

MINUTES OF THE JULY 14, 2014
JOINT MEETING OF THE CHINCOTEAGUE TOWN COUNCIL
AND THE CHINCOTEAGUE TO ASSATEAGUE BEACH ACCESS COMMITTEE

Council Members Present:

John H. Tarr, Mayor
J. Arthur Leonard, Vice Mayor
Ellen W. Richardson, Councilwoman
Gene W. Taylor, Councilman
Ben Ellis, Councilman
James T. Frese, Councilman
John N. Jester, Jr., Councilman

Committee Members Present:

Wanda Thornton, Supervisor
Evelyn Shotwell, Chamber Director
Denise Bowden, CVFC

Committee Members Absent:

Donna Mason, Waterside Motor Inn
Kelly Allison, ESVA Tourism

CALL TO ORDER

Mayor Tarr called the Chincoteague to Assateague Beach Access Committee along with the Town Council meeting to order at 9:00 a.m.

INVOCATION

Councilman Ellis offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

1. Call to Order

Mayor Tarr called the joint meeting to order. He advised that Mr. Rob Catron has been working with Council and staff on the matter of the draft CCP. He recognized a representative from Congressman Rigell's office also in attendance. He advised that at this point there is approximately 30 days left to respond to the CCP and the preferred alternative. He stated that the reason they have been meeting with Mr. Catron is to develop a few key points to send to the Congressman and Senators. He would like to discuss the main issues and where it's headed. He would like Mr. Catron to review some of the process he may have to go through. He asked Town Planner Neville to bring everyone up to date.

Town Planner Neville stated that in the packet that he handed there are a couple of new things, what the strategy has been and the public comments. He stated that one of the main directions is that when everyone heard the initial presentation on the scoping phase, there was a concern about the existing beach and parking area future, that it was susceptible to storm damage. He added that maybe a safer location would be a good idea. He also stated that what went with that was if it got moved, it also would take the place for the threatened endangered species to take over.

Town Planner Neville reviewed concerns that there are a number of other changes that are proposed that will dramatically change both the visitor experience and the safety and security of Chincoteague. He asked how to limit the number of changes that are proposed in the document and get back to something closer to the current management. He also stated that if they sit down with Fish & Wildlife there are 14 points that need justification. He suggested alternative language. He advised that the Fish & Wildlife sent the CCP to the state and the state has asked other agencies to

review. He added that they have also sent it back to the Town as an interagency allowing the Town and the County to send comments. Town Manager Ritter also stated that the comments would then be incorporated in the letter from the Department of Environmental Quality that gets sent back to Fish & Wildlife. He advised they set the comments early to see if the state agencies would talk about the same issues that the Committee has. He asked Supervisor Thornton if she would like to address this.

Supervisor Thornton stated that Mr. Steve Minor and she started working together on some of this. She advised that Mr. Minor did the research and documentation about the Cooperative Agency. She stated that it seems like “we” (the Town, the State and the County) were left out from the very beginning and should have had representation on Plan to begin with. She advised that this has been the policy of all government agencies most especially Fish & Wildlife and the Department of Interior for a long time. She added that Mr. Minor was able to document it from the very beginning. She stated that we were shortchanged and didn’t know it was in the documents that we could be a Coop. Agency receiving input from the state. She feels this was a deliberate thing.

Supervisor Thornton stated that in the last Master Plan, everybody was involved, including the major environmental groups. She stated that when it hit the street there was no major controversy. She advised that the County is working on this and gives 100% of their support. She also stated that they have written a letter to DEQ and still are working on this.

Ms. Denise Bowden asked about the Plan affecting the other localities on the shore. She asked if the other localities would be willing to support us in this.

Supervisor Thornton hopes that they would. She advised she will cover this at the Supervisor’s meeting.

Ms. Bowden commented about Worcester County.

Supervisor Thornton stated she would work on that.

Town Planner Neville discussed the packet and stated that the Committee’s agenda is deciding what to do in the next 30 days. He mentioned the letter that was sent to the state regarding the big issues.

Supervisor Thornton asked if the Committee has thought about asking for more time. She advised that the County has considered an additional amount of time

Mr. Rob Catron advised that the process allows another 30 days, from 60 to 90 days. He stated that he can’t see how they would give more time.

Supervisor Thornton doesn’t feel stopping the process is the answer, but they haven’t allowed input.

There were a couple of brief comments.

Town Planner Neville stated that the purpose of today’s meeting was to focus on the letter to the top politically supported issues that could be discussed with the congressmen and senators giving them time to work on and submit their letters of support.

- 2. Strategy for Community Review and Comment**
 - **Support from Elected Officials (State and Federal)**
 - **Agreement on Key Issues (3 to 5 points)**

- **Draft Community Comment/Position**
 - **Public Hearing and Written Comments**
- **Contact State Agencies**

Mayor Tarr introduced Mr. Catron and advised that he has listened to the issues and met with staff deciding on the top 4 or 5 issues from some elected officials.

Mr. Catron stated that it would be very helpful for the Town to get the federal congressional delegation to weigh in on the Town's behalf. He stated that in order for them to do this, they would need something in the form of a letter along with information to back up that letter. He advised the Committee to adopt something that they can put into draft letters to consider. He stated that they would submit or lobby those letters to the delegation for them to submit on the Town's behalf during the comment period. He discussed a two-track plan that has been discussed. He discussed strategy. He advised that they shouldn't include several smaller topics but to keep with a few of the important topics to cover in the letter.

Mr. Catron commended Town Planner Neville and Town Manager Ritter on going through the document, distilling the big issues.

Town Manager Ritter mentioned the Prime Hook situation and the action they took. He feels that these are 2 issues that are a precedent for other communities and their CCP that we can get our Congressional folks on board with. He also discussed the 1965 Congressional Act that allows the National Seashore. He advised that it stated that it is all the way around Fisherman's Point and back down to Tom's Cove. He added that even in the MOA in 1990 it had the same footprint and now is down to 1 mile.

Councilman Jester also commented on the change in footprints from 5 miles. He suggested mentioning this in the letter. He agreed not to cloud them with too many issues as we may lose them.

There was brief discussion to make a point of the Congressional Act of 1965 and the changes from the original vision.

Mr. Catron stated that it seems that the Fish and Wildlife Service will never pick Alternatives A or C. He stated that they will end up with a version of Alternative B. He suggested making Alternative B look as much like Alternative A as possible. He made further suggestions.

Councilman Taylor commented on the possibility of the County giving 1% of Transient Occupancy Tax to help with beach restoration and maintenance.

Supervisor Thornton stated that she would fight for it. She made further comments and suggestions. She feels that the first thing on the list is still the most important, which is protecting Chincoteague. She added that the Inlet is over a mile wide now and if the Island doesn't get some protection, a storm could jeopardize the south end of the Island. She commented further.

Mayor Tarr stated that no one knows what will happen in 20 years with the sand. He also stated that this is why there's a Resiliency Plan and the Town should be on the team that's going to study the beach from Ocean City past Wallops Island. He explained that there is small team of federal agencies that are set up to do the study of the space port and all the sand they lost at the last storm. He feels they need to get on that team. He believes the number 1 issue for the Town is the Resiliency Plan.

There were further comments.

Mayor Tarr advised of a meeting with the Park Service regarding dunes and parking.

Ms. Bowden discussed the dunes.

Councilman Frese feels that Fish & Wildlife has violated the law and the comment period should be stopped until they comply. He also talked about a strategy point along with discussions with the Congressmen adding that the people support those that support the beach.

Mayor Tarr stated that a few of the things that Councilman Frese brought up are some of the things they've been thinking about and need to be spelled out in the Plan, with help from the Congressmen.

Councilman Taylor talked about the importance of maintaining Beach Road.

Mayor Tarr stated that they want to address all those points.

Mr. Catron discussed the no net loss policy of endangered or wildlife habitat. He discussed their selling point, which would be the ability to destroy the woods and build a parking lot by way of taking the current parking lot and return it to a natural habitat. He added that by doing this they get a credit for destroying the parking lot and turning it back into a nature area.

They discussed the maintenance of the parking lot and the Piping Plover.

Town Manager Ritter also mentioned the Resiliency Plan.

There was discussion and comments about the flat beach and other issues to be addressed.

Councilman Jester also commented on the safety of the Island.

Mr. Catron stated that the public safety aspect is the one hook that is in the Senators' offices. He added that Congressman Rigell's staff has been paying a lot of attention to this over the past several years and he is fully aware of the situation. He also stated that the Senators' offices have a million communities to pay attention to. He advised that he's talked about Chincoteague and feels what the hook would be for them to be onboard. He also added that if we address that particular point along with protecting the investment that "Virginia's are made in Chincoteague Island and the people who live here" and that it will be the hook about the resiliency and protecting the Island.

Ms. Bowden referred to the 4 points also discussing the Inlet. She stated that anyone out there in a boat can see how the swells come in. She asked if the Army Corps of Engineers have any say over this.

Supervisor Thornton stated that they want to do something. She advised of a meeting with them and Mr. Lou Hinds. She also added that she spoke with the one in charge of the replenishment in Ocean City. She stated that he thought it was crazy that they were doing all that in Ocean City and we couldn't get anything done here.

Mayor Tarr stated that there is a team that's been put together, it's called **MACRI**. He also stated that he and Supervisor Thornton went to a planning meeting with the Navy and Ms. Wendy Webber from the Department of the Interior signed on to be a member to that Plan for beach resiliency

along with Virginia's Governor, the Navy and NASA, learning more as it grows. He stated that NASA's infrastructure is on Wallops Island, but the study will go from Ocean City all the way down. He advised that the Town and the County is trying hard to get on that team.

Ms. Bowden stated asked about the Army Corps of Engineers input at this point as far as the public safety standpoint.

Town Planner Neville stated that this has all been worked out at the north end of Assateague in Maryland. He advised that the Army Corps, the Park Service, Fish & Wildlife and the Ocean City met because of a problem with the Inlet. He stated that they worked it out by adding 100' to the beach at the north end. He also stated that they built an emergency storm berm setting 8' elevations at the beach and 10' at the top of the berm creating some breaks. He added that this was so the over wash can happen accommodating the plover habitat. He also added that the document is only about 10 years old.

Mayor Tarr interjected that it took 2 years for them to work out the height of those 2 dune lines before they could go to construction and get the money.

Ms. Bowden stated that it has worked out, but they don't have to deal with Fish & Wildlife.

Town Planner Neville advised that the Fish & Wildlife got in the middle of it.

Councilman Jester stated that Mr. McCauley didn't know it was even mentioned when the legislation was first established. He added that the Corps was the first ones they should have been consulting with.

Mr. Catron suggested and discussed more information to be put in the letter.

Ms. Bowden stated that with the amount of money that this area puts into the economy it should be a big eye opener for them. She also commented again on the 4 points, she feels that there shouldn't be any discussions about the reduction of the 150 ponies, no matter when it is reevaluated.

Mayor Tarr advised that they have included that in the draft.

Ms. Bowden stated that she saw that, but was referring to what Mr. Catron was saying about public safety acreage. She doesn't want any pony talk.

Councilman Frese stated that in addition to Chincoteague they have to protect 2 federal installations there. He stated that there is the Wallops Flight Facility and the Launch Facility.

Mayor Tarr stated that this has to be in there because of the effect our beach has on theirs.

They further discussed the 5 points to prepare for the letters and the meeting. There were also comments regarding the cost of \$12 million to replenish the beach and that being very conservative. They talked about the Plan, beach parking and management.

Ms. Bowden expressed her concerns about the County support.

Chamber Director Shotwell advised that over the past 2-3 weeks the visitation in the Chamber office is up 30-46% for the same weeks as last year.

Councilman Taylor asked about partial conservation and wetlands loss.

They discussed the habitats, the amount of time to do the research along with the amount of time to get the funding. They also talked about the necessary permits from the Army Corps of Engineers to destroy property to build a parking lot. They asked about the EIS.

Mr. Catron stated that the Army Corps of Engineers want to take all actions possible to avoid impacting virgin woods, wetlands or whatever. He stated that they would have to do the EIS. He added that they only get a certain amount of money for projects and he is unsure where this project would fall. He feels it would take up to 10 years to get this funded.

Ms. Bowden asked for some kind of guarantee that the parking is going to remain and be maintained where it is.

They mentioned the wilderness issue. They also discussed the importance of fighting the marine sanctuary.

Councilman Jester feels that the key is the new Refuge Manager.

Councilman Taylor feels that they should nail the point of the certain footage of beach and berm.

3. Discussion and Comments

Ms. Donna Leonard commented on the relocation of the parking along with the Fish and Wildlife protected stretch of beach. She stated that Chincoteague has never been in favor of a Plan that takes away the land that we've had for the past 50 years. She talked about looking at the manmade habitats as land base. She also feels that if the beach is moved north, there will be no more access to Swan's Cove. She discussed Swan's Cove, and feels it's evident that the massive acres of impoundment is not a benefit.

Supervisor Thornton stated that these points could have been brought out if we had been a cooperating agency.

They further discussed Swan Cove.

Mr. Ray Rosenberger felt they should have been sharing this information with all the visitors here. He asked the Committee not to lose sight of the fact of the judicial input because of their legal responsibility to us.

Ms. Bowden stated that she has been talking to the people at the Carnival.

Director Shotwell stated that they have been discussing this with their visitors also.

Mayor Tarr stated that once the comments have been set they will do an outreach. He also added that they will be sending the letters to congress soon.

There was another speaker that suggested they keep in mind how to keep the beach experience and move forward reacting to Alternative B and suggesting changes. She added that this will make change more powerful as change is very hard. She also feels that leaving the beach where it is would not be sustainable. She expressed her concerns that if the Town doesn't compromise there won't be a beach.

Another speaker wanted to know in the case that the parking lot was taken out because of a storm if the Town had an emergency plan to put it back.

Mayor Tarr advised they do referring to another point. He stated that the Town needs to prepare a post storm MOA and Agreement with all the agencies. He stated that some of this will be the permitting processes. He added that there should be a short-term plan to get through the rest of the season and there should be a long-term plan if there is no land base left.

There was further discussion regarding some exceptions to the rule in the short-term from the federal side along with input from the businesses, Town, County and State. There were also comments from residents with suggestions to send many letters.

Mr. Catron mentioned the letters that he will take to D.C. He stated that Congressman Rigell is very aware of this issue. He feels that if anyone has a comment they should send it directly to the Fish & Wildlife Service by August 15th. He added that they don't necessarily want letters going to Congressman Rigell or Senator Warner.

Ms. Bowden and Mr. Rosenberger suggested to "CC" them.

Supervisor Thornton stated that they need something that delegation will support. She doesn't believe they're going to see the individual letters. She also added that Congressman Rigell is very aware of this and it is very important that they get delegation to sign the letter.

Mr. Spyder Fleming commented and asked for comment sheets to hand out to the visitors during Pony Penning and tours.

Supervisor Thornton stated that it is important that the public comments on specifics. She also stated that they need a list of items to comment on.

Mayor Tarr added that provided the meeting goes well, there will be a list to distribute.

Councilman Frese stated that about 50-60 years ago Ocean City went through the same thing except they didn't have an alternative beach. He stated that they went to the Government and couldn't get permits. He also stated that they bought bulldozers and pushed sand up from the ocean to reclaim their beach.

Mayor Tarr asked Mr. Catron to review the 3-4 points.

Mr. Catron listed the main 8 points to include in the letter. He reviewed some of the minor points as well.

1. Recreational Beach Footprint

Increase the assigned area for recreational beach use from 1 mile to the complete area established by Congress and formalized through agreements with the Commonwealth of Virginia and the National Park Service. The 2012 Memorandum of Agreement signed between National Park Service and the Fish and Wildlife Service was revised without the participation of the local community or the Commonwealth. Any consideration of dramatically reducing the length of the recreational beach managed by the NPS within the assigned area should have been conducted in the open with town, county and Commonwealth participation. Furthermore, the recreational

beach has been 4 miles or longer for more than 50 years. The National Park Service should be given more control over creating, designing, building and managing the total assigned area for recreational beach use, and the 2012 MOA must be revised.

2. **Public Safety**

For public safety - specifically for those living on, or having invested in, Chincoteague Island - the final CCP must include the statement that a plan will be adopted by the Fish and Wildlife Service to pro-actively protect Assateague Island's ability to serve as a barrier island to Chincoteague. Adopting a "let nature take its course" policy towards southern Assateague Island in Virginia is irresponsible and dangerous. First, nature is not taking its course now because of the introduction of jetties at the Ocean City inlet. These jetties changed the natural movement of sand up and down Assateague Island.

The Chincoteague inlet was once about a half mile wide. It is now about a mile wide and growing. The negative impact here is that larger waves are now able to roll into the Chincoteague Inlet and hit Chincoteague Island with dramatic negative impacts, including flooding. The FWS' adopted and proposed approach is irresponsible and potentially harmful to Chincoteague Island. Previous efforts taken by the Town of Chincoteague to encourage the US Army Corps of Engineers to study this problem and develop a solution were met with FWS heavy-handedness and the FWS told the Corps of Engineers to stay away. This is short-sighted and is not in the best interest of Chincoteague Island. The FWS course of action is contradicted by the plain reading of the Assateague National Seashore Act of 1965 which states "The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for beach erosion control and hurricane protection of the seashore..." Federal law must be followed and a storm damage protection plan must be developed and implemented.

3. **Resiliency Plan**

Continuing on the theme described above, shore protection and an island resiliency plan must take into account the role southern Assateague Island plays in protecting federal installations, specifically NASA Wallops and Navy Wallops. The shore protection plans for these islands must work together to protect Chincoteague and the federal facilities.

4. **8.5 Acre/1 mile Recreational Beach Restriction**

The draft CCP makes reference to setting aside 8.5 acres for a new 1 mile recreational beach parking and ancillary facilities. The truth is, no one is certain how many acres are required for the new recreational beach parking facility and associated facilities. So that planners are not arbitrarily constrained, the final CCP should not reference 8.5 acres or 1 mile recreational beach but rather whatever land is necessary to construct these facilities.

5. **Access to Toms Cove**

The current CCP allows for access to Toms Cove from the recreational beach parking facility. Many visitors, especially small children, enjoy being able to walk from the beach to Tom's Cove to play in calm water and to observe crabs and other species. While the draft CCP makes

reference to a new crabbing pier in the Tom's Cove area, the current beach experience and a visitor's ability to easily visit Toms Cove is preferred and should be included in the final CCP.

6. Chincoteague Ponies

The draft CCP references future studies on the size of the Chincoteague pony herd and possible reductions based on a future Habitat Management Plan. There is no need for any such language in the final CCP. The ponies have been grazing on this site for hundreds of years and the population is actively managed by the Refuge in partnership with the Chincoteague Island Volunteer Fire Company. The ponies are inextricably linked to Assateague Island and the cultural attraction the ponies provide to the Refuge and the community is immeasurable. No reduction in herd size should be considered for the next 15 to 20 year planning period.

7. Wilderness/Sanctuary

Existing management plans and actions by multiple agencies already successfully restrict public use of natural resources. It is not necessary to create a new marine sanctuary or achieve a higher wilderness status. The creation of such restrictions is unnecessary and will negatively impact public use of the National Seashore and the commercial and recreational fishing and aquaculture industries which have been operating in the surrounding waters for more than a century. Remove any reference to the creation of a permanent wilderness area or new marine research reserve from the final CCP.

8. Mosquito Control

A provision to provide for mosquito control must be included in the final CCP. This is a dangerous public health and animal health issue. The recently published final CCP for Prime Hook National Wildlife Refuge in Delaware included provisions for mosquito control and similar permission for the use of adulticides should be allowed for CNWR. Any effort to move the current parking facility to an area bordered by woods and holding ponds must include effective mosquito/biting insect control to minimize the negative impacts of beach relocation on the visitor experience.

Supervisor Thornton feels that it covers the key points and a new Refuge Manager can mean a lot. She added that the County may take a slightly different approach but will have comments.

Mayor Tarr advised that Town Planner Neville has been working on the Town's response to the CCP.

Comments and discussion continued about getting neighboring communities onboard along with distributing the key points to the public. They also talked about the possibility of a public meeting to distribute the key points and contact information.

Mayor Tarr advised that staff, Mr. Catron and his staff will be diligently working on this. He stated that the main issue is; "are you happy with the direction this is taking?" He commented further.

Council all agreed they are in favor of a letter listing the key points discussed.

Town Manager Ritter asked if Council wanted Mayor Tarr and staff to talk to Mr. McCauley about flexibility in the Plan.

There were brief comments.

Mr. Catron advised of conversations with Mr. McCauley prior to the draft CCP. He feels that Mr. McCauley is the leader of this effort and that staff should sit down with him discussing some of the concerns. He reminded the Committee that this is a draft and the final effort to go through some of the points and issues.

Adjourn

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

John H. Tarr, Mayor

Robert G. Ritter, Jr., Town Manager