

REGULAR COUNCIL MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

March 4, 2013 - 7:00 P.M. - Council Chambers - Town Hall

CALL TO ORDER

INVOCATION BY COUNCILMAN T. HOWARD

PLEDGE OF ALLEGIANCE

OPEN FORUM / PUBLIC PARTICIPATION

STAFF UP-DATE

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

1. Consider Adoption of the Minutes
 - Regular Council Meeting of February 4, 2013 (Page 2 of 49)
2. Resolution of Respect (Mayor Terrell Boothe) (Page 19 of 49)
3. Chincoteague Cultural Alliance Presentation and Grant Request (Ms. Jane Richstein)
4. Resolution on the VDOT Capital Project Program (Page 20 of 49)
5. Public Safety Committee Report of February 5, 2013 (Mayor Tarr) (Page 21 of 49)
6. Harbor Committee Report of February 7, 2013 (Vice Mayor Arthur Leonard) (Page 23 of 49)
The following action by the Committee occurred and will need to be acted upon:
 - Consider Changes to Ordinance, Chapter 70, Water Access Facilities for Adoption (Page 26 of 49)
7. Ordinance Committee Report of February 19, 2013 (Councilman Howard) (Page 40 of 49)
The following action by the Committee occurred and will need to be acted upon:
 - Consider Changes to Ordinance Chapter 22, Environment, Article II. Noise, Sec 22-35 & Sec 22-36 (Page 44 of 49)
 - Consider Changes to Ordinance Chapter 18, Businesses, Article II, Licenses, Division 2, Specific Businesses and Occupations, Sec 18-95 & Sec 18-96 (Page 45 of 49)
8. Mayor & Council Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)
9. Closed Meeting in Accordance with Section 2.2-3711(A) (7) of the Code of Virginia.
 - Legal Matters

ADJOURN:

**MINUTES OF THE FEBRUARY 4, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING**

Council Members Present:

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

CALL TO ORDER

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

INVOCATION

Councilman Taylor offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

Mayor Tarr presented Chincoteague Police Officer Cody Butler and State Police Officer Bryan Lewis with certificates.



**Certificate
of
Special Recognition
presented to
Cody Butler**

For exemplary service beyond the call of duty in the rescue of life and property during the early hours of January 13, 2013 within the Town of Chincoteague.

On behalf of Town Council and the citizens of Chincoteague, we extend our sincere appreciation for your unselfish dedication to duty and commend you for your heroic actions.

John H. Tarr, Mayor

Edward W. Lewis, Police Chief



**Certificate
of
Special Recognition**
presented to
Bryan Lewis

For exemplary service beyond the call of duty in the rescue of life and property during the early hours of January 13, 2013 within the Town of Chincoteague.

On behalf of Town Council and the citizens of Chincoteague, we extend our sincere appreciation for your unselfish dedication to duty and commend you for your heroic actions.

John H. Tarr, Mayor

Edward W. Lewis, Police Chief

Both officers received a round of applause.

Chief Lewis gave an account of the incident at 2:00 a.m. on January 13, 2013 when a gas stove was turned on and the officers went into the home to save the lives of those inside. They were transported to the hospital to be evaluated and were later released. He personally commended both officers for their heroic actions.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Mrs. Candice Frese of Best Blooms Florist and Art Gallery spoke to Council regarding a sign. She explained that Mr. Conklin, the property owner, has all the signs allowed for this property. She asked why she wasn't entitled to a sign as her business is separate from his business.
- Mrs. Suzanne Taylor of the Chincoteague Chamber of Commerce thanked Council for their contribution. She informed Council of the Chamber's plans and added that they are working on a strategic plan. She also invited Council to the Business Afterhours scheduled for February 7th at the Baxter Group Insurance office.
- Mr. Todd Burbage informed Council that he was currently building the Fairfield Inn. He is also having similar problems with signage. He suggested more quality signs that look nice in the community. He stated that he has a good relationship with the Town and commended the

office staff for being so helpful and good stewards for the Town. He advised that he has lost approximately 28 days of work due to bad weather conditions. He asked if Council would be willing to allow him to work on Sundays and review the Ordinance regarding Noise. He stated that it doesn't only affect him but it affects the Town as well.

Mr. Burbage again thanked staff and Council for such a good working relationship.

Mayor Tarr asked Mr. Burbage if he has applied to the Town Manager for relief from the Noise Ordinance.

Mr. Burbage responded that he has not. He stated that it just recently became an issue with the recent weather. He advised that he approached Town Manager Ritter last week about working on Sundays. He was advised that this was the perfect opportunity to bring the matter before Council.

Councilman Howard stated that there is a provision in the Ordinance for certain situations.

Town Manager Ritter asked Councilman Howard if he wanted this item on the agenda for the next Ordinance Committee meeting.

Councilman Howard agreed that this should be on the agenda. He advised Mr. Burbage that they would review this.

- Mr. Jim White advised Council that his house backs up to the Fairfield Inn construction site. He stated that he and his wife are pleased that they are doing something with the old railway property. They don't have any problems with any of the noise to date and support Mr. Burbage as they look forward to the new building. He added that there are about 12 Sundays until Memorial Day and they are creating occupancy tax and employment for the Island. He requested that Council allow them to work on Sundays as it would benefit Chincoteague.

STAFF UPDATE

Planning Department

Town Planner Neville advised that the monthly report is in the packet. He reminded Council of the next Planning Commission meeting, Tuesday, February 12th at 7:00 p.m. He advised that they will review possible updates on the Zoning Ordinance. He added that Building and Zoning Administrator Lewis has referred a few items for their review also. He also advised Council of the Beach Access Committee meeting on February 13th at 9:00 a.m.

Police Department

Chief Lewis stated that the monthly report has been included in the agenda packet. He also stated that the Police Department will hold the annual Senior Luncheon on March 7th at Maria's Restaurant.

Public Works Department

Public Works Director Spurlock stated that his monthly report is also included in the agenda packet. He added that they will resume work on Willow Street to replace water services. He announced that the Town has an overabundance of mulch at the Harbor.

There was discussion regarding the Willow Street project, paving and mulch at the Harbor.

General Government

Town Manager Ritter reported in addition to the monthly report that EMS responded to 71 calls. He stated that several staff members attended webEOC training last week. He also advised that he included a draft community event calendar in Council's packet. He stated that if Council had anything to add to the calendar to let him know.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Vice Mayor Leonard to adopt the agenda adding item 8, Wastewater Advisory Committee Update. Unanimously approved.

- 1. Consider Adoption of the Minutes**
 - **Regular Council Meeting of January 7, 2013**
 - **Council Budget Workshop of January 17, 2013**

Councilwoman Richardson asked to correct a statement in the Recreation and Community Enhancement Committee meeting minutes regarding the Donald Leonard Park. She advised that the people of Chincoteague bought the land and it was donated it to the School Board as part of the school property. She added that Mr. Leonard was a caregiver of that park.

Councilman Muth motioned, seconded by Councilwoman Richardson to adopt the minutes of the Regular Council Meeting of January 7, 2013 and the Council Budget Workshop of January 17, 2013. Unanimously approved.

2. Financial Report Presentation by Robinson, Farmer, Cox Associates

Town Manager Ritter introduced Mr. Aaron Hawkins and Mr. David Hughes with Robinson, Farmer, Cox Associates.

Mr. Hawkins reviewed and explained the Financial Report.

Mayor Tarr thanked Mr. Hawkins and Hughes for their hard work on the audit.

3. Public Hearing on a Possible Budget Amendment

Mayor Tarr opened the public hearing. He asked Town Manager Ritter to explain the amendment to the budget.

Town Manager Ritter read the Budget Amendment for FY' 13:

Name:	Type Acct.	Orig. Budget	Amended Budget
<u>General Fund 10</u>			
Transfer from General Fund Savings	Revenue	\$0	\$107,020
FEMA – Reimbursement	Revenue	\$0	\$150,359
A total revenue increase of: \$257,379			
Attorney/Legal Consultant	Expense	\$50,600	\$ 99,057
Public Restrooms	Expense	\$10,500	\$ 28,400
Storm Debris Contract	Expense	\$0	\$154,222

Transfer to Main Street Fund 20	Expense	\$0	\$ 36,800
A total expense increase of: \$257,379			

Main Street Fund 20

Transfer from General Fund	Revenue	\$0	\$ 36,800
DCR Outdoors Fund Grant	Revenue	\$0	\$ 25,000
A total revenue increase of: \$61,800			

Main Street Project	Expense	\$565,646	\$602,446
Robert Reed Park Extension (Dredging)	Expense	\$0	\$ 50,000
A total expense increase of: \$86,800			

Broadband Fund 25

CDBG Grant	Revenue	\$0	\$190,000
Construction	Expense	\$0	\$190,000

Mayor Tarr asked if the public had any question on the budget amendment. There were none and Mayor Tarr closed the public hearing.

Councilman Taylor asked about the Public Restroom difference.

Town Manager Ritter advised that the original budgeted amount was for pump-outs and supplies. He stated that the increase is to put in the new force main and pumps for sewage.

Councilman Howard also asked about the increase.

Councilman Muth asked about the CDBG Grant.

Town Manager Ritter stated that the \$190,000 will extend the broadband line down to the Harbor and bring the fiber line to Beebe Road in the Tom’s Cove Campground area to include cabinets. He stated they will have 2 more internet classes through the CDBG. He advised that there was approximately \$190,000 left of the grant but it wasn’t budgeted and it had to be included.

Councilman Howard motioned, seconded by Vice Mayor Leonard to approve the Budget Amendments as presented. Unanimously approved.

4. Accomack County Board of Supervisors Update

Supervisor Wanda Thornton advised that she spoke to Mr. Trent Dix, with **Harbor Inject**. She would like to invite him to come to Chincoteague for a workshop to inform the public about what it would entail and cost for injections to exterminate the pine bark beetles. She asked Mayor Tarr is it would be okay to have a workshop in Council Chambers.

Mayor Tarr approved.

Supervisor Thornton also advised that the free debris drop off at the landfill expired January 31st. She mentioned the Baylor property survey and that Mr. Ernie Bowden has been put on that committee as he has a good rapport. She stressed the importance of this survey to our community.

Supervisor Thornton also informed Council that the County has ordered an audit of all the fire companies. She feels this is for accountability and positive things that will come out. She stated that the County is spending too much money renting facilities for Public Works and Parks & Recreation. She would like them to invest in property they already own. She announced the groundbreaking for the new hospital to take place in the spring. She reported that the uninsured percentage from last year to this year went from 30% to 50%. They had to write-off \$6,000,000 for uninsured and they're still going to go forward with the new hospital.

Supervisor Thornton reported on the proposed reduction of the CBBT commuter toll. She advised that Mr. Chesser did not vote for this. She reported on the Tourism Commission. She stated that Mr. Steve Potts has been appointed to the Commission. She stated that there is currently a good variety of members.

There was further discussion regarding the pine bark beetles.

There was discussion of the impact on the Town of the Navy's touch and go training at NASA.

5. Public Works Committee Report of January 2, 2013

Councilwoman Richardson reviewed the report.

6. Recreation and Community Enhancement Committee Report of January 8, 2013

- **Boulder Request at Donald Leonard Park**

Councilman Jester reviewed the minutes from January 8th. He also mentioned a request to place a boulder at the Donald Leonard Park. He feels there should be some guidelines for doing something like this.

Councilman Howard agreed that there should be some guidelines or policy.

Vice Mayor Leonard explained how this request started. He stated that his mother, Mrs. Martha Leonard was his father's (Mr. Donald Leonard) rock. His father was a public figure and his mother was his support. He stated that the family and friends felt that there should be something in the Park representing his mother.

Councilman Howard suggested adding Mrs. Leonard to the Park name.

Vice Mayor Leonard suggested something as part of the landscaping and not place it as a memorial.

Councilman Jester again reiterated that there should be guidelines.

Mayor Tarr feels that this Park is different than the other parks and the Leonard's took care of this Park for many years. He feels that this request should be honored allowing Council to approve the design. He feels the request is different.

There was further discussion regarding placement and a plaque or engraving on the boulder.

Councilman Taylor motioned, seconded by Councilman Muth to approve the placement of a boulder with engraving at the Donald Leonard Park as a memorial for Mrs. Leonard. Unanimously approved.

7. Cemetery Committee Report of January 9, 2013

• Possible Adoption of the Cemetery Preservation Plan

Councilwoman Richardson reported that the Cemetery Preservation Plan was requested by the Mayor. She commended Town Planner Neville and staff for the work they did to create this Plan.

Town Planner Neville explained how the idea of the Cemetery Preservation Plan came up. He advised that what is in Council's report is a recommendation from the Committee to continue volunteer maintenance of the cemeteries. He added that this proposal also includes some of the cemeteries that the Town wasn't getting to.

There was discussion as to assistance from the Public Works Department.

Town Planner Neville also explained that the Plan outlines which cemeteries were being maintained by volunteers and which ones were not. He feels this is an effort that could continue. He added that this is a working document. The Cemetery Committee recommended the adoption of the Cemetery Preservation Plan.

Councilman Howard commented. Councilman Howard invited any and all comments, corrections and improvements to the Plan.

Councilwoman Richardson also commented feeling strongly that this Plan will help with donations and volunteers.

Discussion continued regarding the importance of the Public Works staff with their assistance in maintaining cemeteries.

Mayor Tarr commented.

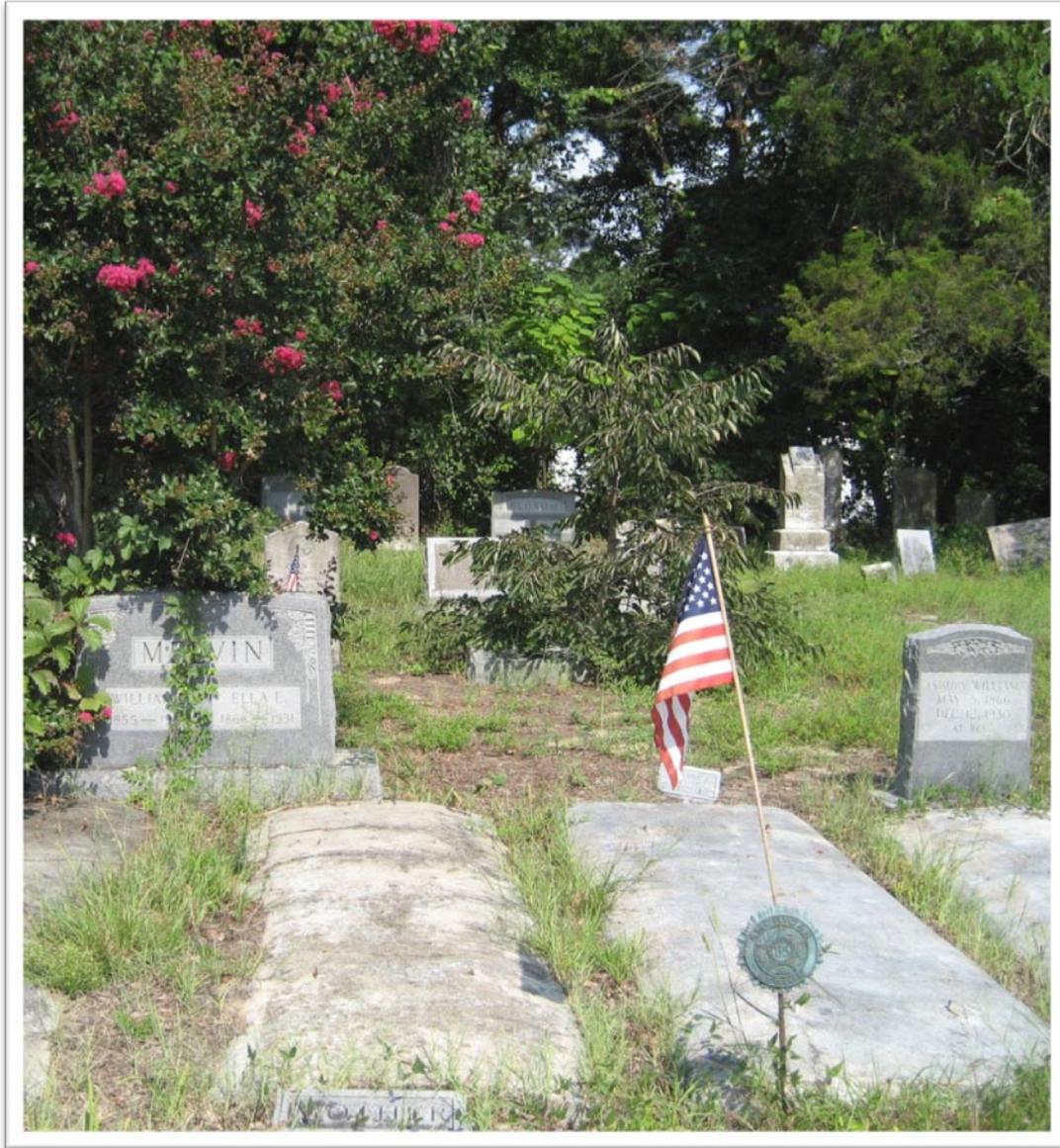
Town Manager Ritter advised that this is a work in progress and will be reviewed every 2 years.

Town Planner Neville explained that the creation of the Plan represents community support and feels that the Town is taking a leadership role by adopting the Plan. He contacted the state about funding and they suggested that they create a Commission or the creation of a Private Corporation. He feels that the Town should continue to work directly with the community.

Councilman Muth motioned, seconded by Councilman Taylor to adopt the Cemetery Preservation Plan as presented. Unanimously approved.



TOWN OF CHINCOTEAGUE DRAFT CEMETERY PRESERVATION PLAN 2013



Cemetery Preservation Plan for Chincoteague Island, Virginia

Cemetery Preservation Plan – a preservation plan identifies activities that help perpetuate and care for historic burial sites, including planning, maintenance, documentation and education.

Prepared by the Town Cemetery Committee:

Ellen Richardson, Chairwoman
Terry Howard, Councilman
Gary Turnquist

January 2013

Mission Statement

The mission of the Town Cemetery Committee is to oversee the maintenance of the 25 Town Cemeteries, and to ensure the integrity of each burial area. To those ends:

Creating community clean up opportunities through scheduling a community wide Cemetery Clean up Week, and by asking for assistance from local organizations on a specific clean up task;

Inspecting each cemetery on a regular basis for damage caused by weather or vandalism;

Ensuring the integrity of each Cemetery from encroachment by neighboring property owners, and establishing that any activity within a cemetery be undertaken in accordance with state law and local code;

Maintenance shall include scheduling of grass mowing according to the dictates of the weather, and within the structure of a yearly budget of voluntary donations from the community.

Preface

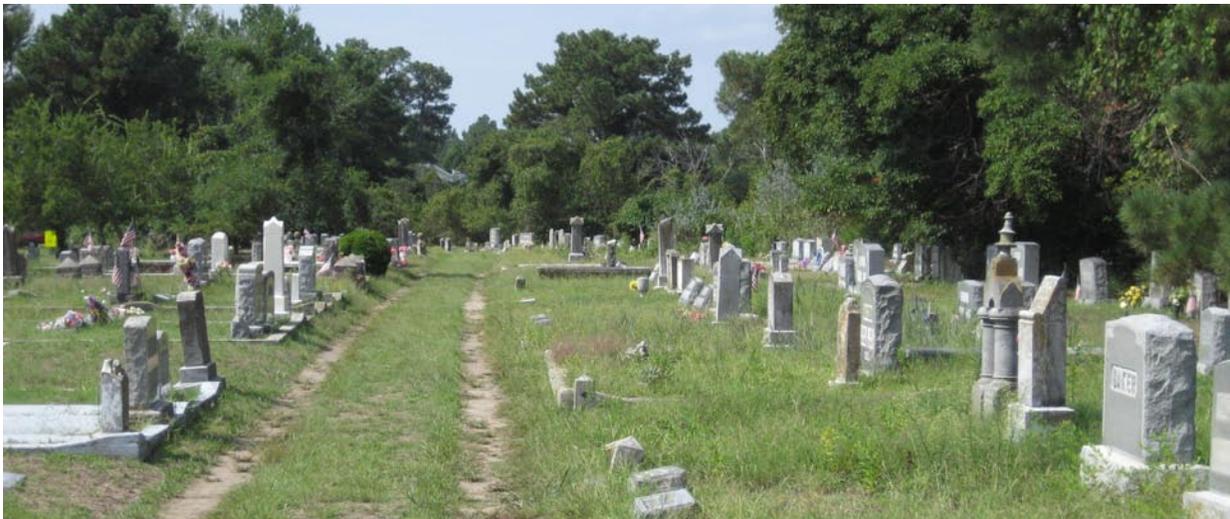
Historic cemeteries are important cultural, architectural and archaeological resources. They provide us with information on our community's history. Often a cemetery is the only remnant left from early settlements and families - as such it is a vital link with the past. They are an invaluable educational tool whether we seek to research genealogy, educate our youth or delve into local history. They provide quiet places to commemorate the deceased. Old cemeteries provide valuable information to those interested in their family histories, information that may not be available elsewhere. Sometimes they provide us with more than the bare facts of birth and death; they provide us with tender, tragic or humorous glimpses into the lives of earlier generations. They tell us about the struggle to survive childhood diseases, childbirth, wars and epidemics. But most of all they tell us about the recurring cycle of birth, life, and death and how we are all a part of that cycle.

“The thoughtful work and volunteer efforts of the Cemetery Committee are much appreciated by the community. Were it not for their efforts, it is likely that many final resting places would have been forgotten, overgrown or lost due to neglect.”

Chincoteague Citizen
October 2011

The **Town of Chincoteague Cemetery Committee** is thankful for all donations and the volunteer efforts of our community organizations, churches, businesses, families and individuals who have contributed their time and resources toward the care of our community cemeteries. This is an important responsibility that we willingly share.

The preparation of a **Cemetery Preservation Plan** is the latest effort to identify a lasting solution for the long-term care and maintenance of Chincoteague Island's cemeteries and burial grounds. Much of this work is built upon the research and documentation of James W. Carpenter Sr. who published the book *From Tears to Memories – A comprehensive look at Chincoteague Island Cemeteries* in 2007. Our community is fortunate to also have exhaustive documentation of the gravestones, shared on the website www.IslandBones.com.



A Cemetery Preservation Plan for Chincoteague Island

By collecting available information and checking on what others have done to plan for the care of historic cemeteries, the Town of Chincoteague hopes to move forward with a plan for the perpetual care and maintenance of over 3,600 recorded gravesites in 25 cemeteries on Chincoteague Island. Several quick **planning checklists** show that we are making progress:

Cemetery Preservation Preparations

1. Determine the ownership of the cemetery
2. Research the cemetery
3. Copy important information to the cemetery: maps/plats, marker inscriptions, family contacts, etc.
4. Survey the cemetery
5. Enlist a volunteer or organization to clean up the cemetery
6. Meet with the owner/trustees at the cemetery to discuss preservation of the markers/cemetery and to agree upon the clean-up process and scope
7. Establish a continual maintenance program for the cemetery
8. Educate the public about the cemetery

Preservation of historic cemeteries and burial sites in their original place and form is the preferred treatment option. Good cemetery maintenance strategies should incorporate the gentlest, most low-impact measures possible, and should address issues of long-term care (including the financial commitment necessary). Temporary or hasty solutions will only postpone a recurring problem and may inadvertently cause additional problems. Virginia's Department of Historic Resources (DHR) advocates innovative strategies for the long-term maintenance of historic cemeteries that are compatible with the cemetery's traditional form.

Planning Steps for Cemetery Preservation

- a) Establish Ownership & Get Permission – The first step prior to beginning any cemetery preservation project is to establish the ownership of the cemetery.
- b) Safety – Cemeteries, particularly abandoned or deteriorated sites, can pose a number of safety concerns. Take precautionary steps when visiting cemeteries.
- c) Developing a Cemetery Preservation Plan – It is critical to develop a written plan of action before beginning any preservation work in a cemetery.
- d) Organization – Community support from local residents is critical to cemetery preservation efforts. The support and input from churches, local organizations and residents ensures long-term preservation of the cemetery.

Regular maintenance is the best preservation procedure. When abandonment and neglect have resulted in severe damage to fences, landscape features, vegetation, markers, or monuments, responsible repairs should be undertaken as quickly as possible. No matter the level of repair or preservation necessary, there are a few essential rules that should be followed in planning a course of action:

- Do no harm: use the gentlest and least intrusive methods available.
- Do nothing that cannot be undone.
- Design all work to retain and preserve the historic character of the cemetery.
- Repair, rather than replace, damaged historic features.
- Quick or easy fixes are not always the best options.
- Assume unmarked graves exist and avoid ground disturbing activities
- When in doubt, consult a professional
- Document all changes.

What is involved in helping maintain and protect a cemetery?

To maintain or protect a cemetery, individuals or organizations should keep the cemetery free of weeds, tall grass, and brush; pick up trash; and report vandalism. Cemetery preservation entails maintaining the markers and cemetery as is. Markers are only cleaned with distilled water, trash is picked up, and possible threats to the markers like tree limbs and underbrush are removed.

- ✓ Contact the owners and get permission to clean up.
- ✓ Clear away brush and weeds by hand from around the gravestones and markers. (use care with weed whackers and pesticides near the markers as each can damage stone)
- ✓ Clean markers using soft toothbrushes and distilled water. This method removes algae and dirt. (to remove graffiti, you need to hire a professional conservator)
- ✓ If markers are toppled, leaning, or broken, you need to hire a professional
- ✓ Pick up trash
- ✓ Ask neighbors or organizations to accept the responsibility of maintaining the cemetery

The Town of Chincoteague Cemetery Committee has traditionally organized volunteer efforts to complete one or two major ‘clean-ups’ per year. The Committee created a cleanup fund several years ago to defray the expense of having key Island cemeteries mowed when volunteer help could no longer be found. This fund has been used to provide timely mowing to several other cemeteries when the need arose.

The Cemetery Committee reviewed an inventory map of the 25 private cemeteries and documented who has maintained each one over the last several years. A priority ranking was established on the attached cemetery key to identify priorities for maintenance. In addition, a citizen proposal to create an Authority or Non-Profit Foundation has been considered as a means to assure a sustainable solution for long term cemetery care and preservation.

Proposed Next Steps

The Committee created a cleanup fund several years ago to defray the expense of having key Island cemeteries mowed when volunteer help could no longer be found. This fund has been used to provide timely mowing to several cemeteries when the need arose. A summary of donations and expenses from 2005 to 2012 (July to June fiscal year) is presented to highlight the increased cost of maintenance.

	Donations	Expenses	Fund Balance
2005	2495	1600	2900
2006	1175	1700	2375
2007	1425	1950	1850
2008	970	1525	1295
2009	1835	2300	830
2010	2665	700	2795
2011	2020	2725	2090
2012	2745	4325	510

Several ideas have been discussed including a request for donations similar to the one used for the Cemetery Cleanup Fundraiser in 2008, or a request for new individuals or groups to volunteer for maintenance of an 'adopted cemetery'. The maps and priority ranking have been prepared by Town Staff with the idea that they may be used for fund raising, providing maintenance instructions, or competitive bidding.

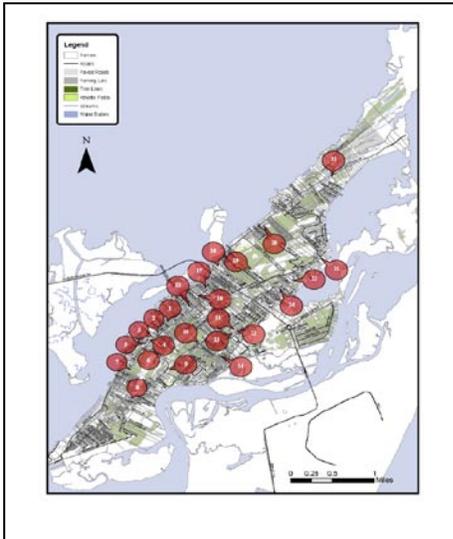
Long term strategies that have been considered by the Committee include:

- A.** Request an amendment to the Town Charter to specifically allow the creation of an Authority or Commission for long term maintenance of private cemeteries on Chincoteague Island
- B.** Prepare a Cemetery Preservation Plan, identify cemetery ownership, encourage the creation of a non-profit foundation to provide perpetual care
- C.** Continue the current Cemetery Committee and promote the separate dedicated donation fund that is managed by the Town Finance Department
- D.** Seek approval of Town Council to include cemetery maintenance and repair as a responsibility and budget line item for the Public Works Department.

Cemetery Committee Recommendation

To adopt a Cemetery Preservation Plan that will guide future efforts for perpetual care of community cemeteries, continue the current work of the Cemetery Committee with an expanded membership of two (2) additional people, actively promote voluntary donations to the separate dedicated cemetery 'clean-up fund' that is managed by the Town Finance Department, and include cemetery maintenance and repair as a responsibility for the Town of Chincoteague Public Works Department up to 40 hours per month for a trial period of 2 years.

Cemetery Inventory and Maintenance Priorities (refer to Staff Report dated February 4, 2013 for this information)



Cemetery Key Map – An overall map showing the location of all 25 existing cemeteries on Chincoteague Island was prepared to provide a quick reference document.

**TOWN OF CHINCOTEAGUE
CEMETERIES KEY**

KEY	NAME	GRAVESTES	PARCEL AREA (ACRES)	DWELL'G SONS (FEET)	MAINTAIN	PRIORITY
1	ARDELLOTTE	63	0.28	306X70	FAMILY	1
2	CHRIST UNION BAPTIST	31	0.43	143X146	FAMILY/FRIENDS	3
3	ODD FELLOWS	55	0.45	67X275	ISLAND BAPTIST MEN	3
4	BUNTING	222	0.37	65X95	TOWN HIRSES	2
5	REGULAR	39	0.17	65X150	UNION BAPTIST MEN	3
6	GREENWOOD	734	1.21	159X179	TOWN HIRSES	2
7	ANDREWS & DASEY	65	1.2	80X250	EAST GUARD PETTY OFFICERS	3
8	DASEY	66	0.38	100X110	FAMILY	3
9	THORNTON	151	0.46	115X130	FAMILY/FRIENDS	1
10	JONES	9	0.22	25X75	-	1
11	MICHANICKS & DASEY MEMORIAL	1182	2.27	75X219	TOWN HIRSES	2
12		338		100X300		
13	REYNOLDS	38	0.07	75X117	FAMILY	3
14	BIRCH FAMILY	8	0.42	35X200	-	1
15	CLARK	15	0.24	25X90	DANA CONKLIN	3
16	CATHOLIC CHURCH (BESSELY)	14	0.08	60X60	CATHOLIC CHURCH	3
17	TAYLOR (BIRCH)	6	0.1	20X60	JOSEPH KEMBRAM	1
18	RED MEN (REDMAN)	628	0.91	95X150	CHRIST UNITED METHODIST MEN	3
19	WHEALTON CLAYVILLE	10	0.12	40X75	RUTH LANE	3
20	HOLY ROSE	131	1.47	60X90	DOUG MORGAN	1
21	CAPTAIN CHANDLER	3	0.13	20X45	CHUCK WARD	3
22	NEED	17	0.45	70X180	-	1
23	HILL	17	0.15	50X80	DONNY RAY THORNTON	3
24	CARTER	1	0.02	-	STEWART BAKER	3
25	BAPTIST CHURCH	1	3.53	-	CHURCH	3
	TOTAL	3687	15.29	-	-	-

*Cemetery information based on *From Tears to Memories - The Cemeteries of Chincoteague*, by James W. Carpenter, Sr., revised August 2008 Edition.

Priority 1 - Needs maintenance	385 sites	3.53 acres
Priority 2 - Town hires out	2321 sites	3.85 acres
Priority 3 - Someone is maintaining	981 sites	7.91 acres

Cemeteries Key – A summary was prepared to identify priorities for which cemeteries are currently being cared for and which need regular maintenance

Chincoteague Cemetery Plan
Thornton
Tax Parcel 30A3-A-249 Edge Road

- 0.46 Acres
- Family
- 151 Buried
- 44 Unmarked
- 1865

Cemetery Information Sheet – Information for each cemetery site was collected, including: map location, aerial photo view, ground level photo view, street address, tax parcel I.D., size and acreage, number of gravesites and age of the oldest burial site.

8. Wastewater Advisory Committee Update

Chairman Papadopoulos stated that the Status Report is included in the agenda. He advised that they toured the wastewater treatment facility in Cape Charles. He made a correction to the Report as to the gallons per day that the Cape Charles WWTP processes. He stated it is not 250 gallons it's 250,000 gallons per day. He stated that it was a wonderful opportunity to tour and ask questions. He also stated the Committee is in the process of the putting a Report together for Council. He would like to have a work session with Town Council to go over the draft recommendations.

Chairman Papadopoulos stated the Committee is recommending that Council review the newsletter #2 for distribution.

Councilman Howard asked about one of the planned activities listed on the report to Council regarding funding for implementation.

Chairman Papadopoulos stated they are suggesting that the size of the wastewater treatment plant should be minimized to reduce the cost of the treatment plant and to conserve water use.

9. Mayor & Council Announcements or Comments

Councilman Taylor stated that there are a few small businesses off the main roads. He feels something can be done with the Sign Ordinance to help the small businesses in a minimal way.

There was further discussion. Council agreed to have Building and Zoning Administrator Lewis issue a report on those specific signage issues.

Councilman Jester advised that he requested that Harbormaster Merritt submit a list of recommendations for the Harbor for the next 5 years. He also feels that anyone over the age of 95 should be honored. He stated that Mrs. Liscum celebrated her 100th birthday today and should be honored.

Councilwoman Richardson asked about a letter sent to Council.

Mayor Tarr advised that he spoke with the Fire Chief and when all the facts were reviewed it will be brought before Council. He added that they will then meet with the Chief and President of the Fire Company with the proper documentation. He asked that the request regarding golf carts be referred to the next Ordinance Committee meeting.

Mayor Tarr announced the next Beach Committee meeting scheduled on February 13th. He stressed that Council stay aggressive in attending and fighting for the best CCP.

Town Planner Neville advised that he updated the website regarding the beach damages and repairs from Hurricane Sandy.

Mayor Tarr congratulated Chief Lewis for having his son as one of the recipients of the award issued earlier in the meeting. He added that the closed meeting scheduled for this evening has been cancelled.

Adjourn.

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

Mayor

Town Manager



**A RESOLUTION
OF THE
CHINCOTEAGUE TOWN COUNCIL**

WHEREAS, Terrell E. Boothe served the Town of Chincoteague well for many years in many capacities; and

WHEREAS, he served faithfully as Mayor in 1967 and again from 1978 to 1980, and played a vital role in the development of this community; and

WHEREAS, his commendable conduct and sense of fairness furthered the cause of better understanding and was an influence for good in the growth and progress of our community;

NOW, THEREFORE BE IT RESOLVED, that by the sad and untimely death of Mayor Terrell E. Boothe, the Chincoteague Town Council lost a valuable friend, whose energies and initiative contributed tremendous service to the people of the Town of Chincoteague by his work; and

BE IT FURTHER RESOLVED, that this Resolution be spread upon the minutes of this meeting and a copy published in the Chincoteague Beacon.

IN TESTIMONY WHEREOF, the Council has caused the corporate seal to be hereunto affixed and the signature of its Mayor, John H. Tarr, this 4th day of March 2013.

John H. Tarr, Mayor

ATTEST:

Robert G. Ritter, Jr., Town Manager



PROJECT PROGRAMMING RESOLUTION

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by council resolution be made in order that the Department program an urban highway project in the Town of Chincoteague; now

THEREFORE BE IT RESOLVED, that the Council of the Town of Chincoteague, Virginia, requests the Virginia Department of Transportation to establish an urban system highway project for the improvement of Maddox Boulevard from Chicken City Road east to the Maddox Boulevard traffic circle, inclusive, a distance of approximately three thousand (3,000) feet. Improvements shall consist of the addition of sidewalks, bicycle paths and drainage improvements.

BE IT FURTHER RESOLVED, that the Council of the Town of Chincoteague hereby agrees to pay its share of the total cost for preliminary engineering, right of way and construction of this project in accordance with Section 33.1-44 of the Code of Virginia, and that, if the Town of Chincoteague subsequently elects to cancel this project, the Town of Chincoteague hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this _____ day of _____, 2013

Town of Chincoteague, Virginia

John H. Tarr, Mayor

ATTEST

BY _____
Robert G. Ritter Jr., Manager

Public Safety Meeting Minutes

February 5, 2013

Chairman Tarr called the meeting to order at 17:13

Present: Mayor Tarr, Chairman
Councilman Taylor
Councilwoman Richardson
Robert Ritter, Jr., Town Manger
Bryan Rush, EM Coordinator
Edward Lewis, Chief of Police

Public Participation

No public participation.

Agenda Adoption

A motion was made by Councilwoman Richardson to adopt the agenda and a second by Councilman Taylor. The motion was unanimously approved.

1. Monthly Emergency Management Report

Report given by Bryan Rush

PLANNING

CONTINUITY OF OPERATIONS PLANNING

A draft Continuity of Operations Plan for disaster recovery is now available for comment by committee members.

AFTER ACTION REPORTING

The Emergency Management Coordinator has submitted AAR data to VDEM for the commonwealth's AAR on Sandy. The submittal included some recommendations on the National Guard as well as best practices with the use of Facebook by the Town during the event.

EMERGENCY OPERATIONS PLAN

The Chincoteague Emergency Operations Plan is undergoing a revision. The Code of the Commonwealth of Virginia mandates that each locality update its EOP every 4 years. The update will encompass lessons learned from events during the last year as well as input from staff to better protect the citizens of Chincoteague. The plan will go before council in May or June.

CLOSED POINTS OF DISPENSING

The annual Closed Points of Dispensing update was held January 31st. The Town's Closed POD plan will be updated to reflect annual changes. A closed POD would be used in the event of a public health emergency. The Town has an MOU with the health

department for a closed POD which will allow council members, employees, and family members in their households to receive medications in house during those emergencies; keeping Town functions in full operation.

TRAINING

WEB EOC

VDEM held a WEB EOC training class in the Town's EOC January 30th. Six employees attended the three hour training. Another training session will be held in March.

OPERATIONS

TIDE GAUGE

The Emergency Management Coordinator has been working with the National Park Service on a tide gauge. A site survey was completed on January 25th. The gauge is currently being assembled, with a projected installation time of May 2013. The gauge will be placed on the red day marker at the mouth of Curtis Merritt Harbor. The site will also have an anemometer to monitor wind speeds. The gauge will be automated, so that it will have real time data available on the web. Currently, there are no anticipated costs associated with this long overdue and needed piece of equipment.

2. Chincoteague Volunteer Fire Company Report

Chief Thornton advised that he had spoken with Police Chief Lewis about a communications issue. No further report.

3. Draft COOP Presentation

Emergency Management Coordinator Rush presented the draft Continuity of Operations Plan. Mr. Rush advised that the Mission Essential Functions were omitted currently due to security concerns. Mr. Rush advised the committee to review the plan and submit questions and comment to him via email with a cc: to Mr. Ritter as well.

4. Committee Member Comments

Councilman Taylor commended Emergency Management Coordinator Rush for staying on top of things. Councilman Taylor stated that the people of the Town appreciate it.

Adjournment

A motion to adjourn was made by Councilwoman Richardson and a second to the motion was given by Councilman Taylor. All were in favor of the motion.

Meeting adjourned at 17:25

**MINUTES OF THE FEBRUARY 7, 2013
HARBOR COMMITTEE**

Members Present:

J. Arthur Leonard, Chairman
John N. Jester, Councilman
Wayne Merritt, Harbormaster
Mike Handforth

Members Absent:

Ernie Bowden

Others Present:

Robert Ritter, Town Manager
Jim White
Ray Rosenberger

Call to Order

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

Open Forum/Public Participation

There was no public participation.

Agenda Adoption

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

- 1. Harbormasters Update**
 - A. Winter Activity**
 - B. Fuel System**
 - C. Ice Machines**
 - D. Water Entrance to the Harbor**

Harbormaster Merritt advised that there wasn't much activity this winter with the exception of a few commercial fishing vessels along with duck hunters. He stated that they had a few issues with the power at the fuel pumps this past month. He also stated that he has contacted a technician who will repair the pumps.

Harbormaster Merritt reported that there has been some research about the possibility of having an ice machine at the Harbor. He stated that they will go over the details under item 2 on the agenda. He also stated that the water access entrance to the Harbor is currently holding up to approximately 10 feet. He advised that there are some dredging issues for slips 91 through 96 that should be discussed in the near future.

Harbormaster Merritt also presented a list of work needed at the Harbor:

- Dredge out the south west side of the Harbor, slips 91-96.
- Replace the fence on Mr. Tull's side (north): cost estimate \$50,000.
He advised that this would make the Harbor safer and look better.
- Install fencing on all three other sides of the Harbor: cost estimate \$75,000

- Replace all electric boxes and panels: cost estimate \$16,000
He stated that this job is ½ complete.
- Add 2 floating docks near the seawall to help free up the handicap dock: cost estimate \$35,000.
He explained the area available for this and added that this is for loading and unloading to free-up the inside of the Harbor.
- Purchase another shed for oil boom and to store oil polluting cleanup gear: cost estimate \$5,000.
He stated that the shed he has is full.
- Purchase a deep water pump for sinking vessels: cost estimate \$1,500.
He explained problems in the past with vessels sinking.
- Pave the area northeast of the office to park trailers, etc.: cost estimate \$10,000.
He feels this would be a good area for overflow parking.
- Pave the area on the southwest side of the office to handle parking for charter boats: cost estimate \$70,000.
He stated that this would double the parking at the Harbor.
- Put cover over gas pumps: cost estimate \$25,000.
He stated that this would protect the pumps and those pumping gas.
- Make a picnic area with gazebo by the office for people waiting for their charter rides: cost estimate \$5,000.

There was discussion about priorities and the money in the funds.

Town Manager Ritter advised that there is money for the fence. However, the dredging just came up. He asked for a cost estimate. He suggested talking to Fisher Marine for an estimate.

Discussion continued about dredging and consulting with the Army Corps of Engineers for advice.

Chairman Leonard asked about a sailboat and trailer that's being stored at the Harbor.

Harbormaster Merritt advised it was supposed to be moved approximately 2 weeks ago.

Chairman Leonard requested notifying the owner, giving him a certain amount of time to remove it or the Town will remove it at his expense.

Harbormaster Merritt stated he would take care of this as soon as possible.

They also discussed the power surges causing electrical problems.

2. Discuss the Possibility of Placing a 24 Hour Ice Vending Machine at the Harbor

Town Manager Ritter introduced Ms. Diane Hess with Ice is Nice, Inc. He advised that she asked if the Town had a place for her ice vending machine.

Ms. Hess gave her history and background. She advised that she has been looking to put a self-contained ice machine on Maddox Boulevard. She stated that Town Manager Ritter advised her that the Harbor Committee was looking into putting one in at the Harbor. She feels that the machine she originally had in mind is too big for the Harbor. She stated that the machine comes in on a forklift and is considered a machine. She explained the different types of machines and installation.

They discussed the size of machine to accommodate the potential use.

Ms. Hess also suggested putting another ice vending machine at the Landmark Plaza. She mentioned the possibility of a billboard to advertise the ice machine at the Harbor. She advised that she needs water and electricity. She mentioned the Codes she would have to meet that Building and Zoning Administrator Lewis discussed with her.

Chairman Leonard stated that the Harbor Committee can offer the location, the water and electricity.

There was further discussion as Ms. Hess showed the Committee more pictures. The Committee invited Ms. Hess to visit the existing pad at the Harbor to decide the size of machine.

Ms. Hess thanked the Committee.

3. Discuss the Possibility of Making changes to the Code Chapter 70, Water Access Facilities.

Town Manager Ritter advised that Town Attorney Poulson could review the changes before or after it is sent to Council in their agenda packet.

The Committee agreed to send it to Council.

Councilman Jester motioned, seconded by Mr. Handforth to send the changes to Chapter 70, Water Access Facilities to Council for possible adoption. Unanimously approved.

4. Committee Member Comments

There were none.

Adjourn

Councilman Jester motioned, seconded by Mr. Handforth to adjourn. Unanimously approved.



MEMORANDUM
Town of Chincoteague Inc.

Date: October 5, 2012
To: Mayor and Town Council
From: Robert Ritter, Town Manager
Subject: Code, Chapter 70, Water Access Facilities

The Harbor Committee met on October 5, 2012 and February 7, 2013, to look at the Town Ordinance Chapter 70, Water Access Facilities. The Harbor Committee is like all Town Committees that our Town Council has set up; they are set up to be advisory in nature to the full body of the Town Council. Town staff has looked at the existing Code Chapter 70, Water Access Facilities, Article II, Division 1, Curtis Merritt Harbor of Refuge and Division 2, to propose appropriate changes in the Committee structure. Also in Division 3, Use of Harbors, Wharves, Boat Slips, Land, we propose the appropriate changes from a lease to a mooring permit to be consistent with the new mooring permit that was approved by Council.

Under Article III, Use of Other Town Water Related Facilities, we made a few small changes under prohibited conduct.

You will find next the draft Code, Chapter 70 in its entirety, with a line struck through the words proposing to delete and in **red** you will find the proposed words added to the code.

The Committee voted unanimously with one absent, to confirm their approval and to forward the changes of Chapter 70, to the full Council.

Chapter 70

WATER ACCESS FACILITIES*

Article I. In General

Secs. 70-1—70-25. Reserved.

Article II. WATER ACCESS FACILITIES

Division 1. Curtis Merritt Harbor Of Refuge

Subdivision 1. Generally

- Sec. 70-26. Definitions.
- Sec. 70-27. Purpose and authority.
- Sec. 70-28. Penalties.
- Sec. 70-29. Damage to docks, wharves or launching ramps.
- Sec. 70-30. Nondiscrimination.
- Secs. 70-31—70-55. Reserved.

Division 2. Committee

- ~~Sec. 70-56. Established; general authority.~~
- Sec. 70-57. Membership.
- Sec. 70-58. Meetings.
- Sec. 70-59. Quorum; majority rule.
- Sec. 70-60. Vacancies.
- Sec. 70-61. Removal of members.
- ~~Sec. 70-62. Referrals for decision.~~
- Sec. 70-63. General authority.
- Secs. 70-64—70-90. Reserved.

Division 3. Use of Harbors, Wharves, Boat Slips, Land

- Sec. 70-91. ~~Leases, permits or licenses~~ **Mooring Permits** required for use or occupancy.
- Sec. 70-92. Permits required for erection of structures.
- Sec. 70-93. Damage to docks, wharves or launching ramps.
- Sec. 70-94. Dumping; disposal of wrecks.
- Sec. 70-95. Boat ramp and land area usage.
- Sec. 70-96. Designated loading and unloading areas.
- Sec. 70-97. Use of harbor for anchoring or mooring.
- Sec. 70-98. Speed limit.

***Charter reference**—Public wharves, harbors, etc., ch. 2, § 1(9).

Cross references—Buildings and building regulations, ch. 14; environment, ch. 22; floods, ch. 30; parks and recreation, ch. 42; vegetation, ch. 66; zoning, app. A; marina, commercial or club type, app. A, § 2.96; marina, private noncommercial, app. A, § 2.97.

State law references—Removal, repair, etc., of wharves, piers, etc., Code of Virginia, § 15.2-909; regulation of lakes, pools, etc., Code of Virginia, § 15.2-1110; local regulation of vessels, Code of Virginia, § 29.1-744 et seq.; port management, Code of Virginia, § 62.1-163.

- Sec. 70-99. Dock boxes.
- Sec. 70-100. Storage.
- Sec. 70-101. Fuel.
- Sec. 70-102. Oversized vessels.
- Sec. 70-103. Trespassing.
- Sec. 70-104. Prohibited conduct.
- Sec. 70-105. Other rules and regulations.
- Sec. 70-106. Abusive language.
- Secs. 70-107—70-109. Reserved.

Article III. Use of Other Town Water Related Facilities

Division 1. Generally

- Sec. 70-110. Definitions.
- Sec. 70-111. Purpose and authority.
- Sec. 70-112. Penalties.
- Sec. 70-113. Nondiscrimination.
- Sec. 70-114. Reserved.

Division 2. Provisions Regulating the Use of Such Other Facilities

- Sec. 70-115. General Authority.
- Sec. 70-116. General.
- Sec. 70-117. Required license.
- Sec. 70-118. Damage to docks, wharves or launching ramps.
- Sec. 70-119. Boat ramp and land area usage.
- Sec. 70-120. Dumping; disposal of wrecks.
- Sec. 70-121. Use of facility for anchoring or mooring.
- Sec. 70-122. Prohibited conduct.
- Sec. 70-123. Other rules and regulations.
- Sec. 70-124. Provisions regulating boat wakes in and adjacent to any such facility.
- Sec. 70-125. Abusive language.
- Sec. 70-126. Special provisions applicable to the town dock.

WATER ACCESS FACILITIES

ARTICLE I. IN GENERAL

Secs. 70-1—70-25. Reserved.

ARTICLE II. CURTIS MERRITT HARBOR OF REFUGE

DIVISION 1. GENERALLY

Sec. 70-26. Definitions.

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

Boat means any motor boat, vessel, watercraft, or personal watercraft of any kind, however propelled.

Committee means the Curtis Merritt Harbor of Refuge Committee.

Federal project means a project for improvement of the harbor and the modification of harbor lines by the Department of the Army and in proximity thereto.

Harbor or Curtis Merritt Harbor means the Curtis Merritt Harbor of Refuge.
(Code 1977, §§ 9-2, 9-3)

***Working watermen* means anyone that earns fifty one percent (51%) of their annual income working on the water.**

Cross reference—Definitions generally, § 1-2.
(Amended 08/07/06)

Sec. 70-27. Purpose ~~and authority.~~

The purpose of this article is ~~to provide for the operation and maintenance of the Curtis Merritt Harbor of Refuge owned by the town, including certain charges for the use thereof.~~ **to establish an advisory Committee to the Town of Chincoteague, Town Council.**
(Code 1977, § 9-1) (Amended 05/05/03, 08/07/06)

Sec. 70-28. Penalties.

Any person violating any of the sections of this article shall, upon conviction, be guilty of a Class 2 misdemeanor.
(Code 1977, § 9-7)
(Amended 08/07/06)

Sec. 70-29. Damage to docks, wharves or launching ramps.

It shall be unlawful for anyone, intentionally or negligently, to damage the public docks, wharves or launching ramps owned by the town.
(Code 1977, § 9-4)
(Amended 08/07/06)

Sec. 70-30. Nondiscrimination.

There shall be no discrimination in the use of ~~an~~ **or** access to the benefits of all the harbor regardless of race, age, creed, handicapping conditions, color, national origin, religion, sex, political affiliation or beliefs.
(Code 1977, § 9-6)
(Amended 08/07/06)

WATER ACCESS FACILITIES

Secs. 70-31—70-55. Reserved.

DIVISION 2. COMMITTEE*

Sec. 70-56. Established; general authority.

~~There is established for the purposes of the supervision, operation and maintenance of the Curtis Merritt Harbor of Refuge and Boat Ramp enforcement of this article a committee to be known as the Curtis Merritt Harbor of Refuge Water Access Facilities Committee, which shall be charged with diligently conducting and enforcing the provisions of this article and any recommending rules, regulations and future projects adopted by the committee and approved by to the town council, from time to time for the best interest of the federal project and the public, bother whether commercial and / or recreational.~~
(Code 1977, § 9-2(1)) *Amended 05/05/03, 08/07/06*

Sec. 70-57. Membership.

(a) The committee shall consist of five members, and four members shall be residents of the town with the option of the mayor and council to waive the residence requirements of the harbor master. The members shall be as follows:

- (1) Two shall be members of the town council.
- (2) One shall be a member of the working waterman's association.
- (3) One shall be a recreational fisherman.
- ~~(4) One shall be the harbor master.~~

(Amended 08/07/06)

(b) All members shall be appointed by the council, ~~except the harbor master. After the council has approved the first four members, those four will by a majority vote appoint the harbor master, upon the advice and consent of the town council.~~ All members shall be appointed for a term of two years or until replaced by the town as herein provided. All members of the committee shall serve as such without compensation.

(Amended 08/07/06)

(c) The harbor master shall be a nonvoting member **secretary** of the committee. The committee **Council** shall elect a chairman **every other year following Council elections.** ~~and vice chairman and one of the town council members shall be the secretary/treasurer.~~

(Code 1977, § 9-2(2); Ord. of 10-21-1993) *(Amended 05/05/03, 08/07/06)*

***Cross reference**—Boards and commissions, § 2-106 et seq.

Sec. 70-58. Meetings.

The committee shall meet at least four times a year at a time and place of its choosing and shall maintain accurate records of the meeting's ~~proceedings and the financial resources of the harbor.~~

(Code 1977, § 9-2(3)) *(Amended 05/05/03, 08/07/06)*

Sec. 70-59. Quorum; majority rule.

Three voting members of the committee shall constitute a quorum for all meetings. All matters shall be decided by majority vote of those present and voting.

(Code 1977, § 9-2(4))

(Amended 08/07/06)

Sec. 70-60. Vacancies.

WATER ACCESS FACILITIES

If a vacancy occurs in the term of any committee member, the town shall have the right to appoint a person to fill such vacancy, as described in this division, for the remainder of such unexpired term.
(Code 1977, § 9-2(5))

Sec. 70-61. Removal of members.

The town reserves the right to remove any committee member with or without cause.
(Code 1977, § 9-2(6))
(Amended 08/07/06)

Sec. 70-62. Referrals for decision.

~~—Matters which cannot be decided by the committee shall be referred to the town council for decision. Any such referral shall be in writing detailing the issues involved and why the committee is unable to make a determination.~~
(Code 1977, § 9-2(7)) (Amended 05/05/03, 08/07/06)

Sec. 70-63. General authority.

(a) The ~~committee's~~ **Harbor Master is the Town's** duly designated agent in the supervision of the harbor and the enforcement of this article ~~shall~~ **and** has the authority to direct and control the movement and stoppage of all boats, vehicles and trailers using the harbor facilities, including the parking area, ramp, dock, boat slips and water within the confines of the harbor. The ~~committee~~ **Harbor Master** shall have the further authority to restrict or prohibit any activities within the facility that in any way adversely affect the intended uses of the facility. The failure of any person to reasonably submit to such direction and control shall constitute a violation hereof.
(Amended 08/07/06)

(b) Nothing contained in this section is intended to preclude the town police department or other police officers from enforcing federal, as applicable, state and local statutes, ordinances and regulations, including the provisions of this article within the harbor.
(Code 1977, § 9-5)
(Amended 08/07/06)

Secs. 70-64—70-90. Reserved.

DIVISION 3. USE OF HARBORS, WHARVES, BOAT SLIPS, LAND

Sec. 70-91. ~~Leases, permits or licenses~~ **Mooring Permit required for use or occupancy.**

(a) It shall be unlawful for any person to use, occupy or moor a boat to any part of the Curtis Merritt Harbor of Refuge without first having obtained a ~~lease, permit, license,~~ **Mooring Permit** or the authority of the harbor master as provided in this article, for such use, occupation docking, or mooring.
(Amended 08/07/06)

(b) All ~~leases, permits or licenses~~ **Mooring Permits** for the use or occupancy of boat slips, wharfage or land within the harbor shall be in writing on forms authorized by the town ~~council~~ and submitted to and approved ~~and executed~~ by the ~~committee's~~ **Harbor Master or his** designated representative ~~and the lessee, permittee, or licensee and preserved in the office of the committee.~~
(Amended 08/07/06)

(c) All fees for ~~leases, permits or licenses~~ **Mooring Permit** shall become due and payable on each ~~July~~ **June 1st** at the town office. All fees are non-refundable, except as may be provided for in the ~~lease~~ **Mooring Permit** agreement.
(Amended 08/07/06)

WATER ACCESS FACILITIES

(d) No lessee **Mooring Permit (Holder)** shall assign **the Mooring Permit** or sublease a boat slip to another person and any such assignment or sublease shall immediately terminate said lease **Mooring Permit**, without refund of any portion of the lease **Mooring Permit** payment. (*Amended 08/07/06*)

(e) No boat shall be moored in any slip for a period in excess of 24 hours by any lessee **Holder** except such boat that is listed on the lease **Holder** agreement when executed or subsequently added thereto. No more than one (1) boat shall be so listed at any given time. The presence of any unlisted boat in any such slip for a period of ten (10) days shall cause a rebuttable presumption **result in a determination** that such slip lease **Holder** has been assigned or a sublease **unauthorized assignment** exists and such lease **Mooring Permit Holder** shall terminate immediately, absent proof to the reasonable satisfaction of the committee **Harbor Master** that such assignment or sublease has not occurred. (*Amended 08/07/06*)

(f) All fees charged for use and occupancy of boat slips, wharfage, and other uses of the harbor facilities shall be established by the town council from time to time and shall be posted in the office of the harbor committee **Harbor Master**, unless otherwise expressly provided for herein. (Code 1977, § 9-3(A)) (*Amended 05/05/03, 08/07/06*)

(g) All fees and charges collected by the town from the use of the harbor shall be segregated or earmarked from the general fund and used for improvements, repairs and upkeep of the harbor and its facilities, upon recommendations made **to the Council** by the committee. ~~The committee shall file annually with the town a report on the status of the harbor facility.~~ (*Amended 08/07/06*)

(h) The following priorities shall control the leasing **Issuance of the Mooring Permit** of slips at the harbor:

- (1) Present **Mooring Permit** leaseholders that requested a smaller slip and leased **holds a** larger slip have the first opportunity to change to a smaller slip if available.
- (2) Working watermen (100%) of the Islands District.
- (3) Other boat owners of the Islands District.
- (4) Working watermen (100%) of Accomack County.
- (5) Accomack County residents.
- (6) All others.

(*Amended 08/07/06*)

Sec. 70-92. Permits required for erection of structures.

It shall be unlawful to erect any type of structure including mooring poles in the waters of the harbor or on the property within the harbor facility without first securing a permit from the harbor committee **Harbor Master**. All buildings, structures, docks, poles, walkways or projections in the harbor waters or facility, in conflict with and not conforming to specifications and requirements of the harbor committee **Harbor Master**, shall be removed at the lessee's **Holder's** expense. Any authorized structure or appurtenance shall be installed at the expense of the person causing the construction thereof. The structure or appurtenance shall, at the option of the committee **Holder's**, become the property of the town at the expiration of the lessee's **Holder's** lease **Mooring Permit**, or the committee **Harbor Master** may require that any such structure be removed.

(Code 1977, § 9-3(B)) (*Amended 08/07/06*)

Sec. 70-93. Damage to docks, wharves or launching ramps.

WATER ACCESS FACILITIES

It shall be unlawful for anyone intentionally or negligently, to damage the public docks, wharves, bulkheads, or launching ramps owned by the town situated at the harbor.

(Adopted 08/07/06)

Sec. 70-93. Dumping; disposal of wrecks.

(a) It shall be unlawful to deposit or cause or permit to be deposited, in any of the waters of the harbor, or along the shores thereof or in any of the streams or ditches emptying therein or on any of the land adjacent or contiguous to the harbor, etc., any refuse, offal, waste matter or other substance or material, whether earth, oil, liquid, animal, fish or vegetable matter, or other matter that may adversely affect the sanitary, clean and safe condition of the water in the harbor or that may diminish the depth thereof.

(Amended 08/07/06)

(b) It shall be unlawful to intentionally or negligently permit or cause to be sunk any boat in the waters of the harbor, or to intentionally or negligently permit or cause any loose timber or log to be set adrift in the harbor. Whenever a boat is wrecked and/or sunk in any of the waters of the harbor, accidentally or otherwise, it shall be the duty of the owner or person then in possession of such wrecked or sunken boat to immediately mark it with buoys and lights at night and to maintain such warning devices until the wrecked or sunken boat is removed which shall be done within the time frame designated by the committee. The neglect or failure of the owner person then in possession to so mark the wrecked or sunken boat shall constitute a violation hereof. It shall be the duty of the owner or person then in possession of such wrecked or sunken boat to commence the immediate removal of the boat and remove same within the ~~committee's~~ **Harbor Master's** designated removal period. Failure to do so shall constitute a violation hereof. Further, the failure of the owner or person then in possession to mark with required warning devices and/or remove such wrecked or sunken boat within the period prescribed by the ~~committee~~ **Harbor Master** shall constitute a material breach of any ~~lease~~ **Mooring Permit** with such person and authorize the ~~committee~~ **Harbor Master** to cancel such ~~lease~~ **Mooring Permit**. In the event any such owner or person in possession does not timely remove such wrecked or sunken boat, the committee may proceed to do so after five (5) days written notice to such owner or person in possession, and at the owner's and/or person in possession's cost.

(Code 1977, § 9-3(C)) (Amended 08/07/06)

Sec. 70-95. Boat ramp and land area usage.

(a) The use of the boat ramps and adjacent parking areas of the harbor facility are for the pleasure of all users. No unloading, loading or storage of seafood products or byproducts, nets, poles, dredges or culling of products is permitted except in designated loading and unloading areas as hereinafter provided. At the discretion of the harbor master, a temporary variance may be granted when an emergency exists or there is other just cause therefore.

(Amended 08/07/06)

(b) Overnight habitation of vessels, boats, parked vans, automobiles, trucks, mobile homes, camper trailers or other recreational vehicles or apparatus, including tents, at the harbor facility, is prohibited except by special authority given by the harbor master for critical emergency situations.

(Code 1977, § 9-3(D)) (Amended 05/05/03, 08/07/06)

(c) Persons utilizing a boat ramp at the harbor shall launch or recover any boat as promptly as possible giving consideration to the safety of persons and property, and shall not unnecessarily impede the use of such ramp by other users.

(Adopted 08/07/06)

Sec. 70-96. Designated loading and unloading areas.

(a) The ~~committee~~ **Harbor Master** shall designate a specified wharfage area for the loading and unloading of both commercial and pleasure boats which areas shall be designated and with appropriate signage.

(Amended 08/07/06)

WATER ACCESS FACILITIES

(b) Except in an emergency, it shall be unlawful to use the loading and unloading wharfage area for the mooring of boats. In an emergency, the mooring shall be as approved by the ~~committee~~ **Harbor Master** or its **his** designated agent.

(Amended 10/03/05, 08/07/06)

(c) Wharfage for inbound or outbound cargo placed on the loading and unloading area shall be limited to 24 hours without charge. Wharfage for all boats shall be limited to eight hours without charge.

(Amended 05/05/03, 10/03/05, 08/07/06)

(d) Under no circumstances shall any cargo remain on the loading and unloading area in excess of the free time, except on the express authorization of the harbor committee or harbor master. The loading and unloading area or any other upland area of the harbor facility shall not be utilized for storage purposes. Cargo equipment of whatever kind placed thereon shall remain thereon at the risk of the consignee or owner and shall be removed within a reasonable length of time, which shall not exceed 24 hours except on the express authorization of the harbor committee or harbor master.

(Code 1977, § 9-3(E)) *(Amended 08/07/06)*

Sec. 70-97. Use of harbor for anchoring or mooring.

(a) No boat shall be moored or anchored inside the harbor without the permission of the ~~committee~~ or harbor master, at such points as shall be designated.

(Amended 08/07/06)

(b) No boat shall operate or be moored or anchored in such a manner as to obstruct the passage, approaches, berthing offloading, or loading, or use of the launching ramp by other boats at the harbor.

(Amended 08/07/06)

(c) No person operating any boat shall utilize in any way any bulkhead, dock or slip space within the harbor except that portion which is ~~leased~~ **permitted** by such person from the ~~committee~~, or otherwise with the expressed permission of the harbor master ~~or the committee~~. *(Amended 08/07/06)*

(d) Fees as determined by the town ~~may~~ **shall** be charged for anchoring or mooring in the harbor ~~by the committee when authorized by the harbor master~~.

(Code 1977, § 9-3(F)) *(Amended 08/07/06)*

Sec. 70-98. Speed limit.

All boats entering, leaving, or navigating in the harbor shall be operated in such a manner so as not to create a swell sufficient to cause damage to the other boats moored, anchored, offloading, loading or utilizing the boat ramps at the harbor.

(Code 1977, § 9-3(G)) *(Amended 08/07/06)*

Sec. 70-99. Dock boxes.

Dock boxes may be provided and utilized by each **Mooring Permit Holder** at the harbor, provided that the design, materials, colors, and location are approved in writing by the harbor master.

(Code 1977, § 9-3(H)) *(Amended 08/07/06)*

Sec. 70-100. Storage.

Crab traps, lobster pots, fish nets, baskets, fish boxes and all other types of gear shall not be stored on the docks or upland areas except area that may be designated by the harbor ~~committee~~ master. Boats shall not be stored on the docks, adjacent waterways or upland areas of the harbor.

(Code 1977, § 9-3(I)) *(Amended 08/07/06)*

Sec. 70-101. Fuel.

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No fuel, either diesel or gasoline, shall be stored on the docks or upland areas of the harbor. Fuels shall only be sold at the harbor by licensed fuel dealers. Transportation of fuels by a lessee **Mooring Permit Holder** is permitted, providing the containers are safe and properly secured on the lessee's **holder's** vehicle. All such containers and vehicles must be approved by the ~~harbor committee or the harbor master~~.
(Code 1977, § 9-3(J)) (*Amended 08/07/06*)

Sec. 70-102. Oversized vessels.

Boats longer than 15 percent of the length of the harbor slip requested will not be permitted unless special permission is granted by the committee.
(Code 1977, § 9-3(K)) (*Amended 08/07/06*)

Sec. 70-103. Trespassing.

No person shall enter the harbor between the hours of 10:00 p.m. and 6:00 a.m., except for ~~leaseholders~~ **Mooring Permit Holders** and their guests and other duly authorized persons. Any such entry shall constitute a criminal trespass.
(Code 1977, § 9-3(L)) (*Amended 08/07/06*)

Sec. 70-104. Prohibited conduct.

Within the harbor, the upland area adjacent thereto, and the spoil site, the following conduct is expressly prohibited:

- (a) crabbing
 - (b) swimming
 - (c) fishing
 - (d) camping
 - (e) bathing
 - ~~(f) picnicking~~
 - (g) overhaul or repair of boats
 - (h) discharge of firearms
 - (i) reserved
 - (j) parking, except as expressly permitted by appropriate signage or the harbor master
- (Code 1977, § 9-3(M)) (*Amended 08/07/06*)

Sec. 70_105. Other rules and regulations.

In addition to all other rules or regulations pertaining to the use of the harbor, the following additional rules and regulations shall be in effect:

- a. Overnight parking **is** prohibited without **a current** ramp user fee sticker **and then only if the vessel is under way.**
- b. Two (2) hour parking if not under way on boat or vessel.

(*Adopted 08/07/06*)

Sec. 70_106. Abusive language.

While utilizing the harbor, including while on any boat moored thereto or while in the act of mooring, embarking, disembarking, launching or recovering any boat any person shall refrain from making any loud and

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disturbing noises not reasonably necessary for utilizing said facility, and further shall not use any abusive and/or obscene language that reasonably disturbs the peace and tranquility of others on or near said facility.

(Adopted 08/07/06)

Sec. 70_107 to 109. Reserved.

ARTICLE III. USE OF OTHER TOWN WATER RELATED FACILITIES

DIVISION 1. GENERALLY

Sec. 70_110. Definitions.

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

Boat means any motor boat, vessel, watercraft, or personal watercraft of any kind, however propelled.

Person means any natural person, corporation, partnership, limited liability company, or other legal entity.

Town or Town Council means the governing body of the Town of Chincoteague.

(Adopted 08/07/06)

Sec. 70_111. Purpose and authority.

The purpose of this article is to provide for the operation of all other water related facilities owned or controlled by the Town of Chincoteague, specifically including but not limited to the town dock (excluding any leased portion thereof), Chincoteague Veterans Memorial Park, eastside boating facility, Fir Landing, and Robert N. Reed, Sr. Downtown Waterfront Park.

(Adopted 08/07/06)

Sec. 70_112. Penalties.

Any person violating any of the provisions of this article shall, upon conviction, be guilty of a Class 2 misdemeanor.

(Adopted 08/07/06)

Sec. 70_113. Nondiscrimination.

There shall be no discrimination in the use of or access to the benefits of any such facility, regardless of race, age, creed, handicapping conditions, color, national origin, religion, sex, political affiliation or beliefs.

(Adopted 08/07/06)

Sec. 70_114. Reserved.

DIVISION 2. PROVISIONS REGULATING THE USE OF SUCH OTHER FACILITIES

Sec. 70_115 General authority.

(a) The harbor master and his duly designated agents, in the supervision of the other town water related facilities and the enforcement of this article, shall have the authority to direct and control the movement and stoppage of all boats, vehicles and trailers using the other town water related facilities, including the parking area, ramp, dock, boat slips and waters within the confines of the other town water related facilities. The harbor master shall have the further authority to restrict or prohibit any activities within the facility that in any way

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adversely affect the intended uses of the facility. The failure of any person to reasonably submit to such directions and control shall constitute a violation hereof.

(Adopted 08/07/06)

(b) Nothing contained in this section is intended to preclude the police department or other police officers from enforcing federal, state and local statutes, ordinances and regulations, including the provisions of this article within the other town water related facilities.

(Adopted 08/07/06)

Sec. 70_116. General.

It shall be unlawful for any person to use, occupy, moor, load, offload, launch, or recover any boat except as permitted herein.

(Adopted 08/07/06)

Sec. 70_117. Required license.

No person shall use for the launching and/or recovery of any boat any ramp constituting a part of any such facility without having paid any required license fee as established by the town council from time to time.

(Adopted 08/07/06)

Sec. 70_118. Damage to docks, wharves or launching ramps.

It shall be unlawful for any person to intentionally or negligently damage any public dock, wharf, bulkhead, or launching ramp constituting a part of any such facility.

(Adopted 08/07/06)

Sec. 70_119. Boat ramp and land area usage.

(a) The use of the boat ramp and adjacent parking areas of any such facility, are for the pleasure of all users. No unloading, loading or storage of seafood products or byproducts, nets, poles, dredges or culling of products is permitted except in designated loading and unloading areas as hereinafter provided. At the discretion of the harbor master, a temporary variance may be granted when an emergency exists or there is other just cause therefore.

(Adopted 08/07/06)

(b) Overnight habitation of boats, parked vans, automobiles, trucks, mobile homes, camper trailers or other recreational vehicles or apparatus, including tents, at any such facility, is prohibited except that slip holders and their guests may utilize overnight accommodations on boats designed for such overnight use, after obtaining the lease from the town.

(Adopted 08/07/06)

(c) Persons utilizing a boat ramp at any such facility shall launch or recover any boat as promptly as possible giving consideration to the safety of persons and property, and shall not unnecessarily impede the use of any such ramp by other users.

(Adopted 08/07/06)

Sec. 70_120. Dumping disposal of wrecks.

(a) It shall be unlawful to deposit or cause or permit to be deposited, in any of the waters of any such facility, or along the shores thereof or in any of the streams or ditches emptying therein or on any of the land adjacent or contiguous to any such facility, any refuse, offal, waste matter or other substance or material, whether earth, oil, liquid, animal, fish or vegetable matter, or other matter that may adversely affect the sanitary, clean and safe condition of the waters in any such facility or that may diminish the depth thereof.

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(Adopted 08/07/06)

(b) It shall be unlawful to intentionally or negligently permit or cause to be sunk any boat in the waters of any such facility, or to intentionally or negligently permit or cause any loose timber or log to be set adrift in any such facility. Whenever a boat is wrecked and/or sunk in any of the waters of any such facility, accidentally or otherwise, it shall be the duty of the owner or person then in possession of such wrecked or sunken boat to immediately mark it with buoys and a lights at night and to maintain such warning devices until the wrecked or sunken boat is removed which shall be done within the time frame designated by the harbor master. The neglect or failure of the owner or person then in possession to so mark the wrecked or sunken boat shall constitute a violation hereof. It shall be the duty of the owner or person then in possession of such wrecked or sunken boat to commence the immediate removal of the boat and remove same within the harbor master's designated removal period. Failure to do so shall constitute a violation hereof. Further the failure of the owner or person then in possession to mark with required warning devices and/or remove such wrecked or sunken boat within the period prescribed by the harbor master shall constitute a material breach of any lease, with such person and authorize the harbor master to cancel such license. In the event any such owner or person in possession does not timely remove such wrecked or sunken boat, the harbor master may proceed to do so after five (5) days written notice to such owner or person in possession, and at the owner's and/or person in possession's cost.

(Adopted 08/07/06)

Sec. 70_121. Use of facility for anchoring or mooring.

(a) No boat shall be moored to or anchored inside any such facility without the permission of the harbor master and at such points as may be designated, or unless otherwise permitted.

(Adopted 08/07/06)

(b) No boat shall be operated or moored or anchored in such a manner as to obstruct the passage, approach, berthing, offloading, loading, launching or recovery of other boats at any such facility.

(Adopted 08/07/06)

(c) No person operating any boat shall utilize in any way any bulkhead, dock, or slip space within any such facility except that portion which is leased by such person from the town, where applicable, or without the express permission of the harbor master, or as otherwise permitted.

(Adopted 08/07/06)

Sec. 70_122. Prohibited conduct.

Within any such facility, and/or the upland area adjacent thereto, the following conduct is expressly prohibited:

- (a) swimming
- (b) camping
- (c) fireworks
- (d) overhaul of boats **except for the express written authority of the Harbor Master**
- (e) discharge of firearms
- (f) parking, except as expressly permitted by appropriate signage.

In addition to any other rule or regulation pertaining to the use of the other town water related facilities, the following additional rules and regulations shall be in effect:

- (a) Overnight parking **is** prohibited without **a current** ramp user fee sticker **and then only if the vessel is under way.**

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(b) Two (2) hour parking if not under way on boat or vessel.

(Adopted 08/07/06)

Sec. 70_123. Other rules and regulations.

In addition to all other rules or regulations pertaining to the use of the other town water related facilities, excepting the town dock, the following additional rules and regulations shall be in effect:

(a) The loading dock area may be used up to four (4) hours free of charge.

(b) Beyond four (4) hours, boats may remain at the dock for reasons of mechanical failures, inclement weather or any other situation as deemed appropriate by the harbor master or his duly appointed agent.

(c) The fee for said mooring shall be ~~seven (\$7) dollars per day~~ **set by Council each year.**

(Adopted 08/07/06)

Sec. 70_124. Provisions regulating boat wakes in and adjacent to any such facility.

All boats entering, leaving, or navigating in or within 100 feet of any such facility shall be operated in such a manner so as not to create a swell sufficient to cause damage to the other boats moored, anchored, offloading, loading, or utilizing the boat ramps at such facility.

(Adopted 08/07/06)

Sec. 70_125. Abusive language.

While utilizing any such facility, including while on any boat moored thereto or while in the act of mooring, embarking, disembarking, launching or recovering any boat any person shall refrain from making any loud and disturbing noises not reasonably necessary for utilizing said facility, and further shall not use any abusive and/or obscene language that reasonably disturbs the peace and tranquility of others on or near said facility.

(Adopted 08/07/06)

Sec. 70_126. Special provisions applicable to the town dock.

(a) No commercial boat shall offload any cargo except that a boat less than 24 feet in length may offload seafood products providing that said offloading does not exceed ½ hour daily.

(Adopted 08/07/06)

(b) A boat may moor at the town dock between the hours of 8:00 a.m. to 12:00 noon to take on fuel and secure stores for a period not to exceed 1 hour daily and provided that there are no more than two such boats so moored at a time.

(Adopted 08/07/06)

(c) In the case of an emergency the United States Coast Guard may moor a boat at the town dock during the course of said emergency after contacting and securing the approval of the harbor master.

(Adopted 08/07/06)

(d) The harbor master may permit a boat to moor for an appropriate period of time to correct any mechanical problems.

(Adopted 08/07/06)

(e) In the case of inclement weather, the harbor master may moor up to two boats at the town dock during the period of such weather conditions.

(Adopted 08/07/06)

(f) Under no circumstances shall the use of the boat ramp at the town dock be impeded.

(Adopted 08/07/06)

**ORDINANCE COMMITTEE
TOWN OF CHINCOTEAGUE
February 19, 2013
Meeting Minutes**

Present

Councilman Terry Howard, Chairman
Councilman Tripp Muth
Councilman Gene Taylor

Staff

Robert G. Ritter, Jr., Town Manager
Edward Lewis, Chief of Police
Randy Mills, Assistant Chief of Police

Call to Order

Chairman Howard called the meeting to order at 5:00 p.m.

Open Forum/Public Participation

- Mr. Tom Derrickson, Hampton Inn and Suites, approached the Committee regarding the penalty for Transient Occupancy Tax. He explained that in January he received a call from a Town Staff Member, Mrs. Hooper, regarding the lack of reporting and paying Transient Occupancy Tax for December. He advised that he researched his records and found that he had not filed. He didn't file December's Transient Occupancy Tax. He immediately filed and paid. However, he was informed of the penalty of \$422. He advised the Committee that he has been in business with the Hampton Inn for 10 and ½ years and has only ever been late this one time. He asked the Committee to review the Ordinance.

Mr. Derrickson advised that he researched the penalties and feels the Town's is a little steep as the state's penalty is 6%. He also stated that he had a sales tax audit a couple of years after he opened the Motel. He advised that in purchasing the furnishings he hadn't paid sales tax on approximately \$100,000. When he was advised of the tax in the amount of over \$20,000 he asked what the penalty would be and was advised nothing. He stated he paid a little interest and no penalty because it was a first time offense and they didn't find that he was trying to be deceitful as it was a common mistake.

Mr. Derrickson feels that something needs to be addressed as he tries to do everything right. He feels this is steep for the first time. He added that the state doesn't charge a penalty for the first time offense.

Chairman Howard asked about what was paid to the Town.

Mr. Derrickson advised he paid over \$4,000 and there is a penalty of over \$400. He understands there is a penalty for being late.

Chairman Howard stated that there are some other Boards that impose a penalty for being late for example, taxes.

Councilman Taylor talked about the water leak adjustment of 1 in 5 years. He feels that a business person should have the same thing of 1 in 5 years with no penalty. He advised he's looking at long-term business people just overlooking the report. He added that because we're all human and make mistakes the once in 5 years would allow for this.

Mr. Derrickson reiterated that in 10 ½ years he has never been late.

Chairman Howard commented that they can review the Ordinance and invited Mr. Derrickson to come before Council with this matter. He stated that they will put this matter on the agenda for the next meeting for review.

Councilman Taylor stated it was obviously overlooked.

Mr. Derrickson stated he also mentioned this to the Town Manager.

Town Manager Ritter advised that the hardest part of this is keeping the records.

There was further discussion.

Chairman Howard stated that Council doesn't have to direct the Ordinance Committee to review an Ordinance. The Committee can review an Ordinance as necessary.

Councilman Taylor interjected that he feels it should be 1 in every 3 years instead of every 5 years.

- General Russell Porter, of Jester Street. He is before the Committee against the request for the waiver to work on Sunday for the Fairfield Inn. He gave some background as to why and how he ended up on Chincoteague. He stated that in the mid-70s his first impression was that the Island was full of good people and they returned. He added they then bought a couple of houses. He stated that the contractors would work on Saturdays to get caught up but wouldn't dare work on Sundays. He added that Chincoteague is full of good traditions, good people, good ideas and good Ordinances. He asked the Committee that they not change the Ordinance.

- Mr. Alex Hubb, of 3015 Ridge Road, requested to speak about the golf cart issue. He advised that he is the owner of a low speed electric vehicle and a former owner of a street legal electric golf cart. He stated that he is also the Manager for the Pony Express for the Town of Chincoteague. He advised that prior to the purchase of his golf cart 8 years ago, he did extensive research as to what was street legal in the state of Virginia. He stated his golf cart had to be custom built to meet all the criteria and go 25 miles per hour, was licensed and insured through Virginia.

Mr. Hubb continued to add that he replaced the golf cart a few years ago, replacing it with an electric low speed vehicle, capable of going 25 miles per hour. He added that it too is licensed and insured through Virginia. He stated that as the Manager of the Trolleys sharing the road with vehicles unable to travel the road at 25 miles per hour is a concern. He stated that the Trolley's do not pass and golf carts would slow the traffic pattern down causing the Trolley system to be behind schedule. The routes of 35 minutes could be slowed down because of the slower golf carts causing a 60 or 90 minute route. This could cause the ridership to drop.

Mr. Hubb added that by putting 500 or more pounds of payload on a golf cart you are challenging the motor to go top speed of approximately 10 or 15 miles per hour. He also mentioned that they

will go slower during colder weather. He expressed his concern of passing motorists. He also mentioned Maddox Boulevard as the access to the beach. He feels that golf carts are suitable for campgrounds but not for public streets. He concluded that gas powered golf carts are defeating the purpose of saving energy and possibly shouldn't be considered. He feels they have standards that need to be enforced.

Councilman Taylor asked Mr. Hubb how much the least expensive street legal golf cart would cost.

Mr. Hubb responded that a new one would cost approximately \$12,000 - \$15,000 and a used one could be purchased for half that price of \$5,000 - \$6,000. He stated that in buying a street legal golf cart, that you want to last, you have to put money into it. He explained how golf carts are made street legal.

Chairman Howard asked the difference between a GEM-car and a golf cart.

Mr. Hubb advised that a GEM-car is street legal. He stated that the maximum speed is 25 miles per hour. He added that you can cross a thoroughfare with a higher speed limit. He stated that the ones that would be approved will be battery powered. He stated that they will only have so much battery power. He added that cold weather will drain the battery or the battery dying will cause traffic issues.

There was further discussion. Mr. Hubb suggested not to endorse anything that couldn't do 25 miles per hour on the road.

- Mr. Jim White asked the Committee for the procedure for changing an Ordinance for golf carts.

Chairman Howard advised that once the Ordinance Committee reviews the proposal and they will direct staff to write or have the Ordinance written.

Town Manager Ritter advised that the Ordinance Committee will create the Ordinance and forward it to Council who will then review it and approve it.

Chairman Howard stated that if the Committee decides this is worthy of consideration it will be sent to Council.

Town Manager Ritter stated that the Committee would then ask staff to put an Ordinance together for this and would be on the agenda for April for the Committee's review. He added that the earliest the Ordinance would go through is May 1st.

Mr. White also asked to comment on the construction noise of the Fairfield Inn. He stated that the noise doesn't bother him. He stated that this will provide employment, a restaurant and revenue for the Town. He commented again on the golf carts. He agreed with Mr. Hubb's comments and concerns. He asked Chief Lewis if there was a minimum speed limit and was advised there was none.

Chief Lewis advised that if they were driving 10 miles an hour he would issue a ticket for driving too slow.

Chairman Howard stated that there are a lot of requirements attached to a low speed vehicle. He stated that the reason to purchase a golf cart verses a low speed vehicle would be to save money by not to having all of the requirements to be street legal.

Discussion continued.

Agenda Adoption

Councilman Taylor motioned, seconded by Councilman Muth to adopt the agenda.

1. Possible Revision to Chapter 22, Environment, Article II. Noise, Sec 22-35 & Sec 22-36

Chairman Howard asked if this change was to move it to a different section in the Ordinance.

Town Manager Ritter explained this was brought to the Ordinance Committee in 2006 regarding grass cutters and construction. He suggested that to meet in the middle to allow this after the church times of noon until 7:00 p.m. He stated that it has gone to court about 20 years ago with the grass cutting and was thrown out. He added that there are owners that can only come on the weekend or on a Sunday and cut their grass. He stated that in order to comply with the new Weed Ordinance they will need the additional time.

Town Manager Ritter asked the Committee if they just wanted the homeowner only to be authorized to cut grass or contractors. He asked for comments from the Committee.

Councilman Muth stated they are dealing with two different situations. He stated that cutting grass should be in conjunction with the Weed Ordinance. He feels they can't just limit it to the homeowner. He is open with this being open from 12 noon – 7:00 p.m. He discussed the construction noise. He agrees with work on Sundays. However, he feels they should protect the vacation base clients. He would like to see something addressing this on a seasonal basis.

There was discussion as to the verbiage allowing construction noise from noon to 7:00 p.m. from Labor Day to Memorial Day.

Councilman Taylor stated that he has no problem against a grass cutter on Sunday. He added that it's no louder than a motorcycle.

Chairman Howard added that it pertains to the decibel. He stated that the loud vehicles can be stopped for loud noise.

Town Manager Ritter asked how the Committee feels about leaving or striking the language of the "property owners".

Discussion continued and the Committee agreed that they shouldn't limit it to property owners only.

Town Manager Ritter stated he would work on the verbiage.

Chairman Howard advised he will not support changing this portion of the Ordinance. He stated that there is no law restricting such work on Sundays. However, he feels it works, whether it stands up in court or not. He asked Chief Lewis and Assistant Chief Mills about the complaints of cutting grass on Sundays. He added that it wasn't so much as construction on Sundays as it is grass cutting.

Chief Lewis stated that he doesn't recall any complaints in the last couple of years about cutting grass on Sundays. He gave an account of going to court with this ordinance and lost.

Chairman Howard commented and feels that the Town should change the law every time someone complains.

There was further discussion.

Chief Lewis stated that any Sunday you can go to the store and hear the fishing boats. He stated that at his house he can hear doors slamming and people yelling back and forth. He advised its more noise than a grass cutter cutting the grass. He stated that the decibel meter isn't always going to reach the noise. He advised his Harley Davidson, a power saw, or whatever is much louder than a grass cutter.

Town Manager Ritter read and explained the changes:

Chapter 22, Environment, Article II. Noise.

Sec. 22-35. Certain prohibited noises enumerated.

The following acts and/or noises are declared to create and/or constitute unreasonably loud noises prohibited by this article, and it is expressly provided that such enumeration shall not be exclusive, and the failure to enumerate a specific act and/or noise shall not be deemed to exclude any such act and/or noise from this article:

(13) *Grass cutters, tillers or other similar mechanical devices.* The operation of any grass cutter, tiller or other similar mechanical device utilizing a gasoline or diesel powered engine creating an emanating sound plainly audible beyond the property line of the property at which the device is being utilized, except between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, **and Sunday from 12:00 - 7:00 p.m. for the property owner (s), inclusive.**

(Ord. of 5-15-1999(1), § 12-12)

Sec. 22-36. Construction noises.

(a) The erection, excavation, demolition, alteration, or repair of any building or other improvement other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, **and Sunday from 12:00 - 7:00 p.m. for the property owner (s), inclusive, and is prohibited on Sunday from Memorial Day through Labor Day,** except when a permit is granted by the town manager, in a bona fide emergency to life or property, and the public health and safety will not be impaired by such work, as reasonably determined by the town manager.

(b) The making of any noises at a sound/noise level exceeding 89 decibels from any construction site, as measured as provided in this article, is prohibited at any time. (Ord. of 5-15-1999(1), § 12-13)

Councilman Muth motioned, seconded by Councilman Taylor to send to Council the request for a possible revision to Chapter 22, Environment, Article II, Noise, Sec 22-35 & Sec 22-36. Motion carried with Chairman Howard opposing.

2. Possible Revision to Chapter 18, Businesses, Article II, Licenses, Division 2, Specific Business and Occupations, Sec 18-95 & Sec 18-96

Town Manager Ritter explained the changes. He advised that this is regarding the Special Events during Pony Penning and obtaining a Pony Penning Sales Permit verses a Business License.

There was lengthy discussion of the \$50 Business License verses the \$60 Special Business License and who is required to obtain which one.

Town Manager Ritter advised that staff worked on this.

Chairman Howard doesn't like approving an Ordinance that is open ended. He explained that it isn't fair for the first 100 to pay and the next 20 not to pay.

The discussion continued regarding the 8 days prior to the event to pay the proposed special event fee of \$6,000.

Councilman Muth doesn't feel that's enough time to collect the money and he should have more time. He explained that the Special Event coordinator is responsible for the vendors.

Chairman Howard expressed his concern that the coordinator has to come up with more than an individual.

There were questions and comments. The Committee agreed to require the coordinator pay 8 days prior to the event and report the vendors no later than 3 days prior to the event.

Town Manager Ritter advised that this is really geared for the Blueberry Festival.

Councilman Taylor asked if there is an event that plans to only allow 20 vendors. He doesn't feel that \$6,000 is a fair fee.

They discussed charging the \$60.00 per vendor as opposed to the \$6,000 upfront. Town Manager Ritter recommended to let it go as it is written.

Chairman Howard entertained a motion to make a recommendation that this be adopted as presented unless they feel it should be changed.

Councilman Taylor feels they should strike through the \$6,000 clause.

Councilman Muth asked how many Blueberry Festival vendors paid last year to be a vendor at the festival.

Town Manager Ritter advised around 100 vendors but on their web site states between 100 and 125.

Councilman Taylor motioned, seconded by Councilman Muth to send to Council the possible revision to Chapter 18, Businesses, Article II, Licenses, Division 2, Specific Business and Occupations, Sec 18-95 & Sec 18-96 eliminating the portion with special event coordinator. Unanimously approved.

Chapter 18, Businesses, Article II, Licenses, Division 2, Specific Businesses and Occupations

Sec. 18-95. Special event vendors, carnivals, and circuses.

(a) Special Event License. The Special Event License shall be \$60.00

~~(Special Event Coordinator License: The Special Event Coordinator License shall be \$6,000. It shall be the coordinators responsibility to give to the Town a list of all vendors within 8 working days of the event).~~

(b) Anyone with an established town business license is exempted from the Special Event License fee. An established town business license shall mean a business that has a permanent location within the town limits and operates 90 days per year.

(c) Notwithstanding the provisions of Sec. 18-91 and Sec. 18-92 and the license requirements enumerated therein, any person, firm, or corporation engaged as an itinerant vendor or operating a carnival or circus at a special event conducted or sponsored by a local “charitable nonprofit organization” or a local nonprofit organization, as herein defined, or the Chincoteague Recreation and Convention Center Authority shall be exempted from such license tax, unless such person, firm, or corporation is otherwise required to be licensed in accordance with Chapter 18.

(d) A “Special Event” for purposes of this section shall be an event which is conducted for a limited number of days not exceeding fourteen (14) in any calendar year.

(e) A local “charitable nonprofit organization” for purposes of this section shall mean an organization which is described in Internal Revenue Code §501(c)(3) and to which contributions are deductible by the contributor under Internal Revenue Code §170, except that educational institutions shall be limited to schools, colleges, and other similar institutions of learning, and a majority of such organization’s receipts are utilized, directly or indirectly, within the Town of Chincoteague.

(f) A local nonprofit organization means an organization exempt from Federal Income Tax under Internal Revenue Code §501 other than a charitable nonprofit organization, and the majority of such organization’s receipts are utilized, directly or indirectly within the Town of Chincoteague.

(g) Anyone selling prepared food as defined in the town’s meals tax ordinance must submit a deposit to the town manager in an amount of \$500.00 prior to receiving such Special Event license, which amount shall be applied to any tax due as a result of such sales. Report of actual sales must be submitted within 30 days from the end of the event. Failure to report actual sales by the due date will forfeit the deposit. The remaining balance of the deposit, if any, shall be refunded to the licensee upon computation of the actual tax due and payable as determined by such sales. Town established businesses that sell prepared food are exempt from the \$500.00 deposit as long as they currently report such activity on a monthly account.

(h) All Special Event License must be secured eight days prior to the Saturday preceding the event. The license shall be displayed at the sale location for the entire length of the sale.

(i) A Special Event License is required for conducting Pony penning sales in the town

(1) Yard sales are prohibited the Saturday preceding Pony Penning day, until the Saturday after the Pony penning event.

(2) *Duration of sale; hours of operation; frequency.* Sales conducted under this section are restricted to a maximum period beginning no sooner than the Saturday preceding Pony Penning and ending on the Saturday immediately following Pony Penning. Any sale exceeding this time period or otherwise not in compliance with this section will not be considered a business and must comply with all applicable zoning and business licensing requirements.

(Adopted 02-07-05, Amended 03-06-06, Amended 03-04-13)

Sec. 18-96 Pony Penning Sales

- (a) *Generally.* ~~Pony Penning sales is herein defined in this ordinance to mean and include all general sales within the town, that are open to the public during the event.~~
- (b) *Permit.* ~~A permit is required for conducting Pony penning sales town and must be secured eight days prior to the Saturday preceding Pony Penning. The permit shall be displayed at the sale location for the entire length of the sale. Yard sales are prohibited during the event.~~
- (c) *Permit fee.* ~~The permit fee shall be \$50.00.~~
- (1) ~~Anyone with a valid town business license is exempted from the permit fee.~~
- (2) ~~Anyone selling prepared food as defined in the town's meals tax ordinance must submit a deposit to the town manager in an amount of \$500.00 prior to receiving such permit, which amount shall be applied to any tax due as a result of such sales. Report of actual sales must be submitted within 30 days from the end of the event. Failure to report actual sales by the due date will forfeit the deposit. The remaining balance of the deposit, if any, shall be refunded to the permittee upon computation of the actual tax due and payable as determined by such sales. Town established businesses that sell prepared food are exempt from the \$500.00 deposit as long as they currently report such activity on a monthly account.~~
- (d) *Duration of sale; hours of operation; frequency.* ~~Sales conducted under this section are restricted to a maximum period beginning no sooner than the Saturday preceding Pony Penning and ending on the Saturday immediately following Pony Penning. Any sale exceeding this time period or otherwise not in compliance with this section will not be considered a business and must comply with all applicable zoning and business licensing requirements.~~

3. Discuss if the Town Wishes to Create an Ordinance That Would Allow Golf Carts on Public Roads

Councilman Taylor stated that he would like to ask Chief Lewis and Assistant Chief Mills their opinion if the golf carts and scooters were licensed and insured.

Chief Lewis advised it wouldn't make much of a difference.

Mr. White suggested that if the Committee agrees to move forward with the proposed ordinance to put a time limit of 12 months to review the issues. He stated that if there are problems the ordinance can be revoked.

Town Manager Ritter advised that a low speed vehicle is allowed but must go 25 miles per hour and meet the requirements.

Assistant Chief Mills informed the Committee that the Code of Federal Regulations spells out the safety requirements regarding seatbelts, mirrors, helmets, horn and lights.

Chairman Howard stated that he read the requirements and there are several requirements to be met before they are road ready.

Assistant Chief Mills stated that low speed vehicles have to meet the requirements and still have to have license plates, driver's license to operate and a town sticker. He added that the only thing they do not have to have is a state safety inspection sticker.

Town Manager Ritter added that it is the responsibility of the driver to have everything in working order.

Assistant Chief Mills stated that a golf cart is different. The Town can have a separate Ordinance and requirements.

There was further discussion as to the street ready requirements.

Town Manager Ritter expressed his concern of the costs associated to get the Police Officers certified. He asked if the Committee would want to be liable should something bad occur if Council approves a separate Ordinance allowing this.

Councilman Muth stated that he feels it's cheating to allow a campground golf cart. He feels if they continue to go by the state Code the Town won't be liable because of the safety factors.

Mr. White explained that he is proposing that the Town allow golf carts that meet the same requirements as a low speed vehicle. He added that the only difference is that the golf cart doesn't have a VIN number or a plate.

Councilman Muth stated that he doesn't feel anything should be allowed on the road that isn't registered and insured with the exception of bicycles. He stated the difference is tracking the ownership of vehicle.

Assistant Chief Mills stated that when they expect the Police to inspect the safety specifications it makes the Town liable. He advised that they would probably have to be trained.

Mr. White suggested not getting the police involved in the inspections. He suggested that the Town create a check list for the rental agencies for them to inspect.

Mr. Hubb stated that there are street legal golf carts that are certified that they are street legal. He added that when the people pay the money to convert the golf carts to make the street legal then they can tag and insure it. He stated they wouldn't be burdening people to convert them to make them street legal. He concluded that if they can't do it right don't do it at all. He added that license is approximately \$110 per year and the insurance is approximately \$100 per year.

There was discussion about not creating a separate ordinance allowing golf carts. They feel if they are street legal then the state will allow them to be licensed and insured for \$200 a year.

Chairman Howard entertained a motion. There was no motion.

4. Committee Member Comments

Chairman Howard thanked Mr. White for all his effort and time.

Councilman Taylor appreciated Chairman Howard's stand on the noise ordinance.

Councilman Muth commended everyone for the process and working through the agenda.

Councilman Taylor commented on the late Transient Tax payment.

Chairman Howard reminded the Committee that this will be on the next agenda for discussion.

Councilman Taylor advised that everyone makes mistakes.

Adjourn.

Councilman Muth motioned, seconded by Councilman Taylor to adjourn. Unanimously approved.