

# REGULAR COUNCIL MEETING A G E N D A

TOWN OF CHINCOTEAGUE

October 1, 2012 - 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 September 4, 2012 (Page 2 of 39)
    - Council Joint Workshop with the Beach Access Committee of September 13, 2012 (Page 17 of 39)
  2. Wastewater Advisory Committee Activity Report (Mr. Papadopoulos)
  3. Public Works Committee Report of September 5, 2012 (Councilwoman Richardson) (Page 24 of 39)  
*The following Action was forwarded by the Committee to the Council and may require a motion:*
    - Street Sweeper Rehabilitation Proposal (Page 26 of 39)
  4. Fall 2012 Paving Bids, Project Name: Contract 01-PAV-12(Mr. Spurlock) (Page 29 of 39)
  5. Janitorial Services Bids, Project Name: Contract #JS-100112(Mr. Spurlock) (Page 30 of 39)
  6. Ordinance Committee Report of September 6, 2012 (Councilman Howard) (Page 31 of 39)  
*The following Action was forwarded by the Committee to the Council and may require a motion:*
    - Adoption of Chapter 22, Article VI. Grass, Weeds and other Foreign Growth on Private Property (Page 34 of 39)
  7. Recreation & Community Enhancement Com Report of September 5, 2012(Councilman Jester) (Page 38 of 39)
  8. Mayor & Council Announcements or Comments  
*(Note: Roberts Rules do not allow for discussion under comment period)*

ADJOURN:

**MINUTES OF THE SEPTEMBER 4<sup>TH</sup>, 2012**  
**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 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 participation.

- Ms. Denise Bowden expressed her opposition to the donation requested for the Rural Health Dentistry Division. She feels that the Town has other needs to be met before giving out funds. She gave an example of the recent request for donations to the Cemetery Fund. She asked Council to consider the needs of the Chincoteague residents and use the money on the Island.
- Mrs. Peggy Thomas mentioned the Chicken City Road, Ridge Road and Church Street intersection. She advised that the motorists are running the stop signs. She asked if VDOT could use the stop light from the old drawbridge there or put in a 4-way stop.

Councilwoman Richardson advised that VDOT was going to do a study to see if it was necessary to install a light there.

Mrs. Thomas also added that she agrees with Ms. Bowden regarding the donation to the Dentistry Division.

Councilman Howard discussed the intersection. He doesn't understand why they're not stopping.

Building and Zoning Administrator Lewis also advised there are major problems with everyone running the stop sign including bicyclists. He advised of several accidents and feels that

someone will die there if something isn't done. He also added that vehicular speed is also a problem.

There was further discussion.

- Mr. Frank Theisen also commented on the dangers of the realigned intersection. He stated that as a trolley driver it's a dangerous intersection. He suggested changing the stop signs to stop on Church Street.

## **STAFF UPDATE**

### **Planning Department**

Town Planner Neville stated that the Planning Commission met on August 14<sup>th</sup> and reviewed two items that may be considered for an annual zoning ordinance update later next year. He advised that one was regarding mixed use buildings and the other was regarding parking requirements for wayside stands. He also mentioned rental cabins.

Town Planner Neville discussed the Beach Access issue and reminded Council that Congressman Rigell will conduct a Town Hall meeting Friday. He advised that he included in the packet more information about the grants the Town has applied for.

### **Police Department**

Chief Lewis advised that the monthly report has been included in the agenda packet. He also advised Mrs. Thomas that they have attempted to contact the Burton and the Amrien family for permission to set up on their properties for surveillance of the intersection. He stated that there have been many high speed tickets written over the summer. He also stated that there is a mutual aid agreement from the Accomack County Sheriffs' Department. He advised that he already asked Town Attorney Poulson to review the document and was advised it was acceptable.

Mayor Tarr requested that this be added to the agenda as item 5a.

Chief Lewis also reminded Council that Saturday is the block party and 8<sup>th</sup> Annual Poker Run. He stated that the motorcycle ride starts at 1:00 p.m. and the block party begins at 5:00 p.m.

### **Public Works**

Public Works Director Spurlock also advised that he included the monthly report in the agenda packet. He stated that the plane is scheduled to fly tomorrow morning for mosquito control, weather permitting.

Councilman Howard asked for clarification regarding spraying.

Public Works Director Spurlock stated that if it's raining, they can't spray as it wouldn't do any good. He stated that if it's blowing the spray dissipates and wouldn't do any good. He explained the various types of mosquitoes. He also advised that he has been working with VDOT with the signals at the intersections of Maddox Boulevard and Deep Hole Road and also Maddox Boulevard and Chicken City Road.

Mr. Dean Orsino thanked the Public Works Department for their assistance in this issue.

### **General Government**

Town Manager Ritter stated that the total EMS response was 107 which were 26 less than August of 2011. He advised that the new lights have been installed and working in the downtown area along with the shipyard bollards. He advised that they will be painted black in a few weeks. Town Manager Ritter also advised that Eastern Shore Communications is ready to begin the 8 week pilot project. He asked if there were any objections from Mayor or Council to be put on the list as part of the pilot project. He explained that it is basically a wireless system that will be faster than their DSL line and the pilot project will allow them to compare the two.

Town Manager Ritter reported that there will be a workshop with the Beach Committee on September 13<sup>th</sup>, 2012 at 5:00 p.m. He stated that there will be a briefing on the baseline of the economic report. He also added that Mr. Martin Crim will meet with Council on the 27<sup>th</sup> at 5:00 p.m.

Councilman Howard asked about the water revenue decrease.

Town Manager Ritter didn't have a reason why the water revenue is down. He stated that last year was a good year and it's a possibility the economy is down a little. He also stated that the Town is still doing well overall.

There was discussion as to the visitors during Labor Day weekend.

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

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the agenda adding item 5a, Mutual Agreement Between the Town of Chincoteague, Inc. and the Accomack County Sheriff's Department . Unanimously approved.

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

- **Regular Council Meeting of August 6<sup>th</sup>, 2012**
- **Special Council Workshop of August 23<sup>rd</sup>, 2012**

Councilwoman Richardson motioned, seconded by Councilman Jester to adopt the minutes of the Regular Council Meeting of August 6<sup>th</sup>, 2012 and the Special Council Workshop of August 23<sup>rd</sup>, 2012. Unanimously approved.

#### **2. Public Hearing on Chapter 22, Article VI. Grass, Weeds and other Foreign Growth on Private Property**

Mayor Tarr asked if this was properly advertised.

Town Manager Ritter advised it was properly advertised.

Mayor Tarr opened the public hearing. He asked if staff reviewed the ordinance.

Town Manager Ritter explained to the public that this is a public hearing and the comments will be given to the Ordinance Committee. He added that there will be another opportunity for the public to comment at the first meeting in October.

Town Manager Ritter explained that the reason this was brought to Council was because of several complaints this past year. He stated that the Town asked Delegate Lynwood Lewis to introduce an amendment to the State Code Section 15.2901 to allow Chincoteague to control cutting grass, weeds and other growth for developed properties. He also stated that this was presented to the General Assembly and was approved by the Governor on March 30<sup>th</sup> to go into effect July 1<sup>st</sup>. He advised that when this ordinance is adopted it can go into effect at that point in time. He also added that Building and Zoning Administrator Lewis will show some slides that will give the gist of the ordinance of Section 159, 160 and 161. He asked Planning and Zoning Administrator Lewis to explain the Power Point presentation of properties that could be potential problems for enforcement.

Building and Zoning Administrator Lewis stated that the cemeteries are an issue because of ownership and who to contact for overgrowth. He continued to show pictures of different overgrown lots. He asked for direction from Council. He also asked about the area owned by VDOT. He asked if the Town would be able to maintain the right-of-ways to the 6 inch height.

Councilman Howard stated that the height can be changed.

Building and Zoning Administrator Lewis stated that there is a problem of flowers verses weeds. He spoke of ivy on a house. He stated that there was a property that was cleared for water service and septic on Ridge Road. Now, the owner is allowing it to return back to its natural state. He feels this is in violation. He asked Council for direction once a property has been cleared. He continued to show pictures of cut grass but not weed eating along the fence and he feels it's still in violation.

Building and Zoning Administrator Lewis addressed the bamboo issues in the front of a house. He stated that there are a lot of properties on the island that have deep lots with the house is on the front part and the back part is overgrown or at its natural state. He advised that according to the wording of the draft ordinance it's in violation. He asked if they should be required to clear the 5' strip even if there's no one there. He also mentioned Camper's Ranch and dealing with the large tracts of land.

Mayor Tarr stated that he will consider this staff's input. He asked someone to explain to the audience what is proposed in the ordinance.

Town Attorney Poulson explained that it's the owner's responsibility to take care of their property. He stated that it initially applies to uncontrolled growth or vegetation of every kind standing or growing on any lot or parcel other than trees, ornamental shrubbery, flowers, vegetable gardens or grasses or bushes classified as wetlands under any local, state or federal law. He explained concerns in the area of Wildcat. He tried to revise the definition to read uncontrolled or unmanaged vegetation of every kind standing or growing on any lot or parcel other than trees, ornamental shrubbery or vegetation, flowers, vegetable gardens or grasses or

bushes classified as wetlands under any local, state or federal law. He explained that everything can be managed or controlled in Wildcat.

Town Attorney Poulson stated that it applies to three kinds of property, first to any undeveloped property, which does not contain a structure or other improvement or not served by the Town's water system or installed sewage disposal system. The second is vacant developed property which is property that contains either a structure or other improvements or has the Town's water system or has a sewage disposal system and no person or entity has either resided, conducted any business, other activity or physically occupied the lot or parcel any time within a 45 day period preceding any notice from the Zoning Administrator to cut the grass. The third is occupied property which is basically the same thing except someone has been there within the 45 day period. He added that violations occur when the vegetation gets too high.

Town Attorney Poulson continued to explain that at this point in time regarding vacant developed property, a house on Ridge Road and no one has been there for 3 or 4 months. He stated that if the grass exceeds 6" it has to be cut, and any occupied property that exceeds 6" has to be cut. He added that there was no requirement that required anyone to cut or clear undeveloped property. He also explained that on undeveloped property there is a depth of 5' of any adjacent property or any street, roadway or easement that has to be cut when it gets to 10" down to 3". He stated that sometimes there are properties that may be 500' deep and the house in on the front 100'. Town Attorney Poulson feels this could be worded: notwithstanding the preceding provision, the part of any such property located 10' or more wayward or more that actually use in conjunction with the structure of property shall be cut in accordance with Section 161. He explained that it would be the same for the back part as undeveloped property.

Town Attorney Poulson also stated that every time there is a violation it is a civil penalty and for each time, up to 3 times, and is a \$50.00 fine. He added that it can't go over but so much in a year's time. He stated that it can reach the point that it becomes a class 3 misdemeanor which is punishable by \$250.00 and only charged to a repeat offender. He stated that if Building and Zoning Administrator Lewis sees someone in violation, he will send the owner a notice by certified mail, return receipt requested. He added that if the owner doesn't cut it within 10 days of the notice then the Town can cut it and bill the owner. If the owner doesn't pay the bill within 15 days the Town can put a lien on the property. He expressed the importance of the 3 different types of property. He stated that the height requirements should be reviewed.

Mayor Tarr opened the public hearing.

- Mr. Bob Manoil, of Anderton Avenue, advised Council that he participates in the Adopt-a-Road Program and adopted Anderton Avenue. He stated that it is discouraging to see people not maintain their property. He doesn't feel it is fair to have to call Building and Zoning Administrator Lewis every time they are in violation. He suggested a letter to be issued by the person responsible for that road in the Adopt-the-Road Program. He also complained about the grass cutting businesses that are pushing clippings into the road causing clogged drains. He feels the grass cutting businesses should be responsible for edging also. Mr. Manoil also expressed his concerns about phragmites.

- Ms. Denise Bowden doesn't understand how this pertains to some properties and not to others. She explained the property adjacent to her grandmother's property. She stated that this is undeveloped property and now overhangs onto her grandmother's property. She asked how this proposal addresses these issues.

Town Attorney Poulson stated that owners would be responsible to cut back 5' from the lot line.

- Mr. Dean Orsino, of Main Street, stated that some of the private lanes have shrubs that hang into the right-of-way causing access issues for emergency vehicles. He suggested a 5' rule to cut back overgrowth from the private roads also.

- Ms. Nancy Lane, of Main Street, urges Council to use caution when approving the proposed ordinance. She advised that she has several deep lots. She explained that the front of her lots are homes and the back of her lots have bamboo or swamp and in order to cut the back portion of her lots she would have to bring in many loads of fill. She urged Council to think of the geographical issues.

- Mr. Frank Theisen explained his home and stated that at the back end of his house is a shared drain field. He stated that the grass there is very high and asked how this would be classified.

Building and Zoning Administrator Lewis identified this as one of those properties that they want to go back to their natural state.

Town Attorney Poulson asked how far behind the house this part of the lot is.

Mr. Theisen advised that it is approximately 300'.

Town Attorney Poulson feels this could still be classified as an improvement which could mean a developed property.

Building and Zoning Administrator Lewis agrees with the Town Attorney Poulson that it should be classified as improved.

Mr. Theisen stated that he has an easement down the whole side.

Town Attorney Poulson advised he would have to cut it back.

There was further discussion.

Town Attorney Poulson stated that the ordinance can't be drafted to fit every situation on Chincoteague. He stated that if there are two adjoining undeveloped pieces of property they would have to cut a 5' strip down the line of each property giving a 10' strip.

Town Manager Ritter stated that at the Ordinance Committee they were thinking of adding the language in Section 22.161 "any adjacent developed property". He stated that if the 5' is

adjacent to developed property it applies and if it isn't adjacent to developed property it doesn't apply.

Councilman Howard feels it should be occupied developed property.

Councilman Leonard asked about a property that is owned by multiple heirs and neither of them does anything with the lot. He wanted to know how they enforce this.

Building and Zoning Administrator Lewis interjected that the notice will go wherever they are mailing the taxes.

Town Attorney Poulson stated that if they still don't cut it then the Town will put a lien on the property.

Councilman Jester stated that there are several lots that are maintained in the front but not maintained in the back.

Building and Zoning Administrator Lewis and Town Attorney Poulson both explained that if an undeveloped parcel is adjacent to occupied developed property the undeveloped parcel should be cleared 5' back from the occupied, easements and undeveloped properties.

Mr. Manoil feels that possibly the realtors should be given this to reissue to the buyers.

Town Manager Ritter advised that there would be a section in the Ordinance of "notice to cut".

Councilman Jester asked how the Town communicates this to the public that doesn't live here.

Town Attorney Poulson suggested a letter in the tax bills.

There was discussion about height requirements.

Mayor Tarr advised that the Ordinance Committee would be reviewing this again Thursday, September 6<sup>th</sup>.

Town Manager Ritter asked for a show of hands from the public of who was in favor of some form of the ordinance.

Ms. Bowden added that there are items in the ordinance that needs to be addressed. She feels that it needs to be reviewed further because there are so many regulations.

Town Attorney Poulson feels that the Town should maintain their own property first.

Mrs. Thomas commented on her garden and the weeds.

Ms. Jenny Coyne, of Church Street, feels no one should cut anything until the owner has been contacted.

Mayor Tarr closed the public hearing. He asked Building and Zoning Administrator Lewis to be present at the next Ordinance Committee meeting, Thursday, September 6<sup>th</sup>, 2012 at 5:00 p.m.

Town Attorney Poulson mentioned the cemeteries.

Mayor Tarr stated they are working on the cemeteries and hopefully this winter will have a list of who owns them and who is responsible for maintaining them.

Town Attorney Poulson suggested asking the court for those having to do community service for refuse collections along highways and possibly have them clean up the cemeteries.

Mayor Tarr asked Town Attorney Poulson if there was anything that he would like to see changed.

Town Attorney Poulson advised that they should address cemeteries, give consideration to undeveloped property adjacent to undeveloped property.

Mayor Tarr stated that if there were any further comments to give them to Town Manager Ritter for the Ordinance Committee meeting.

### **3. Public Safety Committee Report of August 7, 2012**

Mayor Tarr advised that that report is in the Council's packet and asked for comments or questions.

Councilman Muth asked if there was an update on scooters.

Mayor Tarr stated that the final direction was for the Police Department, EMS and a member of Town staff to contact all the rental shops for a meeting.

Councilman Muth also asked if there as an update of what the state is doing to pursue the scooters with 49 CCs.

Chief Lewis stated that the Virginia State Police advised him that the General Assembly is trying to pass in January to make it mandatory for helmets and tag mopeds. He added that the trouble with the mopeds is that they're stamped with 49 CCs and most of them are more than 49 CCs.

Mayor Tarr directed staff to see if anything is going to the General Assembly.

Councilman Jester commented about having to put a child in a restraint in a car but not having to on a moped or scooter.

### **4. Budget & Personnel Committee Report of August 14, 2012**

- **Donation to the Eastern Shore Rural Health for the Dentistry Division**

Mayor Tarr stated that the report is included in the agenda packet. He advised that there is an item that was brought to the Committee from the Eastern Shore Rural Health. He is unsure of a dollar amount that staff was researching.

Town Manager Ritter advised that there was a little more than \$1,500 in the discretionary fund that could be budgeted for this. He added that it is up to Council for the amount.

Mayor Tarr stated that the Eastern Shore Rural Health is building a new wing and they are looking to purchase the equipment.

Councilman Howard asked if this was for those who couldn't pay for dental services.

Mayor Tarr advised it would be for both. He stated that those who couldn't pay are put on a sliding scale.

Councilwoman Richardson advised that the Accomack County School System has dental services for the children.

Mayor Tarr stated that they have it for some schools.

Councilwoman Richardson added that she has carried Chincoteague students to other schools for this purpose.

Mayor Tarr asked Council for their input.

Councilman Taylor stated that if there was a place on the Island he would make a motion. He feels that the Island residents won't benefit because there is already dentistry here.

Vice Mayor Leonard stated that this is for those who can't afford dentistry services as the Rural Health System is for those who can't afford it or will pay a reduced fee.

Councilman Muth agreed and is for it.

There was further discussion.

Vice Mayor Leonard asked if the Eastern Shore Rural Health Board have an Island representative.

Mayor Tarr stated they will ask Rural Health to make a presentation to Council.

**5. Proclamation, "Proclaiming American Legion Day", September 16, 2012**

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the Proclamation of American Legion Day as September 16<sup>th</sup>, 2012. Unanimously approved.



**PROCLAMATION**  
**“American Legion Day”**

The Mayor of the Town of Chincoteague declares September 16, 2012 as  
“American Legion Day.”

The American Legion remains today an active and vigorous advocate for service members, veterans and their families not only on Capitol Hill, but right here in Town of Chincoteague. Among its greatest legislative achievements was the enactment of the GI Bill of Rights. The initial draft of the GI Bill was written by Legionnaires at the Mayflower Hotel in Washington, DC. Many consider the GI Bill as one of the greatest pieces of legislation ever enacted.

With a current membership of 2.4-million wartime veterans, The American Legion was founded in 1919 on the four pillars of a strong national security, veteran’s affairs, Americanism, and youth programs. Legionnaires work for the betterment of their communities through more than 14,000 posts across the nation.

**WHEREAS**, the 93-year-old veteran’s service organization, the largest in the nation, is recognized for its continuing work to aid wounded warriors and military families, for Legionnaires’ legacy of community volunteerism and for the organization’s significant role in establishing important national legislation; and

**WHEREAS**, all citizens in the Town of Chincoteague wish to join in supporting this well-earned measure, demonstrating our mutual esteem and reverence for this outstanding organization; and

**WHEREAS**, Congress presented The American Legion its federal charter on September 16, 1919 and it is only fitting that we proclaim September 16, 2012 as ‘American Legion Day’

**NOW THEREFORE, BE IT RESOLVED** I, Mayor John H. Tarr, proclaim September 16th as American Legion Day within the Town of Chincoteague.

**DATED** this 4th, day of September, 2012

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Mayor John H. Tarr  
Town of Chincoteague, Inc.

**5a. Mutual Agreement Between the Town of Chincoteague, Inc. and the Accomack County Sheriff's Department.**

Vice Mayor Leonard motioned, seconded by Councilman Muth to adopt the Mutual Agreement between the Town of Chincoteague, Inc. and Accomack County Sheriff's Department. Unanimously approved.

**Law Enforcement Mutual Aid Agreement**

**THIS AGREEMENT**, made this 4<sup>th</sup> day of September, 2012, by and between the TOWN OF CHINCOTEAGUE, VIRGINIA, a mutual corporation of the commonwealth of Virginia and ACCOMACK COUNTY, VIRGINIA.

**WHEREAS**, Virginia law authorizes local governments and Sheriffs in counties where no police department has been established to enter into reciprocal agreements for mutual aid and for cooperation in the furnishing of law enforcement services; and

**WHEREAS**, the Town of Chincoteague and the Sheriff of Accomack County have determined that the provision of law enforcement aid across jurisdictional lines will increase their ability to preserve the safety and welfare of the entire area; and

**WHEREAS**, it is deemed to be mutually beneficial to the parties hereunto to enter into an agreement concerning mutual aid and cooperation with regard to law enforcement; and

**WHEREAS**, the parties desire that the terms and conditions of this Law Enforcement Mutual Aid Agreement be established;

**NOW, THEREFORE**, in consideration of the mutual benefits to be derived from a Law Enforcement Mutual Aid Agreement, the parties hereunto covenant and agree as follows:

1. Each party will endeavor to provide law enforcement support to the other party in this Agreement within the capabilities available at the time the request for such support is made and within the terms of this Agreement.
2. Requests for assistance pursuant to the terms and conditions of the Agreement shall be made by the requesting jurisdiction's Chief of Police or Sheriff or his respective designee.
3. The requesting party shall be responsible for designating a radio communications system for use by the requesting party.
4. The personnel of the requesting party shall render such assistance under the direction of the Chief of Police, Sheriff or the respective designee of the requesting party.
5. Law Enforcement support provided pursuant to this Agreement shall include, but not be limited to, the following resources: uniformed officers, marine patrol officers, canine officers, aerial support when maintained, forensic support, plainclothes officers, special operations personnel and related equipment. All law enforcement officers and personnel shall be duly trained and currently certified through the DCJS for the position provided.
6. Subject to the terms of this Agreement, and without limiting in anyway the other circumstances or conditions in which mutual aid may be requested and provided under

this Agreement, the parties hereunto agree to provide assistance to the requesting party in situations requiring the mass processing of arrestees and transportation of arrestees. The parties to the Agreement further agree to assist the requesting party with security and operation of temporary detention facilities.

7. Nothing contained in this agreement should in any manner be construed to compel any of the parties hereunto to respond to a request for law enforcement support when the personnel of the party to whom the request is made are, in the opinion of the requested party, needed or are being used within the boundaries of that party, nor shall any request compel the requested party to continue to provide law enforcement support to another party when its personnel or equipment, in the opinion of the requested party, are needed for other duties within the boundaries of its own jurisdiction.
8. In those situations not involving the provision of mutual aid upon request, law enforcement officers and personnel, and other employees of the Sheriff hereunder, may also enter the other's jurisdiction in furtherance of law enforcement purposes, concerning any offense in which the entering law enforcement agency may have a valid interest; provided, that the entering personnel shall, as soon as practical, make such presence known to the chief of Police or Sheriff of the entered jurisdiction, or his designated representative.
9. The responsibility for investigation and subsequent actions concerning any criminal offense shall remain with the law enforcement agency of the locality whose court has original jurisdiction over the offense. Entering law enforcement personnel shall promptly notify the law enforcement agency of the entered locality upon discovery of a crime over which the court of the entered locality has original jurisdiction.
10. Officers acting pursuant to the Agreement shall be granted authority to enforce the laws of the Commonwealth of Virginia and to perform the other duties of a law enforcement officer; such authority shall be in conformance with Virginia Code Section 15.2-1730.0; however, law enforcement officers of any party who might be casually present in any other jurisdiction shall have power to apprehend and make arrests only in such instances wherein an apparent, immediate threat to public safety precludes the option of deferring action to the local law enforcement agency.
11. All law enforcement officers, agents, and other employees of the parties of this Agreement who are acting pursuant to this Agreement shall have the same powers, rights, benefits, privileges, and immunities in each other's jurisdiction, including the authority to make arrests in each other's jurisdiction.
12. The services performed and expenditures made under this Agreement shall be deemed to be for public and governmental purposes and all immunities for the liability enjoyed by the parties within their boundaries shall extend to their participation in rendering assistance outside their boundaries. It is understood that for the purposes of this Agreement, the responding party is rendering aid once it has entered the jurisdictional boundaries of the party receiving assistance.
13. All pension, relief, disability, worker's compensation, life and health insurance, and other benefits enjoyed by said law enforcement officers or personnel as employees of their respective jurisdiction shall extend to the services they perform under this Agreement outside their respective jurisdictions. Each party agrees that provisions of these benefits shall remain the responsibility of the employing party.

14. Each party agrees that, in activities involving the rendering of assistance to another party pursuant to this Agreement, each party shall waive any and all claims against all other parties thereto which may arise out of their activities outside their respective jurisdictions. It is expressly understood that the provisions of this paragraph shall not apply to entry of law enforcement officers or other personnel into another jurisdiction pursuant to Paragraph 8 of this Agreement.
15. The parties shall not be liable to each other for reimbursement for injuries to law enforcement officers or personnel, or damage to equipment incurred when going to or returning from another jurisdiction, except to the extent that reimbursement for such expenses may be or is received from the Federal Emergency Management Agency (FEMA) or another government agency. Neither of the parties shall be liable to each other for any other costs associated with, or arising out of, the rendering of assistance pursuant to the Agreement, except to the extent that reimbursement for such expenses may be or is received from FEMA or other government agency.
16. This Agreement rescinds and supersedes all previous written agreements and oral understandings relating to the provision of mutual law enforcement services between the parties.
17. Any of the parties hereunto may withdraw from this Agreement by giving thirty (30) days written notice to the effect to the other parties hereunto.

**IN WITNESS WHEREOF**, the parties hereunto have caused this Agreement to be executed by their respective City Manager and County administrator or Sheriff, the official seal of each city and county affixed hereunto and attested by their respective authorizing the execution. Sheriffs may attest by Notary Public.

TOWN OF CHINCOTEAGUE:

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

COUNTY OF ACCOMACK:

BY: \_\_\_\_\_  
TODD E. GODWIN, SHERIFF

ATTEST: \_\_\_\_\_

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

Councilman Howard reminded that the deadline for the ordinance regulating the strapping down of propane tanks is approaching. He asked Town Attorney Poulson if there is a state code pertaining to this.

Town Attorney Poulson advised he was unsure without researching it further.

Town Manager Ritter advised that in the state building code it states any “new” tank installations are required to be strapped down.

Councilwoman Richardson complained about the cost associated with the strapping down of her gas tank. She reminded Council that they adopted the ordinance because FEMA recommended it. She asked that if someone challenges it could they be fined for not having it done.

Town Attorney Poulson advised that the ordinances were passed for the safety and welfare of the citizens; however, he will look into the matter further.

There was further discussion.

Mrs. Thomas asked about her mobile home park. She advised that all but 2 have strapped their tanks. She asked who was responsible.

Building and Zoning Administrator Lewis advised that the property owners are responsible.

Mrs. Thomas advised that she sent every resident a letter and all but 2 have had them strapped.

Mayor Tarr asked staff to start advertising or re-advertising.

Town Manager Ritter advised that it is on Channel 9, on the website and he will put it back in the paper.

Councilman Taylor thanked mosquito control for spraying the football field prior to the football and soccer players.

Councilman Jester stated that the new lights look fantastic down town.

Mayor and Council complimented Public Works Director Spurlock for the new employee Mr. Donnie Thornton, for doing a very good job pruning trees and grooming the landscaping.

Town Manager Ritter reminded Council of the Bridge the Past and the Future celebration on September 29<sup>th</sup> for the Assateague Bridge. He also reminded Council of the Wastewater Advisory Committee meeting on the 27<sup>th</sup>.

Public Works Director Spurlock reminded Council of the Public Works Committee meeting tomorrow at 5:00 p.m.

Mayor Tarr announced that Congressman Scott Rigell will be in the Council Chambers Friday at 10:00 a.m. until 11:30 a.m.

### **Adjourn**

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

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Mayor

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Town Manager

**MINUTES OF THE SEPTEMBER 13<sup>TH</sup>, 2012**  
**CHINCOTEAGUE SPECIAL TOWN COUNCIL MEETING**  
**JOINT WORKSHOP WITH CHINCOTEAGUE TO**  
**ASSATEAGUE BEACH ACCESS COMMITTEE**

**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

**Beach Access Committee:**

Wanda J. Thornton, Supervisor  
Ted Lewis  
David Schulte  
Denise Bowden

**Members Absent**

Donna Mason

**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.

**AGENDA ADDITIONS/DELETIONS AND ADOPTION**

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

**1. Guest Speaker – Presentation of FWS Chincoteague Baseline Economic Analysis**

Mr. Joe McCauley thanked Council for allowing him to come before them once again. He introduced those present from the FWS. He also introduced the guest speaker Mr. Edward “Ted” Maillett who is from the Economics Division in the Arlington office. He has been working for some time on the economic analysis.

Mr. Maillett gave his credentials and reviewed a power point presentation regarding the economic analysis. He advised that they are trying to create a document that is transparent and describe the community on a financial and economic aspect. He stated that this study is based on information they have collected. He shared highlights. He also stated that they expanded on the economic contributions of the Wallops Flight Facility. He mentioned the contributions of the shellfish industry also. Mr. Maillett referred to the 2010 Census data and population.

Supervisor Thornton interjected that the Census data was incorrect and was revised.

Town Planner Neville stated that the population was corrected to 3,666.

Town Manager Ritter advised that with Accomack County's count of the school age children the population is 3,776.

Supervisor Thornton explained the population recount for the Census.

Mr. Mailett thanked her for that information. He then reviewed the Census population information. He also spoke of housing units, education and poverty status. He reviewed employment, earnings and the businesses within the Town along with tourist related and not tourist related employment. He discussed revenues, lodging tax and gross receipts. He mentioned commercial fishing.

Mr. Mailett then reviewed the Assateague Island National Seashore economic impact study. He mentioned visitors and the average spending per visitor. He advised that there is a survey directed to Chincoteague visitors that may or may not help. He reviewed the traffic counts and the average expenditures per day.

There was further discussion.

Mr. Mailett discussed the expenditures further. He advised that it is not exactly known how the money is spent.

Supervisor Thornton asked about the visitation impact. She stated that regarding the beach there is no way the average spending is what is reported.

Councilman Jester commented.

Supervisor Thornton mentioned the activities that were mandated by FWS such as hunting and fishing.

Mr. Mailett explained the revenue study. He advised that it doesn't necessarily target those people who go on to Ocean City.

There was discussion regarding costs, lodging, food and transportation.

Town Planner Neville asked how the Town can have confidence with the computer model and is there a way to test it. He stated that based on the assumptions the tax revenues were a known amount and was within a reasonable degree of accuracy of what the computer was projecting.

Mr. Mailett moved on to explain the impact on the Town. He gave revenue figures and employment statistics.

Councilman Jester stated that the real estate values and taxes are 25% more of the County's tax revenue. He advised that there is a large number of people that come to the island to work who are contractors and hard to keep track of. He suggested the impact beyond the Town of Chincoteague.

Mr. Mailett stated that they know that there are a number of people that come to the Refuge for the day and not staying. He agrees that there are people that come in and not counted.

Supervisor Thornton also added that those people that live in Accomack County would go to the beach here or to Ocean City.

There was discussion regarding out-of-town suppliers.

Mr. Mailett stated that this is an assessment of the Town's economy and feels that the Town can have a more civil relationship with the Refuge based on figures. He stated they are trying to bring to the table something to lay a good framework.

Councilman Taylor stated that the Town is dependent on this.

Mr. Mailett thanked Council.

Supervisor Thornton asked about the services that Chincoteague utilizes and mentioned the County's Economic Impact Study and the service providers. She feels that there are a lot of services and providers that come to the Island and it is hard to factor this in.

There was further discussion regarding services taken into consideration and the cost per person per day. They also discussed the gross sales and transient occupancy.

Mr. Mailett stated that they tried to look at this in an entirely different way.

Mayor Tarr mentioned the negative news in newspaper articles and that people are not purchasing homes here because the beach access is challenged. He stated that if the beach is gone then the assessments would drop.

Mr. Mailett added that real estate is tough to work with. He stated that it is challenging to be accurate with this.

Supervisor Thornton asked about the seasonal campers and those who own campers here do not pay transient tax but pay regular taxes on their camper. She also added that they spend a lot of money here with the services, restaurants and meals tax. She asked if they were taken into consideration for the impact they have.

Mr. Mailett advised that they have paid for the study of visitors, however, it's not perfect. He stated that the question was where the visitors come from and what they spend money on. He added that it is also only administered in a 2 week period. He stated that if the Town has more data they would be willing to review it.

Mayor Tarr advised that nearly 50% of the homes on Chincoteague are transient rental units. He explained the rentals and number of possible visitors. He stated that should anyone have further questions to email or call Town Planner Neville.

Vice Mayor Leonard asked if Chincoteague was unique in the impact statement or does it fit within a certain criteria.

Mr. Mailett advised that it is unique in many ways.

Ms. Denise Bowden mentioned the impact study that was mentioned at University of Georgia and people buying property next to a wildlife refuge. She stated that there is a difference and that most wildlife refuges don't have a beach as opposed to ours. She suggested taking that into consideration also.

There was discussion as to the next step.

Mr. Mailett advised that they try to look at the impact based on the different options in the CCP. He stated that they typically look at alternatives and impact based on those alternatives. He also stated that it is a very long process. He referred to the survey.

There was further discussion.

Town Manager Ritter asked how the baseline would be used in the future. He asked if there would be an inflationary number. He explained that in 5 years if the Town is still at the baseline then the Town is going under.

Mr. Mailett explained that inflation isn't necessarily factored.

Town Manager Ritter wanted to know that in 4 years, how the alternatives would impact the Town based on the inflation factor.

Further comments continued.

Town Planner Neville stated that it bothers him if the purpose of the analysis is to look at visitor spending with demographic data focused on the Town and not the visitors within the 300 mile radius. He feels that they should recognize where the money is coming from.

Mr. Mailett advised that until they get the information back from the visitor survey they have no way to compile it.

Town Planner Neville advised that there are programs that can produce the information based on the zip codes.

Mr. Mailett reminded Council that this is the Refuges' 15 year plan and is a living document used until they go through the process again. He feels the refuge managers need to understand where they're moving to and where their neighbors are.

Town Planner Neville stated that they need to know who is visiting the refuge.

There was discussion regarding the Town's survey and Town Planner Neville advised he would give Mr. Mailett a copy of the Town's survey results.

Mr. Ray Rosenberger asked about the expenditures based on the options.

Mr. Mailett stated that if they're talking about a large scale project, they will bring jobs to the economy.

Mayor Tarr disagreed as this is considered a short-term income which is only for the length of the construction project. He stated that they want the long-term numbers.

Mr. Mailett advised that they use the short-term and long-term economic impact. He advised that in the next step they are waiting for internal comments first and then he will meet with the Refuge and work on long term effects. He stated they will then be more specific and is unsure of the schedule.

Mr. Joe McCauley commented that they had the economic analysis done as part of their CCP process. He stated that everyone will see that the Town is very tied to the beach and on the same baseline. He also added that in any type of analysis it isn't necessarily the exact dollar figure but the relative importance. He mentioned the comments that Mayor Tarr had regarding the effect on real estate. He understands the importance and feels they need to find the common ground. He feels that they need to see what drives the economy. Mr. McCauley also stated that in the next steps they will take the comments into account then try to get this reassembled.

Mayor Tarr thanked them for attending.

There were further comments from Council.

## **2. Review of Draft Beach Access Newsletter**

Town Planner Neville reviewed the draft Beach Access Newsletter. He asked if they feel this is the right set of messages to get out at this point. He stated that this is an attempt to promote one of the top issues of how to take care of the beach and parking with the storm season coming up. He issued a handout describing a dune restoration project at Cape Cod National Seashore. He feels the focus is that this project has already been done with the Seashore and Community volunteers. He advised that they used sand fence. He hopes that CNWR doesn't end up with the same language as the Prime Hook CCP. He stated that the Fish and Wildlife are trying to form the policies that the Town can work with. He stated that he added a little about the piping plovers and the FWS work over the last 15 years. He feels it is working because the numbers are up. He hopes to continue shared use of the beach. He asked for thoughts and comments.

Mr. Tom Bonetti stated that he is a Planner and has reviewed the newsletter. He talked about the language, appropriateness and compatibility. He explained that for Prime Hook, they've never used the beach there and don't have an assigned area for a recreational beach. He discussed the items that are inappropriate or incompatible.

There was further comments and discussion.

Vice Mayor Leonard asked about replenishment if the beach washes through. He feels there should be some form of restoration plan in place.

Councilman Jester suggested looking into a state or federal level infrastructure plan for storm protection.

Town Planner Neville stated that they have something in place that states they will defer this until a group of federal agencies can get together to decide the appropriate thing to do. He doesn't feel they should avoid the issue.

Councilman Jester commented on beach replenishment at Wallops and Wallops taking a tough stand.

Mr. Bonetti stated that Town Planner Neville has done a good job highlighting the restoration project in Cape Cod. He is unsure if the Park Service knows about this. He feels sand fencing is worth a try. He suggested that there may not be enough room for a beach, several rows of sand fence and parking also.

Ms. Bowden would like more notice for the public. She feels the public hasn't been given enough time or information.

There was further discussion.

Town Planner Neville advised he would make final touches to the newsletter and get it out.

### **3. Mayor and Council Comments**

Councilman Howard feels that if there isn't beach replenishment there won't need to be an economy here.

There were brief comments.

Town Planner Neville explained the studies and stated that the Town is up against the movement to allow nature to take its course. He stated that they would have to go to the national level to fight this.

### **Adjourn**

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

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Mayor

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Town Manager

**Public Works Committee Meeting**  
September 5, 2012  
MINUTES

Members Present:

Hon. Ellen Richardson, Chairwoman  
Hon. John Tarr

Also Present:

Hon. Tripp Muth  
Hon. John Jester  
Mr. and Mrs. Ray Rosenberger  
Mr. John Gray  
Mr. Harvey Spurlock

Chairwoman Richardson called the meeting to order at 5:10 pm.

**Public Participation**

None

Mayor Tarr made a motion to approve the agenda. The motion was seconded by Ms. Richardson and unanimously approved.

**1. Street Sweeper Rehab Proposal**

Mr. Spurlock presented a proposal from Atlantic Machinery of Springfield, MD, for the rehab of the Town's street sweeper. Mr. Spurlock explained the 2005 model year truck the sweeper is mounted on is in good condition however the sweeper mechanism itself requires major repairs due to normal wear. The cost of a new sweeper is approximately \$175,000. Atlantic's proposal includes several options one of which is the replacement of the sweeper mechanism for \$57,822. Mr. Spurlock informed the committee he had verified with VDOT that the repairs are an allowable expense under the VDOT Urban Maintenance Program. Mr. Spurlock also informed the committee, given current projections, funding is available for the repairs. Mayor Tarr made a motion the repair proposal be taken to full Council for approval. The motion was seconded by Chairwoman Richardson and unanimously approved.

**2. South Main St – Fowling Gut Box Culvert**

Mr. Spurlock presented a proposal from Clark Nexsen, the Town's storm water consultant, for the evaluation of the Fowling Gut box culvert on South Main St. Mr. Spurlock explained the culvert had developed a significant slump which requires investigation. Mr. Spurlock informed the committee the box culvert at Bunting road failed in a similar manner and was repaired by installing steel plates over the collapsing culvert. Mr. Spurlock stated his opinion that the level of investigation set forth in Clark Nexsen's proposal was excessive at this time. He informed the committee Tidewater Utilities, a company which specializes in lining storm water piping, had been engaged to evaluate the a failing concrete culvert at the Eel Creek crossing at Maddox Blvd. A discussion of the failing culvert at Eel Creek followed. Mr. Spurlock recommended having Tidewater Utilities investigate the box culvert. The committee agreed with this approach,

### 3. Main Street Streetscape Project Status Update

Mr. Spurlock informed the committee, excepting painting of the marine bollards, the first phase of the Main Street streetscape project is complete. He further informed the committee we are working with the property owners to obtain the required easements for the planned work on the east side of the street. We are also working with ANEC and Verizon to plan for burial of the utilities in this area. Mayor Tarr emphasized the importance of burying the laterals. Mr. Spurlock stated the most economically feasible approach may be to bury everything between Mumford and Church Streets. Mayor Tarr also indicated he believed the DCR Grant request for the expansion of Robert Reed Park had been approved. Streetscape work is projected to begin in early winter of this year. Mayor Tarr requested the work be closely coordinated with the Downtown Merchants.

### 4. Water Billing Adjustment Report

Mr. Spurlock presented a report detailing water leak adjustments for the 2012 calendar year. The total amount YTD is \$4035.96.

### 5. Questions/Comments

Chairwoman Richardson inquired about the failing culvert at the intersection of Main Street and Seaweed Drive. Mr. Spurlock advised the culvert is on private property and therefore not the responsibility of the Town, Mr. Spurlock asked the committee, given the failing culvert is a public safety issue, if they would like to pursue an easement for the Town to install a culvert at this location. The committee agreed.

Mr. Spurlock informed the committee water main upgrades are scheduled for a segment of Seaweed Drive and East St.

Mayor Tarr inquired if the Town has a signed agreement with Eastern Shore Communications for the wireless broadband antennae they are installing on the Town water tower. Mr. Spurlock will verify.

John Jester asked if a Council vote on the sweeper rehab proposal needed to take place prior to the next regular Council meeting. Mr. Spurlock stated the vote could wait as the truck should be serviceable for another month,

Mr. Jester also asked if pedestal streetlights are to be installed on the east side of Main St as part of the next phase of the streetscape project. Mr. Spurlock informed him lights are included in the current design.

Mayor Tarr motioned to adjourn the meeting at 5:45 pm. The motion was seconded by Chairwoman Richardson and unanimously approved.

**MEMORANDUM**

TO: Town Council  
VIA: Robert Ritter, Town Manager  
FROM: Harvey Spurlock, Public Works Director  
DATE: September 12, 2012  
SUBJECT: Street Sweeper Rehab

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Attached is a proposal from Atlantic Machinery, a Schwarze dealer, for repairs to the street sweeper.

I, along with the Public Works Committee, recommend Quote #2 for \$57,822 be accepted. The work described will return the sweeper to fully functional status. The repair is an allowable expense under the VDOT Urban Maintenance Program .

# **ATLANTIC**

## **MACHINERY INC.**

**Sewer and Street Equipment Specialists**

August 10, 2012

Town of Chincoteague  
6150 Community Dr.  
Chincoteague Island, VA 23336

Attn: Harvey Spurlock

Re: **SCHWARZE A7000 REGENERATIVE STREET SWEEPER**

Dear Mr. Spurlock,

Per your recent conversations with Kenny Hollins, Atlantic Machinery, Inc. is pleased to quote a new Schwarze Model A7000 sweeper. Our quotation is as follows:

**ONE (1) 2012 SCHWARZE MODEL A7000 SWEEPER**  
**MOUNTED ON A CUSTOMER SUPPLIED CHASSIS**

Schwarze

- ▶ John Deere Model **4045T, 115 HP** w/ 3 point shutdown system. Engine equipped with a **two stage dry type air cleaner** with a **Sy-Klone centrifugal pre-cleaner** and **air filter restriction indicator**. Two year warranty. **Electronic throttle**. Tier 111.
- ▶ Dual engine design, independent control, plenty of HP reserve.
- ▶ Blower - **17,000 CFM**, direct belt drive.
- ▶ 8.4 cubic yard hopper w/ 53 degree hydraulic dumping and latches.(Largest in the industry). Inspection doors, 15" x 32" each side. **Body vibrator**. **Sound suppression**. **8" rear hose assembly**.  
Saw tooth hopper screens. New **FOLD DOWN STYLE**.
- ▶ **Dual 44" hydraulic gutter brooms** w/ **in-cab tilt** adjustment. Hydraulic. **GEO, gutter broom extension over ride**.
- ▶ **Pick up head, 90" x 36"**, hydraulic up/down, carbide drag shoes(2 year warranty), **Sweeps-In-Reverse**.
- ▶ **DC back up system** for all hydraulic system functions.
- ▶ Hopper dust separator with auto clean out.
- ▶ **250 gallon poly water tank**.
- ▶ 25' of water fill hose **with cam locks**.
- ▶ **Front mounted spray bar**, spray bar on each gutter broom, hopper tube mounted spray bar and pickup head spray bar in and out. Also extra **hopper mounted spray bar( 4 jets)**.
- ▶ Water tank **low level light in cab**. **Low hydraulic level in cab**.
- ▶ **Floodlights** - each gutter broom and rear flood lights.
- ▶ **Amber strobe light** on hopper w/ guard.
- ▶ **Rear mounted arrowboard installed**.

# ATLANTIC MACHINERY INC. *Sewer and Street Equipment Specialists*

- ▶ **Storage box mounted on passenger side.**
- ▶ Painted white. One year warranty.
- ▶ **Local dealer support**, AMI stock more than \$250,000.00 of inventory and maintains full time factory trained mechanics.
- ▶ All standard equipment and training.

Chassis

- ▶ Customer supplied and repainted white to match sweeper.

Quote #1:

**NET PRICE:** .....\$124,936.00 each

- **Customer to remove sweeper.** **Deduct \$5,000.00 \***
- **Stainless steel body in lieu of steel.** **Add \$17,568.00**

\* Return JD engine to customer from Schwarze, customer to pay for freight.

**TERMS: Purchase order and net at time of delivery. Pricing good for 30 days.**

**DELIVERY: 14-21 days or less.**

Quote #2:

- New steel body only with screens, sound suppression, strobe, Arrowboard and boom, installed at AMI. Customer to drive sweeper to AMI for install. Painted white. \$57,822.00
- Add stainless steel to the body quote only above. \$18,454.00

Quote #3

- New Schwarze A7000 sweeper body. \$119,936.00
- New truck chassis, Freightliner M2 chassis, 2013. \$78,250.00
- Stainless steel body in lieu of steel body. \$17,568.00

We look forward to working with you and the Town of Chincoteague. Please do not hesitate to call should you have any questions.

Sincerely,  
ATLANTIC MACHINERY, INC.

Approved,  
TOWN OF CHINCOTEAGUE

Trevor "T" Gardner, III  
Vice President



MEMORANDUM  
Town of Chincoteague Inc.

Date: September 10, 2012  
To: Mayor Tarr and Town Council Members  
Through: Robert Ritter, Town Manager  
From: Harvey Spurlock, Public Works Director  
Subject: Contract 01-PAV-12, Fall 2012 Paving

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The following bid was received for Contract 01-PAV-12, Fall 2012 Paving. Total bid amounts are a combination of fixed price elements and unit cost multiplied by estimated quantities.

Branscome Eastern Shore

Willow St.	\$214,269
Circle Dr.	\$38,436
Small Quantities	\$6,350
Total	\$259,055

I recommend the contract be awarded to Branscome Eastern Shore based on being the lowest price qualified bidder of \$259,055.



**MEMORANDUM**  
Town of Chincoteague Inc.

Date: September 28, 2012  
To: Mayor Tarr and Town Council Members  
Through: Robert Ritter, Town Manager  
From: Harvey Spurlock, Public Works Director  
Subject: Custodial Contract # JS-100112

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The following bid for custodial services was received on September 25, 2012

Bid Item 1 – Bi-weekly cleaning:

Alliant Support Services \$ 721/month

Bid item 2 - Weekly cleaning:

Alliant Support Services \$ 183/month

Bid Item 3 – Monthly cleaning:

Alliant Support Services \$ 187/month

Bid Item 4 – Semi-annual cleaning

Alliant Support Services \$ 546/cleaning

Bid Item 5 – Annual cleaning

Alliant Support Services \$ 204/cleaning

Total annual cost – \$14,388

No escalation for option periods

Contract duration is three years beginning October 15, 2012.

I recommend the custodial services contract be awarded to Alliant Support Services for the total annual amount of \$14,288.

**ORDINANCE COMMITTEE  
TOWN OF CHINCOTEAGUE  
September 6, 2012  
Meeting Minutes**

**Present**

Councilman Terry Howard, Chairman  
Councilman Tripp Muth  
Councilman Gene Taylor

**Staff**

Robert G. Ritter, Jr., Town Manager  
Kenny Lewis, Building & Zoning Administrator

**Call to Order**

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

**Open Forum/Public Participation**

There was no public comment.

**Agenda Adoption**

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

**1. Chapter 22, Article VI, Grass, Weeds, and Other foreign Growth on Private Property**

Town Manager Ritter read the following changes proposed by Town Attorney Poulson to be implemented by the Town Ordinance.

**(B). Grass, weeds, and other foreign growth:**

Uncontrolled **or unmanaged** vegetation of every kind standing or growing on any lot or parcel other than trees, ornamental shrubbery **or vegetation**, flowers, vegetable gardens, or grasses or bushes classified as wetlands under any local, state, or federal law

**SEC. 22-159 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY VACANT DEVELOPED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any vacant developed property, as defined herein, located within the Town when the height of such grass, weeds, or other foreign growth exceeds **ten inches (10")** to a height cut not to exceed **five inches (5")**. **Notwithstanding the preceding provisions, prior to the adoption of this Ordinance the part of any such property located ten feet, or more, rearward of any structure on said property and not actively used in conjunction with the structure(s) on said property shall be cut in accordance with the provisions of §22-161.**

**SEC. 22-160 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY OCCUPIED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any occupied

property, as defined herein, located within the Town when the height of such grass, weeds, or other foreign growth exceeds six inches (10") to a height cut not to exceed five inches (5"). **Notwithstanding the preceding provisions, prior to the adoption of this Ordinance the part of any such property located ten feet, or more, rearward of any structure on said property and not actively used in conjunction with the structure(s) on said property shall be cut in accordance with the provisions of §22-161.**

Zoning Administrator Lewis stated his concerns where non developed lots adjoin developed lots. Mr. Lewis used the undeveloped Quillen property next to Quillen's Mobile Home Park where the lot, approximately five hundred feet deep, joins the Mobile Home Park. He voiced his concerns with the Quillen's having to cut a five foot strip along the property line. Another lot he was concerned with is Mr. Vesley's property where two undeveloped lots are connected where this ordinance requires a ten foot strip, five on each side, on parcels that won't be developed in the near future. It was noted that the language inserted by Mr. Poulson will take care of this issue.

Councilman Muth questioned the cutting of grass ten foot behind someone's house. Chairman Howard felt that ten foot was too close and recommended twenty to twenty-five foot.

Town Manager Ritter advised the committee of some concerns of Zoning Administrator Lewis. If someone is currently cutting their grass on a regular basis and years down the road they decide they no longer want to keep it cut what is there to prevent that. The committee recommended that areas of undisturbed natural growth that existed prior to the adoption of this ordinance may continue to remain the same. However, once the ordinance is adopted any area that has been maintained must continue to be maintained.

There was discussion regarding the property of Ms. Nancy Williams on Division Street. The growth from the neighbor's property is falling onto her property. The committee stated that when the yard is maintained the owners should be required to cut five foot on those portions of property that are hanging on the neighbor's property.

Chairman Howard is concerned that if a person cannot afford to cut their own grass how can they afford the Town to cut it for them.

Councilman Muth felt that if you can't afford to maintain your property then you should get rid of it. He stated there is a big difference between a lawn not being manicured and a portion of property that has never been maintained. He stated that the committee should only worry about grass in yards. Councilman Muth understands that the purpose of the ordinance which is to maintain occupied property and the intent was not to get people to cut properties in their natural state.

Chairman Howard felt that since the Town had asked Delegate Lynwood Lewis to go through the process which allows us to enforce this ordinance that we should continue.

Councilman Muth felt that the original intent of adopting a grass and weed ordinance was to ensure that on residential dwelling lots the grass was kept and maintained in a proper manner. He said that the issue of vacant developed lots has clouded the issue and that ninety percent of complaints were about occupied lots.

The committee reviewed the minimum grass height of three inches and the maximum of six inches. A committee member questioned the minimum of three inches. Mr. Lewis stated that when people cut grass with tractors the height is usually more than three inches. After some discussion the committee agreed on a maximum height of ten inches and a minimum of five inches.

Zoning Administrator Lewis recommended that on lots with structures he would enforce the ordinance when the grass was ten inches and on undeveloped lots would be on a complaint basis. Chairman Howard was concerned with making neighbors complain therefore putting citizens in awkward positions. He felt that neighbor's wouldn't complain on another neighbor's grass that was ten inches.

Chairman Howard was concerned over the example of Ms. Nancy Williams's property. Zoning Administrator Lewis advised that Ms. Williams could call the Town Office and we could enforce the code in the area where she maintains her grass. Chairman Howard wished we would use common sense in cutting grass.

Chairman Howard stated he felt it was never the intent of Mayor and Council to make property owners cut five foot strip to the back of their property line.

Councilman Muth felt that 90 percent of people would maintain their grass after they received a letter.

Zoning Administrator Lewis advised when he was out doing inspections and he observed a yard that needed to be cut he will send a letter. On undeveloped lots he wouldn't send a violation letter unless a neighbor complained.

Chairman Howard asked Town Manager Ritter that before this ordinance was sent for Mayor and Council's approval to get Town Attorney Poulson to review and approve this ordinance.

The committee decided on the maximum grass height of ten inches and a minimum height of five inches. A ride-by type of enforcement of the ordinance will be on occupied parcels made by the Zoning Administrator and on vacant and undeveloped lots will be on a complaint basis from property owners in the general area of the complaint. Also, change 10 foot rearward to 25 foot rearward in sec 22-160. In favor Councilman Muth and Chairman Howard, opposed Councilman Taylor.

**Adjourn:**

Councilman Taylor motioned, seconded by Councilman Muth to adjourn the meeting.



MEMORANDUM  
Town of Chincoteague Inc.

Date: September 28, 2012  
To: Mayor Tarr and Town Council Members  
From: Robert Ritter, Town Manager  
Subject: Grass, Weeds and Foreign Growth Ordinance

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This past year due to several complaints, the Town requested Delegate Lynwood Lewis to introduce an amendment to State Code Section 15.2-901 that permits certain localities the ability to adopt grass and weed cutting ordinances for developed properties. The addition of the Town of Chincoteague to this section was enacted by the General Assembly and approved by the Governor on March 30, 2012.

These regulations are authorized in the Town Charter (Chapter 2, Section 1, Paragraph 21) to promote the health, safety and welfare of the inhabitants of the town, and would be included in the Town Code (Chapter 22 Environment, new Article VI (Grass, Weeds, and Other Foreign Growth On Private Property)).

A draft ordinance was first presented and reviewed by the Town Ordinance Committee at their meeting on May 10, 2012 and was forwarded to the Council to adopt a requirement for property owners to cut grass, weed, and other foreign growth on their property. The Council reviewed the Ordinance Committees recommendation at the June 4, 2012 meeting. The Ordinance Committee met again on July 12, 2012 to review an Ordinance that Jon Poulson, Town Attorney had put together. On August 6, 2012, the Council met and reviewed the Ordinance that the Committee recommended to Council and then the Council made a decision to have a public hearing at the September 4, 2012 Council meeting. At the September 4, 2012 Council meeting Council had a Public Hearing. On September 6, 2012, the committee met to review comments from the public hearing and massaged the ordinance from what they herd at the Public Hearing.

At the previous Ordinance committee meeting they recommend the maximum grass height of ten inches and a minimum height of five inches. A ride-by type of enforcement of the ordinance will be on occupied parcels and undeveloped lots will be on a complaint basis from the property owners in the general area of the complaint. Also, change 10 foot rearward to 25 foot rearward in sec 22-160. In red print are the changes on the following ordinance that have been made from our Town Attorney and our previous Ordinance Committee meeting:

## CHAPTER 22 ENVIRONMENT

### ARTICLE VI. GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY

#### SEC. 22-158 Definitions:

For purposes of this Article VI, the following words and terms shall have the meaning respectively ascribed to them by this section:

**(A). Owner:**

Any person or entity holding record title to any lot or parcel of land within the Town, including fiduciaries holding title to or having the legal care, custody, control, or management of any such lot or parcel.

**(B). Grass, weeds, and other foreign growth:**

Uncontrolled **or unmanaged** vegetation of every kind standing or growing on any lot or parcel other than trees, ornamental shrubbery **or vegetation**, flowers, vegetable gardens, or grasses or bushes classified as wetlands under any local, state, or federal law.

**(C). Undeveloped property:**

Any lot or parcel of land located within the Town that either (a) does not contain a structure or other improvements, or (b) is not served by the Town public water system, or (c) does not have an installed sewage disposal system approved by the Eastern Shore Health District.

**(D). Vacant developed property:**

Any lot or parcel of land located within the Town that either (a) contains a structure or other improvements, or (b) is served by the Town public water system, or (c) has an installed sewage disposal system approved by the Eastern Shore Health District, and on which lot or parcel no person or entity has either resided, conducted any business or other activity, or physically occupied such lot or parcel at any time within the 45 day period immediately preceding any Notice by the Zoning Administrator/Code Compliance Officer as provided for by SEC. 22-163 hereof.

**(E). Occupied property:**

Any lot or parcel of land located within the Town that either (a) contains a structure or other improvements, or (b) is served by the Town public water system, or (c) has an installed sewage disposal system approved by the Eastern Shore Health District, and on which lot or parcel any person or entity has resided, conducted any business or activity, or physically occupied such for any period within the 45 days immediately preceding any notice by the Zoning Administrator or Code Enforcement Officer pursuant to SEC. 22-163 hereof.

**(F). Same set of operative facts:**

Means the situation or facts existing either before or after an owner has been given a Notice to Cut by the Zoning Administrator/Code Compliance Officer. The “operative facts” shall change only after either the owner has cut such grass, weeds, or other foreign growth to compliance after such Notice, or the Town has so cut.

**(G). Violation:**

A violation occurs when any such owner fails to cut such grass, weeds, or other foreign growth from their lot or parcel so as to prevent it from attaining the applicable prohibited height. A

Notice to Cut by the Zoning Administrator/Code Compliance Officer shall not be required to constitute a violation by such owner.

**SEC. 22-159 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY VACANT DEVELOPED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any vacant developed property, as defined herein, located within the Town when the height of such grass, weeds, or other foreign growth exceeds ten inches (10”) to a height cut not to exceed five inches (5”). **Notwithstanding the preceding provisions, prior to the adoption of this Ordinance the part of any such property located twenty five feet, or more, rearward of any structure on said property and not actively used in conjunction with the structure(s) on said property shall be cut in accordance with the provisions of §22-161.**

**SEC. 22-160 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY OCCUPIED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any occupied property, as defined herein, located within the Town when the height of such grass, weeds, or other foreign growth exceeds ten inches (10”) to a height cut not to exceed five inches (5”). **Notwithstanding the preceding provisions, prior to the adoption of this Ordinance the part of any such property located twenty five feet, or more, rearward of any structure on said property and not actively used in conjunction with the structure(s) on said property shall be cut in accordance with the provisions of §22-161.**

**SEC. 22-161 DUTY OF OWNER TO CUST AND/OR MAINTAIN ANY UNDEVELOPED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any undeveloped property for a width or depth of 5 feet from the boundary of any adjacent developed property any street, roadway or when the height of such grass, weeds or other foreign growth exceeds ten inches (10”) to a height cut not to exceed five inches (5”).

**SEC. 22-162 PENALTIES FOR VIOLATION(S)**

Any owner who violates any provision of this Article by not cutting the grass, weeds or other foreign growth on any lot or parcel as provided for herein shall be subject to a civil penalty of Fifty Dollars (\$50.00) for the first violation, or a violation arising from the same set of operative facts. The penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be Two Hundred Dollars (\$200.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative facts result in civil penalties that exceed a total of Three Thousand Dollars (\$3,000.00) in a twelve (12) month period.

Violation of any provision of this Article shall be a Class 3 misdemeanor in the event three (3) civil penalties have been imposed on the same defendant for the same or similar violations, not arising from the same set of operative facts, within a twenty-four (24) month period. The punishment for a Class 3 Misdemeanor shall be a fine not to exceed Five Hundred Dollars (\$500.00). Classifying such subsequent violations as criminal offences shall preclude the imposition of civil penalties for the same violation.

**SEC. 22-163 NOTICE TO CUT**

When there exists upon any vacant developed property, occupied property, or undeveloped property as defined herein within the Town grass, weeds, or other foreign growth, as prohibited herein, the Zoning Administrator/Code Compliance Officer shall immediately notify the owner of such lot or parcel to cut such grass, weeds, or other foreign growth to a height not to exceed three inches (3”). Such notification shall be by certified mail to the address of such owner as appearing on the real estate tax records of the Town of Chincoteague. Such owner shall cut such grass, weeds, or other

foreign growth as required to a height not to exceed five inches (5”) within ten (10) days of the posting of such Notice or the Town may take the action provided under Sec. 22-164.

**SEC. 22-164 CUTTING BY THE TOWN**

If such grass, weeds, other foreign growth has not been cut as required under the provisions hereof within ten (10) days from the posting of such Notice to Cut by the Zoning Administrator/Code Compliance Officer, the Zoning Administrator/Code Compliance Officer shall cause such grass, weeds or other foreign growth to be cut to the required height by the employees or agents of the Town, or any contractor at the cost of such owner.

Where grass, weeds, or other foreign growth have not been cut by the owner within ten (10) days from the date of the Notice to Cut by the Zoning Administrator/Code Compliance Officer pursuant to the provisions of this section, and it is necessary for the Town to cut as provided herein, the cost of such cutting shall be billed to the owner of the property. If such bill is not paid within fifteen (15) days, it shall be added to the Town real estate tax bill on such property and shall be a lien on such property to the same extent and effect as real estate taxes.

The Town may waive such lien(s) in order to facilitate the sale of the property. Such lien(s) may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and/or who has no business association with the owner. All such lien(s) shall remain a personal obligation of the owner of the property at the time the liens were imposed even if waived.

**SEC. 22-165 AUTHORITY**

This Article VI is adopted pursuant to the provisions of §15.2-901, §15.2-1102, and §15.2-1115 of the Code of Virginia of 1950 as amended.

**SEC. 22-166 EFFECTIVE DATE**

The provisions hereof shall be effective upon adoption by the governing body of the Town of Chincoteague.

**Recreation and Community Enhancement  
Committee Meeting Minutes  
September 11, 2012**

**Committee Members Present:**

John Jester, Chairman

Gene W. Taylor, P/C Member

Bob Conklin

Jack Van Dame

(Nancy Lane and David Johnson absent)

**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

**Agenda Adoption**

Councilman Terry Howard motioned, seconded by Mr. Bob Conklin to adopt the agenda. Unanimously approved.

**1. Inventory of Outdoor Recreation Areas and Facilities**

- **Review Draft Document**
- **Identify needed park improvements**

Town Planner Neville explained the first draft report. Mr. Conklin asked for a week to review these documents before commenting on these ideas. The committee discussed some of the ideas Mr. Neville had brought to them. Mr. Conklin also asked if it was okay to share this document with the public and get their opinions. The committee agreed it was a good idea to share the plan.

**2. Project Report Updates**

Chairman Jester asked about the Ocean Boulevard Extended Trail. Town Manager Ritter explained that the grant money didn't come through. He stated there was ten thousand dollars in this year's budget for that project.

Chairman Jester asked if it was possible to extend the trail over to Coach's Lane and then a possible outlet through the Village Restaurant parking lot or somewhere in the nearby area. Town Manager Ritter will contact Mr. Billy Reed, Sr. about the idea of extending the trail down Coach's Lane.

**3. Goals for 2013-2015**

Chairman Jester would like some definite answers on what projects the committee would like to have done in the upcoming years. He would like to work with the Garden club in improving the appearance of the Downtown Park as well as the Watson Park.

Chairman Jester asked about the Safe Routes to School project. Town Manager Ritter stated an RFP will be going out about the designing. Town Planner Neville stated that VDOT will have the final say on the project. There will be a bike shelter at the Elementary School then a path going to the High School.

Town Planner Neville spoke about the walkability workshop that was held a few weeks ago. The report from the consultant was sent to us with their recommendations. They would like to see bolder striping for pedestrian and bicycle lanes. They also think roundabouts for a few areas are good ideas.

Chairman Jester expressed his concern of the baseball field at Veteran's Memorial Park. He stated it hasn't been maintained very well. Town Manager Ritter told the committee that it is still being used by several groups mostly in the spring.

#### **4. Committee Member Comments**

Chairman Jester asked the committee to further look at the information that was provided by them and to let Mr. Neville know their recommendations.

Councilman Taylor asked about the property at Mariner's Point and if the Town actually had a survey of the property. Town Manager Ritter stated we do have a survey in the safe.

Councilman Taylor stated that this area could be improved with little money and by using the manpower of the Town Employees.

Councilman Taylor also asked about more parking in Town. He was advised the newly acquired property by the Town would not be used for parking purposes.

#### **Adjourn**

Mr. Conklin made a motion, seconded by Chairman Jester to adjourn. Unanimously approved.