

MINUTES OF THE SEPTEMBER 18, 2008
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
Nancy B. Conklin, Councilwoman
James Frese, Councilman
Terry Howard, Councilman
John H. Howard, Councilman
John N. Jester, Vice-Mayor

Council Members Absent:

Ellen W. Richardson, Councilwoman

Call to Order

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

Invocation

Councilman J. Howard offered the invocation.

Pledge of Allegiance

Mayor Tarr led the Pledge of Allegiance.

Presentations

- Mayor Tarr read and presented the following Certificate of Special Recognition:
Whereas, congratulations and citations are in order for **Mr. Zac Jester, Mr. Troy Libertino** and **Mr. Josh Williams** for heroically saving the life of Mr. Steve Muhic on Monday, September 8, 2008 while surfing off Assateague Island; and
Whereas, a catastrophe was avoided because of the skillful and quick response to Mr. Muhic as he had been knocked unconscious by his surfboard and was seconds from drowning; and
Whereas, this courageous action in averting what could have been a tragic loss to family, friends, and community was a act of heroism which deserves special recognition by the Town Council of the Town of Chincoteague;
Now, Therefore, I, John H. Tarr, Mayor, the Members of the Town Council and the citizens of Chincoteague, hereby extend to **Mr. Zach Jester, Mr. Troy Libertino** and **Mr. Josh Williams** our sincere appreciation for their heroic action.

- Mayor Tarr presented a check in an amount of \$5,000.00 to North Accomack Little League (NALL) for the new ball fields that are planned to be constructed behind the Community Center.

Open Forum/Public Participation.

- **Mr. James White** of 3891 Main Street stated that young children should be required to wear helmets while operating motorized scooters. Mr. White cited a Massachusetts law requiring children under age 17 to wear helmets while operating motor scooters.
- **Mr. Bill Larson** of 6163 Marsh Island Drive said the current parking ordinance reduces available parking for Town residents.
- **Mr. Dean Orsino** of 4211 Main Street stated concerns with the noise of mopeds. He said that a noise ordinance should be incorporated within a scooter policy, when and if that is developed by the Town.

Agenda Additions/Deletions and Adoption

“Councilman T. Howard motioned, seconded by Councilman Frese to approve the agenda.”
The motion was unanimously approved.

1. Consider Adoption of the Minutes.

“Councilwoman Conklin motioned, seconded by Councilman Frese, to approve the minutes of the Special Council meeting workshop of August 21, 2008, and the Regular Council meeting of September 2, 2008.” The motion was unanimously approved.

2. Public Hearing for Changes to the following Zoning and Subdivision Ordinance

Mayor Tarr opened the Public Hearing, at 7:48 pm. on the proposed changes to the zoning and subdivision ordinance on Amending Sections A & B, and Section C. Parking of Article VI General Provisions, of the Zoning Ordinance and Amending Sections 14.09 and 15.05, of the Subdivision Ordinance. Mrs. Jane Wolff came to the podium and expressed concerns of the fire safety lanes and stated that it had changed since the Planning Commission had sent it to Council. Ms. Gladys Baczek expressed that one parking space per bedroom which is stated in the new ordinance would be adequate. Mayor Tarr announced the Public Hearing closed, at 7:58 pm.

Councilman T. Howard expressed his support of the language the Planning Commission sent to Council on the fire safety lanes and that he would not be voting for the proposal if it did not have that language inserted back in the amendment. Vice Mayor Jester stated that the current language in the proposed amendment was consistent with the international fire safety code.

“Councilman Frese motioned, seconded by Councilwoman Conklin to adopt the proposed amendments to the zoning ordinance Sections A & B, and Section C. Parking of Article VI General Provisions.” Ayes Conklin, Frese, Jester, J. Howard. Nays T. Howard. Absent Richardson. The motion was approved.

Section A. Commercial District C-1

4.2.4.1. Parking Garages and other similar structures

Section B. Commercial District C-2

4.5.4.1. Parking Garages and other similar structures

Section C. Parking

Sec. 6.6 Parking

There shall be provided, at the time of erection of any main building or dwelling unit, or at the time any main building is enlarged, or the available customer floor space in a business structure is increased, minimum off-street parking spaces as identified in section 6.6.1 with adequate provisions for entrance and exit by standard sized automobiles as required by the Virginia Department of Transportation.

6.6.1. Definitions

- (a) Accessible Parking stalls- parking required for persons with disabilities.
- (b) Accessway- a private vehicular facility for Townhouse, Multifamily, Condominium, and Commercial developments that extend from the curb-line-extended of a public or private road to the parking bay.
- (c) Aisles. Areas used for vehicular traffic in parking areas for ingress and egress of parking bays and parking spaces.
- (d) Compact Car Parking Space. An off-street space available for parking of (1) one motor vehicle and having an area not less than eight (8) feet in width by sixteen (16) feet in depth.

(e) Entrances- The area used for ingress/egress for an accessway or parking bay to a public or private road. Must meet the Virginia Department of Transportation's "Minimum Standards of Entrances to State Highways."

(f) Fire Safety Lane. A designated area that allows for fire safety and emergency vehicles to adequately service the needs of people and structures associated with the parking areas and parking bays as identified in the International Fire Code as amended.

(g) Parking Bay. Means an off-street surfaced area used for parking two or more vehicles which are served by an entrance and possibly an accessway connecting the parking bay and a public or private road. This shall not include parking for a single-family residential use.

Parking Bays will be required to have safe pedestrian traffic capability by providing sidewalks or defined safe walkways that provide access to the structures served by these lots.

(h) Parking Space. An off-street space available for parking of (1) one motor vehicle and having an area not less than nine (9) feet by eighteen (18) feet and an area exclusive of passageways and driveways appurtenant thereto, and having a means to a direct access to a street, or road.

(i) Boat Trailer Parking Space. An off-street space available for parking of (1) one (9) nine foot by (45) forty-five foot boat trailer exclusive of passageways and driveways appurtenant thereto, and having a means to a direct access to a street, or road.

(j) Best Management Practice. A series of approaches to development and site design that aim to minimize impacts from stormwater runoff. For the purposes of this ordinance a Best Management Practice will apply only to the surface of the parking bay and accessway, or any overflow parking. It shall be demonstrated that a Best Management Practice will reduce the amount of impervious surface and reduce the amount of stormwater runoff from a particular site.

(k) Overflow Parking. A Parking area required when 10 or more dwelling units utilize a parking bay(s). Overflow parking is intended to be used when the required parking area is full. The area designated as overflow parking shall have the same aisle and parking stall requirements as the parking bay. Overflow parking is not required to be surfaced.

(l) Typical Work Shift- For the purposes of this ordinance a typical work shift shall be identified as the time period during a normal 24 hour period when the most employees/ employers are working at the same time.

6.6.2 If a lot is utilized for amusement or recreational rental purposes the following regulation shall apply: one space per four persons rated capacity.

(1) If a lot is utilized for a miniature golf course the following regulation shall apply: one space per hole.

6.6.3. If a lot is utilized for use group R-residential (see Virginia Uniform Statewide Building Code, as amended) there shall be off-street parking space provided for the parking of at least two motor vehicles for each dwelling unit.

6.6.4. If a dwelling includes a home occupation which has direct sales, two off-street parking spaces must be provided for the dwelling unit, and an additional two off-street parking spaces must be provided for the home occupation. Parking shall be identified by either signs or bumpers. If

more than one home occupation is located within a dwelling unit then 2 additional off street parking spaces shall be provided for each home occupation.

6.6.5. If a lot is utilized for use group A-assembly (including churches) there shall be provided at least one off-street parking space for every five potential occupants, as defined by Virginia Uniform Statewide Building Code, in the main structure's assembly or auditorium area (Excluding libraries and museums).

6.6.6. If a lot is utilized for a medical or dental clinic there shall be provided two spaces per examination or treatment room or area, plus one space for each doctor and employee that work during typical work shift.

6.6.7 If a dwelling is utilized for a vacation rental there shall be provided one (1) parking space for each bedroom as defined by the Accomack County Health Department sewage disposal permit, or DEQ if applicable, thereto. If ten (10) or more dwelling units utilize a parking bay(s), an additional ten (10) percent of those required parking spaces will also be required. These additional spaces will be referred to as overflow parking and can be incorporated into the surfaced required parking bay, or they can be a designated, open, unobstructed, and accessible area to the parking bay or right-of-way.

6.6.7.1. If a structure is occupied as a bed and breakfast, motel, hotel or boarding house there shall be provided 1 parking space per sleeping unit as defined by the Accomack County Health Department, or DEQ if a discharge plant is utilized for sewerage disposal. Also an additional parking space shall be required for each employee during a typical work shift.

6.6.8. If a lot is utilized for a hospital, nursing home or similar facilities, there shall be provided at least one off-street parking space for each two beds' capacity, including infants' cribs and children's beds.

6.6.9. For marinas and other similar facilities, except as expressly provided herein, whether any main building is erected or enlarged or not, there shall be provided at least (1) parking space for every two (2) boat slips or moorings, plus ten (10) parking spaces for each single-width boat ramp, with each space nine feet (9 ft) in width by forty-five (45 ft) in length plus the parking spaces required by Section C. Parking, as applicable, if there are buildings. Any private non-commercial marina located on the same parcel of land, used in conjunction with the main use on such parcel and the use of which is restricted to the owner (s) or occupant(s) with or without compensation, shall not require any additional boat trailer parking space(s). A boat slip that is owned or leased by a person(s) who is not the owner or occupant of a dwelling unit located on such parcel shall be required to have one additional 9 feet by 18 feet parking space per such slip.

6.6.10. (No change except number)

6.6.11. “ “

6.6.12. “ “

6.6.13. “ “

6.6.14. “ “

6.6.15. “ “

6.6.16. An accessway shall extend from the curb line of a public or private road to the parking bay. Accessways shall be clearly distinguishable from the parking bay. An accessway shall not be used as a through street and it shall carry predominantly on-site traffic. Surface composition of accessway will be same as parking bay. There shall be no parking on an accessway. An accessway will be no longer than 200 feet from curb line of a public or private road to the parking bay, if this

area is greater than 200 feet it shall be considered a road. The accessway will have a minimum width of 22 feet with the entrance a required 24 foot minimum width as required by the Virginia Department of Transportation's "Minimum Standards of Entrances to State Highways."

6.6.17. Compact Car Parking Spaces- if 20 or more parking stalls are required for a parking bay, 20 percent of those spaces may be designated for Compact Car Spaces. Each Compact Car Space shall be marked as "Compact Car Parking."

6.6.18. Entrances to Accessways and Parking Bays must be built to "Minimum Standards of Entrances to State Highways" VDOT specifications whether connecting to a public or private road.

6.6.19. Parking Bays shall have aisles that are 22 feet or more in width.

6.6.20. Accessible Parking stalls must conform to current regulations of the Virginia Uniform Statewide Building Code, and any subsequent amendments to those regulations.

6.6.21 Fire Safety Lane- As to any structure(s) requiring 20 or more parking stalls, reasonable access shall be provided for emergency fire equipment by designated fire safety lanes of a width of at least 18 feet so as to provide reasonable access to at least three (3) sides of the structure(s). The Fire Safety Lane shall be constructed of the same surfacing material(s) as the parking bay, and accessway. The fire safety lane shall be clearly demarcated by signage or striping.

Signage shall be constructed of reflective aluminum, and be placed every 50 feet along the fire safety lane. There shall be a minimum of one sign for every designated fire safety lane. The signage along the fire safety lane shall be no smaller than 12 inches by 18 inches, with lettering containing the words "No Parking" and "Fire Lane." The signage shall be white with red lettering. The bottom of the sign shall be 7 feet above grade. Signage must be replaced immediately if damaged.

Striping shall be placed around the perimeter of the fire safety lane(s). Any curbing contiguous to the fire safety lane shall be painted. Striping shall be 6 inches wide. Striping and curbing shall be painted red. The words "No Parking" and "Fire Lane" shall be painted within the fire safety lane every 50 feet. Lettering shall be white and be at least twelve (12) inches in height and each letter shall be three (3) inches thick. Repainting shall be required when necessary by the Zoning Administrator.

6.6.22. As to any parking bay where 20 or more parking spaces are required, a best management practice must be utilized. A best management practice for parking must be approved by a certified engineer as a structurally sound and effective practice that is demonstrated by the engineer to reduce stormwater run-off and the amount of impervious surface of the parking bay. Such Best Management Practice(s) shall give consideration to the number of parking stalls, traffic load, surface composition, cost, and other relevant factors so as to reduce storm water runoff and impervious surfaces. All Best Management Practices shall be approved by the Zoning Administrator and if applicable the Planning Commission with the advice of the Public Works Director.

Parking areas that utilize best management practices must adhere to proper stall dimensions either for standard, or if applicable compact parking stalls. Any Best Management Practice for parking shall be designed so as not to create or increase adverse effects on adjoining properties as a result of surface drainage.

“Councilman J. Howard motioned, seconded by Councilwoman Conklin to adopt the proposed amendments to the subdivision ordinance Sections 14.09 and 15.05 to include a new letter (g) on parking bay maintenance.” The motion was unanimously approved.

Subdivision ordinance sections 14.09 and 15.05 a new letter (g):

(g) Maintenance of Parking Bay and Accessway. A legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels or units, or an association comprised of such owners shall be financially obligated to maintain such parking bays and/ or accessways in such manner that reasonably preserves their conditions as required by the provisions of Article VI, Section C. Parking, and which actions would include but not be limited to, fixing potholes and eliminating prolonged water ponding, or other conditions as deemed reasonably necessary by sound engineering judgment.

3. Harbor Committee Report of August 13, 2008 (Councilman T. Howard)

Councilman T. Howard presented the following report from the committee meeting:

- A. Harbormaster Merritt stated that subleasing was down but considering the economy, price of gas etc., it was to be expected. He also stated everything at the harbor was going well and asked if there were any questions. Councilman J. Howard stated he had a problem about the grass cutting at the harbor. Harbormaster Merritt replied that the harbor was going to purchase a lawn mower of its own, so that it would be easier to cut the grass when cars, trucks and trailers were not in the way; at times it is impossible to cut, but with a mower and weed eater he could cut it on slow days. Harbormaster Merritt stated he will get it done ASAP.
- B. Harbor Master Merritt stated the Committee should consider raising the fee for subleasing stating it was the lowest prices around. Councilman T. Howard asked how if we raised the fee what would be the impact on the working waterman. Harbormaster Merritt stated he was only talking about the recreation boaters and not raising the fee for working waterman. Mr. Bowden stated that we would receive a lot of complaints from the slip leasers if we were making too much money from subleasing their slips and stated the Harbor was built on grant money. Councilman T. Howard asked Harbormaster Merritt if he would get more information on other Harbors fees. Harbormaster Merritt stated he would have it for the next Harbor meeting.
- C. Harbormaster Merritt stated we received money for the seawall project and we hope to get started soon.

4. Cemetery Committee Report of August 26, 2008 (Councilwoman Richardson)

Councilman T. Howard presented the following report in the absences of Councilwoman Richardson:

- A. Fund Raising – Councilman T. Howard stated that the Cemetery fund currently has \$ 295 of donations remaining for this cutting season.

Councilman T. Howard mentioned that the American Legion, Kiwanis Club, and the Ruritan Club usually give a contribution. We may need to ask if it is in their budget this year to give a donation to the Cemetery Fund.

Mr. Turnquist will write a fund raising letter to mail out to various organizations and to place in an upcoming edition to the editor.

- B. Future sites for the fall Clean-up - it was also discussed that the Jones Cemetery, Holy Ridge Cemetery, and the Reed Family Cemetery will need to be cleaned up next. The Committee decided that the fall clean-up will occur some time between Veterans Day and Thanksgiving.

5. Ordinance Committee Report of September 10, 2008 (Councilman J. Howard)

Councilman J. Howard presented the following report from the committee meeting:

A. Consider a New Section 58-171 A & B, Trailer Parking on Public Right-of-way

Mr. Anderson noted that the Planning Commission did not send a motion to Council or the Ordinance Committee. This agenda item was part of a discussion from the Planning Commission about how a new development that restricts boat trailer parking on the parcel of land, and the question came up "where would the trailers be parked?" That is why staff felt it was necessary to at least discuss this issue. Mr. Anderson wanted the Committee to think if there is any problem with having trailers parked on public right of ways for prolonged periods. Mr. Ritter emphasized that this proposal would not restrict parking of trailers on right-of-way, but it would limit the amount of time.

Mr. T. Howard indicated that the Town needs to make sure that it is not too restrictive to the tourist industry. He indicated that any amendments be directed towards long-term parking of trailers on streets.

Chief Lewis indicated that 12 hours would be difficult to enforce, he suggested 48 hours.

Mrs. Conklin suggested that once the millings at the Town's Harbor were removed that area could be used to park boat trailers so they will not park on the street.

Mr. J. Howard indicated that he would be more in favor of this recommendation if it were 48 hours rather than 12 hours.

Mr. T. Howard recommended that a more comprehensive survey of the entire island should be completed so as to see if there is a problem island-wide.

B. Consider Changes to the Ordinance Chapter 10, Animals

Mr. J. Howard called both Accomack Animal Control and Mr. Ritter to discuss this issue. Mr. J. Howard had identified three options: pass and enforce an ordinance much like the Norfolk Ordinance, the Status Quo, or the Town buys traps and have Animal Control pick up the traps once the animal is inside.

Mr. T. Howard stated that if our ordinance is not adequate then it needs to be amended so that we can fix the problems.

If the Town decided to purchase the traps then either the public works or the police department would loan the traps out to the citizens and the police or public works would pick the animal up once it has been trapped.

Chief Lewis indicated that if the Town were to start up an animal control program on the Island it would initially cost approximately \$40,000, however it would be significantly less in the following years because much of that cost is up-front costs.

Mr. J. Howard would like to encourage people to limit the number of animals and to help the public learn about some potential safety hazards with having too many cats on the Island.

Mrs. Conklin is not in favor of establishing an Animal Control Program on Chincoteague.

It was suggested that the Town could write a piece for the upcoming newsletter about this issue.

Mr. Anderson suggested a Memorandum of Understanding with the county if they were going to pick up animals that have been trapped in Town-owned traps.

Mr. J. Howard made a motion seconded by T. Howard “to assist animal control in trapping animals and to appropriate \$500 for traps.”

C. Consider an Ordinance on Criminal Background Checks

Mr. Ritter indicated that in the ordinance wherever it mentions “human resources department” it should be replaced “Town Manager.”

ORDINANCE ENACTING IN THE TOWN OF CHINCOTEAGUE, VIRGINIA: Criminal history background checks for new employees.

This section is enacted pursuant to Sections 19.2-389 and 15.2- 1503.1 of the Code of Virginia, 1950, as amended. In the interest of public welfare and safety it is necessary to determine whether the past criminal and/or child protective services conduct of each person seeking to be employed with the Town is compatible with the nature of the person's employment. Further pursuant to 12 VAC 5-31-540, it is necessary for the Town to have a record documenting the results of a criminal history background check on an individual accepting employment to provide emergency medical services or on other individuals to be employed with the Town.

- 1 . Any applicant who accepts employment with the Town of Chincoteague as an employee or providing services to juveniles, the elderly or, as deemed necessary by the Town manager or his designee in the interest of public welfare and safety, shall, as a condition precedent to employment, submit to taking of one set of fingerprints by the Chincoteague Police Department or by other designated organization or person and provide personal descriptive information for the purpose of all such fingerprints.
2. Upon receipt of one set of fingerprints and the personal descriptive information provided by the applicant, the Town Manager of the Town will transmit it and any appropriate fees (unless a satisfactory billing arrangement has been made) to the Virginia State Identification Bureau for (i) a criminal history record information review and (ii) sex offender and crimes against minors registry searches which shall be reported to the Town Manager, as further required by this ordinance.
3. The Virginia State Identification Bureau will compare the applicant subject's fingerprints against its criminal file(s) and submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records.
4. The results of the Federal Bureau of Investigation check will be returned to the Virginia State Identification Bureau, which will disseminate the state and national results to the Town Manager of the Town.
5. The applicant may request and receive a copy of the criminal history record information results from the Town Manager of the Town. Should the applicant record subject seek to amend or correct the record(s) relating to the reported results, the applicant must contact

the Virginia State Identification Bureau for a Virginia state record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this ____ day of _____, 2008.

John H. Tarr, Mayor

ATTEST: _____
Clerk of the Council

Mr. J. Howard motions seconded by Mrs. Conklin to “recommend to Council that they approve this ordinance on criminal back ground checks.” The motion was unanimously approved.

• **Consider an Ordinance on Criminal Background Checks**

“**Councilman T. Howard motioned, seconded by Councilman Frese, to adopt the ordinance on criminal background checks as stated in the report.**” The motion was unanimously approved.

6. Request for a Letter of Support for the Assateague Lighthouse

The Chincoteague Natural History Association in a letter, asked the Town of Chincoteague to write a support letter to the Department of Interior to assist in the efforts to restore the Assateague Lighthouse.

“**Vice Mayor Jester motioned, seconded by Councilman T. Howard, to send a support letter to the Department of Interior.**” The motion was unanimously approved.

7. Mayor & Council Announcements or Comments

- **Councilman Jester** stated that the author of the Hidden Galleon indicated in the book how the ponies originated was not true and wanted to keep the local legend of the Spanish galleon wreck.

8. Closed Meeting in Accordance with Section 2.2-3711(A) (1 & 7) of the Code of Virginia

Councilman Frese moved, seconded by Vice Mayor Jester to convene a closed meeting at 9:05 pm. under Section 2.2-3711(A) (1 & 7) of the Code of Virginia to discuss Personnel Matter and Legal Matters. The motion was unanimously approved.

Councilwoman Conklin moved, seconded by Councilman T. Howard to reconvene in regular session. Unanimously approved.

Councilman Frese moved, seconded by Councilwoman Conklin 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&7) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from

open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

VOTE: Ayes- Conklin, J. Howard, Jester, Frese, T. Howard
 Nays-
 Absent-Richardson

AJOURN

“Councilman T. Howard motioned, seconded by Councilman Frese, to adjourn the meeting.”
The motion was unanimously approved. Meeting was adjourned at 11:35 pm.

Mayor

Town Manager