank in the fall and the elevated tank in the spring of 2005.
- **Bicycling and Outdoor Recreation Advisory Committee-** Vice Mayor Mason stated that the Committee met on April 14<sup>th</sup> and discussed the bids received for the Skate Park equipment. He stated that the Committee's recommendation would be presented to Council later in the meeting.
- **Budget and Personnel Committee-** Councilwoman Conklin stated that the Committee had been holding workshops to balance the budget. She stated that the contractor who was doing the spraying for mosquito control would pay a portion of the insurance. Councilwoman Conklin stated that the Committee discussed a part-time trolley manager position and that Town Manager West continued to negotiate with the health insurance company to reduce rate increases. She added that there would not be a budget workshop on May 4<sup>th</sup>.
- **Mosquito Control Committee-** Councilman Wolffe stated that the Committee met and discussed the mosquito control insurance reported by Councilwoman Conklin and also discussed purchasing a new truck for next year.
- **Cemetery Committee-** Councilman Howard stated that the Committee met on April 27<sup>th</sup> and discussed the cleanup of the Mechanics and Daisey Cemeteries on Church Street. He stated that these cemeteries would be cleaned up three times this summer. Councilman Howard added that many of the other cemeteries were being cleaned up by volunteers. He stated that the Committee would meet on May 22<sup>nd</sup> at 6:00 pm.
- **Ordinance Committee-** Councilman Howard stated that the Committee met on April 21<sup>st</sup> and discussed the draft of the sign survey that was presented by the Sign Committee

of the Planning Commission. He stated that the Committee edited the survey because some of it was leading and not objective. Councilman Howard stated that the new format of the sign survey that the Sign Committee has presented meets the criteria of objectivity. He added that the Committee would meet on May 19<sup>th</sup> at 4:30 pm and discuss the newly formatted sign survey, as well as the rules and regulations that govern the use of the Town's new downtown park.

## **8. Student Government.**

Mayor Tarr gave details of the Student Government day held on May 3, 2003. Student Government Mayor, Les Bowmann, introduced the Student Government Council and Staff.

### Council Members:

Heather Daisey                      Jenny Thornton

Jennifer Gorsuch                  Chris Birch

Chris Mills                          Lura Rolleston

Adam Merritt, Town Manager

Billy Quinn, Chief of Police

Whitney Cole, Director of Public Works

The students brought five recommendations to Council.

- Student Government Public Works Director Cole suggested removing the “No Bicycles on the Sidewalk” signs from Maddox Boulevard, as it was dangerous to ride a bicycle in the street due to the parked cars and heavy traffic. She also recommended painting crosswalks at the intersections of Maddox Boulevard. Councilman Wolffe stated that the ordinance against riding bicycles on the sidewalks on Maddox Boulevard was initiated due to the safety of pedestrians on the same sidewalks. Councilwoman Conklin stated that the matter could be reviewed as it was not only dangerous to pedestrians walking on the sidewalks where bicyclists were riding, but also dangerous for the bicyclists to share Maddox Boulevard with the heavy traffic and larger vehicles.
- Student Government Mayor Bowmann suggested having Sunday parking only on Church Street from Willow Street to Main Street. He stated that that area was very congested, especially on Sundays, and was dangerous. “Mayor” Bowmann suggested having a 15-minute loading/unloading zone in front of the Opportunity Shop on Church Street to reduce the amount of traffic swerving around parked vehicles. Vice Mayor Mason asked where the flower shop customers would park, as well as the residents of that section of Church Street. “Mayor” Bowmann stated that the residents had off-street parking and that the flower shop customers could park in the rear of the establishment or across the street on the old school property.
- Student Government Police Chief Quinn suggested that the Town get a drug dog. He stated that drugs were a problem on the Island and in the schools, especially in the High School parking lot. “Police Chief” Quinn stated that the drug problem on the Island needed to be strongly enforced and could be with the help of a drug dog. Mayor Tarr stated that there was a line item in the proposed budget for a drug dog.
- Student Government Mayor Bowmann suggested building a YMCA on the Island. He stated that it would not just be for the youth, but for adults as well. Councilman Howard stated that preliminary steps have been taken toward constructing a pool on Town property adjacent to the Community Center. Councilman Wolffe suggested the

students do more in-depth research of the criteria for establishing a YMCA in Chincoteague. Councilman Frese stated that he did not mean to discourage the students and their great idea of a YMCA, but that the estimate simply for the pool construction was very expensive, about \$1 million.

- Student Government Police Chief Quinn suggested that lights be erected on the basketball and tennis courts at Memorial Park so that the children could play in the evening after dark and also to deter suspicious activity that may take place there. Vice Mayor Mason asked if “Police Chief” Quinn suggested lighting the courts only, as opposed to other areas of the park. “Police Chief” Quinn responded that he was specifically talking about the basketball and tennis courts.

Student Government Mayor Bowmann closed their suggestion and discussion period. Mayor Tarr and Council thanked the Student Government participants and congratulated them on a job well done.

## **9. Joint Public Hearing: Proposed Amendments to Appendix B, Zoning.**

Mayor Tarr opened the joint public hearing at 8:40 pm.

Town Attorney Poulson stated that the proposed zoning changes remove amusements as a matter of right in districts C-1 and C-2. He added that amusements would require conditional use procedures. Town Attorney Poulson stated that in each district, there was a catch-all category in which a use could be permitted by a special exception. He stated that the proposed change would eliminate the catch-all category and provides that if a use was not specifically provided, Council could grant that use with a conditional use procedure. Town Attorney Poulson stated that if the proposed zoning changes were passed, there would be 1) a use as a matter of right, 2) a special use granted by the Board of Zoning Appeals, or 3) a conditional use granted by Council. He stated that an application for a conditional use would be reviewed by the Planning Commission and then by Council. He added that this conditional use procedure would include every catch-all section of the Zoning Ordinance.

Mayor Tarr invited public comment. After receiving no public comment, Mayor Tarr closed the joint public hearing at 8:43 pm.

Acting Planning Commission Chairman Ross opened the Planning Commission’s portion of the joint public hearing and announced that the Commission members present were David Ross, Councilwoman Richardson, Gladys Baczek, Jane Wolffe, and Mollie Cherrix. Chairman Ross stated that the Commission was directed by letter from Town Manager West to act on the proposed changes to the Zoning Ordinance regarding Amusements. The proposed changes were reviewed and two changes to the wording were recommended. Mrs. Wolffe motioned, seconded by Mrs. Baczek, to forward the Commission’s recommendation, with the two changes made in the wording, to Council.

Vice Mayor Mason recommended changing the word ‘*approved*’ in Section 9.3(1)e to ‘*considered*’ since the Planning Commission would not approve a conditional use permit, but only make recommendations to Council. He also recommended making two

sentences in Section 9.3(1)d by replacing the semicolon with a period and capitalizing the first letter of the word ‘*the*’ of the newly made second sentence.

Mrs. Baczek motioned, seconded by Mrs. Wolffe, to close the Planning Commission’s portion of the joint public hearing. Unanimously approved.

Councilman Wolffe motioned, seconded by Vice Mayor Mason, to adopt the conditional use procedure and amendments stated below, with the two recommended changes by Vice Mayor Mason as stated above. Councilman Frese stated that he thought that this action was a travesty and that it placed a burden on small businesses. He questioned why things should be changed when everything seemed to be working fine.

Ayes – Conklin, Howard, Mason, Richardson, Wolffe

Nays – Frese

Motion carried.

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE ZONING PROVISIONS OF THE CODE OF THE TOWN OF CHINCOTEAGUE, ADDING AN ARTICLE IX PROVIDING FOR A CONDITIONAL USE PERMIT REQUIREMENT FOR CERTAIN PROPOSED USES, AND ESTABLISHING A FEE**

Be it ordained that the following provisions of the Code of the Town of Chincoteague be amended as follows:

**Sec. 3.2.1** Such other temporary or permanent use of land, buildings, or structures as may be permitted, ~~subject to the other applicable requirements of the board of zoning appeals, in accordance with article VIII, section 8.2.6 of this ordinance.~~ **by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.**

**Sec. 3.5.2** Such other temporary or permanent use of land, buildings, or structures as may be permitted, ~~subject to the other applicable requirements of the board of zoning appeals, in accordance with article VIII, section 8.2.6 of this ordinance.~~ **by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.**

**Sec. 3.8.10** Such other temporary or permanent use of land, buildings, or structures as may be permitted, ~~subject to the other applicable requirements of the board of zoning appeals, in accordance with article VIII, section 8.2.6 of this ordinance.~~ **by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.**

**Sec. 3.11.6** Such other temporary or permanent use of land, buildings, or structures as may be permitted, ~~subject to the other applicable requirements of the board of zoning appeals, in accordance with article VIII, section 8.2.6 of this ordinance.~~ **by the**

**Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.**

**Sec. 4.1.21** ~~Amusements.~~ **Reserved.**

**Sec. 4.2.4** Such other temporary or permanent use of land, buildings, or structures as may be permitted, ~~subject to the other applicable requirements of the board of zoning appeals, in accordance with article VIII, section 8.2.6 of this ordinance.~~ **by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.**

**Sec. 4.4.31** ~~Amusements.~~ **Reserved.**

**Sec. 4.5.4** Such other temporary or permanent use of land, buildings, or structures as may be permitted, ~~subject to the other applicable requirements of the board of zoning appeals, in accordance with article VIII, section 8.2.6 of this ordinance.~~ **by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.**

### **Article IX Conditional Use Permits**

#### **Sec. 9.1 General**

Because of their nature, size, unique characteristics, particular demands on public facilities and resources, and the potential for substantial impact on neighboring properties, the surrounding area, and the general public, certain proposed uses will require a close consideration of whether a specific use should be permitted in a particular location within a Zoning District, and if so, what special conditions or safeguards should be applied to protect the overall Public Welfare.

#### **Sec. 9.2 Requirements of Conditional Use Permits**

No temporary or permanent use of land, buildings, or structures, except such uses as are expressly permitted under this Code as a matter of right or permitted by a special use permit by the Board of Zoning Appeals within the applicable Zoning District shall be permitted within such District, except such use or uses as may be permitted by the Town Council of the Town of Chincoteague as a conditional use pursuant to the provisions of this Article 8A.

#### **Sec. 9.3 Procedures, Standards, and Conditions**

Requests for a “conditional use”, within a District as provided for, will be granted, denied, or granted conditionally, by the Town Council, in accordance with the following provisions:

- (1) *Procedure.*

- a. A request for a conditional use permit may be submitted to the Town Council through the zoning administrator by the property owner, his agent, the contract purchaser, or optionee of the property upon which the proposed use will be located;
- b. A site development plan, in accordance with Sec. 8A.5, shall accompany the request;
- c. The zoning administrator or other designated agent shall review the application, visit the site, request additional information from the applicant, as needed, and request review and comments by other local and/or state or federal agencies or officials, as needed, and formulate a staff review to the planning commission;
- d. The planning commission shall review the request, site plan, staff review, and any other reports or comments, visit the site as necessary, determine any additional information necessary for the review, and meet with the applicant prior to a public hearing, if requested. The commission shall conduct a public hearing after notice in accordance with Code of Virginia, §15.2-2204, as amended, after which it shall recommend that the request be granted, denied, or granted conditionally.
- e. Prior to the public hearing, the applicant shall submit to the planning commission proof of notification of nearby property owners. Notice sent by certified mail to the last known address of such owner as shown on the current real property tax assessment books of the county shall be deemed adequate compliance with the requirement. The provision of the notice shall be the responsibility of the owner or agent. No conditional use permit shall be considered by the planning commission within ten days of any such notice. The notice shall state: the type of use proposed, the date of submission, the specific location of the proposed development and the appropriate Town office where the application and attachments may be reviewed. (“Nearby” shall be defined as within 500 feet of the boundary of the applicant’s parcel; except where there are more than 15 property owners within 500 feet, in which case notification of only the adjoining property owners will be required.)
- f. The planning commission shall forward its recommendations, and all related materials, to the Town Council, which shall conduct a public hearing after notice in accordance with Code of Virginia, §15.2-2204, after which the Town Council shall grant, deny, or grant conditionally the proposed conditional use;
- g. Any changes or modifications to requests or site plans made by the applicant prior to action by the Town Council shall be reviewed by the administrator to determine if such changes require initiation of a new or separate application and review process.
- h. Following action by the Town Council, the applicant shall be notified in writing of the Council’s determination, including such conditions, limitations, and other requirements imposed by the Council, or the reasons for denial.

i. A conditional use permit may be revoked by the Town Council if the Town Council determines that there has not been compliance with the terms, conditions or uses specified in the granting of the permit. Such determinations will be made after the same notice and public hearing requirements specified in Code of Virginia, §15.2-2204.

(2) *Standards.* In considering recommendations and actions on conditional use requests, review standards shall include, but not be limited to, the following guidelines:

- a. The proposed use and/or structure is permitted under the Zoning District's provisions with a conditional use permit;
- b. The proposed use and/or structure will not adversely affect the health or safety of persons residing or working in the neighborhood;
- c. The proposed use and/or structure will not tend to change the character of, or the established pattern of development within the zoning district in which it will be located, considering the size and location of the proposed use, the nature and intensity of the operation to be conducted, the site design, and its relation to the surrounding area and roads giving access to it;
- d. The proposed use, structure(s) and overall development will be in conformance with all other provisions of this chapter, except as may be modified by the Town Council in writing and/or as shown on the approved final site plan, as well as in general conformance with the comprehensive plan as adopted by the Town Council;
- e. That adequate utilities, access roads, drainage or other necessary facilities have been or are being provided;
- f. That adequate measures have been or will be taken to provide ingress and egress which will be designed to minimize traffic congestion on the public's streets and roads;
- g. That the conditional use, in all other respects, conforms to the applicable zoning district regulations in which it is located, except as such regulations may, in each instance be modified by the Town Council, in writing and/or as shown on the approved final site plan.

(3) *Conditions and bonds.* The Town Council shall consider and may impose conditions, limitations, or other special requirements as it deems necessary to protect the public health, safety and general welfare, such as, but not limited to, the following:

- (1) Abatement or restriction of noise, smoke, dust, vibration, light, glare, odors, wastes, or other elements that may effect surrounding properties;

- (2) Establishment of setback, side, front, and rear area requirements necessary for orderly development and/or expansion, and for prevention of traffic congestion, and for protection of the surrounding environment;
- (3) Provisions for adequate parking, and ingress and egress to public streets and roads necessary to prevent traffic congestion and hazards;
- (4) Providing adjoining property with a buffer or shield from view of the proposed use and/or structure;
- (5) Other such conditions deemed necessary and desirable in consideration of the specific location, size, nature, site layout, and public access of the proposed use;

- (6) Other such conditions deemed necessary and desirable to minimize adverse environmental impacts on scenic, historic, and waterfront areas or features, including abatement of air and water pollution, and water runoff and existing or potential flooding problems;
- (7) Establishment of time limits for expiration, after which the conditional use permit shall no longer be valid or shall require renewal;
- (8) The Town Council may require a bond, with or without adequate surety, in a reasonable and sufficient amount determined by the Town Council, to be payable to the Town Council to insure compliance with the terms and conditions of any conditional use permit.

(4) *Effect of approval.* The issuance of a conditional use permit shall authorize the applicant to construct only such structure(s) or conduct only such uses as are specifically requested and made part of the permit. No deviations, expansion, or other changes whatsoever shall be made from the terms of the permit without the expressed written approval of the Town Council.

Unless otherwise specified, any conditional use permits granted by the Town Council shall expire one year after the date of issuance unless substantial construction or use for which said permit was granted has actually commenced, and is progressing toward completion in accordance with the approved site plan.

The Town Council shall not extend or renew any conditional use permit previously granted, without the applicant complying with the procedures as set forth in section 8A.5 of this Article.

(5) *Reconsideration.* A property owner or other applicant who has been denied a conditional use permit by the Town Council may not submit substantially the same application until after a period of at least one (1) year from the date of the original denial by the Town Council.

#### **Sec. 9.4 Site Development Plan**

Any application for a conditional use permit shall be accompanied by a site development plan, which shall include the following information:

- (1) Location of the lot or parcel by vicinity map. Site development plans shall also contain a north arrow, original date, revision dates, and graphical scale.
- (2) Property lines of the parcel proposed for development. If only a portion of a parcel is proposed for development, a limits of development line shall also be shown.

- (3) The tax parcel identification numbers of parcels proposed for development.
- (4) The name and address of the property owner and name and address of the developer, if different from the owner. The name and address of the person or firm preparing the plan shall be on the plan.
- (5) The name of adjacent property owners and the owners of any property on which any utility or drainage easement may be required in conjunction with the development. The tax parcel number for each of these properties shall also be provided.
- (6) The zoning district designation of the parcel(s) proposed for development, and the zoning designation and current land use of adjacent parcels.
- (7) The nature of the land use(s) proposed for the site.
- (8) The names, route numbers, and locations of existing and proposed public and private streets, alleys and easements on or adjacent to the site. The centerlines or boundary of adjacent rights-of-way shall also be shown.
- (9) The exact location of buildings or structures existing on or proposed for the site, including their setbacks from property lines, and the distance between buildings or structures.
- (10) The location of existing and proposed septic systems on the site.
- (11) The location, type, and size of site access points such as driveways, curb openings, and crossovers. Distances to neighboring access points, median openings, intersections, and traffic signals shall be provided. If new median cuts are proposed, their location shall also be shown.
- (12) Off-street parking areas and parking spaces including handicapped spaces, loading spaces, and walkways indicating types of surfacing, size, angles of stalls, width of aisles, and a specific schedule showing the number of spaces provided and the number required by this ordinance. Internal traffic circulation shall be addressed.
- (13) The location of existing and proposed signs on the property.
- (14) The location and type of proposed exterior lighting, including the height of poles, and type and wattage of fixtures.
- (15) An erosion and sediment control plan, where required.
- (16) A stormwater management plan, where required.
- (17) Any additional information requested by the zoning administrator.

**Sec. 9.5 Certiorari to review decision of Town Council.**

**9.5.1** Any person or persons jointly or severally aggrieved by any decision of the Town Council, or any aggrieved taxpayer or any officer, department, board or bureau of the Town, may present to the circuit court for the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office or the Town Council.

**9.5.2** Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Town Council appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Town and on good cause shown, grant a restraining order.

**9.5.3** The Town Council shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

**9.5.4** If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidenced or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

**9.5.5** Costs shall not be allowed against the Town, unless it shall appear to the court that, it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Town is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the Town may request that the court hear the matter on the question of whether the appeal was frivolous.

*\*NOTE: In order to accommodate the new Article 9, the current Articles 9, 10, and 11 were renumbered.*

**Sec. 12.1.4 Conditional Use Fee**

(1) The fee for a conditional use application shall be \$1,500.00. The Town Manager shall have the authority to waive, in whole or in part, such fee.

**10. Public Hearing: Proposed FY '04 Budget Amendments.**

Mayor Tarr opened the public hearing at 9:28 pm. Town Manager West stated that other than incorporating \$1,500 in the 'Town Office Salaries' line item to allow for the new position, the proposed amendments to the FY'04 Budget were the same as presented in the last meeting.

Mayor Tarr invited public comment. After receiving no public comment, Mayor Tarr closed the public hearing at 9:30 pm.

Councilman Wolffe motioned, seconded by Councilwoman Conklin, to approve the proposed amendments to the FY'04 Budget as follows. Unanimously approved.

<i>Description</i>	<i>from</i>	<i>to</i>	<i>net</i>	
ABC Profits	5184	21000	15816	
Water Line Extensions	12000	23000	11000	
Service Connections	15000	25000	10000	
<i>net total change</i>			36816	<i>(rev)</i>
Town Office Salaries	243033	244533	1500	
Water Main Extensions	7200	15200	8000	
Water Tank Painting	100000	30000	-70000	
Deep Well # 8	0	100000	100000	
Cathodic Protection	52000	31354	-20646	
CIP upgrades	335705	295567	-40138	
Water ModelCIP Update	5000	8000	3000	
Fences: Well Fields	0	55100	55100	
<i>net total change</i>			36816	<i>(exp)</i>
Fowling Gut/Andrews Gut	30000	38000	8000	
GIS System	18000	29500	11500	
Pension Street Drainage	70000	0	-70000	
Backhoe	30000	40500	10500	
Pickup Truck(s)	0	40000	40000	
<i>net total change</i>			0	<i>(exp)</i>
Program Income	0	12000	12000	
CDBG Main St Grant	300000	120000	-180000	
TEA-21 Main St Grant	270000	220000	-50000	
Boating Infr. Grant	20000	100000	80000	
DCR Odrs. Fund Grant	81600	0	-81600	
Urban Forestry Grant	30000	0	-30000	
<i>net total change</i>			-249600	<i>(rev)</i>
Main Street Project	705900	456300	-249600	
<i>net total change</i>			-249600	<i>(exp)</i>
VA Port Authority Grant	296000	160000	-136000	
Rec Fishing Fund Grant	143500	83000	-60500	
Trf. From General Fund	0	188000	188000	
<i>net total change</i>			-8500	<i>(rev)</i>
Harbor Salaries	9315	20347	11032	

Overtime	0	300	300	
Social Security	713	1557	844	
Retirement	0	124	124	
Long Term Replacement	14000	0	-14000	
CMH Replmt.Project	938472	931672	-6800	
<i>net total change</i>			-8500	<i>(exp)</i>
Total Proposed Amendment			-221284	
Original Total Budget for FY' 03-04			6065428	
New Total Budget for FY' 03-04			5844144	

## **11. Public Participation.**

- Mr. Richard Conklin commended Councilman Frese for his stand on the conditional use permit matter. He wished the incumbents and the challengers good luck in the election. Mr. Conklin stated that he wanted Council to consider directional signs (off-premise signs) for small businesses. He stated that he had presented a proposal to the Planning Commission, but the matter was never addressed. Mayor Tarr stated that the Ordinance Committee would meet on May 19<sup>th</sup> at 4:30 pm and requested that Mr. Conklin attend the meeting and address the Committee.
- Ms. Dolly Shell stated that there were a lot of raccoons in Ocean Breeze and asked for Council's help to get rid of them. She stated that she had contacted animal control, but that they had several problems trying to trap them. Police Chief Lewis stated that Mr. Jason Wood of the U. S. Department of Agriculture (USDA) could be contacted to remove the animals. Mayor Tarr asked Police Chief Lewis to send a letter to Sheriff Robert Crockett stating the problem that the Town is having with raccoons and requesting his office's assistance with the situation.

## **12. Appointments:**

- **Planning Commission-** Mayor Tarr opened the nominations for the seat vacated by Mr. Michael Tolbert. Councilman Frese nominated Mr. Ray Rosenberger to fill the vacancy. Mayor Tarr closed the nominations.  
Ayes – Conklin, Frese, Howard, Mason, Richardson, Wolffe  
Nays – None  
Mayor Tarr congratulated Mr. Rosenberger and advised him to meet with Town Manager West for more information.

Mayor Tarr opened the nominations for the seat vacated by Mr. Eddie Thornton. Councilman Wolffe nominated Mr. Reggie Birch to fill the vacancy. Councilwoman Conklin nominated Mr. Billy Joe Tarr. Mayor Tarr closed the nominations.

Votes for Mr. Reggie Birch:

Ayes – Mason, Wolffe

Nays – Conklin, Frese, Howard, Richardson

Votes for Mr. Billy Joe Tarr:

Ayes – Conklin, Frese, Howard, Mason, Richardson, Wolffe

Nays – None

Mayor Tarr stated that Mr. Tarr would complete the second unexpired term on the Commission.

Town Manager West stated that Mr. Rosenberger's term would expire on December 31, 2005 and that Mr. Tarr's term would expire on December 21, 2007.

- **Bicycling & Outdoor Recreation Advisory Committee-** Mayor Tarr opened the nominations for the first vacancy on the Committee. Councilman Wolffe nominated Mrs. Marguerite Wolff to fill the first vacancy. Mayor Tarr closed the nominations.

Ayes – Conklin, Frese, Howard, Mason, Richardson, Wolffe

Nays – None

Mayor Tarr stated that Mrs. Wolff would serve on the Committee.

Mayor Tarr opened the nominations for the second vacancy on the Committee.

Councilman Howard nominated Mr. Gene Taylor. Mayor Tarr closed the nominations.

Ayes – Conklin, Frese, Howard, Mason, Richardson, Wolffe

Nays – None

Mayor Tarr stated that Mr. Taylor would serve on the Committee.

### **13. *Purchase of Skate Park Equipment.***

Vice Mayor Mason stated that Skatewave's bid was the lowest bid and that the company agreed to waive the installation fee if the Town provided the labor. He stated that the Bicycle and Outdoor Recreation and Advisory Committee (BORAC) requested that Council approve the purchase of the equipment from Skatewave.

Councilman Wolffe motioned, seconded by Councilman Howard, to award to Skatewave in the amount of \$87,924, the contracted supplies and equipment for the Skate Park. Unanimously approved.

### **14. *Request from Star Transit.***

Mayor Tarr stated that Star Transit requested support from the Council annually. He stated last year, Council provided a donation of \$500.

Councilman Howard motioned, seconded by Councilwoman Richardson, to make a donation to Star Transit in the amount of \$500. Unanimously approved.

### **15. *Authorization to Purchase Pickup Trucks.***

Public Works Director Jeffries stated that three dealers had been contacted for prices for a ½-ton, two-wheel drive pickup and a ¾-ton, four-wheel drive pickup. He stated that Carlton Massey in Pocomoke, MD had the lowest prices. Public Works Director Jeffries requested that Council approve the purchase of these two trucks.

Councilwoman Richardson motioned, seconded by Councilman Wolffe, to authorize the purchase of a ½-ton, two-wheel drive pickup in the amount of \$14,144 and a ¾-ton, four-wheel drive pickup in the amount of \$17,605 from Carlton Massey. Unanimously approved.

## **16. Other Matters.**

- Police Chief Lewis thanked Council for the privilege of working with them and wished the candidates well in the upcoming election.
- Public Works Director Jeffries reiterated Police Chief Lewis's comment. He also stated that the Public Works Committee meeting scheduled for May 11<sup>th</sup> would be at 4:00 pm so that Committee members may attend the School Board meeting at 7:00 pm.
- Councilman Wolffe stated that the Budget Workshop would be rescheduled from May 11<sup>th</sup> to May 10<sup>th</sup> at 5:30 pm so that the Committee members may attend the School Board meeting on May 11<sup>th</sup>.
- Town Manager West wished the candidates well in the upcoming election.
- Town Attorney Poulson reported on the Hallie Whealton Smith trust. He stated that the Judge agreed that the trustees were allowed to award scholarships.
- Councilwoman Conklin invited everyone to the Island Creamery after the election for light refreshments from 7:00 pm to 9:00 pm.
- Councilman Wolffe wished the candidates luck and thanked all of them for running a positive campaign.
- Councilman Howard agreed with Councilman Wolffe's statement and also wished all of the candidates the best of luck.
- Mayor Tarr stated that he was asked to prepare a Proclamation for World Lupus Day. Mayor Tarr read the Proclamation.

### **PROCLAMATION**

**WHEREAS**, lupus is an autoimmune disease in which the immune system attacks the body's own healthy cells causing tissue damage, organ failure and, in some cases, death; and

**WHEREAS**, more than five million people worldwide suffer the devastating effects of this disease and each year over a hundred thousand men, women and children are newly diagnosed with lupus, the great majority of whom are women of childbearing age; and

**WHEREAS**, medical research efforts into lupus and the discovery of safer, more effective treatments for lupus patients are under funded in comparison with diseases of comparable magnitude and severity; and

**WHEREAS**, there is a deep, unmet need worldwide to educate and support individuals and families affected by lupus; and

**WHEREAS**, there is an urgent need to increase awareness in communities worldwide of the debilitating impact of lupus;

**NOW, THEREFORE, BE IT RESOLVED** that May 10, 2004 is recognized as World Lupus Day. We join with lupus organizations around the globe in calling for increases in public and private sector funding for medical research on lupus, targeted education programs for health professionals, patients and the public, and worldwide recognition of lupus as a significant public health issue.

DATED this 3<sup>rd</sup> day of May, 2004.

\_\_\_\_\_  
John H. Tarr, Mayor

Attest:

\_\_\_\_\_  
James M. West, Town Manager

**17. Recess of Meeting.**

Councilman Howard motioned, seconded by Councilman Frese to recess the meeting until May 20, 2004. Unanimously approved.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Manager

**MINUTES OF THE MAY 20, 2004  
CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman  
Glenn B. Wolfe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:40 p.m.

**2. Invocation.**

Councilman Howard offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Certificate of Recognition.**

Councilman Howard spoke very highly of Mrs. Beebe and her life. Mayor Tarr read the certificate into the minutes.

CERTIFICATE OF RECOGNITION

PRESENTED TO

**Mrs. Pansy L. Beebe**

**WHEREAS,** Mrs. Pansy Beebe will be honored by relatives and friends on the occasion of her 100<sup>th</sup> birthday; and

**WHEREAS,** Mrs. Beebe was born in Gargatha, Virginia on May 23, 1904 and has been a member of this community for 88 years; and

**WHEREAS,** Mrs. Beebe married Milton Robert Beebe on January 16, 1924 and this union produced one child and two grandchildren; and

**WHEREAS,** during a long and productive lifetime, she has enjoyed being a wife, mother and homemaker as well as being a pioneer in the tourist industry on our Island; and

**WHEREAS,** her dedication to the welfare of others 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. Pansy Beebe on the occasion of her 100<sup>th</sup> birthday, with sincere congratulations and best wishes for many more happy, productive years in the future.

**DATED** this 23<sup>rd</sup> day of May, 2004.

\_\_\_\_\_  
John H. Tarr, Mayor

Attest:

\_\_\_\_\_  
James M. West, Town Manager

**5. Ordinance Vacating Property Line Between Vacation Park Lots 44 and 42.**

Town Manager West stated that the application and proposed ordinance for vacation of a property line had been properly advertised. He stated that the applicant wished to vacate the property line between Vacation Park lots 42 and 44 to allow the construction of an addition to the mobile home on lot 44.

Councilman Howard motioned, seconded by Councilman Wolffe, to adopt the following ordinance vacating the property line. Unanimously approved.

ORDINANCE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHINCOTEAGUE AS FOLLOWS:

1. That the property line running Southwest 82' dividing Lots 42 and 44 on that certain Plat entitled, "Vacation Park Mobile Home Sites Chincoteague, Accomack County, Virginia Surveyed Oct. 15, 1971" made by R.L. Beebe C.E., which Plat is recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia, in Plat Book 19, at page 46, be and it hereby is vacated, a copy of said Plat is being filed with said Application and attached to this Ordinance. Said line is further designated by a series of "X's," as shown on said Plat.
2. That a certified copy of this Ordinance, together with a copy of said Plat showing the property line to be vacated, be recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia.
3. That the effective date of this Ordinance shall be upon adoption by the Town Council for the Town of Chincoteague.

Approved \_\_\_\_\_  
John H. Tarr, Mayor

Dated this 20<sup>th</sup> day of May, 2004

Attest:

\_\_\_\_\_  
James M. West, Town Manager

**6. Deer Removal Report/Expansion of Wildlife Management.**

Councilwoman Richardson reported that the Wildlife Service (WS) of the U. S. Department of Agriculture (USDA) removed 65 deer from the Island this year.

Town Manager West stated that after completion of the deer removal program, there was a balance of \$1,874 under the applicable line item. He stated that he had asked the WS to work with the Town to investigate the raccoon population problem and apply the remaining balance toward those efforts. Town Manager West asked Council to consider utilizing the planned deer removal program money in the upcoming budget for other wildlife control services as well as deer removal.

Councilman Howard asked why Town Manager West suggested that rental properties be excluded from Town-provided wildlife services. Town Manager West replied that rental agencies collect money for these services. Councilmen Howard and Frese agreed that all citizens should benefit from the service, that no one should be excluded. Councilman Wolffe stated that it might be appropriate to help with the current raccoon situation, but that it should not be a continuing service.

Mayor Tarr thanked Councilwoman Richardson on her efforts with the deer removal program and her service on the Deer Task Force Committee.

### **7. Recommendation of Meals Tax Committee.**

Councilwoman Conklin stated that the Meals Tax Committee met on May 13<sup>th</sup> and discussed how the 10% of the meals tax revenue that is earmarked for tourism should be used. She stated that the Chamber of Commerce was not being supported by the Eastern Shore Chamber of Commerce this year for the annual travel show, which was a major event that helped promote tourism on the Island. This caused the Chamber an approximate \$5,000 shortfall in funding. Therefore, the Committee recommended that 6% of the meals tax tourism revenue should be devoted to the Chamber of Commerce and 4% to the Chincoteague Center.

Mayor Tarr stated that he felt the Center was not informed of the meeting and was underrepresented. Councilman Frese agreed with Mayor Tarr, but felt that the Chamber's shortfall needed to be satisfied in order to further promote tourism.

Vice Mayor Mason recommended that the Meals Tax Committee meet again with a representative from the Center to discuss the division of the revenue. It was the general consensus of Council to have the Meals Tax Committee meet again to discuss the matter.

### **8. Authorization to Advertise Proposed FY '05 Budget.**

Town Manager West stated that the proposed \$6,224,742 budget for fiscal year 2005 was developed by staff and the Budget and Personnel Committee. He stated that the high-dollar items in the water distribution and improvement plan include solutions to pressure problems that need to be repaired and the repair or replacement of portions of the raw water supply line to the Island. Town Manager West added that Council could decide to borrow enough money to fund projects for just two years, or borrow as needed over several years and many projects.

Councilman Howard supported the spending. Vice Mayor Mason stated that there might be more of a savings to the Town if all of the money for at least three years was borrowed at one time. He stated that there would only be a one-time fee for bond counsel and that the interest rates were currently low.

Councilman Wolffe recommended advertising the proposed budget with the larger figures of the water improvement plan line items and an increase in the Water Debt Service line item. Town Manager West stated that the debt service line item would increase by \$70,000-\$80,000 and the Water Bond would increase by \$2 million.

Mayor Tarr stated that he was not in favor of hiring another full-time police officer. He stated that he wished that a part-time officer could be hired for the summertime instead.

Councilman Wolffe motioned, seconded by Councilman Howard, to advertise for a public hearing on the proposed FY '05 budget, including the changes discussed above, for the June 7<sup>th</sup> Council meeting. Unanimously approved.

## **9. Authorization of Comment Letter: USFWS Proposed Compatible Uses.**

Mayor Tarr stated that on April 22<sup>nd</sup>, the U.S. Fish and Wildlife Service (USFWS) held a public meeting to gather comments on compatible uses of the Chincoteague National Wildlife Refuge. Mayor Tarr asked staff to prepare a letter that would reinforce the Town's position on some of those uses and suggest some expansion in compatible uses. He added that he had received several letters opposing some of the uses, including the nature tours up the service road.

Councilman Wolffe stated that he felt the bus tours up the service road was a great idea and wished that the service road was opened up to bicyclists.

Mayor Tarr asked Town Manager West to include in the letter the bicycling request and the need for the bus tours up the service road and then to send the letter to the USFWS.

## **10. Other Matters.**

- Vice Mayor Mason reported on the Department of Environmental Quality (DEQ) meeting that he attended along with Public Works Director Jeffries regarding well #8. He stated several requirements that the DEQ had for the new well before it could be used.
- Town Manager West thanked Mr. Dan Hayworth from Senator Rerras's office for assisting Vice Mayor Mason and Public Works Director Jeffries during the DEQ meeting and for an outstanding job checking the regulatory information.

## **11. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Acquisition or Disposition of Public Property and to Discuss a Personnel Matter.**

Councilman Frese motioned, seconded by Councilman Howard, to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia for discussion of acquisition or disposition of public property and to discuss a personnel matter. Unanimously approved.

Vice Mayor Mason motioned, seconded by Councilman Wolffe, to reconvene in regular session. Unanimously approved.

Councilman Howard motioned, seconded by Councilman Frese, 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- Conklin, Frese, Howard, Mason, Richardson, Wolfe  
Nays- None  
Absent- None

## **12. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be on June 7, 2004. Councilwoman Conklin motioned, seconded by Councilwoman Richardson, to adjourn the meeting. Unanimously approved.

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Mayor

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Town Manager

### **MINUTES OF THE JUNE 7, 2004 CHINCOTEAGUE TOWN COUNCIL MEETING**

#### **Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
James Frese, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
Glenn B. Wolfe, Councilman

#### **1. Call to Order.**

Mayor Tarr called the meeting to order at 7:37 p.m.

#### **2. Invocation.**

Councilman Howard offered the Invocation.

#### **3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

#### **4. Approval of Minutes of the May 3, 2004 and May 20, 2004 Council Meetings.**

Councilman Howard stated that under the Ordinance Committee report section of the May 3, 2004 minutes, the words '*meets the criteria of objectivity*' in the third sentence needed to be changed to '*is better, but still not objective*'. He wished to clarify that the Committee agreed that the *format* of the new sign survey that was being discussed in that Committee meeting was better, but still not objective. Councilwoman Conklin motioned, seconded by Councilman Frese, to approve the minutes as corrected. Unanimously approved.

#### **5. Council Information Items.**

- Vice Mayor Mason asked Town Manager West if the installation date for the Skate Park equipment was still scheduled for July. Town Manager West responded that it was scheduled for mid-July, depending on the paving contractor.
- Vice Mayor Mason recommended that Council schedule a date for a facilitated planning session as recommended by the Accomack-Northampton Planning District Commission (A-NPDC) and invite the Planning Commission and have the meeting open to the public. Councilman Howard stated that he thought that Council should proceed. Mayor Tarr suggested inviting Mr. Paul Berge of the A-NPDC to a Council meeting to receive his comments regarding the conditions and criteria of the meeting, including who should be invited. Councilman Wolffe agreed that Council should move ahead and agreed that the Planning Commission should be invited to the meeting as well. Mayor Tarr asked Town Manager West to invite Mr. Berge to the June 17<sup>th</sup> Council meeting.
- Councilman Wolffe asked what the status of the Coast Guard decision was regarding the scheduled bridge openings. Town Manager West responded that the Coast Guard was in the process of reviewing the request.
- Councilman Howard asked about the conditional use procedure. Town Manager West stated that the Town Code was being updated to incorporate the new procedure.

#### **6. Committee Reports.**

- **Planning Commission-** Councilwoman Richardson stated that Planning Commission decided not to change the parking requirement associated with rental homes.
- **Harbor Committee-** Councilman Frese stated that the Health Department denied the permit on the Harbor's existing drain fields which was holding up the construction of the bathroom/shower facilities. He added that the 30 new slips could not be used until the permit was approved and the restroom facilities were built. Councilman Frese also stated that the Department of Environmental Quality (DEQ) was requiring the Town to secure a permit for the fish grinder at the Harbor. He also commended Harbor Master Lewis for doing an excellent job.
- **Public Works Committee-** Vice Mayor Mason reported that the Committee met on May 11<sup>th</sup> and decided to accept the lowest bid for the fencing around the new well near NASA and to proceed with that project. He stated that the Committee received a bid for the Sunnywood drainage project and that Town Manager West would negotiate with the only bidder on the project to possibly reduce the bid price. Vice Mayor Mason stated that Whitman, Requardt and Associates would report to the Committee regarding the water

rates and fees study. He added that the vulnerability assessment that is required for the waterworks should be completed by June.

- **Bicycling and Outdoor Recreation Advisory Committee-** Vice Mayor Mason stated that the Committee met on May 12<sup>th</sup> and reported that the Skate Park equipment would be delivered on June 8<sup>th</sup>. He stated that lighting the basketball court at Memorial Park was discussed. Vice Mayor Mason asked Town Attorney Poulson if waivers would be required for use of the Skate Park. Town Attorney Poulson stated that he would review it. Councilman Wolffe suggested that the closing times of the Skate Park in each season be the same during the week as on the weekends. He also asked if the use of safety equipment would be required at the Skate Park and suggested placing signs at the Park stating such. Town Attorney Poulson agreed with the Committee's recommendation that the use of safety equipment should be a requirement of the Skate Park and should be enforced. Councilman Wolffe opposed hiring an attendant for the Skate Park and charging a fee to use it; Mayor Tarr agreed.

- **Budget and Personnel Committee-** Councilwoman Conklin stated that the Committee met on May 10<sup>th</sup> and discussed health insurance. She stated that the Meals Tax Committee would meet again on June 14<sup>th</sup> at 4:00 pm regarding the distribution of the portion of meals tax revenue that is earmarked for tourism. Councilwoman Conklin stated that the Budget and Personnel Committee had asked Town Manager West to contact bond counsel for the water Capital Improvement Plan (CIP) and that the matter would be discussed later in the meeting.

- **Cemetery Committee-** Councilman Howard stated that the Committee met on May 25<sup>th</sup> and discussed cleaning up other cemeteries, including Aydelotte Cemetery located off of Willow Street. He added that the Town had received several donations to the cemetery fund for the maintenance of the cemeteries.

- **Ordinance Committee-** Councilman Howard stated that the Committee met on May 26<sup>th</sup> and discussed several matters. He reported that the Committee reviewed possible rules and regulations of the Downtown Park and decided to table the matter until the June 16<sup>th</sup> meeting. He stated that the Committee recommended that the ordinance that prohibited riding bicycles on the sidewalks on Maddox Boulevard and Main Street remain unchanged, contrary to a suggestion made by the Student Government Officials to allow bicycles on sidewalks on these streets. Councilman Howard stated that animal control was discussed and that the Accomack County Sheriff's Department and the Department of Game and Inland Fisheries were contacted to help the Town with the raccoon problem in the Ocean Breeze area of the Island. He stated that the other three matters (the sight triangle, the sign survey and the zoning permits for fences and sheds) would be discussed later in the meeting.

## **7. Public Participation.**

- Mr. Dean stated that he owned a lot on Lewis Street and that he had received a letter from Zoning Administrator Lewis stating that he was not allowed to put a camper on his lot so that his friend could stay in it when he came to visit. Mr. Dean asked Council to consider revising the Camper Ordinance. Mayor Tarr asked Town Manager West to send Council a copy of the letter that was sent to Mr. Dean. Councilman Howard and Councilwoman Conklin explained why the ordinance was established.

- Mrs. Jane Wolffe commented on the proposed sign survey that would be discussed later in the meeting. She asked if the Town was going to include a return envelope with the survey and asked if the words *'by June 30, 2004'* could be added to the end of the first paragraph, after the zip code. Mrs. Wolffe asked to change the word *'question'* to *'answer'* in the sentence under the second paragraph. She also asked to exclude question number three regarding off-premise directional signs and/or directories. Mrs. Wolffe asked for clarification of question number seven. She suggested adding other categories to the sentence after question number nine. Mrs. Wolffe recommended numbering the surveys and requiring that names and addresses be mandatory in order to eliminate duplication.

## **8. Public Hearing: Proposed FY '04 Budget Amendments.**

Mayor Tarr opened the public hearing at 8:35 pm. Town Manager West explained the discussion he had with the bond counsel, Mr. John O'Neil. Mr. O'Neil advised that there was a requirement to spend the bond money within three years. He also advised that in order to receive a fixed rate, the money needed to be received in a lump sum. Mr. O'Neil suggested combining the projects and limiting the project window to what could reasonably be completed within one to two years.

Councilman Wolffe clarified that Council would advertise the proposed budget which included the larger Capital Improvement Plan figure.

Mayor Tarr invited public comment. After receiving no public comment, Mayor Tarr closed the public hearing at 8:45 pm. Mayor Tarr advised that Council would act on the FY '05 Budget in the June 17<sup>th</sup> recessed meeting.

## **9. Sign Survey.**

Councilman Howard stated that the Ordinance Committee reviewed the newest proposed sign survey. He stated that the Ordinance Committee recommended that the proposed survey, including changes listed below, be distributed to the homeowners with the water bills, that a return envelope be included and that the surveys be numbered. There was a lengthy discussion regarding the distribution of the surveys and how to make them available to others besides homeowners.

Mayor Tarr listed several changes to the newest proposed survey as follows:

1. The surveys should be numbered.
2. There should be a 30-day return period with each mailing.
3. In the sentence after the second paragraph, the last word *'question'* should be changed to *'answer'*.
4. Councilman Wolffe recommended that question #7 be changed to *'If a non-conforming sign is replaced, should the replacement sign have to conform to current zoning regulations?'* Councilman Howard stated that question #7 could also be changed to *'Should grandfathering of non-conforming signs continue?'*
5. The categories *'visitor'* and *'renter'* should be added to the sentence below question #9 (*Mark with an X all those that apply:*)
6. The word *'optional'* should be removed from the bottom of the survey.

Councilman Wolffe motioned, seconded by Vice Mayor Mason, to conduct the survey after changing the wording to question #7 of the sign survey to read: *'Should the grandfathering of non-conforming signs continue?'*

Ayes – Conklin, Howard, Mason, Richardson, Wolffe

Nays – Frese

The motion carried.

### **10. Request for Donations:**

- **American Red Cross-** Town Manager West reported that the Red Cross was involved in the Shore and our community. Councilman Wolffe motioned, seconded by Councilman Howard, to donate \$500 to the American Red Cross and to send a letter requesting that they contact the Town Manager regarding having more activities in Accomack County and having a representative speak with Council and be present to receive the donation. Unanimously approved.

- **Miss & Little Miss Chincoteague Pageant-** Councilman Howard motioned, seconded by Councilman Wolffe, to donate \$300 to the Miss & Little Miss Chincoteague Pageant. Unanimously approved.

### **11. Request for No-Wake Zones.**

Town Manager West explained that Council had received a letter requesting that no-wake zones be established from Lewis Creek on the western side of the Island, around the southern tip of the Island to Tom's Cove, and up to Sheepshead Creek on the eastern side of the Island. Town Manager West stated that there was a procedure to follow to establish such zones, including holding a public hearing and applying for required permits from the applicable state and local departments. Town Attorney Poulson stated that the Town was authorized to establish no-wake zones under the state code as long as the departmental requirements were met.

Councilman Wolffe felt that it would be difficult to establish a no-wake zone from Lewis Creek to Tom's Cove. He recommended pursuing the zones for Lewis Creek and Sheepshead Creek, with the possibility of the Memorial Park area as well.

Mayor Tarr asked Town Manager West to gather more information regarding the procedure for establishing no-wake zones and the authority to enforce these zones.

### **12. Request for Project Acknowledgement.**

Town Manager West stated that he received an Adjacent Property Owner's Acknowledgement Form for a Joint Environmental Permit from Mr. Carlton Mason of Marsh Island. He stated that Mr. Mason was attempting to acquire a permit in order to discharge water from a sewage plant he proposed to construct on Marsh Island. Mr. Mason did not wish to discharge overboard, but bore into the center of the channel to discharge there.

Before signing the Acknowledgement Form, Council wanted to have several questions answered, including why Mr. Mason did not just discharge overboard. Mayor Tarr asked Town Manager West to contact the DEQ to find out the length of the comment period and any additional information helpful in enabling Council to make a decision.

### **13. Ordinance Committee Recommendations:**

- **Sight Triangle Definitions-** Councilman Howard stated that the Ordinance Committee agreed that Section 2.149 of the Zoning Ordinance, Sight Distance Triangle, conflicted with Article IV of the Town Code, Minimum Sight Distance at Intersections, regarding the distance of the line of sight from the intersection. The Committee recommended that Section 2.149 of the Zoning Ordinance be eliminated. There was a lengthy discussion on the matter.

Councilman Howard motioned, seconded by Councilman Frese, to send the matter to the Planning Commission with a letter explaining why Council wanted to repeal the section of the Zoning Ordinance. Unanimously approved.

- **Requirements for Zoning Permits-** Councilman Howard explained the requirement of a zoning permit for fences and for sheds under 150 square feet. He stated that the requirement had been in existence, but had not been enforced. Councilwoman Conklin motioned, seconded by Councilman Howard, to affirm that the ordinance as currently written be enforced and guidelines be established to accompany zoning permits. Unanimously approved.

### **14. Resolution for Bridge Project.**

Councilman Howard motioned, seconded by Councilwoman Richardson, to adopt the following resolution requesting that the bridges replacement project funding be restored. Unanimously approved.

#### **RESOLUTION**

**WHEREAS**, on August 17, 2000, the Commonwealth Transportation Board approved the location and design of replacement structures for the Chincoteague Channel and Black Narrows bridges, recognizing the declining condition of the existing bridges and the dire need for replacement; and

**WHEREAS**, inspections were performed on the two existing bridges on May 15, 2001, and June 12, 2001, revealing that the condition of both bridges was generally poor, with severe sectional loss and deterioration in structural and supporting members, further confirming the declining condition; and

**WHEREAS**, construction funds for the bridges replacement project (# 0175-001-V12) have recently been removed by the Commonwealth Transportation Board with no immediate plans to restore the funds; and

**WHEREAS**, the Black Narrows and Chincoteague Channel bridges provide the only access to Chincoteague Island for nearly 4,000 residents and 1.2 million visitors each year; and

**WHEREAS**, failure to proceed with construction of replacement structures for the existing bridges places the residents and visitors of Chincoteague at great risk with the ever increasing possibility of a total bridge span failure; and

**WHEREAS**, in addition to the risk to the health and well-being of the citizens and visitors, severe and irreparable damage to the Island's economy will be sustained by bridge failure; now

**THEREFORE BE IT RESOLVED**, that the Chincoteague Town Council, in consideration of all these facts, requests that the Virginia Department of Transportation and the Commonwealth Transportation Board recognize the need for emergency action and immediately restore funds necessary to proceed with this vital bridge replacement project and remove our citizens and visitors from peril.

**DATED** this 7<sup>th</sup> day of June, 2004.

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John H. Tarr, Mayor

Attest:

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James M. West, Town Manager

### **15. Other Matters.**

- Public Works Director Jeffries announced that the hole that the DEQ required to be drilled 310 feet had been completed, as well as the geophysical logging.
- Town Manager West stated that he was seeking a variance to the denial from the Health Department that the Town had received in response to the application for a sewage system at the Harbor.
- Councilwoman Richardson commended Chief Lewis and the Police Department for a job well done patrolling the Island.

### **16. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Acquisition or Disposition of Public Property and to Discuss a Personnel Matter.**

Councilman Frese motioned, seconded by Councilman Howard, to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia for discussion of acquisition or disposition of public property and to discuss a personnel matter. Unanimously approved.

Councilman Wolffe motioned, seconded by Councilman Howard, to reconvene in regular session. Unanimously approved.

Councilman Howard motioned, seconded by Councilman Frese, 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- Conklin, Frese, Howard, Mason, Richardson, Wolffe  
Nays- None  
Absent- None

**17. *Town Manager Contract.***

Councilwoman Richardson motioned, seconded by Councilman Frese, to offer the Town Manager a contract with the changes proposed by Town Attorney Poulson. Unanimously approved.

**18. *Recess of Meeting.***

Councilman Howard motioned, seconded by Councilwoman Richardson, to recess the meeting until June 17, 2004. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE JUNE 17, 2004  
*CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING***

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman

James Frese, Councilman  
Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman  
Glenn B. Wolffe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:35 p.m.

**2. Invocation.**

Councilman Howard offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. David Marco – American Red Cross.**

Mr. David Marco thanked Council for their generosity and the donation to the Red Cross. Mr. Marco explained the role and activities of the Red Cross in our community and on the Shore. Mayor Tarr presented Mr. Marco with the \$500 donation.

**5. Guidelines for Facilitated Session – Paul Berge, ANPDC.**

Mr. Paul Berge, Executive Director of the Accomack-Northampton Planning District Commission (A-NPDC), gave the history of the relationship of the Commission with the Town thus far. He stated that the A-NPDC staff would be willing to work with Council to try to decide if growth management issues existed that needed to be addressed and try to develop a plan to address the issues. Mr. Berge stated that the usual procedure was to agree on a focus question, brainstorm issues, and then try to find a consensus decision on what action to take, if any. Town Manager West stated that if Council wished to proceed with a facilitated session, Council would need to decide the time and place for the session, the participants in the session and the focus question.

Vice Mayor Mason asked if you would work from a defined vision of what the Island would look like 10 to 15 years in the future, then decide such matters as whether the roads were adequate, etc. Mr. Berge stated that that would be the first step in the larger planning process. He added that if the Town decided to hire a planner, it would be a good idea to bring the planner in to the planning process at the same time as the other participants.

Councilman Frese asked why, with the high quality of the past Planning Commissions' Comprehensive Plan, the Town would want to start over with a whole new set of plans. Mr. Berge stated that the existing Plan would be used as a base and then possibly updated.

Councilman Howard explained that the Planning Commission had recommended hiring a certified planner and that Council recommended consulting the A-NPDC.

Councilman Wolffe recommended that the facilitated session take place and that the participants should include Council, the Planning Commission and the Building Administrator. He added that the public would be invited to attend the meeting. Councilman Wolffe stated that the growth parameters of the Island needed to be reviewed, as well as the infrastructure of the Island.

Councilman Howard asked Mr. Berge about housing affordability. Mr. Berge replied that there were planning techniques that could be put in place to ensure that housing was more affordable. Councilman Howard agreed with Councilman Wolffe about the facilitated session and its prospective participants.

Councilman Wolffe clarified that he felt the first session should include the Council, the Planning Commission and those chosen by Council as participants and invite the public to observe the meeting. He added that future sessions could include public comment and participation.

Councilwoman Conklin stated that she felt that all of Council was in agreement that the facilitated session was necessary.

Councilwoman Conklin motioned, seconded by Councilman Wolffe, to have the first facilitated session with Mr. Paul Berge and staff from the A-NPDC as well as the members of Council and the Planning Commission. Town Staff would attend, but would not be active participants in the first session. Unanimously approved.

## **6. Council Information Items.**

- Town Manager West elaborated on the scheduled bridge openings. He stated that the Coast Guard had requested that the openings be on odd hours instead of even hours. Town Manager West stated that a temporary order for the scheduled openings could begin on July 2<sup>nd</sup>.
- Mayor Tarr explained that in the July 6<sup>th</sup> Council meeting he would be making new Committee assignments. He asked Council to express their interest to him by June 28<sup>th</sup> for particular assignments.

## **7. Public Participation.**

- Mr. Terrell Boothe commended the Downtown Park efforts. He stated that alcohol was not part of the character of the downtown area. Mr. Boothe added that the laws were being well enforced by the police.
- Mrs. Kathy Holland stated that there were already several alcohol-free areas on the Island and didn't think there would be a problem to have events with alcohol at the Downtown Park. She added that there had been events with alcohol in town adjacent to the park area and that there had never been a problem before.
- Mrs. Lois Daisey stated that she has watched all of the progress and changes on the Island, but has continued to keep her business geared toward the family. She added that the Island was a wonderful family area and that we should not destroy that.
- Mr. John Howard thanked the Police Department for their work on the drug problem. He stated that the Town's biggest problems were drugs and alcohol. Mr. Howard stated

that he lost a close friend in an accident due to alcohol and that the Town needed more programs for people that had problems with drugs and alcohol. He stated that this was a family spot and implored Council not to allow alcohol in the Downtown Park. Mr. Howard also thanked the veterans of the Island.

- Mr. Tommy Clark stated that he had been a part of the planning of the Downtown Park since its infancy. He stated that the Alcohol and Beverage Control (ABC) Board governed the alcohol-related events by issuing the alcohol licenses. Mr. Clark asked Council not to limit the park's uses in the beginning before trying it out.
- Mr. William Filipic stated that he was surprised to see the alcohol matter on the agenda. He stated that he came from an area that was destroyed by alcohol abuse. Mr. Filipic congratulated Chief Lewis on his recent accomplishments.
- Mrs. Esther Liscum thanked Council for sharing her vision for the Downtown Park, but thought that it would ruin the vision to have alcohol there.
- Mrs. Anne Whealton stated that the area downtown was congested and that adding alcohol to the area was extremely dangerous. She added that people would be driving across the causeway after consuming alcohol. Mrs. Whealton stated that she has seen empty alcohol containers littered all over the Island which attested to the fact that we already have too much alcohol in the community.
- Mr. Tommy Daisey stated that he counseled people in jail and had asked one time that out of 100 people in the jail, how many would not be in there if not for drugs or alcohol? He stated that the answer was less than 10 people. He feared that if alcohol were allowed in the Downtown Park, there would be wild parties and that more people would be killed on the causeway.
- Mr. George Adams stated that he was against having alcohol in the Downtown Park. He stated that he drank when he was younger and that he had never planned to have too much to drink, but that he usually did. Mr. Adams asked why, if consuming alcohol in public was against the law, was Council even considering it?
- Mrs. Penny Barr stated that she was not a business owner, but had something more important than a business, which was her family. She stated that she needed to have the choice to go into the park and not see people drinking.
- Reverend John Thorne stated that he was an alcoholic 27 years ago. He stated that there did not need to be any more alcohol on the Island. Reverend Thorne added that an alcohol-related accident killed his brother. He stated that the country was in trouble with issues like alcohol and feared that the Island was headed in the same direction. Reverend Thorne asked Council to not allow alcohol use at the park and stated that he wished Council would focus on more important issues, such as a central sewage system.
- Mr. David Ross stated that he thought the Island was rapidly deteriorating and that a lot of people didn't want to see that. He told Council that they had the ability to maintain the character of the Island. Mr. Ross stated that introducing alcohol in the Downtown Park was not something that the public wanted. He added that he would never support use of alcohol in the park.

## **8. Marsh Island Acknowledgement Form.**

Mayor Tarr stated that during the last meeting, Council reviewed the Adjacent Property Owner's Acknowledgement Form required for the Marsh Island Joint Environmental Permit that Mr. Carlton Mason had applied for. Town Manager West stated that he had

checked with the Department of Environmental Quality (DEQ) on Mr. Mason's plan for a sewage disposal system for Marsh Island. The DEQ asked Mr. Mason not to discharge directly overboard. As a result, the channel bottom proposal was developed as an alternative.

Councilman Howard stated that he couldn't understand why it would be acceptable to discharge in the center of the channel but not directly overboard. Vice Mayor Mason agreed with Councilman Howard and stated that it was his understanding that the discharge would be treated and should not affect any area where it was discharged. He stated that therefore, if there was a problem, it would be more easily detected if the discharge was done directly overboard.

Mayor Tarr asked Town Manager West to research the answer to the above question and then report to Council.

**9. Approval of FY '05 Budget.**

Mayor Tarr stated that Council held a public hearing on June 7<sup>th</sup> and received no public comment on the FY '05 proposed budget.

Councilman Wolffe motioned, seconded by Councilwoman Conklin, to adopt the following FY '05 budget and to approve the appropriation of the funds therein. Unanimously approved.

Town of Chincoteague  
FY'05 Budget Revenues

Fund 10 - General Government

<u>Revenue Name</u>	<u>Number</u>	<u>Budgeted</u>
Real Estate Tax Levy	4001-0100	\$472,000
Tangible Property Tax Levy	4001-0125	\$280,000
Delinquent Tax Collection, Int. & Pen.	4001-0130	\$ 30,000
Meals Tax	4001-0500	\$454,500
Bank Franchise Tax	4001-0600	\$ 40,000
Sales Tax	4010-0100	\$110,000
Business License	4010-0200	\$125,000
Motor Vehicle License	4010-0300	\$ 72,000
Utilities Tax	4010-0500	\$270,000
Transient Occupancy Tax	4010-0600	\$330,000
Fines	4015-0100	\$ 30,000
Interest on Savings	4020-0100	\$ 15,000
Banner Donations	4041-0100	\$ 500
Cemetery Cleanup Donations	4041-0150	\$ 1,500
User Fees	4041-0200	\$ 24,000
Building Permits	4041-0500	\$ 28,000
Zoning Advertisements	4041-0600	\$ 3,500
Grants/Litter	4045-0100	\$ 1,800

Sale of Capital Assets	4049-0100	\$ 2,000
ABC Profits	4051-0100	\$ 10,700
Optimum Choice-Retirees Spouse	4051-0200	\$ 11,790
VA Fire Programs	4051-0300	\$ 6,000
Revenue Sharing - USFWS	4061-0100	\$ 4,200
Harbor Administration	4061-0105	\$ 2,000
Water Rent	4101-0100	\$654,000
Water Adjustments	4101-2200	-\$ 2,000
Waterline Extensions	4131-0100	\$ 24,000
Service Connections	4131-0200	\$ 20,000
Interest on Water Savings	4131-0300	\$ 7,500
Utility Reimbursement VDOT	4131-0400	\$930,200
Public Works Miscellaneous	4201-0100	\$ 10,000
Miscellaneous Income	4303-0100	\$ 3,000
Tipping Fee Refund - County	4303-0300	\$ 74,000
Law Enforcement Funds	4401-0100	\$109,128
Police Donations/Grants	4401-0150	\$ 10,000
911 Dispatch Revenue	4401-0200	\$ 15,000
911 Local Tax	4401-0300	\$ 45,000
VDOT Maintenance Funds	4501-0100	\$450,000
Road Permit Fees	4501-0101	\$ 1,000
DMV Agency Compensation	4501-0103	\$ 10,000
DCR Grant – HWS Trail	4545-0120	\$ 34,000
Transfer from Drainage Reserve	4701-0600	\$210,000
Transfer from Water Reserve	4701-0700	\$370,788
Transfer from Gen. Fund Savings	4701-1000	\$ 66,400
Transfer from Mosquito Control	4940-8900	\$ 14,000
<b>Subtotal</b>		<b>\$5,380,506</b>

Fund 20 - Main Street Project

Program Income	4501-0100	\$ 15,000
CDBG Main Street	4501-0110	\$117,205
TEA-21 Grant	4501-0115	\$120,369
Boating Infrastructure Grant	4501-0130	\$ 33,500
DCR Outdoors Fund Grant	4501-0150	\$ 81,600
Urban Forestry Grant	4501-0170	\$ 15,435
Loan Repayment	4501-0200	\$ 14,300
Transfer from General Fund	4501-8900	\$ 12,591
<b>Subtotal</b>		<b>\$410,000</b>

Fund 30 - Curtis Merritt Harbor

Interest on Harbor Savings	4031-0100	\$ 100
Harbor Rent	4031-1000	\$ 53,200

VA Port Authority Grant	4031-1050	\$160,000
Recreational Fishing Fund Grant	4031-1070	\$ 60,500
<b>Subtotal</b>		<b>\$273,800</b>

Fund 40 - Mosquito Control

Revenue	4001-0100	\$140,400
Interest Income	4020-0100	\$ 2,000
<b>Subtotal</b>		<b>\$142,400</b>

Fund 70 – Trolley

Revenue – Demo Grant	4501-0100	\$ 74,874
Program Income	4501-0110	\$ 10,000
Transfer from General Fund	4501-8900	\$ 3,950
<b>Subtotal</b>		<b>\$ 88,824</b>

**TOTAL** **\$6,295,530**

Town of Chincoteague  
FY'05 Budget Expenditures

Fund 10 - General Fund

<u>Object of Expenditure</u>	<u>Number</u>	<u>Budgeted</u>
Mayor	5010-0101	\$ 4,800
Council	5010-0102	\$ 23,040
Town Office Staff	5010-1001	\$303,305
Emergency Med. Techs/ST	5010-1002	\$ 93,985
Overtime	5010-1003	\$ 14,000
Subtotal		\$439,130

Fund 10 - General Fund Dept. 5020

Social Security	5020-2001	\$ 33,593
Hospitalization	5020-2101	\$ 39,600
Blood Bank	5020-2102	\$ 100
Unemployment/Town	5020-2103	\$ 2,200
Retirement	5020-2201	\$ 5,960
VRS/Life Insurance	5020-2201	\$ 280
Subtotal		\$ 81,733

Fund 10 - General Fund Dept. 5030

Bank Charges	5030-3100	\$ 350
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Building Admin Expense	5030-3101	\$ 200
Cleaning	5030-3102	\$ 10,000
Planning Commission	5030-3103	\$ 500
Board of Zoning Appeals	5030-3104	\$ 500
Building Permit Surcharge	5030-3105	\$ 350
Board of Bldg Code Appeals	5030-3106	\$ 50
Emergency Medical Clothing	5030-3107	\$ 1,800
Insurance	5030-3401	\$ 80,000
Auditing	5030-3501	\$ 13,000
Donations	5030-3601	\$ 6,000
Fire Department Donation	5030-3602	\$ 100
Transfer to Civic Center	5030-3701	\$ 82,500
Tourism 10% Meals Tax	5030-3705	\$ 45,450
ANPDC Membership	5030-4030	\$ 6,459
Regional Main Street Program	5030-4031	\$ 2,000
Scholarship	5030-4301	\$ 1,000
Office Sup./Publications	5030-4401	\$ 8,000
Office Equipment/Software Maint.	5030-4402	\$ 12,500
Postage	5030-4403	\$ 8,400
Tax Bills & Conversion	5030-4404	\$ 2,500
Motor Vehicle License	5030-4501	\$ 2,200
Travel & Training	5030-4801	\$ 3,200
Mayor's Expense	5030-4901	\$ 300
Council's Expense	5030-4902	\$ 500
Town Manager's Expense	5030-4903	\$ 250
Attorney/Consultant	5030-5101	\$ 20,000
Drug/Alcohol Testing	5030-5201	\$ 1,500
Christmas Dinner	5030-5501	\$ 3,000
Dues	5030-6101	\$ 3,200
VML Conference	5030-6102	\$ 2,000
Advertising	5030-7101	\$ 7,000
Building Maintenance	5030-7301	\$ 5,000
Electricity	5030-7401	\$ 9,000
Heating-Oil	5030-7402	\$ 3,500
VA Fire Prog/CVFC	5030-7601	\$ 6,000
EOC Operations/Training	5030-7602	\$ 1,000
Special Projects	5030-7701	\$ 3,500
Pony Penning Expense	5030-7702	\$ 4,800
Deer De-Pop Program	5030-7703	\$ 5,000
Telephone Bills	5030-8202	\$ 16,300
Optimum Choice-Retirees	5030-8401	\$ 20,452
Optimum Choice-Retirees Spouse	5030-8402	\$ 10,136
Miscellaneous	5030-8501	\$ 3,000
Cemetery Cleanup	5030-8600	\$ 1,500
Transfer to Main St. Project	5030-8800	\$ 12,591
Transfer to Trolley Fund	5030-8900	\$ 3,950

Subtotal \$430,538

Fund 10 - General Fund Dept. 5090

Property Acquisition Reserve	5090-9704	\$ 25,000
Office Equipment	5090-9709	\$ 5,526
Bond-School Board Property	5090-9740	\$ 84,167
Subtotal		\$114,693

Subtotal Dept. 50 \$1,066,094

Fund 10 - General Fund Dept. 6010

Salaries	6010-1001	\$ 77,626
Overtime	6010-1003	320
Subtotal		\$ 77,946

Fund 10 - General Fund Dept. 6020

Social Security	6020-2001	\$ 5,963
Hospitalization	6020-2101	\$ 7,920
Retirement	6020-2201	\$ 1,164
VRS/Life Insurance	6020-2202	\$ 279
Subtotal		\$ 15,326

Fund 10 - General Fund Dept. 6030

Office Supplies	6030-4401	\$ 1,000
Gasoline/Diesel	6030-4701	\$ 28,000
Oil & Grease	6030-4703	\$ 1,200
Tools/Shop	6030-4704	\$ 3,000
Travel & Training	6030-4801	\$ 500
Clothing/Uniforms	6030-5202	\$ 6,000
Bldg. Maintenance	6030-7301	\$ 1,650
Equipment Repairs	6030-7302	\$ 9,000
Safety	6030-7303	\$ 500
Vehicle P/M's	6030-7304	\$ 4,000
Tires	6030-7305	\$ 3,000
Garage Supplies	6030-7306	\$ 500
Vehicle Repairs	6030-7307	\$ 4,400
Electricity	6030-7401	\$ 7,000

LP Gas	6030-7402	\$ 1,200
Sundry	6030-8501	\$ 500
Subtotal		\$ 71,450

Subtotal Dept. 60 \$164,722

Fund 10 - General Fund Dept. 6210

Salaries	6210-1001	\$136,178
Overtime	6210-1003	\$ 3,100
Pump Duty	6210-1004	\$ 9,300
Subtotal		\$148,578

Fund 10 - General Fund Dept. 6220

Social Security	6220-2001	\$ 11,366
Hospitalization	6220-2101	\$ 19,800
Retirement	6220-2201	\$ 2,229
VRS/Life Insurance	6220-2202	\$ 534
Subtotal		\$ 33,929

Fund 10 - General Fund Dept. 6230

Office Supplies, Equip. Maint.	6230-4401	\$ 3,000
Postage	6230-4403	\$ 3,000
Tools	6230-4704	\$ 750
Chemicals	6230-4705	\$ 5,000
Dues/License	6230-6101	\$ 700
Other Water Works Expense	6230-6200	\$ 1,000
Building Maint/Rehab.	6230-7301	\$ 1,000
Equipment Repairs	6230-7302	\$ 500
Raw water purchase (NASA)	6230-7400	\$ 5,000
Electricity	6230-7401	\$ 32,000
LP Gas	6230-7402	\$ 300
Distribution & Repairs	6230-8101	\$ 28,000
Supply Repairs	6230-8103	\$ 10,000
Pagers/Well Monitoring	6230-8202	\$ 1,300
Miss Utility	6230-8204	\$ 650
Sundry	6230-8501	\$ 200
Regulation Compliance	6230-8750	\$ 200
State Groundwater Permits	6230-8770	\$ 6,042
Subtotal		\$ 98,642

Fund 10 - General Fund Dept. 6290

Water Main Extensions	6290-9101	\$ 12,000
Water Bond-Supply Main St.	6290-9505	\$123,871
Water Bond-CIP	6290-9506	\$179,360
Water Tank Painting (CIP)	6290-9600	\$275,000
Base Mapping/GIS System	6290-9846	\$ 42,000
Directional Bore	6290-9847	\$1,040,000
Subtotal		\$1,672,231

Subtotal Dept. 62 \$1,953,380

Fund 10 - General Fund Dept. 6310

Salaries	6310-1001	\$182,913
Overtime	6310-1003	\$ 2,400
Subtotal		\$185,313

Fund 10 - General Fund Dept. 6320

Social Security	6320-2001	\$ 13,993
Hospitalization	6320-2101	\$ 31,680
Retirement	6320-2201	\$ 2,744
VRS/Life Insurance	6320-2202	\$ 620
Subtotal		\$ 49,037

Fund 10 - General Fund Dept. 6330

Seasonal Decorations & Banners	6330-4100	\$ 5,000
Street Maintenance	6330-4101	\$ 3,000
Sidewalks	6330-4201	\$ 500
Street Signs/911	6330-4202	\$ 2,000
Tipping Fees	6330-4650	\$ 300
Tools	6330-4704	\$ 600
Mowers/Trimmers	6330-4708	\$ 500
Sanitation Service Contra	6330-6201	\$266,882
Other Facilities Expenses	6330-6202	\$ 1,000
Comfort Station	6330-6260	\$ 1,800
Weed Cutting/Spraying	6330-6301	\$ 200
Equipment Repairs	6330-7302	\$ 500
Electricity	6330-7401	\$ 3,000
Street Lights	6330-7450	\$ 47,000
Sundry	6330-8501	\$ 200
Parks & Rec Expense	6330-8590	\$ 6,000
Subtotal		\$338,482

Fund 10 - General Fund Dept. 6390

Drainage	6390-9105	\$ 22,725
HWS Trail	6390-9640	\$ 42,000
Fowling Gut Church Street	6390-9660	\$ 60,000
Base Mapping/GIS System	6390-9846	\$ 42,000
Sunnywood Drainage - Phase 2	6390-9850	\$100,000
Church/Pension Drainage Project	6390-9855	\$ 70,000
3 <sup>rd</sup> Tennis Court	6390-9860	\$ 10,000
Street Sweeper Res/Pynt	6390-9870	\$ 28,000
Skate Park	6390-9895	\$ 35,000
Subtotal		\$409,725
Subtotal Dept. 63		\$982,557

Fund 10 - General Fund Dept. 6510

Salaries	6510-1001	\$ 57,044
Overtime	6510-1003	\$ 2,070
Subtotal		\$ 59,114

Fund 10 - General Fund Dept. 6520

Social Security	6520-2001	\$ 4,522
Hospitalization	6520-2101	\$ 7,920
Retirement	6520-2201	\$ 887
VRS/Life Insurance	6520-2202	\$ 213
Subtotal		\$ 13,542

Fund 10 - General Fund Dept. 6530

Street Maintenance	6530-4101	\$ 10,000
Snow Removal	6530-4102	\$ 2,500
Maint. Coatings/Replace	6530-4150	\$291,844
Sidewalks & Gutters	6530-4201	\$ 30,000
Signs/Traffic Control	6530-4202	\$ 20,000
Roadside Structures	6530-4250	\$ 8,000
Tools/Small Equipment	6530-4704	\$ 500
Drainage Maintenance	6530-6250	\$ 2,000
Weed Control	6530-6301	\$ 1,500
Equipment Rental	6530-7001	\$ 500
Electricity	6530-7450	\$ 10,500
Subtotal		\$377,344

Subtotal Dept. 65 \$450,000

Fund 10 - General Fund Dept 7010

Salaries/Officers	7010-1001	\$375,904
Overtime	7010-1003	\$ 5,000
Subtotal		\$380,904

Fund 10 - General Fund Dept. 7020

Social Security	7020-2001	\$ 29,139
Hospitalization	7020-2101	\$ 43,560
Retirement	7020-2201	\$ 5,714
VRS/Life Insurance	7020-2202	\$ 1,371
Subtotal		\$ 79,784

Fund 10 - General Fund Dept. 7030

Travel & Training	7030-4801	\$ 7,500
Uniform Allowance (Off.)	7030-5201	\$ 6,600
Uniforms (Town)	7030-5202	\$ 1,500
Police Conference	7030-6102	\$ 400
Photography	7030-7201	\$ 300
Office Supp/Equip Maint	7030-7300	\$ 3,200
Equipment Repairs & Supplies	7030-7302	\$ 2,000
Vehicle Maintenance	7030-7304	\$ 4,900
Drug Enforcement	7030-7901	\$ 5,000
Academy Dues	7030-7903	\$ 3,500
Bicycle Patrol	7030-7904	\$ 200
Community/Youth Programs	7030-7905	\$ 5,000
Grant Funded Expenditures	7030-7906	\$ 4,000
Ammunition	7030-7907	\$ 1,400
Pager Service	7030-8203	\$ 1,600
Sundry	7030-8501	\$ 200
Subtotal		\$ 47,300

Fund 10 - General Fund Dept. 7090

Vehicle Camera System(s)	7090-9300	\$ 5,000
Patrol Vehicle	7090-9650	\$ 26,000
Police Storage Building	7090-9670	\$ 21,400
Police/Drug Dog	7090-9680	\$ 8,500
Shotguns	7090-9690	\$ 1,800
Subtotal		\$ 62,700

Subtotal Dept. 70 \$570,688

Fund 10 - General Fund Dept 7510

Salaries/Dispatchers	7510-1001	\$ 133,622
Overtime	7510-1003	\$ 1,000
Subtotal		\$ 134,622

Fund 10 - General Fund Dept. 7520

Social Security	7520-2001	\$ 10,299
Hospitalization	7520-2101	\$ 15,840
Retirement	7520-2201	\$ 2,019
VRS/Life Insurance	7520-2202	\$ 485
Subtotal		\$ 28,643

Fund 10 - General Fund Dept. 7530

Travel & Training	7530-4801	\$ 1,000
Uniform Allowance (Disp)	7530-5201	\$ 1,400
Uniform (Town for Disp)	7530-5202	\$ 400
Off. Supples/Equip. Maintenance	7530-7300	\$ 11,300
E911 Line Fees	7530-8202	\$ 5,500
Sundry	7530-8501	\$ 200
Subtotal		\$ 19,800

Fund 10 - General Fund Dept. 7590

911 Equip Reserve Fund	7590-9270	\$ 10,000
Subtotal		\$ 10,000

Subtotal Dept. 75 \$ 193,065  
**Fund Total \$5,380,506**

Fund 20 - Main Street Project

Main Street Project	2090-9711	\$410,000
Subtotal		\$410,000

**Fund Total \$410,000**

Fund 30 - Curtis Merritt Harbor Dept. 8010

Salaries	8010-1001	\$ 18,447
Overtime	8010-1003	\$ 230
Subtotal		\$ 18,677

Fund 30 - Curtis Merritt Harbor Dept. 8020

Social Security	8020-2001	\$ 1,428
Hospitalization	8020-2101	\$ 3,960
Retirement	8020-2201	\$ 280
Subtotal		\$ 5,668

Fund 30 - Curtis Merritt Harbor Dept. 8030

Admin. Expense/Town	8030-3100	\$ 2,000
Operations, Maintenance, Etc.	8030-7300	\$ 6,740
Sundry	8030-8501	\$ 1,000
Subtotal		\$ 9,740

Fund 30 - Curtis Merritt Harbor Dept. 8090

Long Term Replacement Res	8090-9124	\$ 4,000
CMH Replacement Project	8090-9126	\$235,715
Subtotal		\$239,715

**Fund Total** **\$273,800**

Fund 40 - Mosquito Control Dept. 8510

Salaries	8510-1001	\$ 23,712
Overtime	8510-1003	\$ 12,000
Subtotal		\$ 35,712

Fund 40 - Mosquito Control Dept. 8520

Social Security	8520-2001	\$ 2,732
Hospitalization	8520-2101	\$ 3,960
Retirement	8520-2201	\$ 356
VRS/Life Insurance	8520-2202	\$ 85
Subtotal		\$ 7,133

Fund 40 - Mosquito Control Dept. 8530

Insurance	8530-3401	\$ 8,100
Office Supplies	8530-4401	\$ 400
Chemicals	8530-4705	\$ 39,240
Contract Spraying	8530-4706	\$ 22,715
Travel, Training, Conference	8530-4801	\$ 1,000
Telephone, Pagers, Other	8530-6204	\$ 700
Advertising	8530-7101	\$ 300
Equipment Repairs/Maint.	8530-7302	\$ 1,000
Safety Equipment	8530-7303	\$ 200
Vehicle Maintenance	8530-7304	\$ 500
Sundry	8530-8501	\$ 200
Rent (9 of 15)	8530-8551	\$ 5,000
Subtotal		\$ 79,355

Fund 40 - Mosquito Control Dept. 8590

Fogging Pickup	8590-9123	\$ 19,200
Equipment	8590-9124	\$ 1,000
Subtotal		\$ 20,200

**Fund Total** **\$142,400**

Fund 70 - Trolley Dept. 3010

Salaries	3010-0100	\$ 24,210
Subtotal		\$ 24,210

Fund 70 - Trolley Dept. 3020

Social Security	3020-2001	\$ 1,852
Subtotal		\$ 1,852

Fund 70 - Trolley Dept. 3020

Insurance	3030-3401	\$ 2,252
Signs/Printing/Advertise	3030-4401	\$ 4,000
Fuel	3030-4701	\$ 4,610
Lease of Vehicles	3030-5701	\$ 32,900
Equipment Repairs/Maint.	3030-7302	\$ 6,000
Return Transportation	3030-8301	\$ 3,000
Other Expenses	3030-8501	\$ 10,000
Subtotal		\$ 62,762

**Fund Total** **\$ 88,824**

**Grand Total**

**\$6,295,530**

**10. Meals Tax Committee Distribution Recommendation.**

Councilwoman Conklin stated that the Meals Tax Committee met again on June 14<sup>th</sup> and heard comments from all members of the Chincoteague Recreation and Convention Center Authority. The Meals Tax Committee agreed to recommend that the 10% portion of meals tax revenue devoted to tourism be divided equally between the Center and the Chincoteague Chamber of Commerce, with 5% going to each entity.

Councilman Howard motioned, seconded by Councilwoman Richardson, to devote 5% of the 10% portion of the meals tax revenue to the Center and 5% to the Chamber of Commerce. Unanimously approved.

**11. Cost of Living Increase.**

Councilwoman Conklin stated that the Budget and Personnel Committee agreed to recommend that Council approve a 2.5% cost of living increase for all Town employees due to the 12% increase in health insurance premiums that was passed on to many of the employees this year.

Vice Mayor Mason motioned, seconded by Councilwoman Richardson, to approve the 2.5% cost of living increase for all Town employees. Unanimously approved.

**12. Downtown Park Policy.**

Mayor Tarr explained that two Council members asked that the Downtown Park policy regarding allowing alcohol at the park be placed on the agenda for discussion. The proposed policy and recommendation of the Management Team was that an event could not be held at the park in which alcohol may be consumed without a proper license or event permit issued by the Virginia Alcohol and Beverage Control (ABC) Board. All other consumption of alcohol at the park would be illegal.

Councilman Frese explained why he wanted the matter placed on the agenda for discussion. He felt that the alcohol matter was a right granted by Federal and State law and that it could only be allowed with an ABC Board license/permit and the Town's approval. Councilman Frese stated that no one was proposing to allow alcohol outright in the Downtown Park, but by permit only. He stated that he understood those that showed concern regarding alcohol consumption. Councilman Frese felt it was his duty to bring the matter before Council before his term expired to try to resolve the issue. He stated that people were overlooking the fact that ordinary citizens use alcohol and don't abuse it and that it was unfair to assume that all who consumed it would abuse it. Councilman Frese stated that he wanted to protect people's right to have alcohol at an event and wanted protection of the separation of Church and State. He felt that the Church was trying to control government and use the government to impose their wishes on everyone else.

Councilwoman Conklin stated that the recommendation to allow alcohol at the Downtown Park came from the Revitalization Committee because they wanted to have events with alcohol at the park. She stated that the Chili/Chowder Cook-off had alcohol at the event and that the event was very orderly. Councilwoman Conklin added that she had asked our previous Delegate, Mr. Bob Bloxom, his opinion on the matter. He told her that if the ABC Board was doing a good job at handling the licenses that he didn't think there was a need to regulate it at the local level.

Vice Mayor Mason stated that he did not want alcohol at the park because it was open to the public. He stated that he did not want his children to see the use of alcohol. Vice Mayor Mason added that we don't allow children in bars, and since the park would be open, the children would have access.

Councilwoman Richardson stated that she did not like alcohol and that there had been so much suffering from drugs and alcohol in the community. She added that the use of alcohol should not be allowed in public anywhere.

Councilman Howard stated that the Revitalization Team's recommendations had been forwarded to the Ordinance Committee to be reviewed. He stated that it was never reviewed by the Committee, but went directly to Council for discussion. Councilman Howard stated that he did not want someone that had been drinking all day to leave the park at midnight and drive across the causeway.

Councilman Wolffe stated that he thought he knew how he would vote on the matter, but that he had some concerns. He stated that he understood that he was an elected representative to all of the people and that he appreciated everyone's concerns. Councilman Wolffe stated that he really wanted to hear the comments from those that support the use of alcohol at certain events and from the Downtown Management Team as well. He felt that it was too soon to vote on the matter without hearing the other comments.

Councilman Frese stated that people had asked why the matter was brought up so quickly. He responded to them that he felt he had a responsibility to the people that were concerned.

Councilman Howard stated that no alcohol was allowed at Memorial Park. He stated that a policy should not be established that automatically allowed alcohol use at the Downtown Park. Councilman Howard urged Council not to vote on the matter so quickly.

Councilman Wolffe motioned, seconded by Councilwoman Conklin, to table the matter until comments were received from the Downtown Management Team and the public.

Mayor Tarr asked for discussion on the motion. Mayor Tarr asked Town Manager West how the Downtown Management Team came to their recommendation. Town Manager West explained the history of the Management Team and that the Management Team had

asked if there would be a policy governing the Downtown Park so that they could begin event-planning. He added that the alcohol matter was not the only issue that the Team had discussed, but that several Council members felt that it needed to be resolved. Councilman Wolffe stated that he did not mind a private use of alcohol where the use was divided from other areas of the park, such as in the pavilion. Mayor Tarr stated that it was an open park in the center of Town and that it was not the place for drinking.

The following votes were cast on the motion to table the matter until more comments were received:

Ayes – Conklin, Frese, Wolffe

Nays – Howard, Mason, Richardson, Tarr

Absent – None

The motion to table the matter was defeated.

Councilman Howard motioned, seconded by Vice Mayor Mason, to not allow alcohol under any circumstances at the Downtown Park.

Ayes – Howard, Mason, Richardson, Tarr

Nays – Conklin, Frese, Wolffe

The motion to not allow alcohol at any time at the Downtown Park was carried.

### **13. Other Matters.**

- Town Manager West wished Councilman Frese well and stated that it was a pleasure working with him. He commended Councilman Frese for standing up for what he believed in.
- Councilman Wolffe agreed with Town Manager West and wished Councilman Frese well.
- Councilman Howard thanked Councilman Frese for his years of service and wished him the best.
- Councilwoman Richardson requested that letters of commendation be put in the files of those police officers involved in the drug arrests.
- Mayor Tarr congratulated Councilman Frese on his well-served term. He also commended the Police Department on a job well done. Mayor Tarr explained the loss of water pressure during the past week.
- Councilman Frese complimented the Police Department on the recent drug arrests.
- Town Manager West also complimented Chief Lewis and the Police Department on their professionalism during their undercover operations.
- Councilwoman Richardson mentioned that the Oath of Office for new Council members and the Mayor would be on Thursday, June 24, 2004 at 5:30 pm. It was also mentioned that new Council member orientation would be on that same day at 3:00 pm.

### **14. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be on July 6, 2004. Councilman Frese motioned, seconded by Councilman Howard, to adjourn the meeting at 10:30 pm. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE JULY 6, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Ronald Mason, Vice Mayor  
Nancy B. Conklin, Councilwoman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

**1. *Call to Order.***

Mayor Tarr called the meeting to order at 7:33 p.m.

**2. *Invocation.***

Councilman Howard offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Approval of Minutes of the June 7, 2004 and June 17, 2004 Council Meetings.***

Councilwoman Conklin motioned, seconded by Councilman Howard, to approve the minutes as presented. Unanimously approved.

**5. *Council Information Items.***

- Councilman Howard asked if the Council has received any information on the acknowledgement form for the sewage treatment plant on Marsh Island. Town Manager West responded that the DEQ does not want an overboard discharge because there are shellfish beds in close proximity, which is why Mr. Carlton Mason proposed the channel center discharge. Councilman Howard feels the shellfish beds in the area are restricted and not necessarily condemned.
- Mrs. Conklin asked about fishing in the channel. Town Manager West stated Mr. Carlton Mason suggested bringing his engineer to the August meeting for further information.

- Councilman Wolffe asked for an update on the bridge opening restrictions. Town Manager West stated the schedule of opening on even hours began July 2, 2004. Councilman Howard asked if there were any complaints. Town Manager West stated there have been complaints from captains.

## **6. Committee Reports.**

- **Planning Commission-** Councilwoman Richardson stated that they discussed the proposal of the bylaws.
- **Public Works Committee-** Vice Mayor Mason reported that the Committee met on June 8, 2004. They received a quote on the pumping station for Maddox circle. They decided to see how effective this would be. He also advised the bid package has been distributed for the ground storage tank and the bid opening is scheduled for July 21, 2004. Vice Mayor Mason also stated the work on Sea Weed Drive is complete. He advised the preparation for the surface of the Skate Park is complete along with the grading for the tennis courts. He advised the Skate Park equipment is scheduled to arrive July 13, 2004 and the vendor for the fencing has been approved.
- **Budget and Personnel Committee-** Councilwoman Conklin stated that they have agreed to accept credit cards for payments. She advised that under "Equipment Purchases" there were small balances remaining in the general government fund. Councilwoman Conklin stated that Town Manager West requested the balances be used for workstation computers, which was approved. She stated that Town Manager West asked DMV if they would increase the Town's percentage of payment for services and DMV denied the request. He also asked if they would allow an additional charge and DMV has not responded. Councilwoman Conklin advised that they agreed to fill one laborer position in the Public Works department. She stated that regarding the engineer position, Town Manager West is still working on a salary agreement.
- **Cemetery Committee-** Councilman Howard commended the Budget and Personnel Committee on allowing credit card payments. He stated that the Cemetery Committee met on June 22, 2004 with general discussion about a visit to a cemetery. Their hope is to have all cemeteries maintained. He also added the Committee will not be meeting in July.
- **Bicycling and Outdoor Recreation Advisory Committee-** Vice Mayor Mason stated that the Committee will not be meeting in July.
- **Charter, Ordinance and Zoning Committee-** Councilman Howard stated that they met on June 16, 2004. He advised that they reviewed the list of proposed policies from the Downtown Management Team. They agreed and forwarded the recommendations to the Council to formulate an ordinance for the use of the new downtown park. He also stated that the Ordinance Committee is scheduled to meet July 21, 2004 at 4:30 p.m. He added if the meeting is cancelled it will be posted on the meeting room doors.

## **7. Certificate of Recognition: Thomas James Adams.**

Mayor Tarr stated that Mr. Adams has a perfect attendance throughout his entire school years. Council agreed he should be recognized for his outstanding efforts. He read the following:

### **Certificate of Special Recognition**

Presented to  
**Thomas J. Adams**

**WHEREAS**, Mr. Thomas J. Adams graduated from Chincoteague High School on June 14, 2004; and

**WHEREAS**, Mr. Adams and all our high school graduates deserve special recognition for their achievements; and

**WHEREAS**, Mr. Adams demonstrated his high character and outstanding achievement with perfect attendance from Kindergarten through his Senior Year; and

**WHEREAS**, we believe that the future of our community, state and nation is our youth;

**NOW, THEREFORE**, I do hereby extend sincere congratulations on behalf of the Town Council and all our citizens to Mr. Thomas J. Adams for his perfect attendance during his thirteen years in school.

DATED this 6<sup>th</sup> day of July 2004.

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John H. Tarr, Mayor

ATTEST:

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James M. West, Town Manager

Councilman Howard stated that Mr. Adams has a special attribute, which is modesty and he expressed how proud he is of Mr. Adams.

**8. Recognition of Meritorious Service: James Frese.**

Mayor Tarr read the following:

Honorable James T. Frese

***Term: July 1, 2000 – June 30, 2004***

Public service is one of nobility and dedication.

You have displayed these attributes

**in the highest tradition during your term as**

Councilman of the Town of Chincoteague.

On behalf of a grateful community, I,

along with the members of

the Chincoteague Town Council,

proudly present to you this recognition

of meritorious service.

July 5, 2004

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John H. Tarr, Mayor

Former Councilman Frese thanked the Mayor and Council, employees of the Town, and Town Attorney for all they have done.

**9. Public Participation.**

- Mr. Joe Nace of the Assateague Federation of Mobile Sportfishermen thanked the Mayor and Council for their participation in the special event for special people. Mayor Tarr stated this is a great event.
- Mrs. Ginny Van Dame thanked the police for the drug bust. She also thanked Mr. Frese for the fantastic job he has done for the last 4 years.
- Mr. Dick Snyder stated he spends 6 months here per year. He advised his sister visits here twice per year. He is aware of the camper ordinance. He also stated he picked up a permit for pony penning to abide by the town law. Mr. Snyder stated that speed is a problem on Main Street and should be addressed. He advised he pays taxes, but cannot use the county landfill without being charged.

**10. Appointment of Vice Mayor.**

Councilman Howard motioned, seconded by Councilwoman Richardson to appoint Councilwoman Conklin as Vice Mayor. Unanimously approved.

Mayor Tarr thanked Councilman Mason for his service as Vice Mayor.

**11. Re-adoption of Traffic Code.**

Town Attorney Poulson stated there is a change in Paragraph D, substitute "12:01 a.m. July 1, 2004" with "its adoption". Mayor Tarr explained this is required so the police may enforce the most current state laws.

**Sec. 58-2. Adoption of state law; former provisions.**

(a) Pursuant to the authority of Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the Commonwealth contained in Code of Virginia, title 46.2 and in Code of Virginia, § 18.2-266 et seq. in effect July 1, ~~2003~~ **2004**, except those provisions which are contained elsewhere in this chapter and except those provisions and requirements the violation of which constitute a felony and except those provisions and requirements which by their very nature can have no application to or within the town, are adopted and incorporated in this chapter by reference and made applicable within the town. References to "highways of the state" contained in such provisions and requirements adopted in this subsection shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements hereby adopted, mutatis mutandis, are made a part of this chapter as fully as though set forth at length in this chapter, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any provision of Code of Virginia, title 46.2 or of Code of Virginia, § 18.2-266 et seq., which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed

the penalty imposed for a similar offense under Code of Virginia, title 46.2 or under Code of Virginia, § 18.2-266 et seq.

(b) The provisions of this section, as readopted, shall be effective as of ~~12:01 a.m. July 1, 2003-2004~~ **its adoption**. As of such effective date, such readoption shall replace former section 58-2 as it existed prior to the effective date of readoption, provided that such repeal shall not affect any act or offense done or committed or any penalty or forfeiture incurred or any right established or suit or action pending on that day. Except as otherwise provided, neither the repeal of section 58-2 nor the enactment of this readoption shall apply to offenses committed prior to the effective date of this section, and prosecution for such offense shall be governed by prior law, which is continued in effect for that purpose.

(Code 1977, § 11-1; Ord. of 6-21-2001; Readopted 6-3-02, 6-2-03, **7-6-04**)

Councilman Mason motioned, seconded by Councilwoman Richardson to adopt the enabling ordinance with the changes. Unanimously approved.

## **12. New Council Committee Assignments.**

Mayor Tarr announced the following committee assignments:

- Budget and Personnel
  - Honorable Nancy Conklin, Chair
  - Honorable E. David Ross
  - Honorable Glenn Wolffe
- Liaison
  - Honorable John H. Tarr, Chair
  - Honorable Ronald A. Mason
  - Honorable Nancy Conklin
- Charter, Ordinance and Zoning
  - Honorable Terry Howard, Chair
  - Honorable Nancy Conklin
  - Honorable E. David Ross
- Police Commission
  - Honorable John H. Tarr, Chair
  - Honorable Glenn Wolffe
  - Honorable Ellen Richardson
- Public Safety
  - Honorable John H. Tarr, Chair
  - Honorable Glenn Wolffe
  - Honorable E. David Ross
- Public Works
  - Honorable Ronald A. Mason, Chair
  - Honorable John H. Tarr
  - Honorable Terry Howard
- Cemetery Committee
  - Honorable Terry Howard, Chair
  - Honorable Ellen Richardson
- Meals Tax
  - Honorable Nancy Conklin

- Deer Task Force  
The Mayor eliminated this Committee.
- Main Street Revitalization Project Management Team  
Honorable John H. Tarr, Chair  
Honorable Terry Howard
- Bicycling Advisory  
Honorable E. David Ross, Chair
- Chincoteague-Assateague Transportation and Access Committee  
Honorable John H. Tarr
- Planning Commission  
Honorable Ellen Richardson
- Mosquito Control  
Honorable Glenn Wolffe, Chair  
Honorable E. David Ross
- Harbor  
Honorable Ronald A. Mason, Chair  
Honorable Glenn Wolffe
- Chincoteague Recreation and Convention Center Authority  
Honorable Nancy B. Conklin

Councilman Wolffe motioned, seconded by Councilwoman Richardson to approve the committee assignments as presented. Unanimously approved.

### **13. Banking Resolutions.**

Mayor Tarr explained that with the Vice Mayor changing a bank resolution is required to allow the signature changes on file with the bank. Councilman Wolffe motioned, seconded by Councilman Mason to approve the banking resolution.

#### **BANKING RESOLUTION**

**Financial Institution: Farmer's & Merchants Bank**

Chincoteague Branch  
6402 Maddox Boulevard  
POB 7  
Chincoteague Island, VA 23336

**Account No:** XX-XXXXX-X  
XX-XXXXX-X

**I, the undersigned Clerk of the Town of Chincoteague, HEREBY CERTIFY that the Corporation is organized and existing under and by virtue of the laws of the state of Virginia as a municipal corporation with its principal office at 6150 Community Drive, Chincoteague Island, VA 23336 and that Town of Chincoteague, Inc. is the complete and correct name of the Account Holder.**

**I FURTHER CERTIFY** that at a meeting of the Town Council of the Town of Chincoteague, duly and regularly called and held on July 6, 2004, at which a quorum was present and voting, the following resolution was adopted:

**RESOLVED**, that the Financial Institution named above at any one or more of its offices or branches, be and it hereby is designated as a depository for the funds of this Corporation, which may be withdrawn on checks, drafts, advices of debit, notes or other orders for the payment of monies bearing the following appropriate number of signatures: Any **one** (1) of the following named officers or employees of this Corporation (“Agents”), whose actual signatures are shown below:

X \_\_\_\_\_  
**John H. Tarr, Mayor of Town of Chincoteague, Inc.**

X \_\_\_\_\_  
**James M. West, Town Manager of Town of Chincoteague, Inc.**

X \_\_\_\_\_  
**Nancy B. Conklin, Vice Mayor of Town of Chincoteague, Inc.**

and that the Financial Institution shall be and is authorized to honor and pay the same whether or not they are payable to bearer or to the individual order of any Agent or Agents signing the same.

**FURTHER RESOLVED**, that the Financial Institution is hereby directed to accept and pay without further inquiry any item drawn against any of the Corporation’s accounts with the Financial Institution bearing the signature or signatures of Agents, as authorized above or otherwise, even though drawn or endorsed to the order of any Agent signing or tendered by such Agent for cashing or in payment of the individual obligation of such Agent or for deposit to the Agent’s personal account, and the Financial Institution shall not be required or be under any obligation to inquire as to the circumstances of the issue or use of any item signed in accordance with the resolutions contained herein, or the application or disposition of such items or the proceeds of the item.

**FURTHER RESOLVED**, that any one of such Agents is authorized to endorse all checks, drafts, notes and other items payable to or owned by this Corporation for deposit with the Financial Institution, or for collection or discount by the Financial Institution; and to accept drafts and other items payable at the Financial Institution.

**FURTHER RESOLVED**, that the above named agents are authorized and empowered to execute such other agreements, including, but not limited to, special depository agreements and arrangements regarding the manner, conditions, or purposes for which funds, checks or items of the Corporation may be deposited, collected, or withdrawn and to perform such other acts as they deem reasonably necessary to carry out the provisions of these resolutions. The other agreements and other acts may not be contrary to the provisions contained in this Resolution.

**FURTHER RESOLVED**, that the authority hereby conferred upon the above named Agents shall be and remain in full force and effect until written notice of any amendment or revocation thereof shall have been delivered to and received by the Financial Institution at each location where an account is maintained. Financial Institution shall be indemnified and held harmless from any loss suffered or any liability incurred by it in continuing to act in accordance with this resolution. Any such notice shall not affect any items in process at the time notice is given.

**I FURTHER CERTIFY**, that the persons named above occupy the positions set forth opposite their respective names and signatures; that the foregoing Resolutions now stand of record on the books of the Corporation; that they are in full force and effect and have not been modified in any manner whatsoever.

IN TESTIMONY WHEREOF, I have hereunto set my hand on \_\_\_\_\_, 2004 and attest that the signatures set opposite the names listed above are their genuine signatures.

**CERTIFIED TO AND ATTESTED BY:**

x \_\_\_\_\_  
\*CLERK OF COUNCIL

x \_\_\_\_\_  
\*MAYOR, TOWN OF CHINCOTEAGUE

**BANKING RESOLUTION**  
**Financial Institution: Shore Bank**

Chincoteague Branch  
6350 Maddox Boulevard  
POB 504  
Chincoteague Island, VA 23336

**Account No:** XX-XXXXXX-X  
XX-XXXXXX-X

**I, the undersigned Clerk of the Town of Chincoteague, HEREBY CERTIFY** that the Corporation is organized and existing under and by virtue of the laws of the state of **Virginia** as a municipal corporation with its principal office at **6150 Community Drive, Chincoteague Island, VA 23336** and that **Town of Chincoteague, Inc.** is the complete and correct name of the Account Holder.

**I FURTHER CERTIFY** that at a meeting of the Town Council of the Town of Chincoteague, duly and regularly called and held on July 6, 2004, at which a quorum was present and voting, the following resolution was adopted:

**RESOLVED**, that the Financial Institution named above at any one or more of its offices or branches, be and it hereby is designated as a depository for the funds of this

Corporation, which may be withdrawn on checks, drafts, advices of debit, notes or other orders for the payment of monies bearing the following appropriate number of signatures: Any **one** (1) of the following named officers or employees of this Corporation (“Agents”), whose actual signatures are shown below:

X \_\_\_\_\_  
John H. Tarr, Mayor of Town of Chincoteague, Inc.

X \_\_\_\_\_  
James M. West, Town Manager of Town of Chincoteague, Inc.

X \_\_\_\_\_  
Nancy B. Conklin, Vice Mayor of Town of Chincoteague, Inc.

and that the Financial Institution shall be and is authorized to honor and pay the same whether or not they are payable to bearer or to the individual order of any Agent or Agents signing the same.

**FURTHER RESOLVED**, that the Financial Institution is hereby directed to accept and pay without further inquiry any item drawn against any of the Corporation’s accounts with the Financial Institution bearing the signature or signatures of Agents, as authorized above or otherwise, even though drawn or endorsed to the order of any Agent signing or tendered by such Agent for cashing or in payment of the individual obligation of such Agent or for deposit to the Agent’s personal account, and the Financial Institution shall not be required or be under any obligation to inquire as to the circumstances of the issue or use of any item signed in accordance with the resolutions contained herein, or the application or disposition of such items or the proceeds of the item.

**FURTHER RESOLVED**, that any one of such Agents is authorized to endorse all checks, drafts, notes and other items payable to or owned by this Corporation for deposit with the Financial Institution, or for collection or discount by the Financial Institution; and to accept drafts and other items payable at the Financial Institution.

**FURTHER RESOLVED**, that the above named agents are authorized and empowered to execute such other agreements, including, but not limited to, special depository agreements and arrangements regarding the manner, conditions, or purposes for which funds, checks or items of the Corporation may be deposited, collected, or withdrawn and to perform such other acts as they deem reasonably necessary to carry out the provisions of these resolutions. The other agreements and other acts may not be contrary to the provisions contained in this Resolution.

**FURTHER RESOLVED**, that the authority hereby conferred upon the above named Agents shall be and remain in full force and effect until written notice of any amendment or revocation thereof shall have been delivered to and received by the Financial Institution at each location where an account is maintained. Financial Institution shall be indemnified and held harmless from any loss suffered or any liability incurred by it in

continuing to act in accordance with this resolution. Any such notice shall not affect any items in process at the time notice is given.

**I FURTHER CERTIFY**, that the persons named above occupy the positions set forth opposite their respective names and signatures; that the foregoing Resolutions now stand of record on the books of the Corporation; that they are in full force and effect and have not been modified in any manner whatsoever.

IN TESTIMONY WHEREOF, I have hereunto set my hand on \_\_\_\_\_, 2004 and attest that the signatures set opposite the names listed above are their genuine signatures.

**CERTIFIED TO AND ATTESTED BY:**

x \_\_\_\_\_  
\*CLERK OF COUNCIL

x \_\_\_\_\_  
\*MAYOR, TOWN OF CHINCOTEAGUE

#### **14. Other Matters.**

- Public Works Director Jeffries explained the wells are close to the 48 hour pump test. He advised provided the test goes as expected the well will be online early August.
- Councilman Ross asked Town Manager West the status of the complaints of the local radio station WTCG. Town Manager West advised he has only received one complaint from a local motel and their personal radios, televisions and telephones have been affected by the station. He has looked into the matter and advised that if anyone else has a complaint they should contact the FCC. Councilman Wolffe asked if the new radio station is transmitting on the tower. Town Manager West is unaware of where they are transmitting.
- Councilman Ross asked Chief Lewis if there is an officer at the drawbridge when the bridge is opening for traffic control. Chief Lewis stated he has an officer in the downtown area from 10:00 a.m. to 6:00 p.m.
- Councilman Ross explained a complaint from a citizen that the fireworks were too late in the evening. Several Council members received complaints. Mayor Tarr advised the Fire Company sets the date and time.
- Councilman Ross stated he has received complaints from Island guests that there are no restaurants opened after 9:30 p.m. Mayor Tarr stated they should contact the Chamber of Commerce. He advised that the downtown businesses are trying to get together and schedule openings and closings at the same times.
- Councilman Howard stated he observed a boat and trailer pulled across Beebe Road with a flying bridge that needed clearance. He advised there was someone in the boat moving the lines and it actually hit one of the lines. He expressed his concerns for safety and suggested looking into this matter.
- Councilman Ross stated that Mr. Snyder has made interesting points such as paying taxes and still being charged to use the county landfill. Town Manager West advised that this is a county matter, but it is charged by most counties. Councilman Howard stated

that Council should let the County know this is not a fair tax. Councilman Wolffe asked how the county could differentiate taxpaying property owners from out of state visitors. Town Attorney Poulson stated the County states either a County tag or landfill permit is required. Councilman Ross asked how a landfill permit is acquired. Town Attorney Poulson advised it is purchased at the County Administrator's Office. Mayor Tarr asked for the County ordinance for Council's review. Councilman Howard feels the Council should review and voice their objections. Town Attorney Poulson advised the purpose is to keep someone from out of state bringing their trash to the County landfill. Councilman Howard stated when someone pays county taxes they are contributing to the landfill and they should have the right to use it. Councilman Wolffe agreed that it is wise for the Council to review the ordinance.

- Councilman Ross stated the other point from Mr. Snyder is the camper ordinance. He advised he was opposed to this ordinance. He stated that this ordinance is unfair to those who had relatives that come one time per year other than pony penning. He asked if the Council would like to review this ordinance again or pass it on to the Planning Commission. Vice Mayor Conklin explained there are approximately 4,000 full time residents and if allowed there would be a camper in someone's yard every day of the year and people would complain. She advised that there is one use per property and she understood this to be the Council's reasoning. Mayor Tarr stated it took months to arrive at the decision that was made.

### **15. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be on August 2, 2004. Councilman Howard motioned, seconded by Councilwoman Richardson, to adjourn the meeting. Unanimously approved.

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Mayor

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Town Manager

## **MINUTES OF THE AUGUST 2, 2004 CHINCOTEAGUE TOWN COUNCIL MEETING**

### **Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Ronald Mason, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolffe, Councilman

## **1. Call to Order**

Mayor Tarr called the meeting to order at 7:33 p.m.

## **2. Invocation.**

Councilman Howard offered the Invocation.

## **3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

## **4. Approval of Minutes of the July 6, 2004 Council Meeting.**

Councilman Howard motioned, seconded by Councilman Ross to approve the minutes as presented. Unanimously approved.

## **5. Council information Items.**

- Councilman Wolffe asked Council about the letter from Sea Tag Lodge as he feels the request is reasonable regarding attachment of smaller signs to the main sign. Town Manager West was asked if nonconforming signs could be appealed and he responded that not all zoning laws governing signs are appealable. There was further discussion and Mayor Tarr advised he will redirect this matter to the Planning Commission for consideration.
- Town Manager West advised Council that the 4 acre site across from the Chincoteague Center was available for purchase. He also advised that someone has offered mainland property to the Town. Mayor Tarr advised this should be discussed during the closed session as it is regarding acquisition of property.
- Councilman Ross asked the status of the Sunnywood drainage project. Town Manager West advised they are in the process of working with the low bidder for a voluntary reduction of price and should be discussed during the next Public Works Committee meeting.

## **6. Committee Reports.**

- **Public Works Committee** – Councilman Mason advised that the street light request at the turn-circle on North Main Street, recommended by the Student Government would be expensive. He also explained the location problems and stated the request has been denied. He also advised that Gerald Moore and Sons has been defaulted as the paving contractor. Councilman Mason stated the 16” water main project has been reviewed with the engineer. He added that the Committee has received bids on the water tanks.
- **Curtis Merritt Harbor** – Councilman Mason reported there was discussion of the disposition on the additional slips. He stated they are working out the details for a travel lift franchise agreement. He also advised the meetings have been changed to the 2<sup>nd</sup> Thursday of the month.
- **Chincoteague Recreational and Convention Center Authority** – Vice Mayor

Conklin reported on some of the upcoming events and stated the Wild West Show was a success. She also stated they are having heating and air conditioning problems.

- Councilman Wolffe wanted to know if the Planning Commission was still discussing density and quantity of townhouses and was advised the discussion would continue at the next meeting.
- **Ordinance Committee** – Councilman Howard stated the next meeting would be August 4, 2004.
- **Cemetery Committee** – Councilman Howard advised the next meeting would be August 24, 2004. He stated that the Mechanics and Greenwood Cemeteries are cleaned twice annually on a maintenance schedule. He added that the Public Works Department and other entities have been cleaning the cemeteries.
- **Police Commission** – Mayor Tarr stated the next meeting has been moved to August 12, 2004 at 5:30 p.m.

## **7. Public Participation.**

- Mrs. Jane Wolffe thanked the Town for the Pony Shuttle and the drainage work.
- Mrs. Betty Mullins also advised Council of the hard work the Town employees and volunteers did for the Pony Shuttles.

## **8. Acknowledgement Form – Marsh Island Sewage Plant Proposal.**

Mayor Tarr explained that this item pertains to a permit that Mr. Carlton Mason has attempted to obtain from the DEQ for a sewage treatment plant for Marsh Island. He advised that the Town has no authority over the permit and is being asked to comment on the proposal from the standpoint of an adjacent property owner. He asked for public comments.

- Mr. James Reynonds, an owner of property on Marsh Island, advised that Mr. Richard Tull promised an open area with preserved septic. He advised this was destroyed by Mr. Carlton Mason. He is concerned with septic and building on Marsh Island and objects to the sewage treatment plant. He asked if the property owners should receive the acknowledgement document. Town Manager West responded that the applicant is instructed to send the form to the adjacent property owners. He advised it is not up to the Town to contact or enforce the contact of the property owners, however the adjacent property owners should receive a form.
- Mr. James Rauth stated he opposes this application. He also stated that no adjacent property owner has received the acknowledge form the Town has received on this matter. He also added there is a plan to build over the drain field and there has been no variance received from the local health department. Mr. Rauth recommended that Council oppose this matter as there is not enough information to make an intelligent decision.
- Mrs. Susan Rauth also expressed her objections. She stated she had to replace their sewage system because Mr. Mason destroyed their first system. She also stated that a sewage outfall in front of the new downtown park is a bad idea.
- Mr. Joseph Miller, with the Captain's Corner Townhouse Association, stated there have been water and sewage problems as a result of Mr. Mason's over-development and mismanagement.

- Mrs. Karen Nold, President of the Marsh Island Homeowner's Association, feels Marsh Island is a mess, and is not as she was promised when the property was purchased. She advised there was only supposed to be 14 townhouses and 8 single-family dwellings, a marina and marina building and nothing more.
- Mr. Batista Madonia stated that Mr. Tull promised the open area that now has plans for development. He advised of a drop in water pressure and feels the seafood would be poisoned in the Channel.
- Mr. Batista Madonia, Sr., who owns 4 lots on Marsh Island, advised Mr. Mason has lied and destroyed his drain field.
- Mr. Kevin Martingale, Attorney for the Association, stated he was advised that everyone was promised that the area would remain open. He explained that the drain fields have been violated and need to be protected. He stated the citizens are before the Council recommending an objection. He also asked Council to send other information to the DEQ.

Councilman Ross asked if this was the second attempt. Town Manager West advised this was the second attempt to obtain a permit and the Town was not informed the first time or asked to sign an acknowledge form. Councilman Wolffe feels there isn't enough information to comment, however, there are citizens who object. He asked for a formal letter of request from the Marsh Island Homeowner's Association. Vice Mayor Conklin advised there is a formal letter in the agenda packet. Councilman Ross added that the covenant clearly states that the septic or drain fields cannot be destroyed. He wants to object to this project in writing. Councilman Mason advised he is not related to Mr. Carlton Mason. He stated that until the drawings and submittals are complete Council shouldn't comment. Councilman Howard would like to object to the acknowledgement form and requests to do so in writing. Councilman Wolffe feels the two issues should be separated. He understands that Council is asked to comment as adjacent property owners, however, they are obligated to comment as a representative of the citizens.

Councilman Wolffe motioned, seconded by Vice Mayor Conklin to object to the project on the acknowledgement form because there isn't enough information, potential effects of water quality problems and Mr. Mason did not appear before Council. Unanimously approved.

Councilman Wolffe motioned, seconded by Councilman Ross to send a letter to the DEQ and VMRC opposing the project from the standpoint of the citizens that they feel it is significantly detrimental and listing reasons the citizens expressed, also return to Council to approve the letter prior to mailing. Unanimously approved.

## **9. *Appointments to Planning Commission.***

Mayor Tarr opened the floor for nominations to fill Councilman Ross' position on the Planning Commission. He advised nominations would be voted on in the order in which they were received. Councilwoman Richardson nominated Mr. James Frese as he has served on the Planning Commission for 6 years and has 4 years experience on the Town Council and would be an excellent candidate. Councilman Mason nominated Mrs. Elizabeth Hunt as she has served on her local board of zoning appeals and zoning commission prior to her move to Chincoteague. Receiving no further nominations Mayor

Tarr asked for a vote for Mr. Frese – Councilman Howard, Vice Mayor Conklin, and Councilwoman Richardson. Mayor Tarr asked for a vote for Mrs. Hunt – Councilman Mason, Councilman Ross, and Councilman Wolffe. Mayor Tarr advised that because there was no clear majority there will be no appointment at this time. He asked Council if they were willing to change their vote or wanted to wait until August 19, 2004. Vice Mayor Conklin asked Mayor Tarr if he would break the tie and he advised that under the Roberts Rules of Order he did not believe he was permitted. This matter was tabled until August 19, 2004, recessed meeting.

#### **10. *Proposed Policies: Skate Park and Downtown Park.***

**Skate Park** – Councilman Ross asked about the necessity of the waiver. There was much discussion of when and how this would be enforced. Town Manager West stated the waiver was supported and further recommended by Town Attorney Poulson. After much discussion to expedite the opening of the park, Council asked Town Manager West and Public Works Director Jeffries to open the Skate Park. They directed prior to opening the signs for “Skate at your own risk”, “Mandatory – Helmets, kneepads, and elbow pads” and operating hours if necessary. He advised that the Police Department would patrol the area and eject anyone in the park without safety equipment. He also stated the waiver form and rules would be readdressed in the September meeting of Council so Town Attorney Poulson could be present.

**Downtown Park** – Town Manager West reviewed the proposed rules. Councilman Howard expressed concerns that the Downtown Park should be accessible to everyone. He also feels a paid event where there is access control should not be allowed. Town Manager West explained there should be a change in business license to cover itinerant vendors, which will be turned over to the Ordinance Committee for a proposal. The main contention is whether or not to charge for the park. Councilman Mason feels it should be the same as Memorial Park. Council agreed that pets should not be allowed in the park. They also agreed to accept names from the public for the downtown park. Council also decided that all other policies should go back to the management team for discussion at their next meeting on August 17, 2004.

#### **11. *Award of a Contract for Water Tank Repairs and Painting.***

Public Works Director Jeffries explained that the low bid was J & W of North Carolina at \$225,000. Town Manager West was given a good reference from the engineer. Vice Mayor Conklin motioned, seconded by Councilman Wolffe to award the contract to J & W of North Carolina at \$225,000 for repairs and painting of the two tanks. Unanimously approved.

#### **12. *Request for Special Event Parking.***

Town Manager West explained a request from the Downtown Merchants for parking of up to 100 motorcycles. He advised the event is the 4<sup>th</sup> Annual Hope Run for the Eastern Shore Relay for Life. Councilman Howard motioned, seconded by Councilwoman Richardson to allow the event for special parking. Unanimously approved.

### **13. Other Matters.**

- Town Manager West showed Council a plaque given to the Town for hosting the Walk America. He advised Council the Town has been selected again for the Walk America 2005.
- Councilman Ross asked for the status of the pump at Maddox Blvd traffic circle. Public Works Director Jeffries advised the work is expected to be complete at the end of August.
- Mayor Tarr thanked the employees and volunteers for their hard work on the Pony Shuttle.

### **14. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for the Purpose of Discussion of Acquisition and Deposition of Public Property.**

Councilman Howard moved, seconded by Councilman Mason to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Mason moved, seconded by Councilman Wolffe to reconvene in regular session. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Mason 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- Conklin, Ross, Howard, Richardson, Mason, Wolffe  
Nays- None  
Absent- None

Councilman Howard motioned, seconded by Councilwoman Richardson to make an offer to purchase School Board property contingent upon a public hearing that would be scheduled for September 7, 2004. Unanimously approved.

**15. Recess of Meeting.**

Councilman Howard motioned, seconded by Councilwoman Richardson, to recess the meeting until August 19, 2004. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE AUGUST 19, 2004  
CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Terry Howard, Councilman  
Ronald Mason, Councilman  
Ellen W. Richardson, Councilwoman  
Glenn B. Wolffe, Councilman  
E. David Ross, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:35 p.m.

**2. Invocation.**

Councilman Ross offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Public Hearings: Property Line Vacations**

**Applicants Forrest and Etta MacDowell, Lots 41 & 42, Highland Park Drive.  
Applicant Charlotte Owen, Lots 6D & 7D, Salt Marsh Landing.**

Mayor Tarr opened the public hearing at 7:38 p.m.

Mrs. Betty Mullins asked what vacation of property line was. Mayor Tarr and Town Manager West explained that it was the removal of any property line to make a larger parcel.

Hearing no other comments, Mayor Tarr closed the public hearing at 7:40 p.m.



SURVEYORS on February 7, 2003 for Charlotte Owen, which plat is recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia, in Plat Book 78 p.43 be and it hereby is vacated; a copy of said Plat is being filed with said Application and is attached to this Ordinance. Said line is further designated by a series of dashes as shown on said Plat.

2. That a certified copy of this Ordinance, together with a copy of said Plat showing the property line to be vacated, be recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia.
3. That the effective date of this Ordinance shall be upon adoption by the Town Council for the Town of Chincoteague.

AYES

Vice Mayor Conklin  
Councilman Howard  
Councilman Mason  
Councilwoman Richardson  
Councilman Ross  
Councilman Wolffe

NAYS

#### **5. *Appointment to Planning Commission.***

Mayor Tarr explained the rules and opened the floor for nomination. Councilwoman Richardson nominated Mr. James Frese. Councilman Mason nominated Mrs. Elizabeth Hunt. Councilman Wolffe nominated Mr. Reginald Birch. Having received no further nominations, Mayor Tarr closed the floor for nominations and called for a vote.

Mr. James Frese – Howard, Conklin, Richardson

Having received no majority, Mayor Tarr asked for affirmative votes on the next nominee.

Mrs. Elizabeth Hunt – Mason, Ross, Wolffe

Having received no majority, Mayor Tarr asked for affirmative votes on the next nominee.

Mr. Reginald Birch – Wolffe, Mason, Ross

With no majority on all three nominees, Mayor Tarr asked Council if they desired to consider any other nominees.

Mayor Tarr again opened the floor for nominations. Councilman Ross nominated Mrs. Anita Speidel, Councilman Wolffe nominated Mr. Reginald Birch, Councilman Mason nominated Mrs. Elizabeth Hunt, and Vice Mayor Conklin nominated Mr. James Frese.

Mayor Tarr closed nominations and called for a second vote.

Mrs. Anita Speidel – Mason, Wolffe, Ross

Having received no majority, Mayor Tarr asked for affirmative votes on the next nominee  
Reginald Birch – Mason, Wolffe, Ross

Having received no majority, Mayor Tarr asked for affirmative votes on the next nominee Mrs. Elizabeth Hunt – Mason, Wolffe, Ross

Having received no majority, Mayor Tarr asked for affirmative votes on the next nominee Mr. James Frese – Conklin, Richardson, Howard

After receiving no majority again on any of the nominees, Mayor Tarr stated there was no need to receive any further nominations from the floor. He asked that the matter be again addressed in the September 7<sup>th</sup>, 2004 Council meeting.

## **6. *Grant of Property to Island Library.***

Town Manager West explained that Council has previously considered a grant of property to the Island Library. He advised that no action was taken at that time because it was still in the planning stage for the addition. He also advised that he recently met with the Island Library Board. They were given some money and were ready to proceed with the gift of property to begin construction. Town Manager West presented the proposed plat conveying 1,282 square feet of property to the Island Library. He asked Council if they would approve and proceed to a public hearing toward conveying the property to the Island Library.

Councilwoman Richardson motioned, seconded by Councilman Wolffe to proceed to a public hearing on the gift of property to the Island Library. Unanimously approved.

## **7. *Adoption of Regional Housing Assessment and Strategic Plan.***

Town Manager West explained that through the affiliation with the ANPDC and the Housing Redevelopment Corporation, Council was asked to adopt the regional plan. He stated it is more of a plan and is considered a tool.

Councilman Ross reviewed sections of the plan and noted that there were items that apply to Chincoteague. Councilman Howard thought that it was good to mention in the plan the affordability of housing and that it is becoming a big problem. Councilman Mason advised the census map that the plan referred to was missing.

Public Works Director Jeffries explained this was more of a tool than a plan and is used for future grants and programs.

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the plan. Unanimously approved.

## **8. *Discussion of Appendix A, Article VI, Section 6.7, Camping Units.***

Councilman Howard explained the history of the camping ordinance and requests that had been received for a change. He also described the exception and stated that fairness of the one week exception was questioned. Councilman Mason asked if there were any

complaints during the one week in July. Town Manager West advised there were none. Vice Mayor Conklin expressed her opposition and feels there is no need to revisit the matter with only one complaint. Councilman Ross stated there has been change because of one complaint in the past. He also added, there is already an exception and feels that everyone should be allowed to choose the week they prefer for a camping unit.

Councilman Howard explained that because of the congestion and visitor population the exception was approved. He suggested turning the matter over to the Planning Commission for review. Councilman Ross added that he does not oppose the Fire Company and feels the exception is unfair. Mayor Tarr stated that a few years ago this issue was debated for approximately a year. He stated that there were legitimate complaints such as motor homes parked next to bedroom windows along with sewage problems. He added the other issue was enforcement. Councilman Mason advised the reason for allowing Pony Penning week was because of the overwhelming number of visitors who would take advantage of this open or not. He added that the sewage issue exists during the week of Pony Penning as it would any other week of the year. Councilman Mason also agrees that the Planning Commission could review the ordinance once again.

Vice Mayor Conklin stated that policing the issue is not a problem for the one week as opposed to the other 51 weeks of the year. She asked how this would be policed. Councilman Ross stated it would be done by permits. Mayor Tarr added that it would be an increase because other people would be using the exemption throughout the year as opposed to the ones who use the exemption every year. Councilman Ross asked Town Manager West if he contacted the attorney concerning the exception. Town Manager West advised that Town Attorney Poulson stated exceptions in the zoning ordinance are not unusual. He explained that there has to be a reasonable explanation for the exception and he advised that Town Attorney Poulson felt it was reasonable.

Councilman Mason motioned, seconded by Councilman Howard to send this matter to the Planning Commission to be reconsidered. Ayes – Mason, Howard, Wolffe, Ross, Richardson. Nays – Conklin. Motion carried.

## **9. Award of Tennis Court Work.**

Town Manager West explained that the courts have been advertised twice and both times the bid was approximately \$73,000.00. The Bicycling and Outdoor Recreational Advisory Committee and the Public Works Committee thought it would be feasible to break the work down into its component parts. Town Manager West advised that staff has done this and received bids on paving and fencing. He advised the newly estimated cost would be \$42,000.00. He stated the original cost was estimated at \$35,000.00. Town Manager West asked Council for direction in the funding plan and if they would agree to fund the cost with Skate Park surplus funds. He asked Council for a motion to award the two construction jobs and approve the funding plan to move money from the Skate Park fund to the Tennis Court fund. He also suggested asking the Tennis

Association for additional funds. Councilman Ross expressed his concerns about the replacement of playground equipment.

Councilman Howard motioned, seconded by Vice Mayor Conklin to proceed with the award of bids and funding plan. Unanimously approved.

Mr. David Spangler thanked Mayor Tarr and the Town Council for all their efforts. He believes that the community will appreciate the extra court. He invited everyone to play tennis. Mayor Tarr thanked the Tennis Association also.

### **10. *Renewal of Lease for Downtown Mooring.***

Councilman Mason asked if it would be reasonable to renew the lease. Town Manager West stated he had given the matter some thought and felt that it would be appropriate to advertise the lease to insure all mooring vessels of seafood businesses would have equal opportunity to provide a proposal. Councilman Mason asked if the lease rate would be increased because of the cost of living. Town Manager West stated that it is open to negotiation, he feels an increase is reasonable and the Harbor Committee could examine the issue. Councilman Ross asked if it would be beneficial to lease both the Town Dock and the Downtown Dock. Town Manager West stated that he felt the water main needed to be protected on the Town Dock. Council agreed to allow Mr. McDonald an extension of 4 months for his vessels while the bids for a new lease were being advertised.

Councilman Howard motioned, seconded by Councilwoman Richardson to advertise for bids for a new Downtown property mooring lease with a minimum rate of \$833.00 per month . Unanimously approved.

### **11. *Discussion of Sewage System Problems.***

Councilman Mason stated that with recent failure in local septic systems, important businesses, part of our economic development and revitalization downtown he feels the Town should be looking into central sewage with a package plant at an incremental approach. He stated that this was discussed in the Public Works Committee meeting. Mayor Tarr suggested sending a letter to the PSA asking them to look into the problems. Vice Mayor Conklin asked who would hook-up first. Councilman Howard feels there is only one way to fairly resolve this problem, which is to do the entire community versus a particular area. Councilman Mason advised there is a separate entity that is supposed to look out for the Town.

Councilman Mason motioned, seconded by Councilman Howard to send a letter to the PSA requesting their assistance in assessing the problem and giving the Town solutions to the problem. Unanimously approved.

### **12. *Other Matters.***

- Mayor Tarr stated the Public Works Department has been busy maintaining drainage systems.

- Councilman Ross expressed his concern with the drainage problem experienced during the recent downpour. He advised that there was a complaint on Church Street where the water was running off the sidewalk under someone's house. Public Works Director Jeffries advised that the sidewalk is low in that area. Public Works Director Jeffries stated this is an area that needs to be reviewed.
- Councilman Ross asked for an update on the Maddox Blvd. drainage project. Public Works Director Jeffries advised the project would be complete by the end of August or first of September. Councilman Ross also asked about the Sunnywood drainage project. Public Works Director Jeffries stated they are planning to replace a culvert and completing some of the drainage work in-house.
- Councilman Ross advised that the only grocery store was put out of business because of a drainage problem. Town Manager West and Public Works Director Jeffries advised that the water level never breached the sidewalk because of a new drainage system there. They advised it was slow taking the downfall because of the downpour and the reason for the closure was splashing from vehicles under the front door.
- Councilman Wolfe feels that the trial timed bridge openings was a success. He asked if Town Manager West could request an extension. Mayor Tarr suggested sending a resolution requesting an extension of the trial period and comment on its success.
- Mayor Tarr announced that there is a joint meeting between the School Board and the Board of Supervisors to consider the Town's offer to purchase property. He advised the meeting would be on Monday, August 23, 2004 at 7:00 pm in the Courthouse.

**13. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for the Purpose of Discussion of Acquisition or Disposition of Public Property.**

Councilman Howard moved, seconded by Councilman Wolfe to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Mason moved, seconded by Councilman Howard to reconvene in regular session. Unanimously approved.

Councilman Mason moved, seconded by Councilman Wolfe 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- Conklin, Howard, Richardson, Mason, Wolffe, Ross  
Nays- None  
Absent- None

Councilman Ross asked if there was only one process in place for nominations in reference to the Planning Commission vacancy. He feels it could be deadlocked forever. Councilman Wolffe stated it is obvious that three of Council does not want Mr. Frese on the Planning Commission and those three are willing to put other candidates in the vacancy, however the other three only want Mr. Frese. Mayor Tarr advised that he and Town Manager West would look into researching the process to break the deadlock. The Mayor acknowledged the importance to fill the vacant seats.

#### **14. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be on September 7, 2004. Councilman Howard motioned, seconded by Councilman Wolffe to adjourn the meeting. Unanimously approved.

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Mayor

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Town Manager

### **MINUTES OF THE SEPTEMBER 7, 2004 CHINCOTEAGUE TOWN COUNCIL MEETING**

#### **Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Ronald Mason, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolffe, Councilman

#### **1. Call to Order**

Mayor Tarr called the meeting to order at 7:33 p.m.

## **2. Invocation.**

Councilman Howard offered the Invocation.

## **3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

## **4. Approval of Minutes of the August 2, 2004 and August 19, 2004 Council Meetings**

Councilman Wolffe requested a change on page 6 of the August 2, 2004 minutes to delete the name Frese and insert the name Ross. Vice Mayor Conklin motioned, seconded by Councilman Howard to approve the minutes as corrected. Unanimously approved.

## **5. Council information Items.**

- Councilman Wolffe asked about the resolution to send to the U. S. Coast Guard in reference to the bridge openings. Mayor Tarr advised that staff has sent a detailed letter with the resolution. Vice Mayor Conklin stated that the scheduled openings have been working nicely.
- Councilman Ross asked Chief Lewis about small motorized vehicles and go-carts on public streets. Chief Lewis advised that golf carts are illegal on state roads. He added that electric cars are legal as long as they have head lights, tail lights, and brake lights.
- Councilman Ross asked Town Manager West if there are records of complaints in reference to the quality of the cable service and if there is contact with the cable company. Town Manager West advised there is a complaint file and he is in contact with them periodically. He also advised that the Town has been in contact with an attorney to pursue them through the FCC to correct some of the quality problems. Councilman Ross asked if the complaints have increased. Town Manager West stated there was a peak during the Olympics. Councilman Howard advised the quality has not been good. Vice Mayor Conklin stated that some customers that are dissatisfied are going to satellite service. Town Manager West advised that a written complaint should be sent to them and a copy placed in our records. He also stated the Franchise Agreement should be reviewed.
- Councilman Ross asked Public Works Director Jeffries about the responsibility of cleaning the ditches around the traffic circle. He added that this is the most traveled area of Town and suggested taking care of this as soon as possible. Public Works Director Jeffries stated that the Town is doing this by hand and in the process of clearing the ditches.
- Vice Mayor Conklin thanked Public Works Director Jeffries for cleaning the Town Parking Lot.

## **6. Committee Reports.**

- **Planning Commission** – Councilwoman Richardson advised they discussed the Camper Ordinance and decided to leave the ordinance as it currently is. She also advised there will be a public hearing on the square footage of townhouses on September 28, 2004 at 7:00 p.m.

- **Public Works Committee** – Councilman Mason reported the Committee agreed to request assistance of the Accomack-Northampton PSA to study the sewage issue. He stated that they will be reviewing the priority list of projects at the next meeting. Councilman Mason asked if the Sunnywood drainage project was put out for re-bid. Town Manager West advised that it had not. He stated that the Town is looking into completing a portion of the work in-house.
- **Curtis Merritt Harbor Committee** – Councilman Mason reported that the 5 of the 30 new slips are in the process of being issued. He stated that the Committee agreed to extend the 10 year lease to 20 years for the travel lift. Councilman Mason also advised there will be no meeting this month.
- **Budget and Personnel Committee** – Vice Mayor Conklin reported that the Town has a collection rate of 98% for real estate taxes and 96% for personal property tax collections. She commended the office staff for the collections. She stated that the meals and transient occupancy taxes are up from last year. Vice Mayor Conklin reported that Town Manager West stated he will advertise for the engineer position again. She also stated that there were many applications for the account specialist position. She added that some were over-qualified and that the salary requests were high. She stated that Town Manager West has made an offer to one of the applicants.
- **Bicycling and Outdoor Recreational Advisory Committee** – Councilman Ross reported there will be a meeting Wednesday, September 8, 2004 at 10:00 a.m. He stated that the Tennis Association attended the last meeting and the Town Council resolved the funding matter at the recessed meeting in August.
- **Mosquito Control Committee** – Councilman Wolffe stated he did not have a meeting report. He informed Council that he had researched aerial larvaciding and found it would be difficult and expensive. He stated that larvaciding by air could only be done in less populated areas.
- **Cemetery Committee** – Councilman Howard stated that they discussed cleaning the cemetery on Assateague with permission. He also requested that an ad be placed in the paper for the removal of seasonal decorations at the cemeteries. Councilman Howard announced the next meeting is scheduled for September 28, 2004 at 6:00 p.m.
- **Charter, Ordinance and Zoning Committee** – Councilman Howard reported that they referred the Camper Ordinance to the Planning Commission and they have decided to do nothing with the ordinance. He also advised there was discussion of the business licenses for the downtown park vendors.

Councilman Wolffe stated that the Camping Unit issue is not on the agenda and feels it needs to be finalized. Councilman Howard stated that it would be a good idea to put this matter on the agenda for the next meeting. Councilman Ross also added that being an advocate of this matter, he feels the appropriate actions have been taken and is satisfied with the process. Councilman Wolffe feels that a letter should be sent to the requesting parties advising them of the process and action taken.

## ***7. Public Hearing: Comments on the Town's Proposal to Purchase property from the Accomack County School Board.***

Mayor Tarr explained the offer that was made to the School Board to purchase property adjacent to the schools. He stated that Council had the property appraised by a certified

appraiser. Council decided to purchase 2 parcels. The waterfront parcel was appraised at \$1,012,000.00. He explained that Council would like to purchase this property at 80% of its value or \$809,000 as it would not be used at its highest and best use. Mayor Tarr explained that parcel C was not included in the purchase as the width and drainage outfall would not allow development. He stated that another parcel that Council decided not to purchase was the property at the old elementary school with the gymnasium. Mayor Tarr stated the third property was a 75-acre parcel and was comprised of theoretical lots A, B, and C. Lot B on the north side of Hallie Whealton Smith Drive was comprised of ponds and marshlands. Lot A was between the high and elementary schools. Lot C was a small parcel on the Deep Hole Road side of the elementary school. He stated that these parcels were valued at \$828,000 and the Town was offering \$662,400.00 for the 75-acre tract. Mayor Tarr also explained that the Town was offering the reduced proposal because the Town wanted to keep the property open for recreational, conservation, and public use and not for development. He stated that the School Board has approved the sale of the property if the Board of Supervisors would approve the sale.

Councilman Wolffe stated that the School Board has accepted the offer from the Town; however, they could not sell the property without the approval by the Accomack County Board of Supervisors. Vice Mayor Conklin also added that the offer was only good if the proceeds from the sale go toward the renovations of the high school.

Mayor Tarr stated that ordinarily there was a stipulation in the code that the School Board has to deem property as excess property and then they would turn it over to Accomack County at which time the County can sell the property and do whatever they want with the proceeds. He added that there was a provision that enables the School Board to sell property to another governing body as long as the funds go toward a capital project or construction project. Town Attorney Poulson made a correction that it did not have to be sold to a governing body. Mayor Tarr also advised that the School Board voted that the proceeds go back into the capital improvements project.

Mayor Tarr opened the public hearing.

- Ms. Victoria Emory expressed her concerns about press reports. She asked about the report of the Town not paying for district schools in taxes until recently. She was also concerned about the benefit to Mrs. Thornton should the Town purchase the property.
- Mr. James Frese commended Council for their efforts in purchasing the assets. He stated that Memorial Park was a crown jewel and if the waterfront property across from the high school could be developed like Memorial Park, it would be wonderful.
- Mr. Donald Leonard complimented Council for a job well done.
- Mrs. Jane Wolffe thanked Mr. Leonard for being a historian and always supporting the community. She stated that she hoped the Supervisors were smart about selling the property to the Town. She felt that Council has done the best with what they have to work with and she commended their efforts also.
- Mrs. Donna Mason read a letter to the Council stating that she commended the Mayor and Town Council for their forward thinking and innovative idea to purchase the property and keeping it as “green space” and using the proceeds for the renovation expenses. Mrs.

Mason also recommended a resolution of respect for Supervisor Julia Major who recently passed away.

- Mr. John Howard stated that there were limited waterfront lots left on Chincoteague. He stated that he spoke with Mr. Sterling at the paper and asked if they would print the truth. He stated that Chincoteague wanted a school because it is the community and it draws the people together. He also stated that the Town of Chincoteague would always keep a school. He asked Mr. Sterling to print an educational article for the Town and County. He felt a good relationship between the County and Town would benefit everyone. Mr. Howard stated that Chincoteague has the worst bridge and the worst school in the state of Virginia. He encouraged the Town to unite with the County for the betterment of our community.
- Mrs. Sandy Bowden, on behalf of the executive board of the Chincoteague Combined School PTSA, described the conditions of the high school. She stated that the children do not complain. She commended the Council and Supervisor Thornton for their efforts. She added that the purchase of the property was a win-win situation. Mrs. Bowden felt it was nice to know there were areas of the island that would not be developed and that our children and future generations would enjoy it.
- Mr. Kenneth Ballerini stated that he moved to the island 8 years ago because of the education system and felt if the island lost the school he may have to relocate again.
- Mrs. Ruth Patzig asked about the conservation easement. Town Manager West advised that the parcel that the Town was proposing to purchase was not in the conservation easement. Mrs. Patzig asked why parcel B has not been put in the conservation easement. Town Attorney Poulson stated they didn't have to. He added there were certain square footage requirements and they were met. She also asked if a portion of Mrs. Thornton's property was in the easement. Mayor Tarr stated it abutted the property but was not included.
- Mrs. Sandy Bowden requested attendance at the Board of Supervisor meetings. Mayor Tarr stated that the meetings would be published.

Mayor Tarr closed the public hearing. He addressed Ms. Emory's concerns. He explained that the article in the Post was incorrect and they were trying to make the reader believe it was controversial. He also stated that adjacent property owners would not benefit by the Town purchasing the property and using it for conservation.

Councilman Wolffe strongly supported the idea. Councilman Mason also felt that more people should attend the meetings which could cause a better county vote. Councilman Howard also felt a big turnout was important and green space was important. Vice Mayor Conklin stated that Mr. McMath, a School Board Member, commended the parents and students of Chincoteague schools for their participation. She also expressed her hope that more people would attend the meetings. Mayor Tarr stated he would make an effort to advertise the School Board meeting dates, times, and places.

Councilman Wolffe motioned, seconded by Councilman Howard, to adopt the following resolution. Unanimously approved.

## **RESOLUTION**

- 1) That the Town Council offers to purchase from the Accomack County School Board with General Warranty of Title, the following described real estate for the prices indicated, such real estate being real estate for which the board has no use, with the proceeds from such sale to be retained by the School board and placed into a capital improvement fund to be utilized for the renovation of Chincoteague High School.
  - a) Portion of Tax Map Parcel No. 03100A000002900 situated northwest of Main Street and shown on "Parcel One Tax Map Sketch" attached to and made a part hereof. \$809,000.
  - b) Portion of Tax Map Parcel No. 03100A000002900 situated southwest side of Main Street being Parcels A, B, and C as shown on "Parcel Four Property Layout Sketch" attached to and made a part hereof. \$662,400.

Said offer is for parcels A and B collectively and is not divisible.

- 2) That such real estate is to be conveyed by good and sufficient deed with General Warranty of Title, and free and clear of all valid liens and objections but subject to any standard utility easement(s), and further subject to the covenant and restriction which shall run with the land, that such real estate shall only be used for recreation, conservation, or other public use, unless otherwise expressly agreed in writing by the School Board of Accomack County, Virginia and the Board of Supervisors of Accomack County, Virginia in such form as is recordable in the Clerk's Office for the circuit Court of Accomack County, Virginia.
- 3) That the Mayor of the Town of Chincoteague on behalf of the Town council be authorized and directed to take all such other reasonable and necessary steps to effectuate the intent of this Resolution.

**Ayes**

Vice Mayor Conklin  
Councilman Ross  
Councilwoman Richardson  
Councilman Mason  
Councilman Wolfe  
Councilman Howard

**Nays**

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Approved:

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 John H. Tarr, Mayor

## **8. Public Participation.**

- Ms. Betty Mullins addressed the scheduled openings of the draw bridge. She stated that the trial schedule expires September 29, 2004 and the Coast Guard has requested comments. She requested that the schedule be adopted permanently. She also has presented Council with a petition of over 100 signatures to keep the schedule in place. Mayor Tarr advised that a letter has been sent requesting the continuation of the trial period until they make a decision.
- Ms. Victoria Emory stated that she was a teacher for Chincoteague High School and has lost her job because of a charge against her for assault on a police officer. She explained that on June 19, 2004 she called the Chincoteague Police Department for help as she was being threatened by her son. She advised that 2 inexperienced officers responded. Ms. Emory explained her history that she was raped at the age of 14 by a local deputy. She advised that night she had a flashback and thought she was going to be raped again. She admitted to hitting her head on the lattice of her deck. She was taken to the hospital, treated and released on June 21, 2004. She advised that one evening at approximately 10:30 p.m. 2 other officers came to her door and arrested her for assault of a police officer. She was then escorted to the Accomack County jail where she spent the night. She complained about the conditions of the cell and that she was being bitten by ants. The deputies at the jail thought she would cause harm to herself and sent her to the hospital where she was treated and released again. She explained that felony assault was when the officer felt she was a threat to him. She advised that she would not hurt anyone and those who know her know that she is self-abusive. Ms. Emory stated that she plead guilty to misdemeanor assault at the advise of the district attorney. She then explained that Mr. Bill Winder from the School Board came into the school and fired her as a teacher. Ms. Emory stated she taught for 23 years and does not feel that she should have lost her job. She requested that Council research this matter with the Police Department.
- Mr. James Frese stated that the charges against the police department have not been investigated. He defended them by stating that he has never seen a deficiency and a friend of his stated that they act professionally. He commended the Police Department and suggested supporting them.

Mayor Tarr advised that personnel matters are discussed in closed session.

## **9. Consider Correspondence: Marsh Island**

Mayor Tarr advised that the acknowledgement form has already been completed and sent expressing the Town's objection to the sewage treatment plant project on Marsh Island. Town Attorney Poulson stated he has reviewed the rejection and has no problem with it as long as it is from the standpoint of an adjacent property owner. Councilman Wolffe feels the letter was appropriate and it expressed concerns that citizens addressed before Council. Councilman Howard added that Mr. Mason did not appear before Council to defend his reason for the sewage treatment plant on Marsh Island.

## **10. *Downtown Park Policy Proposal.***

Town Manager West stated that the policies have not been changed much since the last time of review. There was discussion about non-profit use versus an event for profit. Councilman Wolffe asked about a non-profit or for-profit group limiting a part of the park charging admission. Town Manager West stated the Committee was only addressing the total use of the park. Mayor Tarr added that vendors will be allowed but cannot rent the entire park and close the park. Councilman Wolffe asked for clarification that only non-profit organizations will be allowed to close the entire park. Councilman Howard interjected that this ties into the entire community. Councilman Wolffe continued to ask if they do close the park will they be allowed to charge admittance. Mayor Tarr was unsure of charging for admissions and stated they may be selling items. Councilman Wolffe stated the organizations will need to know if they can or cannot charge admissions.

Councilman Howard mentioned appointing a committee to review the events and criteria. Mayor Tarr stated that at the meeting they decided that staff would do the scheduling of events however, if there was an unusual situation it would revert back to the Downtown Management Team for review. Discussion continued about allowing a profit and/or non-profit group charge admission. Mayor Tarr also stated there was discussion about charging a cleanup fee. Councilman Mason asked for a clear definition of a “portion of the park”. Mayor Tarr advised that the Downtown Management Team will be reviewing the policy further and return with a larger list for Council to review.

## **11. *Skate Park Rules/Waiver Form.***

Town Attorney Poulson strongly recommended that Council approve the waiver form. Councilman Ross asked if the form would eliminate liability of an injury due to a broken piece of equipment. Town Attorney Poulson explained that a child cannot execute a release and a parent cannot execute a release for a child. He explained that this would be an indemnification provision in place that states the parents agree to indemnify the Town of any claim, loss or damage. He continued that if a parent sues the Town on behalf of the child for injury or damages then the Town can sue the parent for indemnification.

There was discussion of approving and enforcing waivers. Councilman Wolffe argued that enforcing waivers would be extremely difficult with visitors to the Island and with children of joint custody parents. He understands the risk but doesn't see how this could be policed. Town Attorney Poulson asked if Council is willing to expose the Town to a potential liability for a visitor to use the park for a couple of days. Councilman Wolffe also asked if the waivers are approved would cards be issued to show proof. He stated that he has an issue with the practicality of the waivers. Councilman Mason stated that there will be some children skating without waivers from time to time. He asked if one of those children gets hurt then is the Town liable. Town Attorney Poulson advised it would be considered trespassing. Councilman Wolffe asked if other parks require waivers. Mrs. Fox stated that she believes Mt. Trashmore does not have waivers that they fall under the blanket of Parks and Recreation for the City of Virginia Beach.

Mayor Tarr stated he doesn't think the waivers will work in a tourism based community. Chief Lewis advised there has been an arrest for a child predator and fourteen no trespassing documents for equipment violations. He suggested an attendant to oversee proper equipment use and waivers. Vice Mayor Conklin asked if there should be an age limit. Councilman Howard believes it will not be easy to administer the waiver, but does not justify putting the Town at risk. Councilman Ross feels this is already a burden on the Police Department staff and will be worse if the waivers are approved. Town Attorney Poulson suggested a list. Councilman Ross also stated that there could be an injury on any of the park equipment and would create the same situation as the skate park. Vice Mayor Conklin does not feel a waiver is needed as Mt. Trashmore does not require one because it falls under Parks and Recreation.

Councilman Howard stated that if there is an injury and the Town is sued then the insurance rates will increase. Councilman Wolffe agrees it would be good to have waivers in place if there is a practical way to enforce them. Councilman Mason stated that the only way to enforce the equipment usage is to man the skate park. He stated if the waiver is approved then it will have to be manned. Councilman Howard agreed that if the waivers are in place then someone will have to enforce it. He feels the Police Department is doing the best they can without harassing. Councilman Mason advised that the parks he visited had attendants. Mayor Tarr stated that most of those skate parks were privately owned and charged a fee to compensate the attendant. Mr. Van Dame explained that the original proposal from the Committee was to man it and charge a fee to handle the expenses of an attendant. Town Attorney Poulson asked if there was concern about 21-22 year olds skating with 6 year olds. Mrs. Fox advised that her brother is 34 and takes children to the park between the ages of 6 and 9. He teaches them and they feel they have as much right to skate there as the older skaters. They have the respect of the older skaters and give respect to them. She added that there is equipment in place for all ages and levels.

Councilman Howard asked if there are many over the age of 21. Mrs. Fox advised there are several. Councilman Wolffe suggested for the time being to continue operations of the skate park without waivers. He also added that should the need arise Council could review this matter again. Councilman Howard asked for the Committee's opinion of the waivers. Mrs. Fox explained that they felt the best scenario would be to hire an attendant and charge admission. However, because of the additional expense to the Town and lack of resources to police the waivers, they voted unanimously not to have waivers or fees. Mr. Van Dame added that the children voted to charge a fee which would keep those not serious about skating out of the skate park. Mayor Tarr stated that when the skate park was suggested to Council they asked about liability and insurance. He stated that the Town's insurance carrier was contacted and they advised that there is no more liability than the playground equipment already in place at Memorial Park. He feels if the insurance company doesn't have a problem with this then Council shouldn't either.

Town Attorney Poulson added that there is a code section that may help in this matter. He stated that section 15.2.1809 appears to exempt the Town from negligence, however the Town could be liable of gross negligence of any of the officers or agents in the

maintenance or operations of any such park, recreational facility or playground. Town Manager West asked if the Town would be guilty of gross negligence by not having an attendant.

Councilman Wolffe motioned, seconded by Vice Mayor Conklin to approve the regulations after deleting regulations #1 and #4, deleting any reference to waivers or registrations, changing any reference to the word park to read “skate park” and deleting the final paragraph with the rules to read as follows:

**TOWN OF CHINCOTEAGUE, INC.  
SKATE PARK RULES AND REGULATIONS.**

The rules of the Chincoteague Skate Park shall reflect the same rules as the Veterans Memorial Park. Also, it is unlawful for any person to ride, propel, push or otherwise operate a skateboard or inline skates on any public street, public sidewalks on Main Street or any other adjoining street between Jester Street and Maddox Boulevard, public lots or other public property (except for public skateboard facilities and public sponsored or authorized skateboard events) within the Town limits.

***Regulations***

1. All skaters must wear appropriate safety equipment: Skateboarders must wear a helmet, kneepads and elbow pads. Inline skaters must wear a helmet, kneepads, and elbow pads. All skaters must wear shoes.
2. Only skateboards and inline skates are permitted in the Skate Park.
3. Spectators are not permitted entry into the skate area unless wearing safety equipment.
4. Skater etiquette is expected at all times.
5. No glass is permitted in the Skate Park.
6. No alcohol or drugs are permitted on Town property.
7. No defacing of park property. Vandalism is subject to incarceration.
8. Personal property is the responsibility of the skater and may not be stored at the Skate Park.
9. No personal music devices allowed in the Skate Park.
10. No trespassing or skating when closed.
11. Profanity, recklessness and/or boisterous behavior is prohibited.
12. Any infraction of the rules will result in the loss of Skate Park privileges.

AYES: Conklin, Mason, Ross, Wolffe, Richardson. NAYS: Howard. Motion Carried.

Town Attorney Poulson asked if there was a policy in place of inspection of the skate park. Public Works Director Jeffries advised he will look into an inspection schedule. Councilman Wolffe asked if the Committee could review the matters of a waiver, fee and attendant from time to time should the need arise. Mrs. Fox was also asked to research Mt. Trashmore in reference to fees, waivers and attendants.

## **12. Other Matters.**

- Chief Lewis asked for permission from Council to purchase a new police car at the price of \$20,968. He advised the budgeted amount was \$26,000. Councilwoman Richardson motioned, seconded by Councilman Wolffe to approve the purchase of a new police car at the contract price of \$20,968. Unanimously approved.
- Town Attorney Poulson reported that he is still working with Goddard NASA for the temporary connection to the water system.
- Councilman Ross referred to the BZA minutes and questioned the approvals for buildings below the flood plane. He also questioned the approval of an appeal for a nonconforming sign already built. He suggested that Town Attorney Poulson send the BZA members a letter outlining their duties. Town Attorney Poulson will look into this.
- Councilman Howard commended the Public Works Department for doing a good job in cleaning the Bunting Cemetery.
- Mayor Tarr announced the resignation of Town Manager West whose last day would be October 1, 2004. He also stated that Town Manager West was willing to work with the Town to make the transition as smooth as possible.

## **13. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Acquisition or Disposition of Public Property and Personnel Matters.**

Councilman Howard moved, seconded by Councilman Mason to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilwoman Richardson moved, seconded by Councilman Wolffe to reconvene in regular session. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Mason 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- Conklin, Ross, Howard, Richardson, Mason, Wolffe

Nays- None  
Absent- None

**14. Recess of Meeting.**

Councilwoman Richardson motioned, seconded by Councilman Howard, to recess the meeting until September 16, 2004. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE SEPTEMBER 16, 2004  
CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Ronald Mason, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

**1. Call to Order**

Mayor Tarr called the meeting to order at 7:30 p.m.

**2. Invocation.**

Councilman Ross offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Workshop/Council Visioning Session.**

Mayor Tarr introduced Messrs. Berge and McGowan and Mrs. Kat Edwards from the Accomack-Northampton Planning District Commission. Mr. Berge recalled how the Town arrived at this point for the visioning session. Mr. McGowan explained the process and ground rules.

Mr. McGowan read the first focus question:

**Focus Question 1: *What planning issues should the Town of Chincoteague address over the next ten years?***

Council's responses were:

- Growth – population and housing.
- Too much building on small lots.
- Trying to keep the Town character in balance with the changes that will be coming to the Town.
- Affordable housing.
- Sewer problems.
- All infrastructure issues.
- Saving commercial waterfront to continue opportunities for seafood industry.
- Preserving open space and natural habitat.
- Roads – decent roads vs larger roads
- Transportation – managing traffic.
- Industrial opportunity for year-round employment.
- Drainage.
- Keep zoning districts “pure” to their purpose. No residential in commercial.
- Plan for replacing trees cut for development.
- Focus awareness on surrounding areas (Assateague/Accomack County) and their importance to us - participate in their planning efforts.
- Keeping tax rates affordable while making infrastructure and park improvements.
- Need more projects like Downtown. Implement and support these projects.
- More land purchased for public use.
- Preservation of who we are and where we came from. (Town is working on this with Library).
- Preserving oral history.  
“Parking Lot”
- Long range staffing requirements for Town – adequate skills and number of staff.

Mr. McGowan then asked Council the second focus question:

**Focus Question 2: *What actions should the Town of Chincoteague take to address these planning issues?***

Council then made the following suggestions:

- **GROWTH/ BUILDING ON SMALL LOTS/ TOWN CHARACTER**
  - Define characteristics of growth patterns: year-round/seasonal/visitors.
  - Determine impacts of growth patterns.
  - Determine through public meetings the Vision of citizens re: Balance preserving Town character and development. *Rank 1, 5 dots*
  - Review Zoning Ordinance based on citizen Vision and make changes that further the Vision.
- **AFFORDABLE HOUSING**
  - Offer tax incentive to encourage affordable housing. *Rank 4, 2 dots*

- Make it feasible to develop single family homes.
- SEWER
  - Study alternatives – which areas have worst sewage problems.
  - Study the possibility of partnering with NASA for sewage treatment.
- INFRASTRUCTURE
  - Develop a Capital Improvements Plan for all infrastructure issues. (roads, drainage, utilities, etc.) *Rank 3, 3 dots*
  - Zone land to support results of Capital Improvements Plan.
- COMMERCIAL WATERFRONT
  - Require Special Use Permit to put residential in commercial area. *Rank 4, 2 dots*
  - Tax incentives to attract seafood and aquaculture industry. *Rank 3, 3 dots*
- PRESERVING OPEN SPACE/ PURCHASE PUBLIC LAND
  - Investigate and make use of State/Federal programs for open space.
  - Request A-NPDC to look into options for open space preservation.
  - Encourage future Town Councils to preserve open space.
  - Look for funding sources to preserve open space. *Rank 2, 4 dots*
  - Work with partners to keep open space. *Rank 4, 2 dots*
- ROADS/ TRANSPORTATION/TRAFFIC MANAGEMENT
  - Study what traffic roads can handle and use for development model. *Rank 5, 1 dot*
  - Study how public transportation could reduce traffic
- YEAR-ROUND EMPLOYMENT
  - Work with Accomack County to attract jobs that pay a livable wage.
- DRAINAGE
  - Make drainage part of Capital Improvement Program.
  - Study overall drainage capacity and problems. *Rank 5, 1 dot*
- ZONING DISTRICTS “PURE”
  - Change Zoning Ordinance to require special use permit for residences in commercial areas.
  - Review Zoning Ordinance to determine appropriateness of mixed uses. *Rank 4, 2 dots.*
- TREE REPLACEMENT
  - Develop tree plan and offer incentives for planting.
  - Work with Arbor Day Foundation and Department of Forestry to plant trees. *Rank 4, 2 dots.*
  - Show developers the value of keeping trees.
  - Consider adding landscaping requirements to Subdivision Ordinance.
- SURROUNDING AREAS
  - Continue to work with National Park Service on beach replenishment. *Rank 3, 3 dots.*
  - Work with Accomack County to further economic development. *Rank 5, 1 dot.*
- KEEP TAX RATES AFFORDABLE
  - Require developers to pay for infrastructure improvements – impact fees. *Rank 4, 2 dots.*

- REVITALIZATION PROJECTS
  - Investigate historic tax credits to encourage building improvements.
  - Investigate creating State Historic District.
- PRESERVE ORAL HISTORY
  - Become more involved with Bateman Center and Oyster Museum re: preserving heritage.

Mr. McGowan asked Council to prioritize the action list. After discussion they agreed on the following:

1. Determine through public meetings the Vision of citizens re: Balance preserving Town character and development.
2. Look for funding sources to preserve open space.
3. Develop a Capital Improvements Plan for all infrastructure issues (roads, drainage, utilities, etc.)
3. Tax incentives to attract seafood and aquaculture industry.
3. Continue to work with National Park Service on beach replenishment.
4. Offer tax incentive to encourage affordable housing.
4. Require Special Use Permit to put residential in commercial area.
4. Work with partners to keep open space.
4. Review Zoning Ordinance to determine appropriateness of mixed uses.
4. Work with Arbor Day Foundation and Department of Forestry to plant trees.
4. Require developers to pay for infrastructure improvements – impact fees.
5. Study how much traffic roads can handle and use for development model.
5. Study overall drainage capacity and problems.
5. Work with Accomack County to further economic development.

Mr. McGowan asked a final focus question:

***Focus Question 3: Based on the prioritized actions, what are the Next Steps?***

Council agreed to the following steps:

- **Review the Workshop Results.**
- **Get public input to see if citizens agree with Town Council priorities.**
- **Look at the Zoning Ordinance.**
- **Look at Funding Sources.**
- **Include the public and the Planning Commission.**
- **Have a public Vision Session with open attendance.**

Mayor Tarr thanked Messrs. Berge and McGowan and Mrs. Edwards for their participation.

#### ***4a. Public Participation.***

Mr. Ray Rosenberger expressed his appreciation and best wishes to Town Manager West.

## **5. Consider Award of Paving Contract.**

Public Works Director Jeffries recommended Interstate Construction of Delmarva, Inc. for the paving contract. He advised that Interstate Construction of Delmarva, Inc. was formerly I.A. Construction. He stated that the current bid is comparable with their bid a few years ago and the Town has been pleased with their work in the past.

	<u>ICD-04bid</u>	<u>Moore-03</u>	<u>IA-01-02</u>
Pavement planning	\$4.75/SY	\$3.50/SY	\$3.50/SY
Base Asphalt	\$58.50/Ton	\$47.62/Ton	\$55.00/Ton
Surface Mix	\$61.00/Ton	\$48.50/Ton	\$58.50/Ton

The total value of the proposed contract is \$436,375.

Councilman Wolffe motioned, seconded by Councilman Howard to award the total paving contract in the amount of \$436,375 to Interstate Construction of Delmarva, Inc. Unanimously approved.

## **6. Other Matters.**

- Councilwoman Richardson asked if there had to be a request for the annual donation to the Oyster Museum. Mayor Tarr advised it is in the budget and he requested that Councilwoman Richardson invite the chairman of the Oyster Museum to receive the check at the next meeting.
- Councilman Mason announced the next Public Works Committee meeting is scheduled for September 21, 2004.
- Councilman Ross thanked Town Manager West for all his assistance, explanations, and time. He feels it will be a great loss for the Town to see him leave.
- Councilman Wolffe asked if there was a date that the Board of Supervisors would be voting on the offer from the Town to purchase School Board property. Mayor Tarr advised that Ms. Julia Major's daughter was appointed to fill her mother's term. He stated that the Board of Supervisors have been waiting for a full board in attendance to vote on the sale of property issue. Mayor Tarr also stated that if the process did not seem to be progressing then the Town would issue a letter requesting a vote at their next full board meeting. Councilman Wolffe requested advance notice of the meeting for publication so that more people could make arrangements to attend. Mayor Tarr advised that he will speak with our Island Supervisor for advance notice.
- Councilwoman Richardson thanked the Town on behalf of the Chincoteague Elementary School for the completed bike lane on Hallie Whealton Smith Drive.

Mayor Tarr announced the next meeting will be September 23, 2004 to discuss items relevant to hiring a new town manager.

**7. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Personnel Matters.**

Councilman Howard moved, seconded by Councilman Mason to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilwoman Richardson moved, seconded by Councilman Wolffe to reconvene in regular session. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Mason 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;

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VOTE: Ayes- Conklin, Ross, Howard, Richardson, Mason, Wolffe  
Nays- None  
Absent- None

**8. Recess of Meeting.**

Vice Mayor Conklin motioned, seconded by Councilman Howard to recess the meeting until September 23, 2004. Unanimously approved.

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Mayor

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Town Manager

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Ronald Mason, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolffe, Councilman

**1. *Call to Order***

Mayor Tarr called the meeting to order at 7:34 p.m.

**2. *Invocation.***

Councilman Howard offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Proposals for Executive Search Services.***

Town Manager West had advertised for proposals from firms to conduct an executive search for a new Town Manager. In response to his request for proposals, he had received two proposals, one from Springsted, Inc. and one from the Mercer Group. Town Manager West also received a letter from the PAR Group indicating that because of their schedule, they were unable to submit a proposal.

After careful consideration of both proposals, Councilman Wolffe motioned, seconded by Councilman Howard, to negotiate a contract with Springsted, Inc. to conduct the search for a new Town Manager citing the facts that Springsted, Inc. was a Virginia-based firm with a lot of experience doing this type of business in Virginia and that their estimated cost was less than that of the Mercer Group. Further, they authorize the Town Manager and the Mayor to negotiate a contract with Springsted, Inc. Unanimously approved.

Town Manager West further indicated that he would try to set up a meeting to negotiate a contract on September 30<sup>th</sup>, followed by interviews with individual Council members and the Mayor to formulate a profile.

**5. *Other Matters.***

Mayor Tarr thanked Town Manager West for his years of hard work and dedication to the Town.

**6. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Personnel Matters.**

Councilman Howard moved, seconded by Councilman Mason to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Mason to reconvene in regular session. Unanimously approved.

Councilman Howard moved, seconded by Councilman Mason 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;

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VOTE: Ayes- Conklin, Howard, Richardson, Ross, Mason, Wolffe  
Nays- None  
Absent- None

**7. Staffing Considerations.**

Councilman Howard motioned, seconded by Councilwoman Richardson to affirm that the Town Manager was authorized in a closed session of Council on November 3, 2003 to receive a four-step pay increase, with the increase effective December 28, 2003.

Ayes – Conklin, Howard, Mason, Richardson, Wolffe  
Nays – None  
Absent - None  
Abstain – Ross

Councilman Wolffe motioned, seconded by Councilwoman Richardson, to appoint Ernest B. Rush as Emergency Coordinator for the Town of Chincoteague beginning October 2, 2004, with a one-step pay increase. Unanimously approved.

Councilman Wolffe motioned, seconded by Councilman Howard, to appoint Joseph W. Jeffries as acting Town Manager with a temporary seven-step pay increase while employed in that capacity, effective October 2, 2004. Unanimously approved.

Councilman Howard motioned, seconded by Councilman Mason, to affirm that Mr. West would remain the Town of Chincoteague's Commissioner on the Accomack-Northampton Planning District Commission until such time as Council chose to replace Mr. West or a new Town Manager were hired that would assume that position. Unanimously approved.

**8. Adjournment of Meeting.**

Mayor Tarr stated that the next meeting would be on October 4, 2004. Councilwoman Richardson motioned, seconded by Vice Mayor Conklin to adjourn the meeting at 9:10 pm. Unanimously approved.

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Mayor

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Town Manager

**MINUTES OF THE OCTOBER 4, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Terry Howard, Councilman  
Ronald Mason, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman

**Council Members Absent:**

Glenn B. Wolfe, Councilman

**1. Call to Order.**

Mayor Tarr called the meeting to order at 7:33 p.m.

**2. Invocation.**

Councilman Ross offered the Invocation.

**3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

**4. Approval of Minutes of the September 7, September 16, and September 23, 2004 Council Meetings.**

Councilman Ross stated that in the September 7<sup>th</sup> meeting minutes, Vice Mayor Conklin's name was omitted from the motion to approve the corrected minutes.

Councilman Howard stated that in the same meeting minutes, the motion was made to recess the meeting, whereas the minutes stated ‘to adjourn’ the meeting. Councilman Howard also stated that under agenda item number seven of the September 23<sup>rd</sup> meeting minutes, Councilwoman Richardson’s title was omitted.

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

## **5. *Presentation to Oyster Museum.***

Mayor Tarr presented Councilwoman Richardson, Vice Chairman of the Oyster Museum Board, with a \$2,000 donation. Councilwoman Richardson announced that the museum would have an Open House on Sunday, October 10<sup>th</sup> from 2:00 pm to 4:00 pm.

## **6. *Council information Items.***

- Councilman Howard asked if the advertising for the downtown mooring lease proposals was still incomplete. Acting Town Manager Jeffries stated that the ads would probably be placed in the newspapers within the next week. Councilman Howard also asked about the Sunnywood drainage project. Acting Town Manager Jeffries stated that the first phase of the project was complete and that the next phase would include from Olga Drive across Sunset Drive. Councilman Howard commended the Public Works Department on their efforts regarding the Sunnywood drainage project.
- Councilman Mason stated that the Town had contacted the Accomack-Northampton P.S.A. regarding possibly starting a small sewage system in the downtown area. He added that the information received from the P.S.A. would be reviewed by the Public Works Committee.

## **7. *Committee Reports.***

- **Planning Commission** – Councilwoman Richardson stated that the Commission held a public hearing for changes to the zoning regulations regarding townhouses. She stated that the matter would be discussed again in the October 26<sup>th</sup> meeting. Councilwoman Richardson stated that the Commission also requested that the proposed Bylaws of the Planning Commission be considered for approval by Council.
- **Curtis Merritt Harbor Committee**– Councilman Mason reported that the Committee did not meet last month, but would meet on October 7<sup>th</sup> at 7:30 pm.
- **Public Works Committee** – Councilman Mason reported that the Committee met on September 21<sup>st</sup> and discussed the maintenance to the water storage tanks. He stated that the proposed list of work items to be completed this year was also discussed.
- **Budget and Personnel Committee**– Vice Mayor Conklin reported that the Committee met on September 14<sup>th</sup> and discussed the report that showed the proportionate amount of transient occupancy tax collections from different sources. She stated that there was also a discussion regarding possibly having credit card services and electronic banking and that a representative from Mercantile Peninsula Bank would present a proposal during the October 19<sup>th</sup> Committee meeting.
- **Bicycling and Outdoor Recreational Advisory Committee** – Councilman Ross reported that the Committee met on September 8<sup>th</sup> and discussed the rules of the Skate

Park. He stated that the Committee voted not to require a waiver to be signed in order to use the Skate Park and that the Grand Opening of the Park was on September 18<sup>th</sup>. Councilman Ross stated that the Committee was requesting suggestions for names for the new nature trail adjacent to Hallie Whealton Smith Drive. He also reported that Mrs. Marguerite Wolff had recommended that a bicycling club be formed. He stated that the Committee agreed that it was a good idea, but that the club would not be an entity of the Committee or the Town. Councilman Ross added that the Committee members expressed their appreciation to the Mayor, Town Council, former Town Manager West and Chief Lewis and the Police Department for all of their efforts and support regarding the Committee's interests. He announced that the next Committee meeting would be on October 13<sup>th</sup>.

- **Cemetery Committee** – Councilman Howard stated that the Committee did not meet last month, but would meet on October 26<sup>th</sup> at 6:00 pm.
- **Charter, Ordinance and Zoning Committee** – Councilman Howard reported that the Committee met on September 29<sup>th</sup> and discussed requiring a 'special event' license for the new downtown park in lieu of requiring an itinerant vendor license. He also stated that the Committee needed clarification of the term 'local non-profit organization'. Councilman Howard announced that the next Committee meeting would be on October 27<sup>th</sup> at 4:30 pm.

## ***8. Public Hearing: Comments on the Town's Proposal to Grant Land to the Island Library.***

Mayor Tarr opened the public hearing. He explained that Council was asked to consider granting a small portion of the downtown park property to the Island Library to provide them the room necessary to build an addition.

- Vice Mayor Conklin stated that she was happy that the Town was considering donating the land to the library as they really needed it for the additional space.
- Mr. Bob Halligan, President of the Library Board, stated that they would not be able to complete their plans without the extra land. He stated that he felt the expanded library would preserve the historical and cultural aspects of the community. Councilman Mason asked if there was a conceptual drawing available yet. Mr. Halligan stated that there was no drawing yet, but that the integrity of the existing building would be preserved.
- Mr. Morgan McCook stated that he worked in the library several days per week and wanted to reiterate the need for the additional library space.
- Mr. Ray Rosenberger stated that he supported the ceding of land to the library.

Mayor Tarr closed the public hearing. He stated that the vote would be postponed until the October 21<sup>st</sup> recessed Council meeting as approval would require a  $\frac{3}{4}$  vote of Council. He added that Vice Mayor Conklin wished to abstain from the vote as she was a member of the Library Board and Councilman Wolffe was absent, hence a  $\frac{3}{4}$  vote would not be feasible at this meeting.

## **9. Public Participation.**

- Mr. Tom Derrickson stated that he had concerns regarding Memorial Park. He stated that the rules were not being followed at the Skate Park and that some type of supervision was needed to enforce these rules. He added that he feared there might be some drug activity at the Park.
- Mr. Morgan McCook asked Council to consider having a copy of the regulations and fees for the downtown mooring placed in the library. He also complimented the Public Works Department on their efforts to remedy the drainage problem on Mason Drive.

## **10. Results of Sign Survey.**

Mayor Tarr stated that staff had compiled a summary report of the sign survey results. He stated that the results would be discussed at a future Council meeting.

## **11. Appointment of Planning Commission.**

Mayor Tarr stated that at Councilman Wolffe's request, this matter would be discussed at a future meeting when he was present. Mayor Tarr stated that one seat was presently available, and another seat would become vacant on January 1, 2005. He requested that the appointments be discussed at the December and January meetings.

## **12. Results of Workshop/Visioning Session.**

Councilman Mason complimented the facilitators on their efforts during the session. He suggested having planners devise a survey to get public views on planning issues. Councilman Howard commented that public responses should be interesting to compare to Council's priority list.

## **13. Planning Commission Bylaws.**

Councilwoman Richardson presented the proposed Planning Commission Bylaws (first seen in 1967), amended with State Code corrections, to Council for consideration. Councilman Ross stated that the bylaws do not state how many Commission members would serve on each special committee of the Planning Commission. He also asked if only Commission members could serve on these special committees. Mayor Tarr asked who ratifies the bylaws. It was the consensus of Council to have Town Attorney Poulson review the bylaws and answer Council's questions, including who ultimately ratifies the bylaws.

## **14. Park Name Suggestions.**

Vice Mayor Conklin commented, and Mayor Tarr agreed, that the park would always be known as the 'Downtown Park'. Councilman Howard motioned, seconded by Councilwoman Richardson, to name the new park the 'Robert N. Reed, Sr. Downtown Park'. Unanimously approved.

## **15. Other Matters.**

- Mr. Jeffries stated that the Mumford Street drainage project would begin on October 5<sup>th</sup> at 10:00 pm. He stated that the water service would be turned off from Cleveland

Street to Mumford Street for approximately three hours and that the residents would be notified as such.

- Councilman Ross stated that the test period was ongoing for the Skate Park users and that a large percentage was not obeying the rules and/or wearing their safety equipment. He stated that Council should pursue the possibility of having an attendant present or the Skate Park may have to be closed indefinitely.
- Councilman Howard thanked Public Works Director Jeffries for taking the job as Acting Town Manager and for all of the service he has done for the Town and the community. Councilman Howard also stated that Mr. Gunn from FEMA would be here on October 14<sup>th</sup> for the BZA meeting.
- Mayor Tarr stated that recently a second subdivision's plans were submitted to Zoning Administrator Lewis which claimed that the road was a parking lot. Mayor Tarr stated that the decisions made regarding such issues needed to be consistent until they can be addressed by the proper body of officials. Councilman Mason stated that due to the complexity of the matter and the safety issues involved, Council consideration should be postponed.

**16. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Personnel Matters.**

Vice Mayor Conklin moved, seconded by Councilwoman Richardson to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Howard moved, seconded by Councilman Mason to reconvene in regular session. Unanimously approved.

Councilman Mason moved, seconded by Councilwoman Richardson 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- Conklin, Howard, Mason, Richardson, Ross

Nays- None

Absent- Wolfe

Councilman Ross asked if Town Attorney Poulson had been contacted regarding writing a letter to the Board of Zoning Appeals concerning their operating procedures. He also asked if Council was concerned that the upcoming BZA meeting had 9 requests for variances.

Councilman Mason stated that he hoped the BZA would consider the information that the FEMA representative would be offering at the BZA meeting.

Mayor Tarr had advised Zoning Administrator Lewis to gather information for the BZA members and to have the Mayor's Association arrange for training for them.

Councilman Mason indicated concern for widening Main Street in the area of the old Clarence Merritt home. Mayor Tarr stated that the matter would be investigated.

### ***17. Recess of Meeting.***

Councilwoman Richardson motioned, seconded by Councilman Howard, to recess the meeting until October 21, 2004. Unanimously approved.

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Mayor

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Acting Town Manager

## **MINUTES OF THE OCTOBER 21, 2004 CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

### **Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Ronald Mason, Councilman  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

### ***1. Call to Order***

Mayor Tarr called the meeting to order at 7:30 p.m.

### ***2. Invocation.***

Councilman Ross offered the Invocation.

### **3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

### **3A. Introduction of New Employees.**

Police Chief Lewis introduced two new officers in his department, Yvette Soria and Daryl Mount.

### **4. Public Participation.**

- Mrs. Nancy Payne asked how the Board of Zoning Appeals (BZA) was formed. Mayor Tarr stated that the members of the BZA were appointed by the Circuit Court Judge. He added that the vacancies were advertised and then a list of those interested was sent to the judge for consideration. Mayor Tarr stated that the judge did not have to appoint someone from the list, but anyone whom he chose to appoint.
- Mr. Bob Halligan asked if the Town endorsed any prospective candidates for the BZA vacancies. Mayor Tarr stated that the Town did not nominate or endorse any prospective candidates.
- Mr. Jim Frese reminded Council that the roads in subdivisions were a private property issue and urged Council to deliberate the matter carefully later in the meeting.
- Mr. Fred Schmidt stated that he was the owner of the former Pony Pines Restaurant property. He stated that he was planning to build 20 townhouses with an interior driveway that would go through the development, connecting on both ends to Eastside Road. Mr. Schmidt stated that the matter regarding whether or not the driveway would be considered a public right-of-way would impact the proposed plans.

### **5. Grant of Property to Island Library.**

Mayor Tarr stated that Council had a public hearing on October 4<sup>th</sup> regarding granting property to the Island Library for expansion. He stated that a  $\frac{3}{4}$  vote of Council was required, but was not possible after the public hearing since Councilman Wolffe was absent and Vice Mayor Conklin wished to abstain from the vote since she was a member of the Library Board.

Councilwoman Richardson motioned, seconded by Councilman Howard, to grant the property to the Island Library.

Ayes – Howard, Mason, Richardson, Ross, Wolffe

Nays – None

Abstain – Conklin

The motion was carried.

Mr. Bob Halligan, President of the Library Board of Directors, thanked Council on the grant of property for the library's expansion.

### **6. Adoption of Banking Resolution.**

Mayor Tarr stated that due to the resignation of former Town Manager, James M. West, Mr. West's name needed to be replaced with Acting Town Manager Jeffries's name in the banking resolutions.

Councilman Howard motioned, seconded by Councilwoman Richardson, to adopt the following banking resolutions. Unanimously approved.

**BANKING RESOLUTION**

**Financial Institution: Farmer's & Merchants Bank**

Chincoteague Branch  
6402 Maddox Boulevard  
P.O. Box 7  
Chincoteague Island, VA 23336

**Account No:** XX-XXXXX-X  
XX-XXXXX-X

**I, the undersigned Clerk of the Town of Chincoteague, HEREBY CERTIFY** that the Corporation is organized and existing under and by virtue of the laws of the state of **Virginia** as a municipal corporation with its principal office at **6150 Community Drive, Chincoteague Island, VA 23336** and that **Town of Chincoteague, Inc.** is the complete and correct name of the Account Holder.

**I FURTHER CERTIFY** that at a meeting of the Town Council of the Town of Chincoteague, duly and regularly called and held on October 21, 2004, at which a quorum was present and voting, the following resolution was adopted:

**RESOLVED**, that the Financial Institution named above at any one or more of its offices or branches, be and it hereby is designated as a depository for the funds of this Corporation, which may be withdrawn on checks, drafts, advices of debit, notes or other orders for the payment of monies bearing the following appropriate number of signatures: Any **one** (1) of the following named officers or employees of this Corporation ("Agents"), whose actual signatures are shown below:

X \_\_\_\_\_  
**John H. Tarr, Mayor of Town of Chincoteague, Inc.**

X \_\_\_\_\_  
**J. Wesley Jeffries, Acting Town Manager of Town of Chincoteague, Inc.**

X \_\_\_\_\_  
**Nancy B. Conklin, Vice Mayor of Town of Chincoteague, Inc.**

and that the Financial Institution shall be and is authorized to honor and pay the same whether or not they are payable to bearer or to the individual order of any Agent or Agents signing the same.

**FURTHER RESOLVED**, that the Financial Institution is hereby directed to accept and pay without further inquiry any item drawn against any of the Corporation's accounts

with the Financial Institution bearing the signature or signatures of Agents, as authorized above or otherwise, even though drawn or endorsed to the order of any Agent signing or tendered by such Agent for cashing or in payment of the individual obligation of such Agent or for deposit to the Agent's personal account, and the Financial Institution shall not be required or be under any obligation to inquire as to the circumstances of the issue or use of any item signed in accordance with the resolutions contained herein, or the application or disposition of such items or the proceeds of the item.

**FURTHER RESOLVED**, that any one of such Agents is authorized to endorse all checks, drafts, notes and other items payable to or owned by this Corporation for deposit with the Financial Institution, or for collection or discount by the Financial Institution; and to accept drafts and other items payable at the Financial Institution.

**FURTHER RESOLVED**, that the above named agents are authorized and empowered to execute such other agreements, including, but not limited to, special depository agreements and arrangements regarding the manner, conditions, or purposes for which funds, checks or items of the Corporation may be deposited, collected, or withdrawn and to perform such other acts as they deem reasonably necessary to carry out the provisions of these resolutions. The other agreements and other acts may not be contrary to the provisions contained in this Resolution.

**FURTHER RESOLVED**, that the authority hereby conferred upon the above named Agents shall be and remain in full force and effect until written notice of any amendment or revocation thereof shall have been delivered to and received by the Financial Institution at each location where an account is maintained. Financial Institution shall be indemnified and held harmless from any loss suffered or any liability incurred by it in continuing to act in accordance with this resolution. Any such notice shall not affect any items in process at the time notice is given.

**I FURTHER CERTIFY** that the persons named above occupy the positions set forth opposite their respective names and signatures; that the foregoing Resolutions now stand of record on the books of the Corporation; that they are in full force and effect and have not been modified in any manner whatsoever.

IN TESTIMONY WHEREOF, I have hereunto set my hand on \_\_\_\_\_, 2004 and attest that the signatures set opposite the names listed above are their genuine signatures.

**CERTIFIED TO AND ATTESTED BY:**

x \_\_\_\_\_  
\*CLERK OF COUNCIL

x \_\_\_\_\_  
\*MAYOR, TOWN OF CHINCOTEAGUE

**BANKING RESOLUTION**

**Financial Institution: Shore Bank**

Chincoteague Branch  
6350 Maddox Boulevard  
P.O. Box 504  
Chincoteague Island, VA 23336

**Account No:** XX-XXXXXXX-X  
XX-XXXXXXX-X

**I, the undersigned Clerk of the Town of Chincoteague, HEREBY CERTIFY** that the Corporation is organized and existing under and by virtue of the laws of the state of **Virginia** as a municipal corporation with its principal office at **6150 Community Drive, Chincoteague Island, VA 23336** and that **Town of Chincoteague, Inc.** is the complete and correct name of the Account Holder.

**I FURTHER CERTIFY** that at a meeting of the Town Council of the Town of Chincoteague, duly and regularly called and held on October 21, 2004, at which a quorum was present and voting, the following resolution was adopted:

**RESOLVED**, that the Financial Institution named above at any one or more of its offices or branches, be and it hereby is designated as a depository for the funds of this Corporation, which may be withdrawn on checks, drafts, advices of debit, notes or other orders for the payment of monies bearing the following appropriate number of signatures: Any **one** (1) of the following named officers or employees of this Corporation (“Agents”), whose actual signatures are shown below:

X \_\_\_\_\_  
**John H. Tarr, Mayor of Town of Chincoteague, Inc.**

X \_\_\_\_\_  
**J. Wesley Jeffries, Acting Town Manager of Town of Chincoteague, Inc.**

X \_\_\_\_\_  
**Nancy B. Conklin, Vice Mayor of Town of Chincoteague, Inc.**

and that the Financial Institution shall be and is authorized to honor and pay the same whether or not they are payable to bearer or to the individual order of any Agent or Agents signing the same.

**FURTHER RESOLVED**, that the Financial Institution is hereby directed to accept and pay without further inquiry any item drawn against any of the Corporation’s accounts with the Financial Institution bearing the signature or signatures of Agents, as authorized above or otherwise, even though drawn or endorsed to the order of any Agent signing or tendered by such Agent for cashing or in payment of the individual obligation of such Agent or for deposit to the Agent’s personal account, and the Financial Institution shall not be required or be under any obligation to inquire as to the circumstances of the issue

or use of any item signed in accordance with the resolutions contained herein, or the application or disposition of such items or the proceeds of the item.

**FURTHER RESOLVED**, that any one of such Agents is authorized to endorse all checks, drafts, notes and other items payable to or owned by this Corporation for deposit with the Financial Institution, or for collection or discount by the Financial Institution; and to accept drafts and other items payable at the Financial Institution.

**FURTHER RESOLVED**, that the above named agents are authorized and empowered to execute such other agreements, including, but not limited to, special depository agreements and arrangements regarding the manner, conditions, or purposes for which funds, checks or items of the Corporation may be deposited, collected, or withdrawn and to perform such other acts as they deem reasonably necessary to carry out the provisions of these resolutions. The other agreements and other acts may not be contrary to the provisions contained in this Resolution.

**FURTHER RESOLVED**, that the authority hereby conferred upon the above named Agents shall be and remain in full force and effect until written notice of any amendment or revocation thereof shall have been delivered to and received by the Financial Institution at each location where an account is maintained. Financial Institution shall be indemnified and held harmless from any loss suffered or any liability incurred by it in continuing to act in accordance with this resolution. Any such notice shall not affect any items in process at the time notice is given.

**I FURTHER CERTIFY** that the persons named above occupy the positions set forth opposite their respective names and signatures; that the foregoing Resolutions now stand of record on the books of the Corporation; that they are in full force and effect and have not been modified in any manner whatsoever.

IN TESTIMONY WHEREOF, I have hereunto set my hand on \_\_\_\_\_, 2004 and attest that the signatures set opposite the names listed above are their genuine signatures.

**CERTIFIED TO AND ATTESTED BY:**

x \_\_\_\_\_  
\*CLERK OF COUNCIL

x \_\_\_\_\_  
\*MAYOR, TOWN OF CHINCOTEAGUE

## **7. Adoption of Emergency Operations Plan (EOP).**

Mr. Bryan Rush, EOP Coordinator, explained the need to update the Town's plan according to the Commonwealth of Virginia Emergency Disaster Laws. He requested that the ordinance enacting the updated plan be adopted.

Vice Mayor Conklin stated that Mr. Floyd Mason's name needed to be changed to Mrs. Anita Merritt as Mr. Mason no longer lived in the area. Councilman Ross requested clarification of a Declaration of Emergency, the evacuation route and hazardous material spills necessitating evaluation. Councilman Wolffe asked about the sensitivity of certain materials regarding the Town's infrastructure in the plan. Councilman Mason inquired about the control of the Emergency Operations Committee attendees.

**AN ORDINANCE ADOPTING AND ENACTING A NEW  
EMERGENCY OPERATIONS PLAN  
FOR THE TOWN OF CHINCOTEAGUE, VIRGINIA**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHINCOTEAGUE, VIRGINIA:

Section 1. As required by the Code of Virginia, Section 44-146.19(e), the Town of Chincoteague has revised and updated their Emergency Operations Plan.

Section 2. The Plan entitled "Town of Chincoteague, Incorporated Emergency Operations Plan" consisting of a basic plan dealing with an all-hazards approach to emergencies and specific procedures for handling such emergencies.

Section 3. The Plan encompasses an emergency chain of command in accordance with the National Incident Command System.

Section 4. In addition, the Plan outlines incident specific tasks for operations of the Town of Chincoteague before, during and after such emergencies or disasters.

Section 5. This ordinance also repeals any prior emergency plans which may be in effect prior to adoption of this ordinance.

Section 6. This ordinance shall become effective upon its adoption on October 21, 2004.

AT THE CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING HELD ON OCTOBER 21, 2004, ON A MOTION BY COUNCILMAN WOLFFE AND SECONDED BY VICE MAYOR CONKLIN, THIS ORDINANCE WAS PASSED AND ADOPTED.

AYES

NAYS

\_\_\_\_\_  
Vice Mayor Conklin  
\_\_\_\_\_  
Councilman Howard  
\_\_\_\_\_  
Councilman Mason  
\_\_\_\_\_  
Councilwoman Richardson  
\_\_\_\_\_  
Councilman Ross  
\_\_\_\_\_  
Councilman Wolffe

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **8. Discussion of Roads in Subdivisions.**

Mayor Tarr stated that the problem has been with the requirement of urban road standards in major subdivision developments with existing paved parking lots. Town ordinances specify no private roads in such a development, and Town Attorney Poulson has advised to classify the parking lots as roads according to the ordinance. There was a very lengthy discussion regarding the road requirements in subdivisions and conflicting interpretations of certain wording in the zoning and subdivision ordinances. The matter of whether the proposed road in the subdivision plan was part of the land that would be considered “constructible land” was also discussed.

Mayor Tarr asked Council whether an applicant should be allowed to appeal Zoning Administrator Lewis’s decision to the Board of Zoning Appeals for a variance regarding the proposed subdivision application.

Ayes – Conklin, Howard, Richardson, Ross, Wolffe

Nays – Mason

It was the general consensus of Council to allow an applicant to appeal to the BZA for a variance.

## **9. Other Matters.**

- Mayor Tarr read a list of items prepared by Mr. Jeffries. He stated that the bid advertisement for mooring space at the Downtown Park would be published in the Eastern Shore News on October 20<sup>th</sup> and 27<sup>th</sup> with bids to be opened on November 5<sup>th</sup>. He stated that the sign survey summary and comments were available in the Town Office for viewing. Mayor Tarr also stated that paving of the new tennis court, the Downtown Park parking lots, Howard Drive, the Hallie W. Smith Nature Trail and parking area, the C.E.S. bike path and Main Street (North of the High School) was scheduled for November 1<sup>st</sup> through December 10<sup>th</sup>. He added that the contracted maintenance of the Town’s water storage tanks was scheduled to begin on October 27<sup>th</sup>.
- Councilman Howard stated that he received a donation in the amount of \$300 from the Ruritan Club for the Cemetery Cleanup Fund.
- Mayor Tarr announced that the Accomack County Board of Supervisors voted (6-3) to allow the Town to purchase the School Board property and use the proceeds to pay for the Chincoteague Combined School’s renovations.

## **10. Adjournment of Meeting.**

Mayor Tarr announced that the next meeting would be on November 1, 2004.

Councilman Howard motioned, seconded by Councilman Mason, to adjourn the meeting. Unanimously approved.

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Mayor

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Acting Town Manager

**MINUTES OF THE NOVEMBER 1, 2004  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Terry Howard, Councilman  
Ronald Mason, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

**1. *Call to Order.***

Mayor Tarr called the meeting to order at 7:30 p.m. Mayor Tarr and Council observed a moment of silence in remembrance of Councilman Howard's brother.

**2. *Invocation.***

Councilman Howard offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Approval of Minutes of the October 4 and October 21, 2004 Council Meetings.***

Councilman Wolfe motioned, seconded by Councilwoman Richardson, to approve the minutes as presented. Unanimously approved.

**5. *Resolution of Respect.***

Mayor Tarr praised the works of Mr. Robert N. Reed, Sr. and his role in his community. Councilman Howard motioned, seconded by Councilwoman Richardson, to adopt the following resolution of respect for Mr. Reed. Unanimously approved.

**A RESOLUTION  
OF THE  
CHINCOTEAGUE TOWN COUNCIL**

**WHEREAS,** Robert N. Reed, Sr. served the Town of Chincoteague well for many years in many capacities; and

**WHEREAS,** he served faithfully as Mayor from 1949 to 1963, and played a vital role in the development of the community including the Assateague Bridge; and

**WHEREAS**, his commendable conduct and sense of fairness furthered the cause of better understanding and was an influence for good in the growth and progress of our community;

**NOW, THEREFORE BE IT RESOLVED**, that by the sad and untimely death of Mayor Robert N. Reed, Sr., the Chincoteague Town Council lost a valuable friend, whose energies and initiative contributed tremendous service to the people of the Town of Chincoteague by his work; and

**BE IF FURTHER RESOLVED**, that this Resolution be spread upon the minutes of this meeting and a copy published in the Chincoteague Beacon.

**IN TESTIMONY WHEREOF**, the Council has caused the corporate seal to be hereunto affixed and the signature of its Mayor, John H. Tarr, this 1<sup>st</sup> day of November, 2004.

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John H. Tarr, Mayor

ATTEST:

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J. Wesley Jeffries, Acting Town Manager

## **6. Council information Items.**

Councilman Mason asked what the closing date was for the bids for the downtown waterfront mooring lease. Acting Town Manager Jeffries replied that the bid opening would be on November 5<sup>th</sup> at 4:00 pm. Councilman Mason also asked if the Town was in the process of setting up a meeting with the Public Service Authority (PSA) regarding the downtown sewage matter. Acting Town Manager Jeffries responded that the PSA was waiting for a request for help from the Town. Councilman Mason suggested sending the sewage issue to the Public Works Committee and inviting Mr. Art Miles to the meeting.

## **7. Committee Reports.**

- **Planning Commission** – Councilwoman Richardson reported that the Commission met on October 26<sup>th</sup> and discussed the proposed changes to the zoning regulations. She stated that the proposed regulations would be discussed again in the November 23<sup>rd</sup> meeting.
- **Curtis Merritt Harbor Committee**– Councilman Mason reported that the Committee met on October 7<sup>th</sup> and discussed the travel lift and advertisements for winter storage. He stated that the second phase of the Harbor Rehabilitation project was changed in order to satisfy the environmental permit requirements. Councilman Mason announced that the next meeting would be on November 11<sup>th</sup> at 7:30 pm.
- **Public Works Committee** – Councilman Mason reported that the Committee met on October 12<sup>th</sup> and discussed integrating the Town’s water model into the Geographic Information System (GIS) model.

- **Bicycling and Outdoor Recreational Advisory Committee** – Councilman Ross reported that the Committee met on October 13<sup>th</sup> and discussed areas of concern at the Skate Park, including foul language, skating outside of the Skate Park area, and possibly having a part-time attendant. He stated that the Committee also discussed soliciting names from the public for the new nature trail on Hallie Whealton Smith Drive. Councilman Ross announced that the next meeting would be on November 10<sup>th</sup>.
- **Cemetery Committee** – Councilman Howard stated that the Ruritan Club donated \$300 to the Cemetery Cleanup Fund for the maintenance of the cemeteries. He reported that the Committee met on October 26<sup>th</sup> and discussed cleaning up the Aydolette Cemetery off of Booth Street on November 20<sup>th</sup> at 8:00 am. Councilman Howard announced that the next meeting would be on November 23<sup>rd</sup> at 6:00 pm.
- **Charter, Ordinance and Zoning Committee** – Councilman Howard reported that the Committee met on October 27<sup>th</sup> and discussed the special event vendors license. He stated that the Committee was seeking advice from Town Attorney Poulson regarding the definition of certain words in the draft ordinance. He announced that the next meeting would be on December 22<sup>nd</sup> at 4:30 pm.
- Vice Mayor Conklin reported that there would be a community Thanksgiving dinner at the Community Center on November 25<sup>th</sup> and that the Sha-Na-Na Rocking Christmas show would be on December 17<sup>th</sup>.
- Councilman Mason reported to the public about the recent leak in the 16” water main and the resulting delay in the maintenance of the water storage tanks.
- Town Attorney Poulson reported that he sent a letter to Acting Town Manager Jeffries regarding the recent zoning issues pertaining to area requirements of townhouses and condos. He also explained his interpretation of requesting a variance before the Board of Zoning Appeals (BZA). Town Attorney Poulson stated that he would work on the subdivision roads matter over the holidays.
- Councilman Ross asked about protection for the 16” water main. Acting Town Manager Jeffries stated that the Town spoke with the Coast Guard about installing more pilings around the main for added protection.

## **8. Public Participation.**

Mrs. Mary Larson spoke concerning BZA variances in violation of FEMA flood insurance guidelines and regulations and asked several questions regarding such. Mayor Tarr stated that the Town would respond to her letter with answers to her questions.

## **9. Allocation of Domestic Preparedness Equipment Grant Funding.**

Acting Town Manager Jeffries stated that for the past two years, Accomack County had been allocating the Domestic Preparedness Equipment Grand funds from the Office of Homeland Security through the Virginia Department of Emergency Management. He stated that a portion of the County’s allocation equal to \$3.15 per capita could be passed on to the Town of Chincoteague. He added that Chief Lewis had reported that to date, the Town had only received two chemical protective suits and the promise of five radios. Chief Lewis and staff believed that the funds could be used more wisely for this

community if they were passed on to the Town and no longer continued to be allocated by the County.

It was the recommendation of Chief Lewis and staff to have the funds passed on to the Town from the County. Councilman Wolffe motioned, seconded by Vice Mayor Conklin, to accept the recommendation that the Town receive the funds from the County. Unanimously approved.

#### **10. Other Matters.**

- Councilman Wolffe encouraged everyone to vote in the upcoming Presidential election.
- Chief Lewis reported that \$5,200 was made at the Haunted Forest for the needy families at Christmas time. Mayor Tarr and Council commended Chief Lewis and all of the volunteers on a job well done.
- Mayor Tarr announced that the Christmas Parade would be on December 4<sup>th</sup>. He requested that Council participate in the parade.
- Mayor Tarr stated that the Accomack-Northampton Planning District Commission (A-NPDC) sent a recommendation regarding the visioning session with Council. He added that Council would set a date to have a planning session with a public comment period after the holidays.
- Councilman Howard motioned, seconded by Councilman Wolffe, to approve a resolution of respect for the Honorable Julia Major of the Accomack County Board of Supervisors to be presented at the Board's meeting in Chincoteague on November 17<sup>th</sup>. Unanimously approved.

#### **11. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Personnel Matters.**

Councilman Wolffe moved, seconded by Councilman Mason to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Howard moved, seconded by Councilman Mason to reconvene in regular session. Unanimously approved.

Councilman Howard moved, seconded by Councilman Wolffe 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- Conklin, Howard, Mason, Richardson, Ross, Wolfe  
Nays- None

Councilman Howard thanked Mrs. Anne Davis for having the fence around the Bunting Cemetery painted. Mayor Tarr added that Mrs. Davis has also been a big help to the Town on the downtown project.

Councilman Ross asked about the scheduled bridge openings. Acting Town Manager Jeffries stated that he would be meeting with a representative to discuss a possible schedule.

Councilman Ross asked when the pavilion at the Robert N. Reed, Sr. Downtown Park would be built. Mayor Tarr stated that the general contractor was making a proposal to change the style of the pavilion to fit the budget.

## ***12. Recess of Meeting.***

Councilwoman Richardson motioned, seconded by Vice Mayor Conklin, to recess the meeting until November 18, 2004. Unanimously approved.

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Mayor

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Acting Town Manager

### **MINUTES OF THE NOVEMBER 18, 2004 CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

#### **Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Terry Howard, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

#### **Council Members Absent:**

Ronald Mason, Councilman

## **1. Call to Order**

Mayor Tarr called the meeting to order at 7:30 p.m.

## **2. Invocation.**

Councilman Ross offered the Invocation.

## **3. Pledge of Allegiance.**

Mayor Tarr led in the Pledge of Allegiance.

## **4. Public Participation.**

- Mr. Bob Behr, Coordinator of the Second Saturday Art Stroll, thanked Council for providing the trolleys for the past two years. He stated that Coldwell Banker was willing to donate their trolley to the organization, with the request that they have free advertising for two years and a donation to the United Way. Mr. Behr requested that Council consider a partnership with the Town and the Second Saturday Art Stroll regarding the trolley. Mayor Tarr asked Mr. Behr to return to Council with more detailed information regarding the trolley and asked that the Town's mechanic be allowed to inspect it.
- Mrs. Joyce Tyson stated that she was a resident of Memorial Park Drive and informed Council of the extremely poor condition of the dirt portion of the road. She stated that the road was also being used considerably by park visitors and that the culvert was also beginning to collapse and needed attention. Mayor Tarr recommended that the matters be sent to the Public Works Committee for review.
- Mr. Shawn Giacobbe requested leasing the Town Dock for boarding and disembarking passengers for his boat tours. He stated that there would be no fueling at the dock and no extended stay periods. Mr. Giacobbe added that he would meet any insurance requirements as well. The issue of parking was raised, as well as the impact on the Town's water lines. Mayor Tarr stated that the matter would be considered and discussed at a future Council meeting.

## **5. Recommended Change to "Camper Additions" from the Planning Commission.**

The Planning Commission held a public hearing at their October 26th meeting. They voted to send the proposed "Camper Additions" requirements change to Council for consideration.

Councilman Wolffe motioned, seconded by Councilman Howard, to hold a public hearing on the proposed changes to "Camper Additions" in the January 2005 meeting. Unanimously approved.

## **6. Renewal of the HazMat Emergency Response Agreement.**

Acting Town Manager Jeffries explained the program to Council. He stated that execution of the agreement would allow the Town to continue to receive the services of the Eastern Shore Hazardous Materials Emergency Response Team. Councilman Ross

inquired about proper notification to the Virginia Department of Emergency Management (VDEM) and about liabilities.

Councilwoman Richardson motioned, seconded by Vice Mayor Conklin, to adopt the Hazardous Materials Response Agreement. Unanimously approved.

## **7. Other Matters.**

- Acting Town Manager Jeffries updated Council on repairs to the 16” water main. He stated that the repairs resulted in a delay of the water storage tank maintenance until the spring.
- Councilman Ross asked Acting Town Manager Jeffries about the status of the recent proposed subdivisions. Acting Town Manager Jeffries explained that he had recently written letters addressing his concerns with each proposal.

## **8. Closed Meeting in Accordance with Sec. 2.2-3711(A)(1) of the Code of Virginia for Discussion of Personnel Matters.**

Councilman Howard moved, seconded by Councilwoman Richardson to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Howard to reconvene in regular session. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Howard 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- Conklin, Howard, Richardson, Ross, Wolffe  
Nays- None  
Absent- Mason

- Mayor Tarr stated that the parade line-up would begin at 6:30 pm on December 4<sup>th</sup>.
- Mayor Tarr announced that the Town dinner would be at 6:00 pm on December 3<sup>rd</sup>.

- It was the consensus of Council to have Vice Mayor Conklin coordinate the judging of the Christmas decorations with the same prizes to be awarded as last year.

### **9. *Adjournment of Meeting.***

Mayor Tarr announced that the next meeting would be on December 6, 2004. Vice Mayor Conklin motioned, seconded by Councilman Howard, to adjourn the meeting. Unanimously approved.

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Mayor

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Acting Town Manager

## **MINUTES OF THE DECEMBER 6, 2004 CHINCOTEAGUE TOWN COUNCIL MEETING**

### **Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Terry Howard, Councilman  
Ronald Mason, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolffe, Councilman

### **1. *Call to Order.***

Mayor Tarr called the meeting to order at 7:30 p.m. .

### **2. *Invocation.***

Councilman Howard offered the Invocation.

### **3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

### **4. *Approval of Minutes of the November 1 and November 18, 2004 Council Meetings.***

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

## **5. Council Information Items.**

- Councilman Wolffe asked if Council was going to make a decision about the lease for commercial use of the Town Dock. He also asked if this item should be put out on bid. Acting Town Manager Jeffries explained that this was put in the information items as requested by Council to either be sent to a committee or to be sent back to staff for action. Councilman Wolffe stated that it should be advertised. Mayor Tarr believed that this item was supposed to go to the Public Works Committee. Vice Mayor Conklin expressed her concern for potential parking problems. Councilman Wolffe requested that this item be placed on the agenda for the January meeting.
- Councilman Wolffe discussed the press release from the Mid-Atlantic Fishery Management Council. He asked if the Town could fax or e-mail the Town's concerns on flounder regulations. Mayor Tarr asked Acting Town Manager Jeffries to contact Ms. Roeske and Mr. Handforth for their input. Vice Mayor Conklin advised that according to the newsletter the VMRC wanted to raise the limit again and this would affect both the working watermen and sports fishermen.
- Councilman Mason asked about the visioning session for January. He suggested advertising. Mayor Tarr advised the dates would be finalized within the next couple of weeks.
- Councilman Howard asked about the easement for Marsh Island. Acting Town Manager Jeffries advised it has been executed.

## **6. Committee Reports.**

- **Planning Commission** – Councilwoman Richardson stated that the Planning Commission had expressed their concerns about animal control. Mayor Tarr stated this item has been referred to the Police Committee for research.
- **Public Works Committee** – Councilman Mason stated that Mr. McDonald was the only bidder for the downtown park slip lease. He stated there was discussion of parking during major events at the Downtown Park. Councilman Mason asked if the payment for the downtown mooring was to be paid at the start. He asked Acting Town Manager Jeffries to give Town Attorney Poulson a copy of the agreement for review.

Council had further questions and expressed concerns to Town Attorney Poulson about payment and liability for mooring at the downtown dock. Town Attorney Poulson stated that he would review the lease and make the necessary changes. Councilman Ross stated that the Bicycling and Outdoor Recreational Advisory Committee discussed leasing parking spaces at the boat launches for commercial use. He stated that the Committee would like to eliminate parking problems at the ramps. Councilman Ross read part of what he believed to be the parking regulations and felt the wording would be sufficient for the Eastside Boat Ramp.

Councilman Wolffe explained that this was for mooring along with loading and unloading boats at the ramps, not for parking. Councilman Ross stated that the Committee had been talking extensively about leasing the Town property to commercial entities. He stated that there was a problem with the lack of parking at the Eastside ramp and for commercial uses. Councilman Howard and Councilman Wolffe both agreed that there were similarities. Councilman Ross stated that if Council felt that the area was a problem then it should be settled at the same time. Vice Mayor Conklin agreed that there

was a parking problem at the Eastside boat ramp and she felt if the Town was leasing one dock then the rest should be addressed.

Councilman Ross asked Acting Town Manager Jeffries if some business people were asked to stop using the Town Dock for commercial purposes. Acting Town Manager Jeffries advised this was correct. Councilman Wolffe felt there should be different leases for the downtown dock and for the Eastside dock. Councilman Ross explained that the Bicycling and Outdoor Recreational Advisory Committee discussed the issue of a kayak launch if and when the Town purchased the School Board property. The Committee's discussion continued about the problems of the commercial use of the launches.

Councilman Howard asked for clarification as to how a lease could eliminate parking problems with kayak businesses. Councilman Ross stated the Committee did not discuss detailed solutions. Councilman Wolffe asked Town Attorney Poulson how the Town could address this matter. He explained the lease for the town dock was to dock, load or unload and leave as this had been done before. Town Attorney Poulson asked if the Town had any provisions or ordinances in the ramp uses for recreational as opposed to commercial. Mayor Tarr asked to table this matter until the recessed meeting in January 2005.

- **Curtis Merritt Harbor Committee** – Councilman Mason informed Council that the Harbor Committee would be switching the meetings back to Wednesdays starting January. Councilman Mason also asked that the travel lift long term (20 years) agreement be reviewed by Town Attorney Poulson. There was discussion of the payment procedure for the infrastructure. There was also discussion about testing sites for a septic system.
- **Bicycling and Outdoor Recreational Advisory Committee** – Councilman Ross advised Council of the time change for the monthly meetings from 10:00 a.m. to 3:30 p.m. on the 2<sup>nd</sup> Wednesday of the month. Councilman Wolffe asked about the skate park and the discussion of an attendant. Councilman Ross expressed the Committee's concern of the need for an attendant during the busy season. Vice Mayor Conklin asked Chief Lewis if there had been recent problems at the skate park. Chief Lewis advised that locks have been broken off the gate. Councilman Ross added that the park was being used; however it was the improper use that was getting the attention. Councilman Howard stated that he didn't want a few to ruin it for the rest. Councilman Wolffe suggested sending this matter to the Budget and Personnel Committee. Chief Lewis felt an attendant was necessary. Councilman Wolffe asked if the attendant would be part of the Police Department. Mayor Tarr invited Chief Lewis to the Budget and Personnel meeting to discuss the potential for an attendant at the skate park.
- **Ordinance Committee** – Councilman Howard announced that there would be an Ordinance Committee meeting December 22, 2004 at 4:30 p.m. to discuss a special event license.
- **Cemetery Committee** – Councilman Howard stated they worked on the Adeylotte Cemetery on November 20, 2004. He also reported that the Committee received a \$500.00 donation from the estate of Mrs. Roie Jester.

Councilman Mason asked if the BZA meeting could be added to the Town calendar for December 9, 2004.

**7. Public Hearing: Property Line Vacation, Edward & Sharon Guinn, Lots 22D & 22D1, Ocean Breeze Park.**

Tax Map Numbers: 030A110000022D0 and 030A110000022D1

**AN ORDINANCE TO VACATE A PROPERTY LINE IN A SUBDIVISION IN THE TOWN OF CHINCOTEAGUE, ACCOMACK COUNTY, VIRGINIA**

WHEREAS, the governing body of a municipality may vacate parts of a recorded plat after the sale of a lot shown on said plat pursuant to 15.2-2272 of the code of Virginia of 1950, as amended; and

WHEREAS, one or more members of the governing body of the Town of Chincoteague has moved that the hereinafter described part or parts of certain plats of a Subdivision situated in the Town of Chincoteague entitled "OCEAN BREEZE Mobile Home Sites Section "D", Chincoteague, Accomack County, Virginia, " dated 8/2/84, revised 8/21/84, revised 11/15/84 and revised 12/26/84, made by Marshall Engineering, Inc., Civil Engineers and Land Surveyors, recorded in the aforesaid Clerk's Office in Plat Book 28, at Page 24, and the plat entitled "FINAL SUBDIVISION OF EDWARD L. TULL D.B.480 P.173 D.B. 426 P. 186 P.B. 28 P.24 BEING LOTS 22D1, 22D2, 22D3 & 22D4 CHINCOTEAGUE The Islands District Accomack County, VA." made for Edward L. Tull, dated 3 December, 1993, Revised 21 June, 1994, made by Eastern Shore Surveyors, LTD, which said plat is attached to and made a part of a certain deed dated the 4<sup>th</sup> day of January, 1994, from Edward Lunn Tull and Louise A. Tull, his wife, to Gregory M. Addison and Kathleen E. Addison, his wife, recorded in the Clerk's Office of the Circuit court of Accomack county, Virginia, in Deed Book 665, at page 686, and in which subdivision the property Line dividing Lot 22D and Lot 22D1 be vacated.

WHEREAS, the basis of said vacation is at the request of the owners of said lots for the purpose of placing one home on the subject lots.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF CHINCOTEAGUE:

1. That the property line dividing Lot 22D and Lot 22D1 as shown on the plats entitled "OCEAN BREEZE Mobile Home Sites Section "D", Chincoteague, Accomack County, Virginia," made by Marshall Engineering, Inc., Civil Engineers and Land Surveyors, recorded in Plat Book 28, at page 24, and the plat entitled "FINAL SUBDIVISION OF EDWARD L. TULL D. B. 480 P. 173 D. B. 426 P. 186 P. B. 28 P. 24 BEING LOTS 22D1, 22D2, 22D3 & 22D4 CHINCOTEAGUE The Islands District Accomack County, VA.", made by Eastern Shore Surveyors, LTD, which said plat is attached to and made a part of a certain deed recorded in the Clerk's Office in Deed Book 665, at page 686, be and is here by vacated.

2. That a certified copy of this Ordinance be recorded in the clerk's Office of the circuit Court of Accomack, County, Virginia.

The effective date of the Ordinance shall be upon adoption.

Approved this 6<sup>th</sup> day of December, 2004.

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Mayor

Attest:

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Town Manager

Mayor Tarr opened the public hearing and having no public comments, closed the public hearing. Councilman Wolffe asked Acting Town Manager Jeffries if there were any comments from Building and Zoning Administrator Lewis. Acting Town Manager Jeffries advised there were no comments. Councilman Wolffe motioned, seconded by Councilwoman Richardson to approve the property line vacation of Edward and Sharon Guinn, lots 22D & 22D1, Ocean Breeze Park. Unanimously approved.

## **8. Public Participation.**

- Ms. Dorothy Dutky expressed her displeasure of the closing of the Landmark Plaza. She also stated that she was against spending \$13,000 to search for a new Town Manager as all colleges have employment services.
- Mr. Rob Tye commented about the parking at the Eastside Boat Ramp. He suggested signage for cars with trailers. He also agreed with Ms. Dutky about closing restaurants and building townhouses.
- Mr. Bob Behr read a letter to the Council about partnering with the Downtown Merchants for the Trolley gift. He asked Council for their consideration.
- Mr. Sudi Bathier explained that he wrote a detailed analysis of the Landmark Plaza closing and was prepared to offer an alternative to the sale.
- Mr. Jerry Pruitt challenged Council to look at the uses of commercial property and suggested a moratorium on residential development in commercially zoned property.
- Mrs. Nancy Payne read a letter from Mr. & Mrs. Rick Reichard supporting the Planning Commission's recommendations to keep the Island from overdevelopment and maintaining quaintness in the community.
- Mr. William V. Birch expressed his support of redevelopment of the Birchwood Motel and use of the existing driveway.
- Mr. Earl Palmer also expressed his support of the Planning Commission's area recommendations. He also supported the Planning Commission's objections to the Birchwood redevelopment.
- Mr. Tom Mahoney stated he was in support of the idea of limiting population density. He inquired about the Virginia Department of Conservation and Redevelopment (DCR) for a report on variances. Mayor Tarr advised that the Town was negotiating with the DCR and FEMA to try to limit the impact as much as possible. He stated that the Town has done everything they had requested and would be receiving a report.
- Mr. Richard Conklin stated that he respected the rights of property owners to sell their own property. He suggested that the Town work with business owners to attract restaurants and not restrict more.
- Mr. Donald Birch advised Council of his plans of having 42 motel units converted to 28 townhouse units on the Birchwood property. He also agreed with Mr. Conklin that property owners should be able to develop their property.

- Mr. Eddie Tull stated that he was in support of property rights and reasonable use of a person's property.
- Mr. Fred Schmidt expressed his concerns about the ongoing development and changes to the area requirements. He asked Mayor Tarr if Council would be voting on a change to the ordinance. Mayor Tarr responded that Council would discuss the matter and schedule a public hearing. Mr. Schmidt suggested a site plan ordinance to address the concerns of the community.
- Ms. Barbara Thackray explained her concerns of the island's ecology because of the development along waterfront properties. She suggested that the Town preserve Main Street from Maddox Boulevard to the firehouse to attract tourism.
- Mr. Raymond Britton, Jr. stated that he did not want the Planning Commission to take the rights away from the property owners.

## **9. Recommended Change to "Area Regulations" from the Planning Commission.**

Chairman Rosenberger explained the Planning Commission's recommendations to Council. He stated the original recommendations included the marshland restrictions and upland identifications but have been stricken. He also stated that in order to maintain the current integrity the sizing should be appropriate. It was the recommendation of the Planning Commission for the square footage to be 12,500 square feet and 10,500 square feet. Mayor Tarr explained the differences which only affect R-2 and R-3 residential districts. He added that the other ordinance affected was having a maximum number of attached family dwelling units not to exceed 4 and could be on the same parcel, but must have 20 feet of space between parcels.

Mayor Tarr commended the Planning Commission on their hard work. He felt it had an adverse effect than intended and felt that Council needed more public comments. Councilman Mason agreed and felt that another visioning session would be beneficial. Councilman Wolffe felt that by including this single issue with the entire visioning session, the matter would take a very long time before action was taken. Mayor Tarr asked why Council should have a visioning session with the public if they were not going to do anything about it. Councilman Wolffe stated that at the visioning session there would be multiple issues. Mayor Tarr interrupted that the number 1 item in the report from the first visioning session was growth and character. He added that they recommended including the public and hiring a planner. Councilman Wolffe felt it would be years before anything would be accomplished. He felt this was a single issue that should be dealt with as a single issue.

Vice Mayor Conklin felt that Council should have the visioning session and, if necessary, have a separate public hearing on the issue. There was discussion of what was permitted in the R-1 district. Councilman Ross felt that growth was the problem and the developers were doing things that were not permitted except by variance or special use. Mayor Tarr felt the change was eliminating townhouses altogether by regulating a single family lot. Councilman Wolffe agreed that something needed to be done. There was further discussion of building townhouses on commercial property. Councilman Howard felt

that the community needed to be involved by having the visioning session and then a public hearing.

Councilman Wolffe motioned, seconded by Councilman Mason to defer this matter until after the visioning session. Unanimously approved.

### **10. *Donation of Trolley.***

Acting Town Manager Jeffries advised that the Town Mechanic went to inspect the trolley. He advised that the trolley would need to be painted because of rust, which would cost approximately \$2,000 - \$3,000. Staff recommended accepting the gift. Councilman Mason questioned the operation expenses and vehicle uses. Mr. Behr stated that the only information he had was that Coldwell Banker wanted to sell the trolley; and he felt if the Town didn't act soon, they would go on with the sale. Councilman Wolffe stated that accepting the donation did not obligate the Town to do anything with the trolley. There was discussion of the use of the trolley for the Second Saturday Group and the history tour. The donation to United Way could be given by the Downtown Merchants and the Second Saturday Group and both groups were willing to assist in operation costs.

Councilman Ross motioned, seconded by Councilwoman Richardson to accept the donation of the trolley. Unanimously approved.

### **11. *Application for 2005 Trolley Grant.***

Acting Town Manager Jeffries informed Council that he spoke with Mr. McGowan who advised there was approximately \$17,000 left from the previous grant that could be rolled over to the new grant. He advised that for the last two years the grant had been a 95/5 and the new grant would be 80/20, with the Town's cost estimated at \$15,000. He stated that Mr. McGowan advised he would work on the application if approved. Acting Town Manager Jeffries reported that the total trolley expenses for last year were \$96,042. The Town's share was \$4,802 and the revenue was \$12,733 from the ads, tokens and quarters. He advised that they had approximately 12,000 riders. Vice Mayor Conklin felt they could use the donated trolley. Councilman Howard felt that the trolley service was needed and the fee could be increased to offset the additional costs.

Councilman Howard motioned, seconded by Councilwoman Richardson to approve the application of the grant for the trolley service. Unanimously approved.

### **12. *Notification Form for Re-development of Birchwood Motel Property.***

Councilman Wolffe asked if Council could take no action. Town Attorney Poulson advised that his concern was on the 50' road variance provision. He felt the most reasonable approach would be not to comment at this time. He explained that the Town had the right to comment as an adjacent property owner; however, if the matter was referred to them after the BZA appeal, their comments could create problems.

Mayor Tarr added that Town Attorney Poulson was referring to the road issue and not the zoning issue. Town Attorney Poulson strongly advised that Council should not take a position as a landowner on the 50' road variance. There was discussion about separating the issues. Mayor Tarr stated that as the property owner, Council needed to address the zoning issue and not take action on the road issue unless it came back to Council.

Town Attorney Poulson advised Council to make their response clear. Councilman Wolffe expressed his concern that the BZA understand that if Council approved this, it was as an adjacent property owner and not a governing body pushing for an appeal.

Councilman Howard motioned, seconded by Vice Mayor Conklin to approve the zoning issue as an adjoining property owner. Ayes: Conklin, Howard, Mason, Ross, Richardson, Nays: Wolffe. Motion carried

Councilman Howard motioned, seconded by Vice Mayor Conklin to offer no comment on the subdivision issue as the matter may come before Council at a later time. Unanimously approved.

### **13. *Establishment of an Enterprise Zone.***

Supervisor Thornton explained the Enterprise Zone and that this may be the only time Chincoteague would be included. She stated that the zone was limited to 6 square miles. She suggested eliminating the residential districts and including the areas that the Town wanted growth to occur. Supervisor Thornton felt the historic downtown should be included from Bridge Street to Church Street to encourage redevelopment. She also suggested prioritizing the zones. She advised that she needed the information soon.

Mayor Tarr asked Supervisor Thornton if the matter could be recessed until Tuesday, December 7, 2004 at 6:00 p.m. Supervisor Thornton agreed to discuss the matter at that time. She stated that she thought by including Chincoteague, it would mean more money for the school. She advised that Nandua High School was included in the enterprise zone and received approximately \$1,000,000 for a new roof. Supervisor Thornton stated that she tried to see the benefits of including our school in the zone; however, the criteria had changed. She stated that the maps were drawn to include the major portions of businesses.

Mayor Tarr read that there were 3 substantial financial incentives to encourage business locations and expansions within the Zone: 1) General income tax credit. 2) Real Property Improvement Tax Credit. 3) Job Grants. Councilman Mason asked if there was a time limit on how long the Town could remain in the zone. Supervisor Thornton believed that it was approximately 10 years before renewal or the criteria changed. She explained that there was a waiting list for the state.

Mayor Tarr announced that there would be a recessed meeting to discuss the Enterprise Zone on Tuesday, December 7, 2004 at 6:00 p.m.

**14. Other Matters.**

- Chief Lewis informed Council that the Police Department had made the following donations: \$3,000 in Christmas toys, \$1,000 to the food bank, \$1,000 to H & H Pharmacy, and \$1,000 for a scholarship. Council commended the Town employees.
- Acting Town Manager Jeffries updated Council on the current paving status. He stated that ICD was supposed to begin paving North Main Street, Howard Drive and a portion of Hallie Whealton Smith Drive on Wednesday weather permitting.

**15. Closed Meeting in Accordance with Section 2.2-3711(A)(1) of the Code of Virginia for Discussion of Personnel Matters.**

Councilman Howard moved, seconded by Councilwoman Richardson to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters. Unanimously approved.

Councilman Wolffe moved, seconded by Councilman Mason to reconvene in regular session. Unanimously approved.

Councilman Howard moved, seconded by Councilman Wolffe 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- Conklin, Howard, Mason, Richardson, Ross, Wolffe

Nays- None

Absent- None

**16. Recess of Meeting.**

Councilman Wolffe motioned, seconded by Councilman Howard to recess the meeting until Tuesday, December 7, 2004 at 6:00 p.m. Unanimously approved.

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Mayor

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Acting Town Manager

**MINUTES OF THE DECEMBER 7, 2004**  
**CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Vice Mayor  
Terry Howard, Councilman  
Ronald Mason, Councilman  
Ellen Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolffe, Councilman

**1. *Call to Order***

Mayor Tarr called the meeting to order at 6:00 p.m.

**2. *Invocation.***

Councilman Ross offered the Invocation.

**3. *Pledge of Allegiance.***

Mayor Tarr led in the Pledge of Allegiance.

**4. *Establishment of Enterprise Zone.***

Mayor Tarr listed the following options that Council would like to have included in the proposed enterprise zone for Accomack County. This zone would enable commercial businesses to afford certain advantages, including tax breaks. It would also encourage landowners in commercially zoned areas to keep the property as a commercial use, or business, instead of developing the property as a residential use.

Council's first option was to:

1. Include the Curtis Merritt Harbor property.
2. Include the area on the west side of Main Street from the John Lang property to the Inlet View Go-Cart property.
3. Include all the C-2 property on the west side of Main Street, excluding the carnival ground parking lot, the Landmark Plaza, Barney's Campground property and the marsh land across from Dewey Tarr's property.
4. Include Church Street up to Church Street Supply on the north side and the old NAPA store on the south side. Council suggested removing the church properties from this zone.
5. Include Maddox Boulevard as presented at one lot depth on both sides.

If the first option had to be changed, priorities were to:

1. Include the C-2 District along the west side of Main Street from a point of the old Okie Taylor property north to Lewis Street.

2. Include Maddox Boulevard at one lot depth on both sides.
3. If required, remove all residential structures from the Enterprise Zone.

If the zone was still over the limit of area permitted, the Council requested the C-2 District along the west side of Main Street from a point of the old Okie Taylor property north to Lewis Street be approved.

There was a brief discussion considering placing Eastside Road and lots south of Betty Mullins' property on Main Street into the enterprise zone. There was no action taken on these areas.

### **5. *Adjournment of Meeting.***

Mayor Tarr announced that the recessed Council meeting scheduled for Thursday, December 16<sup>th</sup> was cancelled and that the next regular meeting would be on January 3, 2005. Vice Mayor Conklin motioned, seconded by Councilman Howard, to adjourn the meeting. Unanimously approved.

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Mayor

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Acting Town Manager