

# REGULAR COUNCIL MEETING A G E N D A

TOWN OF CHINCOTEAGUE

November 3, 2014 - 7:00 P.M. - Council Chambers - Town Hall

CALL TO ORDER

INVOCATION BY COUNCILMAN ELLIS

PLEDGE OF ALLEGIANCE

OPEN FORUM / PUBLIC PARTICIPATION

STAFF UP-DATE

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

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1. Consider Adoption of the Minutes
  - Regular Council Meeting of October 6, 2014 (Page 2 of 49)
  - Council Workshop Meeting of October 16, 2014 (Page 11 of 49)
2. Discuss the Downtown Rehabilitation Project Phase 2D (Kat Edwards) (Page 17 of 49)
3. Harbor Committee Report of October 2, 2014 (Councilman Leonard) (Page 19 of 49)
4. Budget and Personnel Committee Report of October 14, 2014 (Mayor Tarr) (Page 21 of 49)  
*The following may require a motion:*
  - Draft Pony Express Updated Zero Tolerance Drug and Alcohol Testing Policy (Page 22 of 49)
5. Cemetery Committee Report of October 28, 2014 (Councilwoman Richardson) (Page 46 of 49)  
*The following may require a motion:*
  - Proclamation designating November 9 – 15 as Cemetery Clean-up Week (Page 47 of 49)
6. USDA Community Facilities Grant for Police Car Camera System (Page 49 of 49)
7. Mayor & Council Announcements or Comments
8. Closed Meeting in Accordance with Section 2.2-3711(A) (7) of the Code of Virginia.
  - Legal Matters

ADJOURN:

**MINUTES OF THE OCTOBER 6, 2014**  
**CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

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

**CALL TO ORDER**

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

**INVOCATION**

Councilman Taylor offered the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Tarr led in the Pledge of Allegiance.

**INTRODUCTION/PRESENTATION**

Mayor Tarr introduced the new Superintendent of Accomack County Schools, Dr. Kregg Cuellar. He also welcomed the Island's representative of the Accomack County School Board, Mr. Travis Thornton along with Supervisor Wanda Thornton.

Dr. Cuellar thanked Council for asking him to attend the meeting to introduce himself. He stated that he has been here for 3 months not only as the Schools' Administrator but as a citizen of Chincoteague. He advised of the community activities he has enjoyed along with the community activities the local athletic teams have been sponsoring.

Dr. Cuellar advised of his intention to work hard for the kids' education, safety and to see that their needs are met educationally. He stated that his plan is to listen and learn to ensure they are encouraging their kids to be the best. He asked if there were any questions.

Supervisor Thornton asked Dr. Cuellar to explain to the public about Title 1 and what it offers.

Dr. Cuellar advised that Title 1 means that your campus or school is an at risk school where there is more of a poverty clientele. He also stated that they measure the Title 1 status by the free and reduced lunch status. He added that Title 1 receives additional federal funding along with the state and local funding. He explained that if the Town doesn't reach the 40% free and reduced lunch rate they aren't classified Title 1 and are not eligible for Title 1 funding.

Supervisor Thornton feels that this is important because Chincoteague doesn't meet the criteria so they don't get the extra money.

Councilman Jester asked if there has been any contact with the NASA community for STEM education.

Dr. Cuellar stated that they are in contact and on October 20<sup>th</sup> those students involved in the STEM Program from Arcadia and Chincoteague will attend the evening launch at the NASA Visitor Center. He stated that they are very involved in getting the students connected with Wallops and the activities to move the Program forward. He added that they are busy doing a lot of the groundwork for student involvement.

Councilman Taylor thanked Dr. Cuellar and advised that if he needs anything to let the Town know because the kids are worth it.

Mayor Tarr also introduced Ms. Nancy Stern and Jeanette Edwards with the Eastern Shore Rural Health. He thanked them for all they've done for Chincoteague.

Ms. Stern advised of the 100,000 patients they see each year, 20,000 come out of Chincoteague. She stated that they have been here for 37-38 years now and mentioned the other Community Health Centers in the County along with their partnership with the Kiwanis of Chincoteague.

Ms. Edwards explained how she and Ms. Stern decided to join the United Way Campaign. She stated that out of the 36,000 patients that the Eastern Shore Rural Health serves each year the United Way has funded many of those people they see.

Ms. Stern stated that it's their 24<sup>th</sup> Campaign. She explained that the Food Bank, the Island Library and the Fire Department all benefit from the United Way. She stated that they are raising awareness to those organizations that could benefit from the United Way as it is a fundamental service to the Eastern Shore.

Ms. Edwards explained their 3 achievement goals; 1) to reduce the cost of the campaign. 2) to make people more aware and educate the community. 3) to raise over \$300,000. She stated that she asked what makes people want to give and heard that when the funds are given to agencies, they must be held accountable. She added that people do benefit.

Ms. Stern stated that their campaign is that there is no donation too small. She announced 2 events they are partnering with. She stated that one event is with the Chincoteague Museum for a Night at the Museum, October 15<sup>th</sup> from 6:00 p.m. – 8:00 p.m. She also announced that the Chincoteague High School Culinary Arts students will be catering this event. She added that the other event is with the Chincoteague Chamber of Commerce at the Jack Spot on October 30<sup>th</sup>. She thanked Council for allowing them to talk about the United Way.

Mr. John Howard asked if they could earmark funds to an organization.

Ms. Edwards advised that they could and explained that they simply mark the box for that specific agency.

Mrs. Gail Heart, the Manager of the Island Grocery Store, advised that they were honored to participate in a fundraiser for the Veteran's Memorial Park Playground Fund. She explained that they had a "Name this Pony" fundraiser. Mrs. Heart reported that the employees had a lot of fun and were able to raise \$2,483.

Mayor Tarr thanked Mrs. Heart and asked her to thank the employees.

### **OPEN FORUM/PUBLIC PARTICIPATION**

Mayor Tarr opened the floor for public participation.

- Supervisor Wanda Thornton advised Council of the growing concerns of the pine bark beetle. She advised that this damage is increasing all over the Island. She stated that it affects everyone on the Island. She asked Council to take some steps to inform the public of what to look for when their trees are dying. She asked the Town if they could supply a place at the Harbor to burn the trees. She added that they can't be carried to the landfill and it will be a much greater issue if they aren't cut down and burned.

Mayor Tarr stated that they have an area, but it's also being used for a dredge spoil site.

Supervisor Thornton suggested developing public information for the paper and a flyer. She stated that she asked about the injection method but it is very time consuming and costly. She urged Council to act quickly as it is a very important issue.

- Mr. John Howard stated that a lot of people talked about the number of trees that came down during Hurricane Sandy. He advised Council that they haven't seen anything yet with the pine bark beetle. He suggested that Council ride down Bunker Hill as there isn't a pine needle or pinecone there. He advised of 20 trees removed from Piney Island this last week. Mr. Howard expressed his concerns. He also stated that he can't take the affected tree to a dumping site because it will infect another tree. He added that he can't take it to the landfill because of the cost. He asked Council for help.

Mr. Howard also stated that there are approximate 1,000 trees in the Bunker Hill area. He originally counted 6 trees in Tom's Cove and it's now up to over 60. He added that anyone can identify them with the yellow spots and the white powdery substance toward the top. He offered his assistance and stated that the only way to get rid of them is to burn them.

Town Manager Ritter stated that the Coast Guard is dredging the basin within the next couple of months. He stated that when they're done we can see what room is left for burning.

Supervisor Thornton advised that she will contact the County tomorrow.

Mayor Tarr stated that they will need to discuss it because of the cost.

Supervisor Thornton feels that the Town and County working together would be best.

There was further discussion.

Public Works Director Spurlock stated that it is prohibited to transport infested timber across the state line.

Mayor Tarr stated that in talking to Mr. Lou Hines after Hurricane Sandy, they have an incinerator that can be brought in after an event to burn large trees at a very high rate.

- Dr. Jeff Newman, a Veterinarian with Caring Hands Animal Support and Education (CHASE) came before council. He advised that they have been to the Island 3 times now. He stated that they will be doing surgery on the 10<sup>th</sup> and 11<sup>th</sup> with a goal of 200 cats spayed or neutered. He added that by the time they are done this time they will have done over 1,000 cats on Chincoteague. He reported that they will have put more than \$100,000 of resources here.

Dr. Newman also stated that rabies is a concern and he has been working with the Health Department. He advised that they will also have a rabies clinic at Dr. Hafez's clinic in Inlet View on Thursday from 4:00 p.m.–6:00 p.m. He further explained the process of the clinics.

Mayor Tarr thanked Dr. Newman for his service to Chincoteague.

- Mr. Charles "Chip" Lewis, an Accomack County working waterman, addressed Council regarding the Curtis Merritt Harbor of Refuge. He advised that it was made apparent at the last Harbor Committee meeting that nothing was going to change for the rate of the county working watermen and subleasing slips. He asked Council to consider allowing the sublease to be at the same rate as the slip holders are paying as opposed to the current charge per day. He concluded that this is something he would like Council to consider.

Mayor Tarr asked Town Manager Ritter to take this matter to the Harbor Committee.

Town Manager Ritter advised that the Harbor Committee has addressed this matter and voted to leave the policy as it currently is.

## **STAFF UPDATE**

### **Planning Department**

Town Planner Neville advised that they are coming up on the 5 year update hearing for the Comprehensive Plan. He reported that the Planning Commission will meet next Tuesday to review the final draft. He stated that it will be in the Workshop packet for the 16<sup>th</sup>. He added that they would like to have the public hearing in December or January. Town Planner Neville mentioned the new Flood Maps, advising that FEMA is scheduled to send a final letter in November giving 90 days to approve the map and finalize the ordinance.

There were brief comments.

### **Police Department**

Chief Lewis stated that the monthly report has been included in Council's packet.

Councilman Jester asked how the Annual Poker Run went.

Chief Lewis advised that they had about 100 motorcycles less than the previous year. He added that everything went very well.

### **Public Works Department**

Public Works Director Spurlock stated that regarding the Hallie Whealton Smith Drive Drainage Project he has to get one more piece of information to VMRC to receive the permit to begin installation of the floodgates.

There was discussion regarding looking into the drainage along Fowling Gut.

Mayor Tarr thanked Public Works Director Spurlock for handling this matter with the Army Corps of Engineers.

### **General Government**

Town Manager Ritter reported that the monthly report is included in the packet. He stated that EMS response for September was 87 which is 1 less than September of 2013, ALS response was 43, BLS 28 and all others were 16. He also reported that EMS is planning for the upcoming ANTARES launch scheduled for October 20<sup>th</sup> at 9:29 p.m. He stated that the Chincoteague National Wildlife Refuge will close because of the size of the launch. He stated that NASA will set up the big screen TV at the Robert N. Reed, Sr. Downtown Waterfront Park as they have in the past. He also mentioned the other viewing sites of Mariner's Point and the Chincoteague Museum.

Town Manager Ritter also advised of the POD exercises, one scheduled for October 15<sup>th</sup> at 10:00 a.m. He explained that the first one is for medical dispensing for staff. He added that the second one is for the public medical dispensing which will be at the Robert N. Reed, Sr. Downtown Waterfront Park on October 16<sup>th</sup>. He also reported that the Downtown Rehabilitation Project Phase 2C is almost completed. He stated that there is a kickoff for Phase 2D with the VDOT project coordinator. He added that there is a schedule in the packet. He also stated that Southern Software will be installed after the tax season. He advised that the newsletter will go out October 9<sup>th</sup>.

Mayor Tarr directed Town Manager Ritter to contact VDOT regarding the July schedule of work for Phase 2D. He stated that there shouldn't be any work during July in the downtown area.

Councilman Jester mentioned the wires in Phase 2B.

Public Works Director Spurlock explained the work to be done and reasons for the delay.

Councilman Ellis asked about the DMV stops and if it would eventually be used on all delinquencies.

Town Manager Ritter advised that it would.

## **AGENDA ADDITIONS/DELETIONS AND ADOPTION**

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

### **1. Consider Adoption of the Minutes**

- **Regular Council Meeting of September 2, 2014**

Councilman Leonard motioned, seconded by Councilman Taylor to approve the minutes of the September 2, 2014 regular Council meeting. Unanimously approved.

### **2. Public Hearing, Ordinance to Vacate Subdivision of Lot Lines on Pine Drive**

Mayor Tarr introduced Mr. Bob Turner, attorney for Mr. Stoney.

Mr. Turner advised that this is a straight forward application for Mr. & Mrs. Robert Stoney. He stated they acquired a parcel in 2 pieces and are asking that the lot lines be vacated so that the property will be slightly larger. He reviewed the plat. He explained that Mr. & Mrs. Stoney would like to build a house there.

Mayor Tarr opened the public hearing. There were no comments and Mayor Tarr closed the public hearing.

Vice Mayor Richardson asked Mr. Turner if there was an easement along this property that goes down toward the water.

Mr. Turner advised that there is no mention in the original plat. He added that he believes that Mr. Stoney has a right to go down to the ramp there. He feels there is plenty of room for anyone to access the water. He stated that they just want to use the small lot to meet their setback requirement.

Vice Mayor Richardson asked about the line down to the ramp.

Mr. Turner stated that it is further over, showed in the plat as an unimproved paved street well away from the 20' structure setback.

Town Attorney Poulson asked if it affected anyone.

Mr. Turner advised it does not.

There were brief comments.

Councilman Frese motioned, seconded by Councilman Leonard to approve the Ordinance to Vacate Subdivision of Lot Lines on Pine Drive at parcels 31-4-4B and 31A-4-16A for Mr. Robert J. Stoney. Unanimously approved.

Mr. Turner gave the Town a copy of the plat as it will be recorded.

**3. Consider approval of the Fall 2014 Paving contract 01-PAV-14**

Public Works Director Spurlock explained that this project will be funded from the Virginia Department of Transportation Urban Maintenance Program. He advised that the plan for sidewalks on Main Street from Maple to Grace Streets and the paving on Main Street from Cropper Street to Bunting Road.

Councilman Ellis asked if any other company put in a bid.

Public Works Director Spurlock advised that Branscome was the sole bidder and has done a wonderful job on the last contract.

There was further discussion regarding other paving companies, and the comparisons to the bids from last year.

Public Works Director Spurlock advised that they actually dropped slightly from last year. He commented further.

There were further questions and discussion regarding the drains during paving, the completion of the Main Street sidewalks and pricing of the gutters along the west side of main street.

Councilman Jester motioned, seconded by Councilman Ellis to approve the award of bid of the Fall 2014 Paving Contract 01-PAV-14 to Branscome Eastern Shore in the amount not to exceed \$445,604. Unanimously approved.

**4. Public Safety Committee Report of September 3, 2014**

Mayor Tarr asked for questions.

There was discussion and brief comments about the tide gage.

**5. Consider No Parking on One Side of the entire Length of Taylor Street**

Public Works Director Spurlock stated that Taylor Street is narrow. He added that the problem is when there is an event there is parking along both sides of Taylor Street which leaves little room for the vehicles to get through. He recommended that there should be no parking on the south side. He added that the water main is on the south side.

There were comments and suggestions.

Chief Lewis as a homeowner on Taylor Street advised that he has called the Police about the parking on both sides of the road not allowing vehicles to get through.

Vice Mayor Richardson agreed with Chief Lewis adding that it is hard to drive through in a school bus when there's another car coming or parked.

There was further discussion about the effect of the change and the possibly of no parking at all on Taylor Street.

Councilman Frese motioned, seconded by Councilman Ellis to approve no parking on the south side of the entire length of Taylor Street. Unanimously approved.

**6. Recreation & Community Enhancement Committee Report of September 9, 2014**

Councilman Jester reported that they met September 9<sup>th</sup> with the focus on the playground equipment. He stated that a representative from a playground company was in attendance. He also stated that Town Planner Neville came back with equipment ideas and pricing. He added that they are working on repairs to the equipment they have. He advised of a letter to Orbital Science about funding assistance for rocket themed equipment.

Councilman Jester expressed his appreciation to the Island Grocery Store for their fundraising efforts. He stated that they are making progress.

There was further discussion.

**7. Discuss the Gift of a Few Vehicles**

Mayor Tarr advised that the Town has been offered several vehicles to use during storm events, for EMS or police and to share with the Fire Department.

Chief Lewis explained that after Hurricane Sandy they attempted to get some Humvee vehicles to use during storms. He stated that the Department of Defense had 6 of them. He added that these 3 were the best with low mileage and in good shape. He stated that Loudoun County currently has them.

There was brief discussion and comments.

Councilman Taylor motioned, seconded by Councilman Frese to approve the receipt of the 3 vehicles being donated by the Department of Defense. Unanimously approved.

**8. Mayor & Council Announcements or Comments**

Councilman Frese stated he would like to see the Town consider doing something about the pine bark beetles and burning them at the spoil site.

Mayor Tarr advised that staff will bring back more information along with the pros and cons.

Council discussed this further.

Councilman Taylor thanked the veterans for their service. He asked Council to pray for them, especially those going through boot camp. He talked about the working watermen on the Island. He discussed the cost of subleasing for those Chincoteague working watermen just starting out. He suggested giving them the same lease rate while they're on the list and waiting.

Councilman Ellis asked about town decals on the low speed vehicles.

Mayor Tarr stated that they have been reviewing this for some time now.

Councilman Leonard reminded the public of Homecoming plans on the 17<sup>th</sup> at the high school. He also reported that the football team has been doing very well and asked for community support.

Public Works Director Spurlock advised that at the end of the week the routine mosquito spraying will stop for the season.

Councilman Jester stated that the Chincoteague Museum will have a WWII exhibit.

Councilman Taylor stated that he is sorry to see the letter from Town Attorney Poulson regarding his retirement. He also thanked him for all he has done for the town.

**9. Closed Meeting in Accordance with Session 2.2-3711(A)(1) of the Code of Virginia**

**• Legal Matters**

Councilman Leonard moved, seconded by Councilman Frese to convene a closed meeting under Section 2.2-3711(A)(1) of the Code of Virginia to discuss legal and personnel matters.

Unanimously approved.

Vice Mayor Richardson moved, seconded by Councilman Frese to reconvene in regular session. Unanimously approved.

Councilman Frese moved, seconded by Councilman Taylor 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- Leonard, Ellis, Jester, Frese, Richardson, Taylor

Nays- None

Absent- None

**Adjourn**

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

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Mayor

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Town Manager

**MINUTES OF THE OCTOBER 16, 2014**  
**CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

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

**CALL TO ORDER**

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

**INVOCATION**

Councilman Taylor offered the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Tarr led in the Pledge of Allegiance.

**OPEN FORUM/PUBLIC PARTICIPATION**

Mayor Tarr opened the floor for public participation.

There was none.

**AGENDA ADDITIONS/DELETIONS AND ADOPTION**

Councilman Leonard motioned, seconded by Councilman Jester to adopt the agenda as presented. Unanimously approved.

**1. Presentation of NFWF Coastal Resilience Grant Project**

Mayor Tarr introduced Ms. Jill Bieri with the Nature Conservancy.

Ms. Bieri stated that she is the Director for the Virginia Coastal Reserve of the Nature Conservancy. She explained what the Virginia Coastal Reserve is and what they do. She then explained the Resiliency Grant Project. She stated that they look at education and outreach programs. She would like to get more people out so they could engage with the community. She explained all of the studies they would conduct and resources along with the opportunity for long-term studies of undeveloped barrier islands without human impact.

Ms. Bieri continued reviewing the slide show discussing NASA and the infrastructure on Wallops Island, the National Wildlife Refuge. She mentioned the Eastern Shore's aquaculture farms. She stated that they have formed a Climate Adaptation Working Group to prepare for the changes. She also discussed the Nature Conservancy's work in New England using nature based solutions for storm protection. She added that preparing for the storm surge is their priority. She

reviewed their goals and a diagram that shows they want to help to add resources and green communities on the Eastern Shore.

Ms. Bieri stated that the Climate Adaptation Working Group has been around since 2008, and the Coastal Resiliency Project on the Eastern Shore has been awarded on the Eastern Shore in the amount of \$1.76 million from round two Hurricane Sandy funds. She further explained that they have been awarded \$1.46 million and are raising \$300,000 locally for a 2 year project. She mentioned the partners in the project. She added that the National Park Service and the Army Corps of Engineers are not partners. She explained the project goals of the study to create a coastal resilience tool and recommended solutions.

Ms. Bieri advised of a workshop scheduled for November. She stated that there is a mapping tool online which shows the populated data for the Coastal Resilience Project and they are modifying it to suit the Eastern Shore. She also stated that they want to build oyster reefs and study how they will protect the shorelines. She added that they are still getting information from communities to see what their needs are.

There were questions and brief discussions.

Ms. Bieri invited the Town Council to her office headquarters in Brownsville. She stated that a lot of their properties have been closed to the public in the past. She also stated that they don't want to open the floodgates but they would like to increase access to the general public. She added that if they want to protect areas they need to have people using them and appreciating them.

There were further comments. They discussed details and the possibility of attendees to the upcoming workshop, as well as a possible field trip to Mariner's Point to view the Inlet.

- 2. Discuss FEMA Floodplain Management Program**
  - a) Status of Coastal flood Study/Flood Insurance Rate Maps**
  - b) Status of Community Assistance Visit**
  - c) Status of Community Rating System Re-Certification**

Town Planner Neville stated that they need to review the schedule for the next couple of months. He stated that the timing is good for considering coastal resiliency with the Nature Conservancy because of the upcoming adoption of the new FEMA flood maps. He advised of his recent required training as a Flood Plain Manager. He added that this will help in the discounted Flood Insurance Program. He reviewed changes in the community flood maps over the history of the flood insurance program. He explained that FEMA is hoping that increasing the regulations administer will continue to reduce risk and possible flood damage.

Town Planner Neville stated that over the summer FEMA has completed the draft flood maps. He also stated that he has contacted FEMA, no one has appealed the map and now Council is obliged to hold a public hearing for adoption. He added that the Flood Plain Ordinance has to be readopted also. He feels that it is important that they have a work session to see whether or not they need to adopt any different standards. He feels that other communities are being encouraged to adopt freeboard standards which exceed the minimum required. He explained that most of the Island has been under the 7-8 feet base flood elevation and are now dropping to 3-4

feet. Town Planner Neville asked how the Town wants to manage the areas taken out of the flood plain. He stated that there will be 2 categories of building permits for the Building and Zoning Department to administer. He asked Council about having a workshop to review the Flood Ordinance so they can prepare to adopt the new Flood Plain Maps with the updated Flood Ordinance. He also explained the “V” zone and the increased building standards for that area.

There were further comments, questions and suggestions. Council agreed to discuss this further at a workshop.

Mayor Tarr advised of a grant called the Sandy Transportation Grant to study of the flooding of roads. He stated that they are developing a model based on what flooded before. He added that it’s mainly for VDOT to look at all the roads.

Town Planner Neville stated that for Chincoteague, the models have to start at the low water mark rather than starting at the worst case higher high tide mark. He advised that this is to see, over time as the tide comes in, what areas need to be protected or evacuated first, recognizing that each storm is different.

**3. Review of Chincoteague Veterans Memorial Park Playground**  
**a) Selection of Equipment (2 to 5 year age group)**

Town Manager Ritter advised that Chief Lewis donated \$15,000 from the Ride for Kids money for playground equipment. He also reported that the Committee for the playground equipment fund gave a \$15,000 match. He advised that the total cost for the project is just over \$20,000. He stated that Chief Lewis requested a plaque that recognizes the donation from the Chincoteague Police Department.

Town Planner Neville advised of the Playground Committee meeting with a representative from a playground equipment company. He explained the quote with the fall sale and matching grant from the supplier. He described the structures and the modifications to go along with the rocket theme.

Town Manager Ritter gave details of where it was to be placed and which piece of equipment it would be replacing.

Councilman Jester explained the plans to protect the equipment and fencing for the toddler area.

Town Planner Neville stated that with the approval and order they can deliver it within 2-3 weeks, helping the Public Works staff with the installation.

Councilman Jester suggested a sign reflecting the donations from all who gave for the purchase of the playground equipment.

Councilman Taylor motioned, seconded by Councilman Frese to approve the purchase of the proposed playground equipment from Play and Park Structures in the amount not to exceed \$25,000 for the Chincoteague Veterans Memorial Park Playground. Unanimously approved.

#### **4. Resolution(s) Regarding MAP-21 Transportation Alternatives Grant Application(s)**

Town Manager Ritter advised that they received a grant for the Safe Routes for Schools in the amount of \$205,840 and the engineering consultant used \$80,695 for design and construction documents. He advised that the engineers have come up with a new cost estimate of \$500,953.

Town Planner Neville clarified that this estimate is based on their 15% complete design plan and now they are about 90% complete. He added that the Town has the opportunity to find ways to reduce costs.

Town Manager Ritter stated that because November 1<sup>st</sup> is the deadline for requesting new MAP-21 funds they should discuss this. He stated that they are hoping for approval to complete the grant application for the additional construction funding needed and to endorse the 20% match.

Mayor Tarr asked about the increase in engineering costs and the reduction of the construction estimate.

Town Planner Neville explained the changes. He discussed the lighting requirements and suggestions in the reduction of the cost estimates.

There were brief comments.

Town Planner Neville stated that when VDOT gave the grant award they didn't award for the full connection from the high school to the elementary school. He added that they only gave enough money to build on the school property. He stated that this application is asking for the missing piece across Town property during the new grant cycle.

Suggestions and comments were made regarding in-kind services, lighting costs and contact with ANEC.

Town Manager Ritter stated that there won't be enough with the \$125,000 they will have left to construct the entire trail connection between the schools.

Mayor Tarr feels they should see the project through. He is not satisfied that it went up substantially in cost. He asked for Council's opinion if they want to apply for the grant.

Town Manager Ritter stated that they will need the resolution when the Town applies for the grant.

Councilman Taylor motioned, seconded by Councilman Leonard to adopt the Resolution regarding MAP-21 Transportation Alternatives Grant Application for the Safe Routes to School infrastructure. Unanimously approved.

Mayor Tarr asked if the Town has reviewed the drawings.

Town Planner Neville advised that they have. He explained the design and proposed changes.

Mayor Tarr stated that the asphalt path would be 8 to 10' wide by 3,000 feet.



**Resolution Authorizing the Application for  
MAP-21 / Transportation Alternatives Project  
FY 2016 Safe Routes to School Infrastructure**

**Whereas**, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation to establish a Transportation Alternatives project in the Town of Chincoteague.

**Now**, Therefore, Be It Resolved, that the Town of Chincoteague, Inc., requests the Commonwealth Transportation Board to establish a project for the phased improvement of Chincoteague Safe Routes to School Trail.

**Be It Further Resolved**, that the Town of Chincoteague, Inc. hereby agrees to provide a minimum 20 percent matching contribution for this project phase.

**Be It Further Resolved**, that the Town of Chincoteague, Inc. hereby agrees to enter into a project administration agreement with the Virginia Department of Transportation and provide the necessary oversight to ensure the project is developed in accordance with all state and federal requirements for design, right of way acquisition, and construction of a federally funded transportation project.

**Be It Further Resolved**, that the Town of Chincoteague, Inc. will be responsible for maintenance and operating costs of any facility constructed with Transportation Alternatives Program funds unless other arrangements have been made with the Department.

**Be It Further Resolved**, that if the Town of Chincoteague, Inc. subsequently elects to cancel this project the Town of Chincoteague, Inc. hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation. The Town of Chincoteague, Inc. also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, Town of Chincoteague, Virginia

By: \_\_\_\_\_  
Robert G. Ritter, Jr., Town Manager

**5. Mayor & Council Announcements or Comments**

Town Manager Ritter stated that Chief Lewis is requesting to apply for a grant from the USDA for 5 police vehicle cameras. He stated that the cost estimate would be just under \$40,000. He added that with grant approval the Town would purchase the equipment including installation and then request reimbursement from USDA Rural Development for up to \$25,000.

Town Planner Neville advised that there isn't a due date for the proposals. He stated that initially, a year ago, the Town would have qualified for 75% funding and now it's down to 55%. He added that this doesn't need to be decided this evening but would be getting in line for Council's budget discussions.

Council agrees that the cameras should be replaced and requested to put this matter on the agenda during the budget preparations.

Councilman Leonard reminded everyone of the Chincoteague High School Homecoming festivities tomorrow night.

**Adjourn**

Councilman Leonard motioned, seconded by Councilman Jester to adjourn. Unanimously approved.

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Mayor

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Town Manager



# A-NPDC

## ACCOMACK-NORTHAMPTON PLANNING DISTRICT COMMISSION

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### MEMORANDUM

TO: Mayor Jack Tarr  
Council

FROM: Kat Edwards  
Director of Housing Services  
Accomack-Northampton Planning District Commission

SUBJECT: Phase 2D Streetscape Schedule

DATE: October 30, 2014

After a recent scoping meeting with VDOT, Bowman Consulting submitted a project schedule to VDOT which proposed review of 90% plans by VDOT to be complete by late November and receiving authorization to advertise by late December for spring construction as we had for the last phase.

VDOT staff responded that there were additional steps that needed to be completed by VDOT and Town and that the timeframe was not realistic. VDOT provided, upon request, a “best case scenario” schedule that more accurately represented the time needed on their part and for Town response questions or issues at any step. This schedule estimated VDOT’s authorization to award to be April 1, 2015 with a construction start of June 1, 2015. This schedule would be disruptive to the summer season and is therefore, not feasible.

Project staff would like to propose the attached schedule which will result in a summer bid and construction start in the fall. While this delay is disappointing, it is the most reasonable. I will be happy to answer any questions Council may have and I hope that Council will be able to approve this schedule for submission to VDOT so that the process can begin.



Consultant Selection/Contracts Approval by VDOT ..... October - December, 2013  
 Preliminary Engineering/ Survey of Phase 2D ..... December, 2013 - January 2014  
 Stakeholder Meetings..... February, 2014 = April, 2014  
 Deliver 50% Construction Plans to Stakeholders ..... May, 2014  
 VDOT Scoping Meeting ..... September 29, 2014  
 Project Setup.....11/5/2014  
 (project must be added to the TIP)  
 Complete Project Setup/Setup Task Order for reviews... ..12/5/2014  
 (project must be in system and task orders established for VDOT to review project)  
 Locality submits 90% plans, spec, estimate for review.....12/5/2014  
 VDOT provides 90% comments to locality.....1/9/2014  
 (locality will receive DBE goal, bid comments, environmental, and plan review  
 comments)  
 Locality submits revised plans for VDOT review.....2/1/2015  
 VDOT provides comment on Final review.....2/15/2015  
 (assuming no additional review is needed)  
 Locality submits final package.....3/1/2015  
 (Right-of-Way Certification, clear Environmental, etc)  
 VDOT provides CN authorization to advertise.....4/10/2015  
 (LAP manual states **30 business days** for authorization, may be less)  
 Locality Advertises project for 21 days.....5/15/2015  
 (assumes no addendums to bid document, includes pre-bid conference etc.)  
 Locality submits request to award.....6/15/2015  
 (includes time for locality and VDOT review, assumes no issue with DBE or low bidder)  
 VDOT provides concurrence to award.....7/1/2015  
 Town awards contract.....7/10/15  
 Pre-construction Conference held.....8/3/15  
 Notice to Proceed issued.....8/14/15  
 Construction starts.....9/15/15

**MINUTES OF THE OCTOBER 2, 2014  
HARBOR COMMITTEE**

**Members Present:**

J. Arthur Leonard, Chairman  
Ernie Bowden  
Mike Handforth  
John N. Jester, Councilman

**Others Present:**

Robert Ritter, Town Manager  
Wayne Merritt, Harbormaster

**Call to Order**

Chairman J. Arthur Leonard called the meeting to order at 5:00 p.m.

**Open Forum/Public Participation**

Mr. Chip Lewis questioned the sublease rates of the working watermen. He would like the county working watermen to have the same rates as those who have leases. He stated that several folks on the list are deceased.

Mr. Wayne Merritt stated when a slip becomes available he goes to the priority list and starts making phone calls to see if the person is still interested in a slip.

Councilman Frese stated that priorities should be given to Veterans. He also believes they should be charged at the same rate that a slip holder is per day.

Mr. Gerry Ryan, Secretary/Treasurer of the Charter Boat Association, stated the current procedures of the Harbor are working well and that the Harbormaster is doing a good job at maintaining the Harbor. He asked Harbormaster Merritt to go over the rates for the working watermen. Mr. Merritt explained the rates.

Harbormaster Merritt explained the different rates for the harbors located in the area.

Mr. Chip Lewis stated the rates for Greenbackville and Saxis. Harbormaster Merritt asked if the rates were cheaper for working watermen. Mr. Lewis replied that they were not cheaper.

Councilman Frese stated that when the Harbor was beginning that people that made their living on the water were asked to commit to a slip. The number of folks interested in the Harbor made it possible to receive grant money to help fund the Harbor.

Mr. Ernie Bowden stated he has been on this committee for a long time and there have been several changes making the requirements for a slip easier now than then.

Mr. Kenny Wayne Rhodes stated that when the Harbor was getting started that the few people that were in the Harbor went around asking for others to commit to a slip so the Harbor could get where it is today.

Mr. Charles Koski stated the Harbor is one of the most visited places on the Island.

**Agenda Adoption**

Mr. Ernie Bowden motioned, seconded by Mike Handforth to adopt the agenda as presented. Unanimously approved.

**1. Harbormasters Update**

**A. Summer Overview**

Harbormaster Merritt stated this summer was good compared to previous summers.

**B. Fuel System**

The fuel system seems to be working well.

**C. Ice Machine**

There are still some problems and it seems to break down on the busiest weekends.

**D. Water Entrance to the Harbor**

The contractor doing dredging for NASA has helped keep the entrance open.

**E. Winter Storage**

The winter storage process has begun.

Councilman Jester asked about the electric issues. Harbormaster Merritt stated that he has been made aware that the Eastside Ramp has no light at the boat ramp. An underground bore price has been acquired and the project is being looked into.

Also, more electric boxes at slips at the Harbor were discussed.

**2. Discuss Town Code on priority list for mooring permit**

Harbormaster Merritt and the committee discussed the current priority list.

Mr. Ernie Bowden stated the priority list has worked for several years and he doesn't see a reason for change.

Mr. Mike Handforth, seconded by Councilman Jester to leave the current priority list as is.

**3. Discuss fee schedule for transient working watermen per day**

Harbormaster Merritt discussed the fee schedule.

Mr. Mike Handforth motioned, seconded by Mr. Ernie Bowden to maintain the current fee schedule.

**4. Discuss Revenue and Expenditures**

Harbormaster Merritt stated the money that is taken in from the Harbor stays in the Harbor.

**5. Committee member comments**

Mr. Ernie Bowden would like some more of the sublease money to be put in the long term savings of the Harbor.

The Army Corps of Engineers did a survey concerning the sand transport and we are waiting to see those results in reference to a sea wall.

Mr. Mike Handforth would like to see the possibility of some preferences given to Veterans.

Chairman Leonard stated in reference to the priority list that the Island working watermen and the Island District should stick together as the County seems to get a lot from the Town of Chincoteague.

**Adjourn:**

Councilman Jester motioned, seconded by Mike Handforth to adjourn the meeting.

MINUTES OF THE OCTOBER 14, 2014  
CHINCOTEAGUE BUDGET AND PERSONNEL COMMITTEE MEETING

MEMBERS PRESENT

John H. Tarr, Chairman  
Ben G. Ellis  
Gene Wayne Taylor

1. Call to Order.  
Mayor Tarr called the meeting to order at 5:05 p.m.
2. Public Participation.  
There were no comments made.
3. Adoption of Agenda.  
Councilman Taylor motioned, seconded by Councilman Ellis to adopt the agenda as presented. The motion was unanimously approved.
4. Draft Pony Express “Zero Tolerance” Drug and Alcohol Testing Policy.  
Mr. Larry Welsh, Transportation Director, presented an updated plan for the Committee’s review. Mr. Welsh explained the differences between the new policy and the old policy. The new policy is consistent with State and Federal policies for transit programs. The policy addresses in more detail issues surrounding the use of prescription drugs.  
  
Councilman Taylor made a motion and Councilman Ellis seconded the motion to recommend the new drug and alcohol policy for the Pony Express program to the Town Council for adoption. This will not change the Town’s policy as addressed in the Employee Handbook. The motion was unanimously approved.
5. Draft Fiscal Forecast for FY’ 15 to FY’ 19.  
Town Manager Ritter presented a draft five-year forecast for revenue and expenditures. Committee members reviewed and discussed the draft forecast. The Committee stated they would like to see actual amounts for FY’ 13, FY’ 14 and FY’ 15.
6. Revenue and Expenditure Report.  
The Committee reviewed and discussed the current Revenue and Expenditure Report.
7. Balance Sheet.  
The Committee reviewed and discussed the current Balance Sheet. Finance Director Hipple also informed the Committee of the certificate of deposits recently purchased. 1. General Fund - \$300,000.00 CD for 40 months at 1.65%. 2. Water Fund - \$200,000 CD for 40 months at 1.65%. 3. Harbor Fund - \$50,000.00 CD for 40 months at 1.65%. The penalty is on-half the interest that would have been earned. Since the Town is receiving .5% interest, the penalty for early withdrawal would be within reason.
8. Adjournment.  
Councilman Taylor moved, seconded by Councilman Ellis to adjourn the meeting at 6:35 p.m. The motion was unanimously approved.

**THE TOWN OF CHINCOTEAGUE PONY EXPRESS  
ZERO TOLERANCE  
DRUG AND ALCOHOL TESTING POLICY  
Adopted as of \_\_\_\_\_**

**A. PURPOSE**

- 1) The Pony Express Trolley Service for the Town of Chincoteague provides public transit and paratransit services for the residents of Chincoteague Island. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, The Pony Express for the Town of Chincoteague declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees under the responsibility of the Director of Public Transportation.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, as mentioned above and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of the Pony Express for the Town of Chincoteague and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of Town of Chincoteague will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

**B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full-or part-time) when performing safety sensitive duties The Pony Express\_Trolley Service for the Town of Chincoteague. All safety-sensitive employees are subject to drug and alcohol testing in accordance with CFR49, Part 40 as a condition of their employment. The Pony Express Trolley Service for the Town of Chincoteague employees that do not perform safety-sensitive functions are also covered under this policy under the sole authority of the Transportation Director for the Town of Chincoteague. See Attachment A for a list of employees and the authority under which they are included.

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A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles, and any transit employee who operates a vehicle that requires a Commercial Drivers License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions.

### **C. DEFINITIONS**

*Accident:* An occurrence associated with the operation of a revenue service vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

*Adulterated specimen:* A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

*Aliquot:* A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected. A canceled test is neither positive nor negative.

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*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FTA Authority:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

*Covered Employee Under Company Authority:* An employee, applicant, or transferee that will not perform a safety-sensitive function as defined by FTA but is included under the company's own authority. (See Attachment A).

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*Department of Transportation (DOT):* For the purposes of Drug and Alcohol regulatory oversight, DOT is the department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Director of Public Transportation:* The individual in charge of testing for the safety Sensitive positions.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors, or windshield wipers that makes them inoperative.

*Evidentiary Breath Testing Device (EBT):* A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

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*Initial Drug Test: (Screening Drug Test)* the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

*Limit of Detection (LOD):* The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

*Limit of Quantitation:* For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

*Medical Review Officer (MRO):* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

*Negative result:* The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

*Non-negative test result:* A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

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*Positive result:* The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

*Prohibited drug:* Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

*Rejected for Testing:* The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

*Revenue Service Vehicles:* All transit vehicles that are used for passenger transportation service.

*Safety-sensitive functions:* Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle

*Pony Express:* When referring to the "Pony Express", it means the name of the trolley service provided by the Town of Chincoteague.

*Split Specimen Collection:* A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse(ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen:* A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

*Test Refusal:* It is considered a refusal to test if the employee:

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- (1) Fails to appear for any test (excluding a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- (2) Fails to remain at the testing site until the testing process is complete
- (3) Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- (5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- (6) Fails or declines to take a second test the employer or collector has directed
- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- (9) Submits a specimen that has been verified as adulterated or substituted by the MRO
- (10) Fails or refuses to sign Step 2 of the alcohol testing form
- (11) Fails to follow the observer's instructions during an observed collection including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is a prosthetic or other device that could be used to interfere with the collection process.
- (12) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- (13) Admits to the collector or MRO that s/he adulterated or substituted the specimen.

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Employees covered under company authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any

substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to Pony Express for the Town of Chincoteague supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

- c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under the Pony Express for the Town of Chincoteague authority, a non-DOT alcohol test can be performed any time an a covered employee is on duty.

## **F. PROHIBITED CONDUCT**

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) The Pony Express for the Town of Chincoteague under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.

- 8) Consistent with the Drug-free Workplace Act of 1988, all the Pony Express for the Town of Chincoteague employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Pony Express for the Town of Chincoteague management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

#### **H. TESTING REQUIREMENTS**

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted as set forth in 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up. All employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow-up using non-DOT testing forms.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion or random alcohol test can only be performed just before, during, or just after the performance of a safety-sensitive job function. Under the Pony Express for the Town of Chincoteague authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to urine drug testing and breathe alcohol testing as a condition of ongoing employment with the Pony Express for the Town of Chincoteague. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

#### **I. DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

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- 2) The drugs that will be tested for include marijuana, cocaine, opiates (including heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substituted, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found the Pony Express for the Town of Chincoteague, the test will be verified positive or refusal to test and reported to the Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.
- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a different HHS-certified laboratory than the one that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The Pony Express for the Town of Chincoteague will ensure that the cost for the split specimen are covered in

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order for a timely analysis of the sample, however The Pony Express for the Town of Chincoteague will seek reimbursement for the split sample test from the employee if the result of the split specimen analysis confirms the result of the primary specimen analysis.

- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct the Pony Express for the Town of Chincoteague to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.
- 8) Observed collections
  - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
    - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the Pony Express for the Town of Chincoteague that there was not an adequate medical explanation for the result;
    - ii. The MRO reports to the Pony Express for the Town of Chincoteague that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
    - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1));
    - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

- v. The temperature on the original specimen was out of range;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- vii. The test is a follow-up-test; or
- viii. The test is a return-to-duty test.

## **J. ALCOHOL TESTING PROCEDURES**

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee's privacy and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or until the start of the employee's next scheduled shift and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) The Pony Express for the Town of Chincoteague affirms the need to protect *individual dignity, privacy, and confidentiality throughout the testing process*. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

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- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

#### **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
  - b. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - c. An employee shall not be placed, transferred or promoted into a position covered under FTA authority until the employee takes a drug test with verified negative results.
  - d. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - e. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
  - f. If a pre-employment test is canceled, the Pony Express for the Town of Chincoteague will require the applicant to take and pass another pre-employment drug test.
  - g. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and is removed from the random testing pool during that time, the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to resuming safety-sensitive job functions.
  - h. Following a negative dilute test result, the employee will be required to undergo another test. Should this second test result in a negative

dilute result, the test will be considered a negative and no additional testing will be required unless directed by the MRO.

- i. Applicants are required (even if ultimately not hired) to provide the Pony Express for the Town of Chincoteague with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. The Pony Express for the Town of Chincoteague is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide the Pony Express for the Town of Chincoteague proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All the Pony Express for the Town of Chincoteague FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under the Pony Express for the Town of Chincoteague authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty. All employees covered under the sole authority of the Pony Express for the Town of Chincoteague will also be subject to non-USDOT reasonable suspicion testing procedures modeled on the provisions in 49 CFR Part 40.
- 2) The Pony Express for the Town of Chincoteague shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this

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policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Pony Express for the Town of Chincoteague
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. The Pony Express for the Town of Chincoteague shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the Pony Express for the Town of Chincoteague]. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

#### **M. POST-ACCIDENT TESTING**

- 1) FATAL ACCIDENTS - All covered employees will be required to undergo urine and breathe testing if they are involved in an accident with a transit vehicle that results in a fatality, regardless of whether or not the vehicle is in revenue service. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the operator will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.
  - a. As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

- b. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours after the accident for alcohol, and no longer than 32 hours after the accident for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- c. Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.
- d. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- e. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- f. In the rare event that the Pony Express for the Town of Chincoteague is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), The Pony Express for the Town of Chincoteague may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

#### **N. RANDOM TESTING**

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees covered under company authority will be selected from a pool of non-DOT-covered employees.

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- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty-five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under the Pony Express for the Town of Chincoteague authority.
- 6) Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under the Pony Express for the Town of Chincoteague's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

The Pony Express for the Town of Chincoteague will terminate the employment of any employee who tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated as a result of a court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to resuming safety-sensitive functions.

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must be evaluated by a Substance Abuse Professional (SAP). Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend a return-to-duty test only when

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the employee has successfully completed the treatment requirements and is known to be drug and alcohol-free and there are no undue concerns for public safety.

The employee's return-to-duty test must be negative for drugs, alcohol (below 0.02 for alcohol), or both before the employee may resume safety-sensitive duties. For an initial positive drug test a return-to-duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a return-to-duty alcohol test is required and a drug test is allowed.

#### **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed during the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP, reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled on the process described in 49 CFR Part 40. However, non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) do not constitute a violation of the Federal regulations, will be conducted solely under company authority, and will be performed using non-DOT testing forms.

#### **Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute test result, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:
  - a. Failure to appear for any test (excluding a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer

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- b. Failure to remain at the testing site until the testing process is complete
  - c. Failure to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
  - d. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the provision of a specimen
  - e. Failure to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
  - f. Failure to take a second test the employer or collector has directed
  - g. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
  - h. Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
  - i. Submission of a specimen that is verified as adulterated or substituted by the MRO
  - j. Failure or refusal to sign Step 2 of the alcohol testing form
  - k. Failure to follow the observer's instructions during an observed collection including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is a prosthetic or other device that could be used to interfere with the collection process.
  - l. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process
  - m. Admission to the collector or MRO that the employee adulterated or substituted the specimen.
- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for at least eight hours or until the start of the employee's next scheduled shift. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from the Pony Express for the Town of Chincoteague employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the

employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q.5 of this policy is under the sole authority of the Pony Express for the Town of Chincoteague and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
- d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.**
- e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
- f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with the Pony Express for the Town of Chincoteague.
- g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

## **R. GRIEVANCE AND APPEAL**

The consequences specified by Section 40.149(c) for a positive test or test refusal are not subject to arbitration.

## **S. PROPER APPLICATION OF THE POLICY**

The Pony Express for the Town of Chincoteague is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

## **T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the Pony Express for the Town of Chincoteague Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without the written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the Pony Express for the Town of Chincoteague or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken

11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

12) This Policy was adopted by Town Council for the Pony Express a Public Transportation division of the Town of Chincoteague on this \_\_\_\_\_ day of \_\_\_\_\_, 2014

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*(Town Manger Signature)*

**Attachment A**

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
<b>Director of Transportation</b>	<b>Program Oversight &amp; Supervision</b>	
<b>Part-Time Trolley Drivers/Dispatchers</b>	<b>Over the Road Operation</b>	
<b>Public Works Mechanics</b>	<b>Vehicle Maintenance and Repair</b>	

## Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

### Pony Express for the Town of Chincoteague Drug and Alcohol Program Manager

Name: Larry M. Welsh  
Title: Director of Transportation  
Address: 6150 Community Drive  
Chincoteague Island, VA. 23336  
Telephone Number: 757-336-6716  
FAX Number: 757-336-1965

### Medical Review Officer

Name: Robert Ritter  
Title: Town Manager  
Address: 6150 Community Drive  
Chincoteague Island, VA. 23336  
Telephone Number: 757-336-6716  
FAX Number: 757-336-1965

### Substance Abuse Professional

Name: Dr. Glen Wolff  
Title: Physician  
Address: 6295 Teal Lane  
Chincoteague Island, VA. 23336  
Telephone Number: 757-336-2200

### HHS Certified Laboratory Primary Specimen

Name: Eastern Shore Rural Health System, Inc.  
Address: 4049 Main Street  
Chincoteague Island, VA. 23336  
Phone: 757-336-7313

**MINUTES OF THE OCTOBER 28, 2014  
TOWN OF CHINCOTEAGUE  
CEMETERY COMMITTEE**

**Members Present**

Ellen Richardson, Chairwoman  
Ben Ellis, Councilman  
Gary Turnquist (absent)  
Amanda Betts (absent)  
Ken Webb

**Others Present**

Robert Ritter, Jr., Town Manager

**Call to Order**

Chairwoman Richardson called the meeting to order at 6:00 p.m.

**Roll Call**

Three committee members were present.

**Open Forum/Public Participation**

There was no public participation.

**Agenda Adoption**

Councilman Ben Ellis motioned, seconded by Mr. Gary Turnquist to adopt the agenda. Unanimously approved.

**1. Schedule Fall Clean-Up**

The committee determined that November 9th through November 15th will be Clean-Up week. The clean up day will be on November 15<sup>th</sup>.

**a. Review proclamation**

All present agreed to take the Proclamation to Council for their approval.

**b. Select cemetery project**

The Coast Guard has offered to help maintain Mechanics Cemetery as a community service project.

The committee agreed to spend the day at Jones Cemetery on November 15<sup>th</sup> from 9:00 am to Noon.

**2. Discuss Cemetery Maintenance and Fund Raising**

Town Manager Ritter asked if there were any cemeteries that needed to be contracted out to be maintained. It was suggested to obtain a quote for fixing a damaged vault top.

**a. Report on revenue and expenditures**

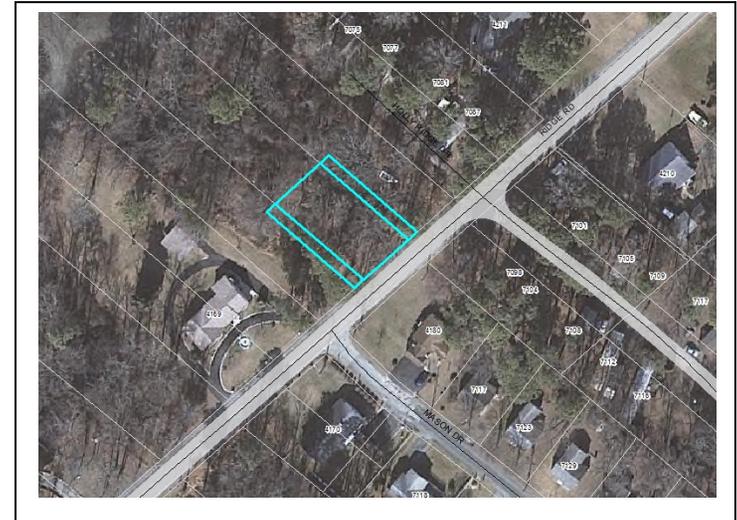
Chairwoman Richardson reported there is \$4,545.00 in the cemetery fund.

**3. Committee Member Comments**

None

**ADJOURN:**

Councilman Ellis motioned, seconded by Mr. Webb to adjourn the meeting.





Chincoteague Cemetery Plan

**Jones**

Tax Parcel 30A4-10-3A/ Ridge Road

- 0.22 Acres
- Community
- 9 Buried
- 5 Unmarked
- 1881



## PROCLAMATION

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

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

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

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

**NOW, THEREFORE**, I, Mayor John H. Tarr do hereby proclaim the week of November 9<sup>TH</sup> through 15<sup>TH</sup>, 2014, as Cemetery Cleanup Week within the Town of Chincoteague and call upon our citizens to volunteer to organize and assist in the cleanup of our Island cemeteries.

**DATED** this 3<sup>rd</sup> day of November, 2014.

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John H. Tarr, Mayor

ATTEST:

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Robert G. Ritter Jr., Town Manager



## STAFF REPORT

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To: Mayor Tarr and Town Council

Through: Robert Ritter, Town Manager

From: William Neville, Director of Planning

Date: October 16, 2014

Subject: USDA Community Facilities Grant  
Police Vehicle Camera Equipment

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### **1. Project Description/Proposed Facility**

The Town of Chincoteague Police Department proposes to apply for a Community Facilities Grant to purchase needed camera equipment for 5 vehicles along with the support server and software for wireless transfer of data. Our current equipment is now 10 years old and we are having trouble with making needed repairs. The total estimate for equipment, software and installation is just under \$40,000. With grant approval, the Town will obtain competitive sales quotations, procure the needed equipment and installation support through qualified suppliers and request reimbursement from USDA Rural Development for up to \$25,000.

### **2. USDA Rural Development Grant**

The Town of Chincoteague successfully applied for, received and administered previous grants under the Essential Community Facilities grant program that allowed for the purchase of a 4 wheel drive police vehicle, and vehicle laptop computers to support the unique public safety needs of the community. This program is available again this year with an application cycle beginning October 1<sup>st</sup>.

USDA uses the 2010 Census information for the Town to determine the percentage of grant funding. In previous years, the Town was 75% eligible on the last grant we did (which was based on the 2000 Census). The Town's median household income increased from \$28,514 to \$33,109 according to the Census. That increase in income decreases the Town's grant eligibility to 55%. (Just a side note: USDA did not actually start using the 2010 Census until sometime in 2013). Since the USDA fiscal year just began on October 1<sup>st</sup>, it will likely be after the first of the year before funding is received for new applications.

Staff requests authorization to proceed with the grant application.