

REGULAR COUNCIL MEETING A G E N D A

TOWN OF CHINCOTEAGUE

May 7, 2012 - 7:00 P.M. - Council Chambers - Town Hall

CALL TO ORDER

INVOCATION BY COUNCILMAN T. HOWARD

PLEDGE OF ALLEGIANCE

INTRODUCTION OF STUDENT GOVERNMENT DAY STUDENTS

PRESENTATION

OPEN FORUM / PUBLIC PARTICIPATION

STAFF UP-DATE

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

1. Consider Adoption of the Minutes
 - Regular Council Meeting of April 2, 2012 (Page 2 of 38)
2. Resolution on the Annual Spring Clean-up, Paint-up, Fix-up Week (Page 11 of 38)
3. Resolution on Designating Hurricane Awareness Week (Page 12 of 38)
4. Proclamation for Safe Boating Week (Page 13 of 38)
5. Phase 1 of the Six Year Plan for Public Transportation (Page 14 of 38)
6. Public Hearing on the Zoning Ordinance, Section 2.127 Pony Penning Sales (Page 16 of 38)
7. Resolution to Request Transfer of Bridge Street Right of Way (Page 21 of 38)
8. Public Safety Committee Report of April 2, 2012 (Mayor Tarr) (Page 25 of 38)
9. Recreation and Community Enhancement Report of April 10, 2012 (Councilman Jester) (Page 28 of 38)
The following may require a motion:
 - Directional Sign at the Bottom of the Welcome sign entering the Island (Page 30 of 38)
 - Name the overlook at the Curtis Merritt Harbor, Mariner's Point and have a sign put up as soon as possible (Page 31 of 38)
10. Ordinance Committee Report of April 12, 2012(Councilman T. Howard) (Page 32 of 38)
The following may require a motion:
 - Water Utility Service Connection and Extensions Code Amendment (Page 32 of 38)
 - Pony Penning Sales Permit Ordinance, Chapter 18 Code Amendment (Page 34 of 38)
11. Mayor & Council Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

MINUTES OF THE APRIL 2, 2012
CHINCOTEAGUE REGULAR TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
Ellen W. Richardson, Vice Mayor
John H. Howard, Councilman
Nancy B. Conklin, Councilwoman
John N. Jester, Jr., Councilman
Tripp Muth, Councilman
Terry Howard, Councilman

CALL TO ORDER

Mayor Tarr called the meeting to order at 7:05 p.m.

INVOCATION

Councilman T. Howard offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public comment.

- Ms. Deborah Ullmann, Main Street, expressed her concerns regarding the Wastewater Committee going into closed session to discuss the Sunset Bay sewage system. She feels this was not legal. She also expressed her concerns about the expansion of the wastewater service area and that no one from the Health Department has attended the Wastewater Advisory Committee meetings.

- Ms. Laurie Walton also approached Council regarding the Mother Earth Day and Paint up Fix up and Cleanup week. She mentioned that the hazardous waste will not be there this year. She informed Council of the Eastern Shore Household Hazardous Waste Collection scheduled for Saturday, April 28, 2012 from 10:00 a.m. to 2:00 p.m. in Eastville, Virginia.

STAFF UPDATE

Police Department

Chief Lewis issued the Police Department's monthly report to Council.

Public Works Department

Public Works Director Spurlock issued the Public Works' monthly report to Council.

Planning Department

Town Planner Neville added the Planning Department's monthly report to Council

General Government

Town Manager Ritter gave the General Government monthly report to Council and added that the Town has hired Mr. Alex Hubb for the next Director of Public Transportation. Mr. Hubb was in the audience and stood for the introductions. Town Manager Ritter also stated that staff will be mailing the Town Survey in May. He added that the next quarterly news letter will go out in May and asked Council for input to be submitted as soon as possible.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman T. Howard motioned, seconded by Councilman Jester to adopt the agenda. Unanimously approved.

1. Consider Adoption of the Minutes

- **Recessed Council Meeting of March 1, 2012**
- **Special Council Meeting of March 1, 2012**
- **Regular Council Meeting of March 5, 2012**
- **Council Workshop Meeting of March 15, 2012**

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

2. Presentation on the Chincoteague Island Arts Organization, Plans for the Island Theater

Mr. David Landsberger reported to Council that the Chincoteague Island Arts Organization plans to purchase the Island Theater to use as a non-profit Community Center. He advised that they want to continue to use it as a movie theater, as well as for performances and other events. They plan to have live performances and community meetings along with movies and special events.

Mr. Landsberger also stated that each member contributed \$5,000 to go toward the down payment of the property. They have received their non-profit status. He also added that the deed is being signed by approximately 12 people. They are hoping to have an opening day of May 12th.

Mr. Landsberger explained the list of repairs and expenses. They asked for volunteers. He also stated that there are volunteer contractors to do the work also. He explained plans for the renovations and advised they will operate with volunteers. He advised there is an approximate \$200,000 mortgage on top of the down payment plus repairs. He thanked those who have helped and volunteered already.

Mr. Landsberger asked for help from the Town. He stated that the first live concert is scheduled for June 16th. He asked the Town to repair the sidewalk between the theater building and the public restrooms so that the water doesn't run inside the theatre.

Vice Mayor Richardson thanked them for what they are doing.

Councilman T. Howard asked about the name of the theatre. He would like to see the name stay as the Island Theater.

Mr. Landsberger advised that they agreed to name it Island Theater.

3. Discuss a Possible Motion on the Draft Zoning Ordinance

Town Planner Neville presented the completed official Zoning Map that is ready for approval. He stated they followed a thorough and complete process to prepare the zoning amendment with public input. He handed out a couple of minor changes of page numbers and typographical errors. He stated that he included a summary of the changes. He also referred to the Ordinance revisions.

Councilman T. Howard asked about the motion.

Councilman Jester thanked Town Planner Neville for his hard work.

Councilman T. Howard motioned, seconded by Vice Mayor Richardson to adopt the following Ordinance Amendment and Zoning Map with corrections as amended April 2, 2012 to Appendix A of the Town Code.

AN ORDINANCE FOR ADDITIONS TO AND AMENDMENT OF APPENDIX A (ZONING ORDINANCE), OF THE TOWN OF CHINCOTEAGUE CODE AND COMPREHENSIVE AMENDMENT OF THE TOWN ZONING MAP

WHEREAS, the Town of Chincoteague, Town Council has forwarded a comprehensive amendment of the Official Zoning Map and Zoning Districts, to the Planning commission to review and make recommendations to the town Council for changes that conform to recommended densities and policies of the Town of Chincoteague Comprehensive Plan, adopted on January 4, 2010; and

WHEREAS, the Planning Commission has completed a thorough review which included the establishment of new zoning districts, and a comprehensive zoning map amendment; and

WHEREAS, The Planning Commission scheduled and conducted formal and duly advertised public hearings in accordance with the applicable requirements of the Code of Virginia, carefully considering the public comment received; and

WHEREAS, the Planning Commission voted 5-1-1 (S. Papadopoulos absent, Chairman abstained) to forward a favorable recommendation to the Town Council to amend Appendix A of the Town Code (Zoning Ordinance) and the Official Town Zoning Map; and

WHEREAS this ordinance and zoning map amendment has been advertised for public hearing before the Town Council in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, in order to assure compliance with the Code of Virginia, it is stated by the Town Council that the public purpose for this Ordinance is to further the public necessity, convenience, general welfare and good zoning practice in the Town of Chincoteague and that approval will further these public purposes; and

NOW THEREFORE BE IT RESOLVED this, the 2nd day of April, 2012, by the Town of Chincoteague Town Council, that Appendix A of the Town Code be amended to read as follows;

BE IT FURTHER RESOLVED this, the 2nd day of April, 2012 by the Town Council that the Town of Chincoteague official zoning map be amended to rezone all parcels as follows;

BE IT FURTHER RESOLVED, that the Town Manager be, and he is hereby, directed to have a fully executed copy of this Ordinance recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

John H. Tarr, Mayor
This Ordinance is effective immediately.

Robert G. Ritter, Jr., Town Manager

Council Members	Vote
Ellen W. Richardson, Vice Mayor	Aye
John H. Howard, Councilman	Aye
Nancy B. Conklin, Councilwoman	Aye
John N. Jester, Jr., Councilman	Aye
Tripp Muth, Councilman	Aye
Terry Howard, Councilman	Aye

Unanimously approved.

4. Cemetery Committee Report of February 28, 2012

- **Possible Motion on a Proclamation Designating April 9-14 as Cemetery Cleanup Week.**

Vice Mayor Richardson informed Council that the Cemetery Committee met February 28th. She stated that Town Planner Neville is creating a booklet of all the cemeteries on Chincoteague, the size and ownership. She stated that they discussed which cemeteries are in need of immediate care. She advised that the Cemetery Cleanup Week is scheduled for April 9-14, 2012. She stated that they need donations for maintenance.

There was discussion with Town Planner Neville regarding the Cemetery Map he is creating which includes acreage, location and ownership.

Vice Mayor Richardson mentioned ideas for raising funds for cemetery maintenance.

Councilman T. Howard stated that it is expensive to maintain the cemeteries but feels it needs to be done out of respect.



PROCLAMATION

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

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

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

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

NOW, THEREFORE, I, Mayor John H. Tarr do hereby proclaim the week of April 9TH through
14TH, 2012, as Cemetery Cleanup Week within the Town of Chincoteague and call upon our
citizens to volunteer to organize and assist in the cleanup of our Island cemeteries.

DATED this 2nd day of April 2012.

John H. Tarr, Mayor

ATTEST:

Robert G. Ritter Jr., Town Manager

Councilman T. Howard motioned, seconded by Vice Mayor Richardson to adopt the
Proclamation designating April 9-14, 2012 as Cemetery Cleanup Week. Unanimously approved.

5. Harbor Committee Report of March 1, 2012

Councilman J. Howard reported that Wallops Island is getting 62 acres of new property created
by a contractor as part of the shoreline restoration project. This is creating a lot of work at the
Harbor. He advised there was a shoal blocking the Harbor and they have also opened this up for

boats. Extra lights have been installed for the camera system to improve safety and there are plans to install more.

6. Public Works Committee Report of March 6, 2012

• **Possible Motion on the Inclusion of the Storm Water Master Plan GIS Inventory**

Mayor Tarr reported that the Public Works Committee considered a modification to the service connection. They also looked at a proposal from Clark Nexsen regarding the GIS drainage system inventory.

Public Works Director Spurlock explained that they received a proposal from Clark Nexsen that was reviewed and approved by the Public Works Committee. He advised that the cost is \$18,772.

Mayor Tarr stated that the Public Works Committee recommended that this be approved.

Vice Mayor Richardson motioned, seconded by Councilman Jester to accept the agreement with Clark Nexsen to include the Storm Water Master Plan into the GIS Inventory. Unanimously approved.

7. Budget & Personnel Committee Report of March 13, 2012

Councilwoman Conklin advised that the recent meeting was conducted in closed session therefore has nothing to report.

8. Pavement Contract Approval for Main Street and the Town Dock & Boat Ramp Area

Public Works Director Spurlock explained that there was an amended paving contract. He stated that this is to modify the fall 2011 contract. This extends the pricing, period of performance and scope of work. He advised that the contract is being extended to include the streetscape project along Main Street from Maddox Boulevard to Bridge Street, which is limited to one travel lane and includes the Town Dock parking lot.

There was brief discussion about the grants for the Downtown Main Street Revitalization project.

Councilman T. Howard asked if the price included the driveway entrance into the Town Dock parking lot.

Public Works Director Spurlock advised that it does include the driveway. He also added that they contacted the American Legion to see if they wanted to have their parking area paved also and hasn't heard from them as of yet. He also stated that the funding is under the VDOT Urban Maintenance Funds.

Mayor Tarr also advised that East Side Road has been taken care of. He mentioned his concerns regarding the grant and the work that has already been done.

Councilman Jester motioned, seconded by Vice Mayor Richardson to approve the amended paving contract for Main Street from Maddox Boulevard to Bridge Street (one travel lane), the Town Dock parking lot. Unanimously approved.

9. Recreational Trails Program Authorizing Resolution for a Potential Grant

Town Manager Ritter informed Council of the Recreational Trails Program Grant. He stated that before them is a resolution to seek the grant to help pave the trails, specifically Ocean Boulevard Extension.

Public Works Director Spurlock also gave cost estimates of \$15,000.

Councilman J. Howard suggested looking into the possibility easement for an alternative bike path from Chicken City Road to the Traffic Circle on Maddox Boulevard.

Vice Mayor Richardson motioned, seconded by Councilman T. Howard to adopt the Resolution for the Recreational Trails Program for the purpose of a potential grant. Unanimously approved.



RECREATIONAL TRAILS PROGRAM AUTHORIZING RESOLUTION

WHEREAS, under the provisions of the Recreational Trails Program, federal funding assistance is requested to aid in financing the cost of trail development; and

WHREAS, the Town of Chincoteague considers it in the best public interest to complete the trail construction project described in the application;

NOW, THEREFORE, BE IT RESOLVED that;

1. The Town Manager is authorized to make formal application to DCR for funding assistance;
2. Any fund assistance received will be used for implementation and completion of activities to develop the extension of the Ocean Blvd. Extended trail within the specified timeframe;
3. The Town of Chincoteague hereby it is committed to providing funding necessary for completion of this project;
4. We are aware that the grant, if approved by the National Park Service, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid to our vendors and evidence of such has been provided to DCR in the format required;

5. We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act and all other applicable state and federal laws;

6. We acknowledge that appropriate opportunity for public comment has been provided on this application and evidence of such is a required component for approval;

7. This resolution becomes part of a formal application to the Virginia Department of Conservation and Recreation.

This resolution was adopted by the Chincoteague Town Council during the meeting held April 2nd, 2012 at the Council Chambers, 6150 Community Drive, Chincoteague Island, 23336.

Signed and approved by the following authorized representative:

Robert G. Ritter, Town Manager

10. Recreation and Community Enhancement Committee Vacancy Appointment

Town Manager Ritter advised that there was only one person that expressed interest in filling Mrs. Cathy Plant's vacant seat on the Recreation and Community Enhancement Committee.

Mayor Tarr opened the floor for nominations.

Ms. Judy Tye also expressed her interest in filling the seat.

Councilman Jester nominated Mr. David Johnson to fill the vacant seat.

Mayor Tarr closed the floor for nominations and called for a vote. The vote was unanimous appointing Mr. Johnson to fulfill Mrs. Plant's vacancy on the Recreation and Community Enhancement Committee.

11. Mayor & Council Announcements or Comments

Town Manager Ritter advised Council of the upcoming Budget Workshop, Wednesday, April 4, 2012.

Mayor Tarr wished Vice Mayor Richardson a happy birthday.

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

• Probable Litigation

Councilman T. Howard moved, seconded by Councilman Jester to convene a closed meeting under Section 2.2-3711(A)(7) of the Code of Virginia to discuss probable litigation. Unanimously approved.

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

Councilman Jester moved, seconded by Vice Mayor Richardson to adopt a resolution of certification of the closed meeting.

WHEREAS, the Chincoteague Town Council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711(A)(7) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

Ayes- Jester, Muth, T. Howard, J. Howard, Richardson, Conklin
Nays- None
Absent- None

13. Potential Action for Fire Suppression in the Town of Chincoteague

Vice Mayor Richardson motioned, seconded by Councilman T. Howard that the Town of Chincoteague enter into a certain proposed agreement dated April 2, 2012 with the Chincoteague Volunteer Fire Company, Inc., for the Company to provide fire protection and emergency service within the boundaries of the Town of Chincoteague with such agreement to be executed on behalf of the Mayor of the Town of Chincoteague, Inc.

Adjourn

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

Mayor

Town Manager



Resolution for Spring Clean up, Paint up, and Fix up Week

A RESOLUTION of the Town of Chincoteague Island, Virginia, to acknowledge the importance of Earth Day and support the community-wide activities and events that remind us of our Island's connection to the rest of the planet.

WHEREAS, we are fortunate to live in a Town so abundantly blessed with natural assets and we have a continuing responsibility for conserving our environment by keeping it clean, healthy, and beautiful; and

WHEREAS, the Town of Chincoteague Island and our citizens are committed, through the goals of the Comprehensive Plan, ordinances, policies and our actions, to the conservation and stewardship of our natural landscape, open space and sensitive environmental areas; and

WHEREAS, Chincoteague's Mother Earth Day is Saturday, May 12, 2012; Mother Earth Day will celebrate the beauty of our Island and involve people around the world over the course of several days; and

WHEREAS, during this celebration, we have the opportunity to demonstrate to ourselves, our neighbors, and our visitors, our commitment to a clean and beautiful town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CHINCOTEAGUE, IN COUNCIL MET:

1. That the week of May 12th – May 18th, 2012 is designated as **SPRING-CLEAN UP, PAINT UP, & FIX UP WEEK** in the Town of Chincoteague to coincide with the Earth Day Celebration
2. That all organized and individual segments of our population participate in this noble effort by developing and carrying out imaginative clean-up, paint-up, and fix-up projects which will serve to enhance, restore, or maintain the beauty of all properties in our Island community.
3. All Spring Cleanup debris should be placed for pickup during the week of May 14 –May 18, 2012 so that our Town of Chincoteague will exemplify cleanliness and beauty and to kick off the Tourist Season. Calling the Town Office with the items to be picked up will ensure collection of said items.

John H. Tarr, Mayor

Attest: _____
Robert G. Ritter, Jr., Town Manager



RESOLUTION Hurricane Preparedness Week 2012

Whereas, The Town of Chincoteague hurricane season officially begins June 1st and ends November 30th of each year. In order to heighten awareness, the week of May 27-June 2, 2012 has been designated "Hurricane Preparedness Week"; and

Whereas, with the Town of Chincoteague being an Island, is vulnerable to the devastating effects a hurricane or tropical storm can cause. With the average land elevation of 3.5 feet above mean high tide could face loss of life and property if such a disaster occurs; and

Whereas, both public and private entities should develop emergency response and recovery plans in accordance with local jurisdictions and local emergency management offices. Such preventative action could save lives; and

Whereas, the Town of Chincoteague Emergency Management, the National Weather Service, and the Commonwealth of Virginia strongly suggest that all residents and visitors to the Town of Chincoteague be aware of the high winds, flooding and severe weather that may occur in conjunction with a tropical storm or hurricane.

Now, Therefore, Be It Resolved, that the Town Council of the Town of Chincoteague, Virginia does hereby proclaim the week of May 27-June 2, 2012 as "Hurricane Preparedness Week: in the Town of Chincoteague.

John H. Tarr, Mayor

Attest: _____
Robert G. Ritter, Jr., Town Manager



PROCLAMATION

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

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

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

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

WHEREAS, boaters nationwide are wearing their life jackets this week and year round to recognize National Safe Boating Week with the theme, “Life Jackets. They Float. You Don’t.”

NOW THEREFORE, BE IT RESOLVED I, Mayor John H. Tarr, proclaim May 19 through 25, 2012 as Safe Boating Week within the Town of Chincoteague and encourage all boaters to wear their life jacket, boat responsibly, and enroll in a safe boating class.

DATED this 7th, day of May, 2012

Mayor John H. Tarr
Town of Chincoteague, Inc.

Sr. Chief Petty Officer A. Mark Kannan
U. S. Coast Guard
Station Chincoteague

Janie Conquest
Vice Flotilla Commander 12-06
U. S. Coast Guard Auxiliary



STAFF REPORT

To: Mayor Tarr and the Town Council

Through: Robert G. Ritter, Town Manager

From: Bill Neville, Director of Planning

Date: May 7, 2012

Subject: Phase 1 of the Six Year Transit Development Plan

❖ Update on preparations for the 2012 season

In December 2011, Town Council adopted the Final Report for a Town of Chincoteague Transit Development Plan that included several recommended alternatives. Our *Ride the Pony Express* brochure has been updated for this season to include the following changes suggested by the Report and required by Virginia DRPT:

- **Expanded Service Hours/Days**
The Pony Express will operate on the usual schedule for June, July, August and September. Five (5) additional days have been added for Saturday service in May and October to extend the season.
- **Minor Route Adjustments**
A change in the Red Route has been implemented to serve the Ocean Breeze neighborhoods from a single stop at the Ridge Road public street turnaround based on the survey results indicating limited use of the southern loop, and to avoid wear and tear on the new trolleys from travel along the private road (Seaweed Drive).

Service to locations off the fixed routes (deviated route option) will be available for riders within $\frac{3}{4}$ mile of the fixed route during normal hours of operation with advanced notice. The fare for deviated route riders will be 50 cents. This option is described on the brochure.

- **Non-Discrimination Policy**
The brochure now includes a statement of the Town's non-discrimination policy that is consistent with the requirements of Title VI of the 1964 Civil Rights Act, and establishes a contact person (Director of Transportation) for information or to file a complaint.

An ongoing **Transit Advisory Committee** was also proposed to provide a forum for dialogue between the community and the Pony Express system. Town Council may wish to consider the creation of this committee and the appointment of members as recommended by the Plan.

Staff will provide an update at the meeting on the anticipated **Star Transit-Blue Line** service to Chincoteague that is scheduled to start this month.



STAFF REPORT

To: Mayor Tarr and Town Council

From: Bill Neville
Planning Director

Date: May 7, 2012

Subject: Public Hearing
Pony Penning Sales Permit Ordinance Amendment

The Town of Chincoteague Ordinance Committee met on September 8, 2011 to consider a possible amendment to the Pony Penning Sales Permit Ordinance that would relocate requirements for permits and reporting from the Zoning Ordinance to the Business section of the Town Code. The main purpose of the proposed revision is to encourage all vendors to report their sales income in a timely matter or risk forfeiting their deposit.

The Chincoteague Planning Commission held a public hearing on November 8, 2011 for an amendment to the Zoning Ordinance –Appendix A-Zoning, Article II Definitions, Section 2.127 – Pony Penning Sales.

The amendment proposes to repeal and replace the entire definition section, and recommend to the Town Council an amendment of Chapter 18, Article II, Division 2, Section 18-96 of the Town Code to include revised permit requirements for Pony Penning Sales.

There was no public comment.

The Planning Commission unanimously approved a motion on January 10, 2012 to recommend to Town Council that Section 2.127 of the Zoning Ordinance be repealed and replaced with the following definition of Pony Penning sales:

Sec. 2.127. Pony Penning sales.

Pony Penning sales is herein defined in this ordinance to mean and include all general sales within the Town that is open to the public during the period beginning no sooner than the Saturday preceding Pony Penning and ending on the Saturday immediately following Pony Penning. for the purpose of disposing of any personal property-A permit

is required for conducting Pony Penning sales within the Town in accordance with Chapter 18 of the Code.

~~*Permit.* A permit is required for conducting Pony Penning sales within the town and must be secured seven days prior to the Saturday preceding Pony Penning. The permit shall be displayed at the sale location for the entire length of the sale.~~

~~—————*Permit fee.* The permit fee shall be \$300.00.~~

~~—————(1) Anyone with a valid town business license is exempt from the permit fee.~~

~~—————(2) Any person who produces documentary evidence to the reasonable satisfaction of the town manager that said person derives less than 50% of their gross income from the sale of such merchandise is exempt from the permit fee.~~

~~—————(3) Anyone selling prepared food as defined in the town's meal 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, and the remaining balance of the deposit, if any, shall be refunded to permittee at the end of such period upon computation of the actual tax due and payable as determined by such sales. Anyone conducting such food sales who has, for a period of three years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required is exempt from this deposit requirement.~~

~~—————*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 Pony Penning sales and will be in violation of this section and will be considered a business and must comply with all applicable zoning and business licensing requirements. *(Amended 6/19/08.)*~~

The Planning Commission also recommends to the Ordinance Committee a concurrent amendment of Chapter 18, Article II, Division 2, Section 18-96 of the Town Code to include revised permit requirements for Pony Penning Sales.

The Ordinance Committee reviewed the proposed changes on April 12, 2012 and recommended that the amendment to Chapter 18 be sent to Council for their approval as follows:

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, for the purpose of disposing of any personal property.

(b) *Permit.* A permit is required for conducting Pony Penning sales within the 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) Any person who produces documentary evidence to the reasonable satisfaction of the Town Manager that said person derives less than 50% of their gross income from the sales of such merchandise is exempt from the permit fee.~~

(3) Anyone selling prepared food as defined in the town's meal 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 ~~by August 20th 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 permittee upon computation of the actual tax due and payable as determined by such sales. ~~Anyone conducting such food sales who has for a period of three (3) years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required, is exempt from this deposit requirement.~~

(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 Pony Penning sales and will be in violation of this section and will be considered a business and must comply with all applicable zoning and business licensing requirements.

(Amended xx/xx/11)

If approved by Town Council, the following changes would be made to the Pony Penning Sales Application:



PONY PENNING SALES APPLICATION

**YARD SALES ARE PROHIBITED DURING THIS
TIME PERIOD**

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.

Pony Penning Sales as herein defined in this ordinance to mean and include all general sales within the town, open to the public.

PERMIT:

A permit is required for conducting Pony Penning Sales within the town and must be secured eight (8) days prior to the Saturday preceding Pony Penning. The Permit shall be displayed at the sale location for the entire length of the sale.

PERMIT FEE: The permit fee shall be \$50.00.

A. Anyone with a valid town business license is exempted from the permit fee.

B. Any person who produces documentary evidence to the reasonable satisfaction of the Town Manager that said person derives less than 50% of their gross income from the sale of such merchandise is exempt from the permit fee.

C. Anyone selling prepared food as defined in the town's Meal 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 and the remaining balance of the deposit, if any, shall be refunded to permittee at the end of such period upon computation of the actual tax due and payable as determined by such sales. ~~Anyone conducting such food sales who has for a period of three (3) years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required, is exempt from this deposit requirement.~~

DURATION OF SALE; HOURS OF OPERATION; FREQUENCY:

Sales conducted under this article 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 article will not be considered Pony Penning Sales and will be in violation of is article and will be considered a business and must comply with all applicable zoning and business licensing requirements.

SIGNS - GENERALLY:

SIGNS of not more than four (4) square feet (two feet by two feet) shall be permitted to be displayed, no more than three (3) days prior to such sale, to be located on private property only and shall not be placed on the public right-of way, without requiring any permits.

SIGNS displayed under this article must be removed within forty-eight hours of the close of the sale activities.

Chairman Terry Howard motioned, seconded by Councilwoman Conklin to send the proposed changes to Council for their approval.

Public Notice

The Mayor and Town Council of the Town of Chincoteague will hold a public hearing on May 7, 2012 at 7:00 p.m. in the Council Chambers located at 6150 Community Drive to hear public comment on the following matters:

Zoning Ordinance – Amend Appendix A-Zoning, Article II Definitions, Section 2.127 – Pony Penning Sales to repeal and replace the entire definition section as follows:

Sec. 2.127. Pony Penning sales.

Pony Penning sales is herein defined in this ordinance to mean and include all general sales within the Town that is open to the public during the period beginning no sooner than the Saturday preceding Pony Penning and ending on the Saturday immediately following Pony Penning. A permit is required for conducting Pony Penning sales within the Town in accordance with Chapter 18 of the Code.

Town Code – Town Council will also consider amendments to the Town Code as follows:

- Chapter 18, Article II, Division 2, Section 18-96 of the Town Code to include revised permit requirements for Pony Penning Sales and approval of a revised Pony Penning Permit Application.
- Chapter 62-Utilities, Article II-Water, Division 3-Service Connections and Extensions, Section 62-87 Service Connection Requirements and 62-88 Water Main Extensions to improve the management of the Town's Water Supply system

For additional information, please contact Robert Ritter, Town Manager at (757) 336-6519.



**RESOLUTION PETITIONING THE COMMONWEALTH OF VIRGINIA TRANSPORTATION BOARD
TO TRANSFER CERTAIN REAL PROPERTY TO THE TOWN OF CHINCOTEAGUE**

WHEREAS, the Commonwealth of Virginia rerouted that portion of State Route 175 know as Bridge St. on Chincoteague Island as the result of the Chincoteague Island Bridge Project also known as VDOT Project Number 1896 Contract ID Number 0175-001-V12, C502,B606;

WHEREAS, all aspects of the construction of the Project are complete and title to the real property encompassed by Bridge Street remains vested in the Commonwealth; and

WHEREAS, the Town maintains the Property and believes it would be in the Town's best interest for title to the Property within Bridge Street be transferred to the Town.

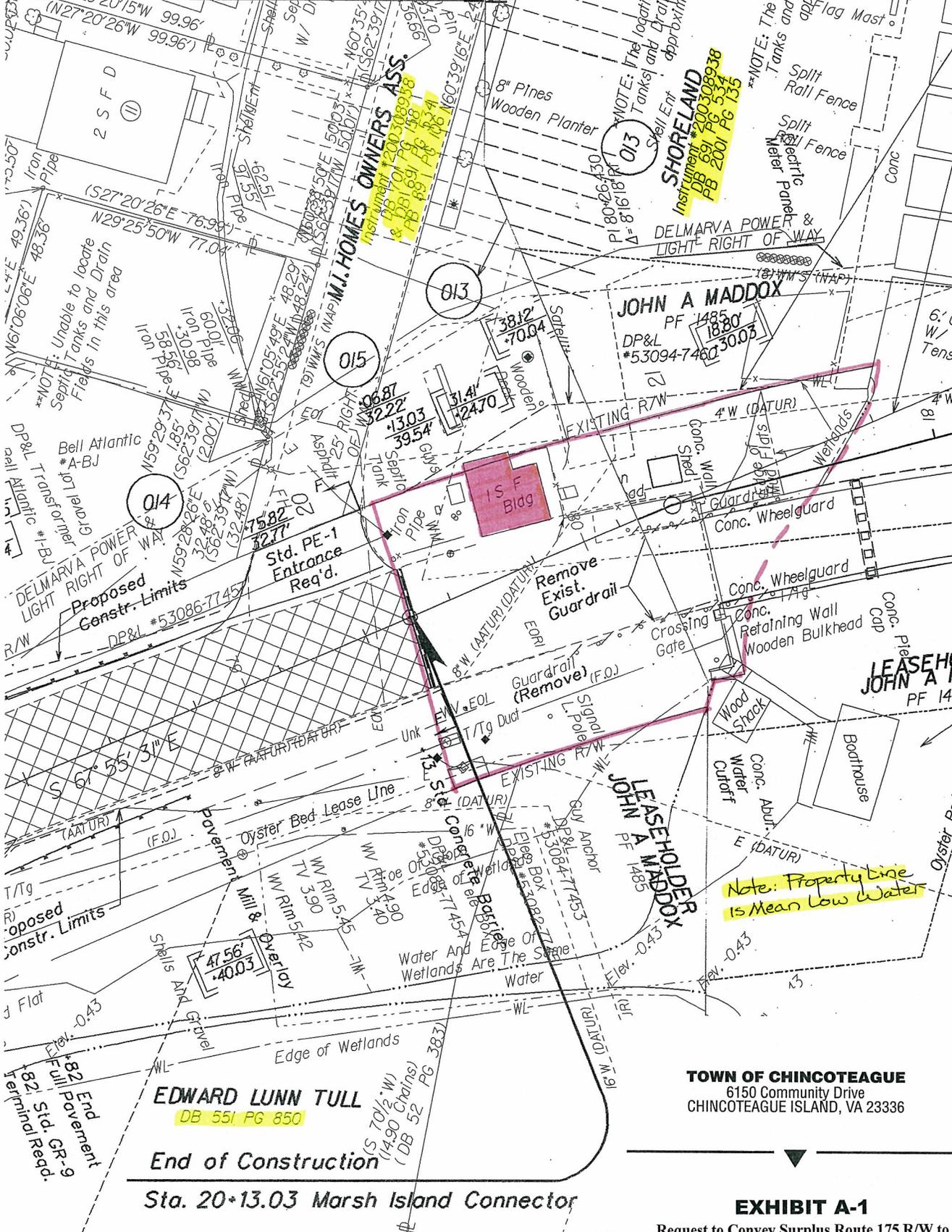
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF CHINCOTEAGUE ISLAND, VIRGINIA;

1. That the Town of Chincoteague hereby petitions the Commonwealth of Virginia, Transportation Board, pursuant to Code Section 33.1-149 of the Code of Virginia, as amended , to transfer real estate acquired incidental to the construction, reconstruction, alteration, maintenance, or repair of the Project as shown on Exhibit A -1, A-2, & A-3, attached hereto and made a part hereof, which constitutes a section of public road, to the Town of Chincoteague, and to take such other action as necessary to complete the conveyance of title to the Town of Chincoteague, and upon transfer, such section of road shall cease being a part of the State Highway System.
2. That the Town Manager, or his authorized designee , is hereby authorized to execute any and all documents on behalf of the Town to complete the conveyance of title to the Property, containing such terms and conditions deemed necessary and sufficient by the Town Manger and in a form deemed satisfactory by the Town Attorney.

Adopted by the Town Council of the Town of Chincoteague Island, Virginia, this 7th day of May, 2012.

Robert G. Ritter, Town Manager

REVISED	FHWA REGION	STATE	FEDERAL AID PROJECT	ROL
09/08/05	3	VA.		
03/29/06				
07/31/07				



TOWN OF CHINCOTEAGUE
 6150 Community Drive
 CHINCOTEAGUE ISLAND, VA 23336

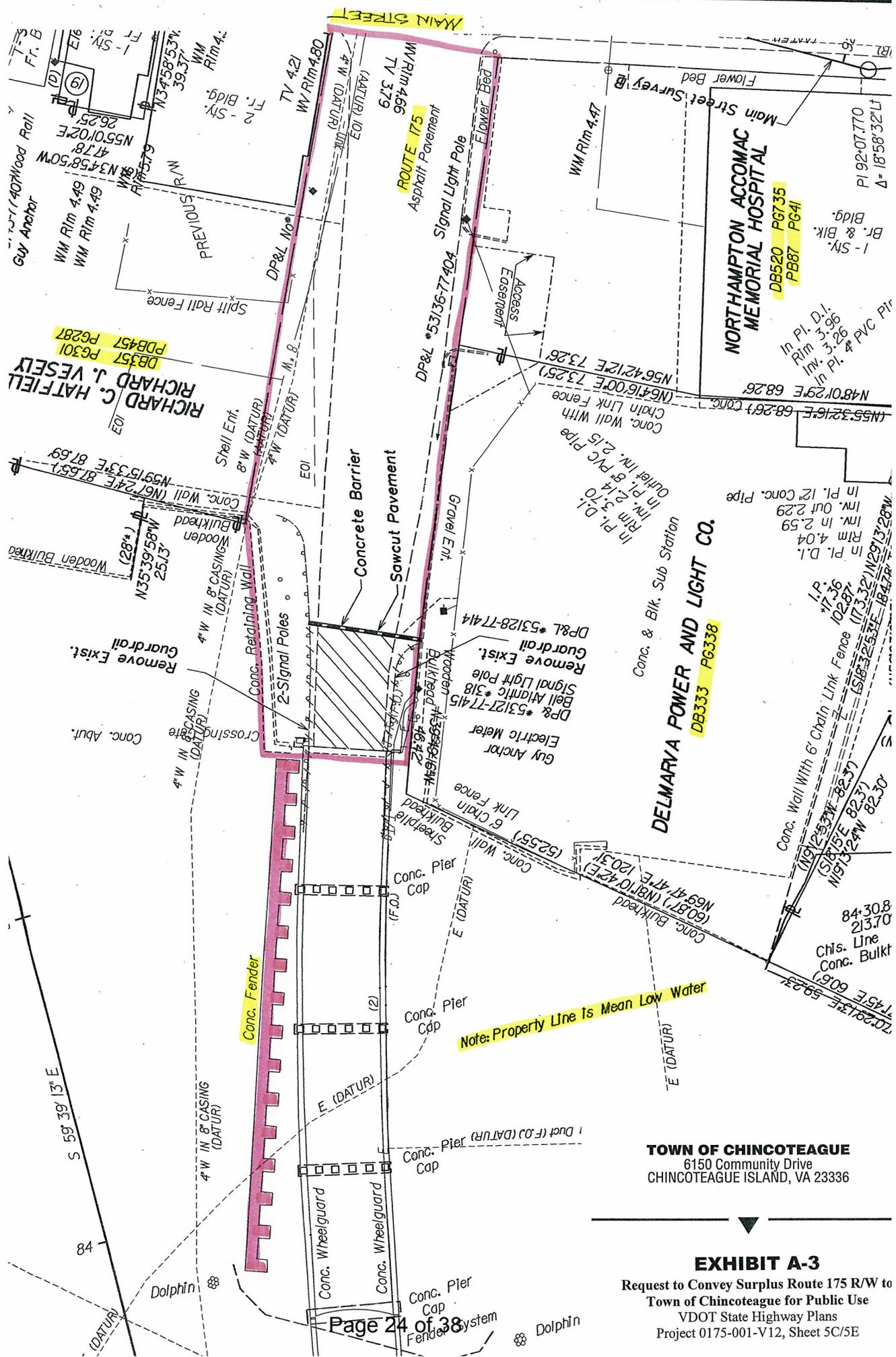
EXHIBIT A-1

Request to Convey Surplus Route 175 R/W to
 Town of Chincoteague for Public Use
 VDOT State Highway Plans
 Project 0175-001-V12, Sheet 5C/5E

EDWARD LUNN TULL
 DB 551 PG 850

End of Construction
 Sta. 20+13.03 Marsh Island Connector

Curtain Req'd.
 Sta. 18+49 Lt.



**NORTHAMPTON ACCOMAC
MEMORIAL HOSPITAL**
DB520 PG735
PB87 PG41

**RICHARD C. HATFIELD
& VESEIL**
DB357 PG301
PDB457 PG287

DELMARVA POWER AND LIGHT CO.
DB333 PG338

TOWN OF CHINCOTEAGUE
6150 Community Drive
CHINCOTEAGUE ISLAND, VA 23336

Note: Property Line is Mean Low Water

Public Safety Meeting Minutes April 3, 2012

Chairman Tarr called the meeting to order at 17:07

Present: Mayor Tarr, Chairman
Vice Mayor Richardson
Councilman Jester
Robert Ritter, Jr., Town Manger
Bryan Rush, EM Coordinator

Absent: Edward Lewis, Police Chief

Public Participation

No public comments.

Agenda Adoption

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

1. Monthly Emergency Management Report

Report given by Bryan Rush

PLANNING

WALLOPS FLIGHT FACILITY REGIONAL RESPONSE

In response to the planned increase rocket launches at the Regional Space Port on Wallops Island, the local emergency managers from Chincoteague, Accomack County, Wallops Island, and the Virginia Department of Emergency Management conducted a workshop at the Chincoteague Community Center on March 14 from 0800-1200. The participants were divided into groups representing their respective disciplines (Law enforcement, transportation, fire, ems, and public information). Each group discussed challenges, resources, and current agency plans which were captured by the scribes in each group. The information will be used to write a response plan to deal with the influx of a large number of space tourists. The new plan will be tested at a table-top exercise on July 17th at the Chincoteague Community Center, beginning at 0800.

EASTERN SHORE DISASTER PREPAREDNESS COALITION

The ESDPC Executive Committee had its monthly meeting March 23, 2012. The committee discussed the direction of the coalition. Mr. Bryan Rush, vice chairman of the Coalition from Chincoteague Emergency Management, was elected chairman to fill the vacant seat left by Sara Seaman, Accomack County Deputy Coordinator of Emergency Management. Mrs. Seaman left her position with the County creating the vacancy.

ACCOMACK COUNTY EMERGENCY MANAGEMENT

The Coordinator and Deputy Coordinator positions for Accomack County will temporarily be staffed by C. R. Pruitt, Acting DPS Director; and Woodrow Gaskins, DPS Shift Supervisor. The Deputy Coordinator position has been advertised and the County plans to fill the position by the start of hurricane season.

SPECIAL NEEDS SHELTERING

The ad hoc committee of the ESDPC which is tasked to develop a direction for special needs sheltering has been tabled. Accomack County, who is tasked with sheltering within the County, does not have any current direction on the committee. Mr. Rush advised that as soon as Accomack re-emerges with a full time representative, he will task the committee to resume discussion. Mayor Tarr offered the elected official's help with this project as needed.

TRAINING

ICS 300

The Accomack County of Public Safety ICS 300 class that was scheduled for April has been cancelled.

LOGISTICS

STATE RADIO CACHE EXERCISE

At the time of this report the Virginia Department of Emergency Management was scheduled to hold a communications exercise on March 30, 2012. The cache consists of three teams with numerous means that can be utilized to restore communications to an area after a disaster. The Fairfax, Va. Team will divide into four smaller teams during the exercise on the Shore. Chincoteague will accommodate one of the teams. More information about the cache can be found at www.interoperability.virginia.gov/
The Chincoteague EOC will be staffed with ESF#2 (Communications) during the exercise.

STATEWIDE TORNADO DRILL

The Wakefield Office of the National Weather Service has informed Mr. Rush that the "drill" tornado warning was delayed in its broadcast from the Mappsville tower during the statewide tornado drill, March 20, 2012. Wakefield advised that there are strict rules for actually broadcasting a warning, so this was one of only a few opportunities to test the system. They will have technicians troubleshooting and look for a quick repair. All other transmitters in the state worked properly. (Heathsville and Salisbury transmitters also serve the Shore)

PUBLIC INFORMATION

EVACUATION

VDOT is once again printing informative brochures on how to prepare for disasters and the appropriate evacuation routes. The Town currently is displaying these brochures in

the kiosk in the Town office. (A digital copy accompanies the Public Safety Committee Report/Agenda) Councilman Jester recommended that the "tump talk" radio show be utilized as well as the newsletter to inform the public of the upcoming hurricane season. Councilman Jester also would like a letter with hurricane information to go to each rental company to be posted in their seasonal rentals. Councilwoman Richardson recommended using the reference page from the brochure as the pass out page.

2. Chincoteague Volunteer Fire Company Report

No report.

3. Committee Member Comments

Mr. Rush sought direction on the Fireworks Transportation Plan and was the consensus of the committee to proceed as in years past. Mr. Rush advised committee that the scheduled show date is July 7, 2012.

Councilman Jester questioned the status of the tide gauge. Mr. Rush advised that it had been some time since he had heard from the congressman's office; however, the NPS was also interested in participating with the Town to obtain a tide gauge. Councilman Jester suggested involving the Navy, VDEM, VDOT, ACDPS, USFW, USCG, and NOAA in a meeting to discuss supporting a letter to the congressman's office for the project. Mayor Tarr advised Mr. Ritter to engage Mr. Catron (Lobbyist) in the subject.

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

Meeting adjourned at 17:40

**Recreation and Community Enhancement
Committee Meeting Minutes
April 10, 2012**

Committee Members Present:

John Jester, Chairman
John H. Howard, Councilman
Gene W. Taylor, P/C Member
Tripp Muth, Councilman
Bob Conklin
Jack Van Dame
Ruth Lane
David Johnson

Staff Present:

Robert G. Ritter, Town Manager
William Neville, Town Planner

Call to Order

Chairman Jester called the meeting to order at 5:00 PM

Chairman Jester stated that under Project Report Updates he would like to discuss Mariner's Point.

Agenda Adoption

Mr. Conklin motioned, seconded by Councilman Muth to adopt the agenda. Unanimously approved.

1. Welcome New Members

• **Review Committee Mission and Work Plan**

Chairman Jester welcomed new members, Ms. Nancy Lane and Mr. David Johnson from the Garden Club. He asked the Committee to review the Mission Statement.

Town Manager Ritter explained that the Work Plan was for 2010-2012. He suggested reviewing the plan for 2013-2014 to set some short-term goals.

Town Planner Neville stated that he will present some updates for the Master Plan at the next meeting. He mentioned having the Chincoteague Veterans' Memorial Park, the Robert N. Reed Downtown Waterfront Park along with opportunities for the Watson Park and Mariner's Point in the Plan. He also stated that the Town has done some maintenance to the Island Activity Center which fits into the activities of the Committee. Town Planner Neville stated they need to take the next step in deciding future needs. He advised they are receiving project reports for the Ocean Boulevard extended path. He stated that they also talked about a possibility of ideas for the donations for maintenance and possibly trees or flowers.

Chairman Jester feels that they need to identify a policy for memorial donations of benches.

There was brief discussion.

Town Manager Ritter advised that Council decided not to allow any more memorials at the Chincoteague Veterans' Memorial Park as this was a Veterans' Memorial Park and didn't want to contradict this.

There was also discussion of bench memorials and the type of bench to be used. Committee Member terms were also discussed.

Town Planner Neville advised that he will have a proposal for the next meeting of the items they discussed.

Councilman Muth mentioned a check list for maintenance at the Park.

2. Robert N. Reed Waterfront Downtown Park

- **DCR Grant Application**
- **Master Plan Update**

Town Planner Neville referred to the Bridge Street area. He stated that there is some information in the packet with a description of how they were trying to incorporate the expansion area in the development of the Park. He stated they need to decide what the park needs are in the Town along with the recreational needs. This project will help with grant funding. He discussed the process and list that explains the park standards in Virginia. He calculated the standards for the Island. He stated that the Town has more than the standard requirements for the State recommendations. He also mentioned the ball fields and Community Parks.

Town Planner Neville reviewed a list of possible projects for the parks. He advised that this fits with the Virginia Outdoors Plan. He asked for further input.

Chairman Jester also asked and discussed the DCR Grant uses.

There was discussion regarding a bulkhead, fishing pier and boardwalk plans at Bridge Street.

3. Eastern Shore Healthy Communities

- **Trail Signage Mini-Grants**
- **Walkability Audit**

Town Planner Neville explained the program called Eastern Shore Healthy Communities. He advised that there will be a workshop on Walkable Eastern Shore in May. He added that this group is promoting walking communities.

There was discussion.

Chairman Jester mentioned involving the YMCA.

Town Planner Neville also discussed the mini-grant for trail signage. He stated that there is a contract that needs to be executed for this grant.

Project Report Updates

- **Mariner's Point Discussion**

Town Planner Neville reported on the Ocean Boulevard Extended Project. He advised that Public Works Director Spurlock has completed the DCR Recreational Trails Grant Application which will help with improvement costs.

The Committee discussed getting permission from the property owners for a marked bike path along Ocean Boulevard and north of Chicken City Road.

Town Planner Neville also reported on the CNWR Bike Trail extension and funding of the next phase.

Chairman Jester also discussed matters to be addressed at the Curtis Merritt Harbor. He mentioned crowd control during launches suggesting posting signs and lighting. Chairman Jester also feels that the area should be officially named. He advised they have been calling it Mariner's Point.

Ms. Lane suggested signage.

Mr. Conklin made a motion, seconded by Ms. Lane to name the overlook at the Curtis Merritt Harbor, Mariner's Point and have a sign put up as soon as possible. Unanimously approved.

There was discussion about posting "No Trespassing" or "At Your Own Risk" at Mariner Point.

Town Manager Ritter feels the major problem is people going down on the rocks and the risk of injury.

Committee Member Comments

There was discussion regarding the new bridge pathway on Beach Road going toward the Assateague Bridge.

Chairman Jester asked if the scheduling was more than a month in advance at the Island Activity Center.

Town Manager Ritter advised it is being done one month in advance right now.

Mr. Johnson asked about lighting along Hallie Whealton Smith Drive through the Safe Routes to Schools Project.

Town Manager Ritter stated they are hoping to do acorn-type lights.

Adjourn.

Mr. Van Dame made a motion, seconded by Mr. Conklin to adjourn. Unanimously approved.

**ORDINANCE COMMITTEE
TOWN OF CHINCOTEAGUE
April 12, 2012
Meeting Minutes**

Present

Councilman Terry Howard, Chairman
Councilwoman Nancy Conklin

Absent

Councilman John Henry Howard

Staff

Robert G. Ritter, Jr., Town Manager

Call to Order

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

Open Forum/Public Participation

.

Agenda Adoption

Councilwoman Conklin motioned, seconded by Chairman Terry Howard to adopt the agenda

1. Water Utility Service Connection and Extensions Code Amendment

Town Manager Ritter explained the amendment and proposed changes. After some discussion the motion was made by Councilwoman Conklin and Seconded by Councilman T. Howard to send the proposed changes to Council for their approval. Motion approved

Sec. 62-87. Service connection requirements.

(a) Each parcel requiring a service connection to the water system shall be adjacent to a water main. Where properties are not adjacent to a water main, the following shall apply:

(1) The water system (nearest main) shall be extended at the expense of the property owner and in accordance with the requirements of section 62-88.

~~(2) A parcel may be served from a meter and connection located on the property of others, provided that the parcel owner has a recorded perpetual easement granted by the other property owner which provides for the installation and maintenance of the water meter and service line between the town's water main and the parcel to be served. The minimum width of such easement shall be five feet. The use of easements as described in this subsection shall not apply to any legal division of property occurring after November 7, 1991.~~

~~(3)~~ (2) A parcel may be served from a connection, meter and service line located in an ~~existing older easement and/or right of way, provided the use of such is not~~ specifically described. The minimum width of such easement shall be five feet. The town will interpret such easements and rights-of-way- to allow for total usage, which would

include the right to install and maintain water utilities. Such easements and rights-of-way as described in this subsection must be adjacent to a water main and be contiguous to the involved parcel. The term "older" as used in this section, shall refer to property or divisions of property legally recorded prior to ~~December 6, 1971~~ November 7, 1991.

(b) The use of nonspecific older easements and rights-of-way and perpetual easements shall only be permitted when there is no other practicable avenue available to provide water to the requiring parcel.

Sec. 62-88. Water main extensions.

(a) The owner and/or developer of a parcel requiring a water main extension by virtue of the requirements of subsection 62-87(a) shall request such extension from the town in writing. With the written request, the owner and/or developer shall also submit recorded drawings, plats or surveys depicting the parcel to be served by the requested extension. Such drawings shall include the delineation of the utility easements to be used by the town for the placement and maintenance of the requested water main. Delineated easements on recorded drawings shall include the finished grade elevation of the easement area. In the absence of utility easements being included in recorded drawings, easements and certification of elevation may be conveyed through separate perpetual deed of easement or agreement to the town. Utility easements shall be a minimum of ten feet in width. Pavement for roadways shall not be installed over utility easements.

(b) Upon review of the request and within 30 days of the request, the town shall design and size the appropriate extension to the water system and calculate the cost of installation of the extension. Costs shall include an administrative fee percentage, set by the town council. The requester will be notified of the cost of the installation and allowed 30 calendar days to initiate the installation by paying the provided cost. If payment is not made within the allotted time, the requester shall submit subsequent requests as necessary to allow the town to calculate the new cost. The town shall have the right to recover costs incurred from repeated design and calculation in subsequent cost calculations.

(Amended 4/19/07)

(c) Once payment for an extension is made, the town shall schedule and implement the work within 60 calendar days.

(d) Water main extensions shall be designed and sized on a case-by-case basis, ~~but in no case will pipe with inside diameter sizes of less than six inches be used for mains~~, nor will required fire hydrants be deleted from a potential extension.

(e) Property owners assume all responsibility for delineation of property to be served by water mains and the delineation of utility easements to be used for the installation of water mains. All property markers relevant to water main installation shall be in place in the field and located prior to the town's installation work.

(f) All obstructions to the path of the water main and service connections shall be cleared by the property owner prior to installation work.

(Code 1977, § 15-4-3; Ord. of 4-5-1999, § 15-4-3)

Councilwoman Conklin motioned, seconded by Chairman T. Howard to send the changes to Council for their approval.

2. Pony Penning Sales Permit Ordinance, Chapter 18 Code Amendment

The Ordinance Committee considered a report from the Chincoteague Planning Commission about the public hearing held on November 8, 2011 for an amendment to the **Zoning Ordinance** –Appendix A-Zoning, Article II Definitions, Section 2.127 – Pony Penning Sales.

The amendment proposes to repeal and replace the entire definition section, and recommend to the Town Council an amendment of Chapter 18, Article II, Division 2, Section 18-96 of the Town Code to include revised permit requirements for Pony Penning Sales.. There was no public comment.

The Planning Commission discussed this amendment and identified several items for consideration by the Ordinance Committee before referring it to the Town Council for public hearing.

- Clarify or delete Section 2.127, paragraph (2) regarding the 50% of gross income exemption.
- Describe the \$300.00 permit fee as a ‘fee’ or a ‘deposit’ if a portion can be refundable.
- \$300.00 permit fee is too much for small business to pay for this event
- Require a \$50.00 business license fee and a \$250.00 deposit rather than a \$300.00 permit fee
- Should yard sales continue to be restricted during the entire week, or just on the Wednesday through Saturday of Pony Penning week.
- Consideration of other special events throughout the year that may also be covered by this revised code section.

The Planning Commission unanimously approved a motion on January 10, 2012 to recommend to Town Council that Section 2.127 of the Zoning Ordinance be repealed and replaced with the following definition of Pony Penning sales;

Sec. 2.127. Pony Penning sales.

Pony Penning sales is herein defined in this ordinance to mean and include all general sales within the Town that is open to the public during the period beginning no sooner than the Saturday preceding Pony Penning and ending on the Saturday immediately following Pony Penning. ~~for the purpose of disposing of any personal property.~~ A permit is required for conducting Pony Penning sales within the Town in accordance with Chapter 18 of the Code.

~~Permit. A permit is required for conducting Pony Penning sales within the town and must be secured seven days prior to the Saturday preceding Pony Penning. The permit shall be displayed at the sale location for the entire length of the sale.~~

~~Permit fee. The permit fee shall be \$300.00.~~

~~(1) Anyone with a valid town business license is exempted from the permit fee.~~

~~(2) Any person who produces documentary evidence to the reasonable satisfaction of the town manager that said person derives less than 50% of their gross income from the sale of such merchandise is exempt from the permit fee.~~

~~(3) Anyone selling prepared food as defined in the town's meal 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, and the remaining balance of the deposit, if any, shall be refunded to permittee at the end of such period upon computation of the actual tax due and payable as determined by such sales. Anyone conducting such food sales who has, for a period of three years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required is exempt from this deposit requirement.~~

~~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 Pony Penning sales and will be in violation of this section and will be considered a business and must comply with all applicable zoning and business licensing requirements. (Amended 6/19/08.)~~

and recommend to the Ordinance Committee a concurrent amendment of Chapter 18, Article II, Division 2, Section 18-96 of the Town Code to include revised permit requirements for Pony Penning Sales.

After some discussion the proposed changes were recommended by the Ordinance Committee to be sent to Council for their approval.

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, for the purpose of disposing of any personal property.~~

(b) *Permit.* A permit is required for conducting Pony Penning sales within the 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) — Any person who produces documentary evidence to the reasonable satisfaction of the Town Manager that said person derives less than 50% of their gross income from the sales of such merchandise is exempt from the permit fee.~~

(3) Anyone selling prepared food as defined in the town's meal 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 by August 20th 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 permittee upon computation of the actual tax due and payable as determined by such sales. ~~Anyone conducting such food sales who has for a period of three (3) years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required, is exempt from this deposit requirement.~~

(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 Pony Penning sales and will be in violation of this section and will be considered a business and must comply with all applicable zoning and business licensing requirements.

(Amended xx/xx/11)

The following changes were made to the Pony Penning Sales Application:



pony penning sales application

YARD SALES ARE PROHIBITED DURING THIS TIME PERIOD

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. Pony Penning Sales as herein defined in this ordinance to mean and include all general sales within the town, open to the public.

PERMIT:

A permit is required for conducting Pony Penning Sales within the town and must be secured eight (8) days prior to the Saturday preceding Pony Penning. The Permit shall be displayed at the sale location for the entire length of the sale.

PERMIT FEE: The permit fee shall be \$50.00.

A. Anyone with a valid town business license is exempted from the permit fee.

B. Any person who produces documentary evidence to the reasonable satisfaction of the Town Manager that said person derives less than 50% of their gross income from the sale of such merchandise is exempt from the permit fee.

C. Anyone selling prepared food as defined in the town's Meal 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 and the remaining balance of the deposit, if any, shall be refunded to permittee at the end of such period upon computation of the actual tax due and payable as determined by such sales. ~~Anyone conducting such food sales who has for a period of three (3) years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required, is exempt from this deposit requirement.~~

DURATION OF SALE; HOURS OF OPERATION; FREQUENCY:

Sales conducted under this article 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 article will not be considered Pony Penning Sales and will be in violation of is article and will be considered a business and must comply with all applicable zoning and business licensing requirements.

SIGNS - GENERALLY:

SIGNS of not more than four (4) square feet (two feet by two feet) shall be permitted to be displayed, no more than three (3) days prior to such sale, to be located on private property only and shall not be placed on the public right-of way, without requiring any permits.

SIGNS displayed under this article must be removed within forty-eight hours of the close of the sale activities.

Chairman Terry Howard motioned, seconded by Councilwoman Conklin to send the proposed changes to Council for their approval.

3. Committee Member Comments

The next meeting will be held on June 12, 2012.

Adjourn

Councilwoman Conklin motioned, seconded by Chairman Terry Howard to adjourn the meeting.