

REGULAR COUNCIL MEETING A G E N D A

TOWN OF CHINCOTEAGUE

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

CALL TO ORDER

INVOCATION BY COUNCILMAN 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 October 7, 2013 (Page 2 of 77)
 - Council Workshop Meeting of October 17, 2013 (Page 46 of 77)
 - Special Council Meeting of October 21, 2013 (Page 53 of 77)
2. Introduction to US National Park Service, National Seashore Superintendent Deborah Darden
3. Discuss the 911 Dispatch Memorandum of Agreement with ESVA 911 Commission (Page 66 of 77)
4. Repeal of Town Code, Chapter 54, Article III, Division 3, Enhanced Emergency Telephone Service (Page 68 of 77)
5. Purchase of Computer Aided Dispatch System and Phone System (Page 70 of 77)
6. Cemetery Committee Report of September 12, 2013 (Councilwoman Richardson) (Page 75 of 77)
The following may require a motion:
 - Proclamation designating November 9 – 15 as Cemetery Clean-up Week (Page 77 of 77)
7. Mayor & Council Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

MINUTES OF THE OCTOBER 7, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

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

CALL TO ORDER

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

INVOCATION

Councilman Taylor offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Tarr led in the Pledge of Allegiance.

Mayor Tarr introduced Supervisor Donald Hart, Chairman of the Board of Supervisors of Accomack County, who asked to speak to Council this evening.

Supervisor Hart advised that he was before Council as the Chairman of the Board of Supervisors. He expressed how special Chincoteague is to him. He stated that he has been on the Board of Supervisors since 1979 and a lot of issues have come up throughout his 33 years. He stated that Chincoteague is important to him and to Accomack County. He is hoping that as they move forward the good relationship continues. He understands that there have been members of the Board in the past that haven't been as Chincoteague friendly. He thanked Mayor Tarr for letting him come before Council. He asked everyone to realize that Accomack County is one big family.

Supervisor Hart added that Chincoteague is 25-35% of the County revenue. He knows there have been negative comments. He feels that being a family, although they may disagree, they should settle the disagreements just the same. There are many projects and they will need to work together. He stated that even though he won't be chairman after December, he will do everything in his power to see that the Communities and the County act as one.

He mentioned the Town's FEMA situation and advised that the County is going through that also. He also mentioned the beach and stated that they are in support. He advised that whatever Council decides regarding 911, the 911 Commission is in full support. He reminded Council that the County 911 Commission is a bi-county organization and suggested that perhaps Chincoteague should be added as a member of the Commission.

He reported that the County helped with the Convenience Center in upgrades. He advised that the Board voted to allow the school bus drivers to operate the shuttle buses for the rocket launch. He wants the relationship stronger between the County and Chincoteague. He stated that being on the Board for 33 years he has seen a lot. He has worked closely with Mr. Paul Merritt and Supervisor Wanda Thornton. He praised them for sticking up for Chincoteague. He told Council not to hesitate to contact the Board for whatever it is the Town needs. He revisited his younger days on Chincoteague. He stated that no matter what the issue, Accomack County is family and should work together.

Councilwoman Richardson thanked Supervisor Hart for standing behind the school renovations.

Mayor Tarr thanked Supervisor Hart for attending.

Ms. Jane Hook-Turlington thanked Supervisor Hart for his support throughout the years.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Ms. Jane Turlington came before Council regarding the safety of the intersection of Bunting Road and Willow Street. She expressed her concerns regarding the overgrowth of bushes and lack of visibility coming from Willow Street turning onto Bunting Road. She requested that the bush be removed or cut back.

Councilwoman Richardson advised that the owner has told her he would cut it back if the Town would call. She advised she would call him.

Ms. Turlington also mentioned the lights that are out at Memorial Park. She stated that she has called the Town and talked to ANEC. She stated that ANEC advised that this was an engineering problem and the lines would have to be reworked. They also advised they were working on those at that time. She asked Council if there was money in the Park fund to fix the lights and add lighting on the back side of the Park.

Public Works Director Spurlock advised that the lighting problem is from the salt water. He advised that ANEC is currently working to correct this matter. He also added that ANEC owns all the street lights on the Island. He stated that there is no money in the Memorial Park Fund and he will contact ANEC to see if they would be willing to install a few.

Ms. Turlington thanked Mr. Bryan Rush for the safety of the Island, Mr. Steve Jones for the way he evacuates the citizens and she thanked staff. She suggested that Council not vote on the 911 matter tonight. She stated that she has talked with several Council members about having a public hearing before a decision is made. She suggested collecting money from Assateague for 911 services also.

Mayor Tarr stated that this is a separate agenda item to be discussed a little later in the evening.

- Ms. Linda Rush addressed Council regarding the condemned mobile home in Ocean Breeze. She expressed her concerns as there are unsafe living conditions with the rats that have come from this property. She advised that she contacted several Councilmembers, the Police Department, Town Manager Ritter and Building and Zoning Administrator Lewis. She was referred to the Health Department who in turn sent her back to the Town. She advised that Building and Zoning Administrator Lewis gave her the name of the owner and advised she would have to contact the Health Department. She wasn't satisfied with this. She stated that she was advised that it wasn't the Town's responsibility to trap and get rid of the rats. She believes it is the Town's issue when they condemned the home.

Ms. Linda Rush feels this situation was not handled correctly. She requested that should this issue arise again in the future to inform the public. She suggested having a plan in place. She feels that safety is an issue as the rats are larger than cats. She and her neighbors got together putting rat poison all over. However, the rats are hiding a few streets over in vacant lots. She requested Council address this matter.

Councilman Howard mentioned the Nuisance Ordinance. He is not satisfied that one government entity would pass this on to another government entity and so on. He feels that someone is responsible for the safety and well-being of the people.

Ms. Rush stated that it isn't fair. She is a taxpayer and is unhappy with how she and her neighbors have been treated. She thanked Council for their time.

Councilman Howard feels that the Health Department should have addressed this matter.

Town Manager Ritter stated that in talking with Ms. Rush, he and Building and Zoning Administrator Lewis came up with a plan; they called the owner of the property. The owner advised that she was going that same day to put rat poison in and around the outside of the home. He stated that Building and Zoning Administrator Lewis then called Ms. Rush to inform her of this plan.

Mayor Tarr asked if they followed up on this to make sure it was done.

Town Manager Ritter stated that he will discuss this with Building and Zoning Administrator Lewis.

Councilman Jester asked if it was going to be demolished.

- Mrs. Eileen Skrobick expressed her concerns about demolishing the home. She stated that the house isn't boarded up. She feels it has become anybody's property. She added that the house has become a free-for-all for everyone in the area and on the island. She advised that when the Town came and cleaned it up they stacked all the debris and cages up and now it's strewn all over with trash everywhere. She asked about boarding up the place once it was condemned. She stated that she had to stop someone from taking the garbage can from the property. She also advised that there are still tons of cats and kittens. She asked Council what the plan is for the vermin and kittens on this property.

Town Manager Ritter stated that the owner advised she was going to have it cleaned or remove the mobile home.

Councilwoman Richardson asked if there was a deadline.

Town Manager Ritter advised that Building and Zoning Administrator Lewis again spoke with the owner and she advised what her plan was. He didn't believe a deadline was set at that time. However, he will speak with Building and Zoning Administrator Lewis to send a letter giving her a specific amount of time.

Councilman Howard asked about the windows and doors on the mobile home.

Ms. Skrobick advised that the doors and windows are intact. She advised someone is going in there because the door is sometimes open and sometimes closed.

Town Manager Ritter stated that if the windows and doors were not intact they would require them to be boarded up. He also stated that shedding light in the home is probably the best to keep vermin out.

Councilman Jester asked if the Town was going to give them a deadline.

Town Manager Ritter responded that there would be a deadline given.

Ms. Skrobick advised that the "Code Enforcement" vehicle has been by there. She added that the Town straightened up the yard and now you can tell someone has been there.

Town Manager Ritter advised that he will speak with Building and Zoning Administrator Lewis.

Mayor Tarr also requested that staff contact the lady that helps with cat rescue and animal control regarding the cats that are still there.

Public Works Director Spurlock stated that there was a spay and neutering session conducted this past weekend. He added that quite a few cats were caught in that vicinity.

Ms. Turlington informed Council that her church has been helping this lady for years. She advised that she has helped her get disability. She stated that their goal was to get her into assisted living. She also stated that every church has helped her by giving her furniture and money and she would never allow anyone to enter the home. She advised that the floors are rotten. She also added that the last time there was plumbing problems a member of the church had to roll out a tarp to lay on underneath the mobile home just to get to the leak. She feels this it is a very bad situation.

Ms. Skrobick added that the mobile home has become one with the earth where phragmites is growing inside.

Mayor Tarr directed Town Manager Ritter to speak with Building and Zoning Administrator Lewis and to contact the Health Department as to why they couldn't do anything about this.

STAFF UPDATE

Planning Department

Town Planner Neville stated that the Planning Report is included in the packet. He stated that later this month there will be an open house for the Wastewater Report along with the recommendations from the Committee. The open house is scheduled for October 23-25, 2013 from 8:00 a.m. to 5:00 p.m. with the public meeting on October 24, 2013 from 5:00 p.m. to 7:00 p.m. They feel this format is a good way to reach out to the community and plan to do the same in November with the Flood Plain Maps. He stated that the CCP hasn't been published as of yet. He mentioned that the revisions for the final construction plan of the Fishing Pier have been completed. There has been a VDOT approval for the contract for the Safe Routes to Schools Program. He stated that he will be providing more information regarding the Virginia Storm Water Management Program in the future.

Councilman Howard asked if the Wastewater Advisory Open House was for information only.

Town Planner Neville advised it was.

Councilman Howard feels that the way the Wastewater Advisory Committee has handled this is commendable.

Police Department

Chief Lewis advised that the monthly report was included in the agenda packet. He reported that they have completed the 9th Ride for Kids. He stated that to date they have raised \$271,965. He also stated that with the help of the Dispatchers, Police, Decoy Carvers and businesses that donated they have given back \$240,758 to the residents of Chincoteague over the last 9 years.

Public Works Department

Public Works Director Spurlock advised that the monthly report has been included in the agenda packet. He reported, in addition to the report, that the Convenience Center is in the process of being enlarged.

Councilman Jester asked what the difference would be there.

Public Works Director Spurlock advised they are adding more dumpsters for recycling adding the containers for recycling oils along with more opportunities for other recycling items.

Councilman Howard advised that the Public Works Department deserves a big thanks for helping with the cemetery cleanup assistance.

General Government

Town Manager Ritter reported that there were 88 EMS responses for the month of September which is 12 less from September 2012. They have also received a new battery operated stair chair that assists in moving a patient down the stairs. He reported that bids were received for the

Downtown Main Street Revitalization Project and he hopes to get the award item added to the agenda this evening. Staff has worked on research, familiarizing with the Virginia Disability Program. He stated that bank interest rates have been researched. There will be a transfer from the LGIP account to another bank because of the rates. There is a banking resolution in the packet regarding this transfer. He also reported that staff has received 2013 personal property taxes and are hoping the real estate taxes will be here soon. He added that the quarterly newsletter will be published within the next two weeks.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Vice Mayor Leonard to adopt the agenda adding item 8b, Main Street Corridor Improvements, Phase 2C. Unanimously approved.

1. Consider Adoption of the Minutes

- **Regular Council Meeting of September 3, 2013**
- **Special Council Meeting of September 19, 2013**

Councilman Taylor motioned, seconded by Councilman Jester to adopt the minutes as presented. Unanimously approved

2. Joint Public Hearing for a Possible Sign Ordinance Revision

Planning Commission Chairman Rosenberger advised that the Planning Commission does have a quorum present this evening and requested permission to open the public hearing.

Councilman Jester motioned, seconded by Vice Mayor Leonard go into the joint public hearing with the Planning Commission regarding the Sign Ordinance Revision. Unanimously approved.

Mayor Tarr opened the public hearing and asked Town Planner Neville to review the changes.

Town Planner Neville stated that the item before them for consideration with the joint public hearing is an amendment to: **Town Code Appendix A – the Zoning Ordinance, Section 7.13 Permitted Signs in Commercial Districts, with changes including but not limited to an increase of permitted sign are and revision to the method of calculation for multiple businesses on a single lot of record.**

Public Notice requirements for the Town Code have been met. He stated that they appreciate the guidance provided by Town Attorney Poulson through this process, and note that he has provided the only comments during the notice period.

This Sign Ordinance Amendment is the result of months of consideration by the PC and TC on how best to solve a problem with larger commercial property that may contain more than one business in more than one building.

The current sign ordinance limits the number and amount of signage per lot. An example of the conflict that creates is illustrated with the new Fairfield Inn and Chincoteague Inn businesses located on the same lot. The BZA provided a temporary variance until the ordinance could be revised.

The proposed sign ordinance would connect the number and amount of signage, with the business use or the main structure that contains it, rather than the lot. Simply, this means that a larger property with more businesses and buildings can have more signage.

Several modifications were also made to:

- Organize the requirements into 3 basic types: one building/one business, one building/multiple businesses, multiple buildings/multiple businesses.
- Establish 100 square feet of sign area as a standard for each main structure regardless of size or number of businesses.
- Permit up to 40 square feet of sign area in addition to the 100 square feet for each business in a multiple business structure (20 square feet on the building and 20 square feet on a permitted freestanding sign).
- Revise the section for Free standing signs to allow a second freestanding sign when there are more than one separate main structures, and to allow up to 128 square feet per sign when there is more than one permitted business.

Staff recommends these well considered changes for approval subject to comments and concerns from the Public or Town Attorney Poulson. He then asked if there were any questions.

Mayor Tarr asked if there was anyone from the audience who had anything they'd like to say or ask during the public hearing.

- Mrs. Nancy Lane, Main Street, stated that the Fairfield Inn is across from her. She suggested considering the residential nature of the area. She doesn't want residential areas overwhelmed with signage. She mentioned the historic homes also.

There were no further comments.

Mayor Tarr closed the public hearing. He invited comments from the Planning Commission.

Chairman Rosenberger stated that they support staff's recommendation.

Town Attorney Poulson asked if his suggestions were taken into consideration.

Town Planner Neville advised that the Planning Commission have taken those suggestions incorporating them into the revisions.

Town Attorney Poulson expressed his concerns as a matter of policy. He mentioned multiple businesses in a structure along with his suggestions.

Town Planner Neville further explained the sections and several proposed changes.

Planning Commission Chairman Rosenberger called for a vote.

Mr. Papadopoulos motioned, seconded by Mr. Potts to send the recommended changes to Council for approval. Unanimously approved.

Mayor Tarr asked Council's pleasure for the recommended changes from the Planning Commission.

Councilman Jester motioned, seconded by Vice Mayor Leonard to adopt the changes to the Zoning Ordinance, Chapter 7, Section 7.13 – 7.13.1.12 as proposed with the recommended changes from Town Attorney Poulson and Town Planner Neville. Unanimously approved.

Sec. 7.13 Commercial districts

Within a commercial district, all business signs require a permit unless specifically exempted hereunder and are subject to the following provisions:

7.13.1.1 Lot of record occupied by one (1) business with existing business license issued by the Town of Chincoteague.

The number of signs for a permitted business on a lot of record with one (1) main structure occupied by a single permitted business shall be limited to two (2), not including incidental, directory, or directional signs, unless otherwise specifically provided for and permitted hereunder. The total combined square footage of all permitted signs shall not exceed one hundred (100) square feet in area. Sign bases not containing a commercial message are not included in the computation of area.

No sign shall exceed sixty four (64) square feet in area nor exceed a height equal to the lowest point of the roof of the structure to which it may be affixed, unless otherwise provided for and permitted under Sec. 7.13.1.7 Roof and mansard façade signs, and 7.13.1.8 Freestanding signs.

Two additional signs shall be permitted not to exceed twenty five (25) square feet each if the main business structure faces more than one public street or a navigable waterway.

7.13.1.2 Lot of record occupied by a building containing more than one business, "multi-business main structure", with an existing business license issued by the Town of Chincoteague.

The number of signs for a permitted business on a lot of record with one main structure occupied by more than one permitted business, a multi-business main structure, shall be limited to two (2) per business, not including incidental, directory or directional signs, unless otherwise specifically provided for and permitted hereunder.

The total combined square footage of all permitted signs for such businesses shall not exceed one hundred (100) square feet in area. Sign bases not containing a commercial message are not included in the computation of area.

No sign shall exceed sixty four (64) square feet in area per business, nor exceed a height equal to the lowest point of the roof of the structure to which it may be affixed, unless otherwise specifically provided for and permitted under 7.13.1.7 Roof and mansard façade signs, and

7.13.1.8 Freestanding signs.

In addition to the maximum allowed combined total area permitted for such businesses in a multi-business main structure, there shall be permitted one additional wall sign or projecting sign, not to exceed twenty (20) square feet for business identification for each such business, and permitted freestanding sign area not to exceed twenty (20) square feet.

Two additional signs for the multi-business main structure shall be permitted not to exceed twenty five (25) square feet each if the multi-business main structure faces more than one public street or navigable water.

7.13.1.3 Lot of record occupied by two or more separate main structures each containing one or more separate businesses, “multi-main structures” with an existing business license issued by the Town of Chincoteague.

The number of signs for a permitted business on a lot of record with two or more separate main structures, multi-main structures, whereon each such main structure may be occupied by one or more separate licensed businesses shall be limited to two (2) per business, not including incidental, directory, or directional signs, unless specifically provided for and permitted hereunder.

The total combined square footage of all permitted signs for such businesses shall not exceed one hundred (100) square feet in area within each such main structure. Sign bases not containing a commercial message are not included in the computation of area.

No sign shall exceed sixty four (64) square feet in area nor exceed a height equal to the lowest point of the roof of the structure to which it may be affixed, unless otherwise specifically provided for and permitted under 7.13.1.7. Roof and mansard façade signs, and 7.13.1.8 Freestanding signs.

In addition to the maximum allowed combined total area permitted for such businesses in a multi-business main structure, there shall be permitted one additional wall sign or projecting sign, not to exceed twenty (20) square feet for business identification for each such business, and permitted freestanding sign area not to exceed twenty (20) square feet.

Two additional signs for the separate main structure shall be permitted not to exceed twenty five (25) square feet each if the separate main structure faces more than one public street or navigable water.

7.13.1.4 Multiple incidental and directory signs.

Signs on the interior of a lot shall be allowed and do not require a permit. The square footage of these signs is not included in determining the total permitted sign area. Such signs must relate to the business being conducted on the lot and such signs shall not be advertising for a business located off premise.

7.13.1.5 Signs hung on marquees.

No sign shall be hung on a marquee, canopy, awning, or portico if such sign shall extend beyond the established street line. The area of any such sign shall be included in determining the total permitted area.

7.13.1.6 Signs, advertising occupants, etc.

Signs advertising only the name of the occupant of a store, office or building, the business or occupation conducted or the products sold therein may be placed on show windows; provided, that not more than 30 percent of the area of such windows shall be covered. The square footage of any such sign shall be included in determining the total permitted area of signs.

7.13.1.7 Roof and mansard façade signs.

Any such roof or mansard façade sign shall not exceed 32 square feet in sign area. The area of any such sign shall be included in determining the total permitted sign area. Signs on mansard façade shall not extend above the highest point of the mansard façade. Roof signs shall begin one foot from roof edge and not extend more than four vertical feet from that point.

7.3.1.8 Free standing signs

There shall be no more than one (1) free standing sign for any separate main structure whether occupied by one or more licensed businesses on a lot of record and not to exceed two (2) free standing signs per lot. The maximum area of any such free standing sign shall be sixty four (64) feet per licensed business or one hundred-twenty eight square feet (128) in total, and such free standing sign shall not exceed twelve (12) feet in height. The area of such sign shall be included in determining the maximum square footage area permitted any such business or structure, as applicable under Sec. 7.13. The height of the free standing sign shall be determined from existing grade within a radius not to exceed six (6) feet from the support system of the free standing sign. The base of any sign without a commercial message is not included in the computed permitted sign area. Sign bases are included in the overall height. Each free standing sign must incorporate a

legally assigned street number for the business that it identifies or advertises. Free standing signs shall not be placed within the established sight distance triangle.

7.13.1.9 Window signs.

A window sign shall be considered as a wall sign, and shall not exceed more than 30% of the window area in which they are displayed and shall not be placed higher than ten (10) feet above the entrance of the door sill plate. Such signs shall be limited to a maximum combined area of 64 square feet total and shall not exceed ten (10) feet in height. The area of any such sign shall be included in determining the total permitted sign area.

7.13.1.10 Flags, Commercial.

Two flags, displaying a commercial message, with a maximum area each of fifteen (15) square feet shall be permitted for any business. Flags must be mounted securely to a wall or from a permanent flag pole. A home occupation is allowed one flag with a commercial message no greater than 15 square feet. Flags not exceeding 15 square feet in area and displaying an art design which reflects merchandise sold on the premises without any commercial wording, or “open and welcome flags” are permitted. The area of any such flags shall not be included in determining the total permitted sign area.

7.13.1.11 Projecting signs.

One projecting sign shall be permitted for any licensed business fronting on any public road or parking lot with public entrance to such business. Any such sign shall not exceed twelve (12) feet in height from grade and shall not exceed twenty (20) square feet in area. Such sign shall maintain a vertical clearance from any sidewalk, adjacent to said business of not less than nine (9) feet and shall not extend beyond the outside edge of the public sidewalk. If such sign extends over a public right-of-way, a Land Use Permit is required. The area of any such sign shall be included in determining in the total permitted sign area of any such business.

7.13.1.12 Changeable letter signs.

Manually changeable sign(s) shall be permitted when built as an integral part of the business identification sign(s). The area of the changeable letters portion of the business identification sign(s) shall not exceed fifteen square feet or one third of the total area of the sign(s) whichever is less. The total area of the changeable letter area shall be included in determining the total permitted sign area for any such business and shall meet any applicable sign height restrictions.

Nonprofit and charitable organizations shall be permitted stand-alone changeable letter signs which conform to Section 7.4.2. Temporary signs nonprofit and charitable organizations.

Mayor Tarr thanked the Planning Commission for reviewing the Sign Ordinance as this has been an ongoing issue since 2002.

3. Discuss Keeping 911 Dispatch Service and Its Funding

Mayor Tarr stated that the Committee has met twice to simplify the math and list the pros and cons. He stated that in the Spring there were 4 part-time dispatchers who left at about the same time. He added that the Town's 911 Center had to hire and train 4 new employees. He stated that retaining part-time employees has been an ongoing problem. He reported that the 911 equipment has to be replaced at a cost of \$177,000 with a grant to pay all but \$26,000 in matching funds from the Town. He also stated that the dispatchers need to be brought up to specific standards having 2 dispatchers on duty at all times. He also mentioned all of the other duties that the Town's dispatchers do that most 911 Centers do not handle.

Mayor Tarr commended the 911 Center for all their hard work. He added that they compared the Town's 911 Service to the Eastern Shore's 911 Service. He stated that the Town allowed the 911 Service to be handled by the County's 911 Service under a 30 day trial basis. He feels the trial went very well and considered it a success. He also reported that there were 2 meetings with selected members from Council, the Fire Company and EMS and staff. They discussed dispatching 911 calls, upgrades to equipment, and the ability to run a 911 Center comparable to the Eastern Shore 911 Center. He feels there are two options:

- Option 1 is to continue dispatching 911 calls, upgrade the equipment and hire personnel. Mayor Tarr advised that staff recommends to hire 3 full-time positions – 2 dispatchers 24 hours per day, 7 days a week 365 days a year. He added they would increase training to include emergency medical dispatch and increase salaries to retain the employees along with continuing to upgrading the 911 system every 3-5 years.
- Option 2 is to turn dispatch over to the County, which would cause the Town to lose approximately \$85,000 per year. He stated that the Town would be at \$124,000 and this amount does not address the increase in the town's healthcare increase of 15%.

Mayor Tarr also stated that by selection Option 1 it would put the number of Town employees above 50 and will be affected by the Affordable Healthcare Act. He added that either of the options would bring the Town's 911 System up to standard for the public getting ambulances out with appropriate dispatching. He advised that there are rumors that they're closing the Dispatch Center. He stated that this is not true. He added that the Police, Fish & Wildlife along with the Park Service would be dispatched from the Town's Dispatch Center. He also added that they were told that the Eastern Shore 911 Center was owned by Accomack County and this is not true. I stated that it is a Commission made up of members from Northampton and Accomack Counties and at-large members. Someone from the Eastern Shore 911 Center and Fire Chief Harry Thornton was supposed to be at tonight's meeting but were held up across the bay because of the storm.

Mayor Tarr advised of questions from the public regarding reverse 911. He advised that this ability will still be intact. He advised that it is a huge increase in the budget and can be afforded the first year because of the grant, but won't pay for the next fiscal year.

Chief Lewis stated that the Police Department would still need to hire additional personnel as the Police calls are more than 75%. He agreed there have been system issues therefore needing the upgrade.

Mayor Tarr stated that Council has kept the Police Department in limbo and at risk as they're trying to run a good system. He apologized to Chief Lewis for the delay.

Councilman Muth asked Chief Lewis if he would need additional personnel to continue even without 911 Services.

Chief Lewis advised he would need the same amount of employees due to the amount of calls. He advised that they currently have 4 full time and 4 part-time employees.

Mayor Tarr stated that the numbers in the packet do not include the additional dispatchers. They would still need radio upgrades and not 911 System upgrades.

Town Attorney Poulson asked if the Town loses the \$80,000 by not having the 911 Service, does it net out what the difference is between \$124,000 and \$80,000.

Mayor Tarr explained that this is out of the \$38,000 the first year. He added that if they don't dispatch 911 in house there are other things they don't have to pay for.

Councilwoman Richardson asked what the Town was gaining.

Councilman Howard agrees that they need to get the information out to the public. He asked if anyone in the dispatch office would lose their jobs if 911 was handled by the Eastern Shore 911 Center. Mayor Tarr advised that they would not. He also stated that Chief Lewis and Major Mills are ready to move forward and start hiring. He added that there is no formal recommendation.

Councilman Jester added that for the money needed for the upgrade; hiring the appropriate full time personnel and training of everyone, there would be an additional amount to add to the budget each year. He feels that this would necessitate a tax increase of approximately 1 cent to cover this. He asked if Council would be willing to increase the taxes. He feels that they need to have trained emergency medical dispatchers as soon as possible. He also mentioned the delay in hiring and training before this happens as opposed to giving it over to the Regional Center.

Chincoteague Dispatcher and Police Department Administrative Assistant Steve Jones advised that it doesn't take long to be brought up to date with emergency medical dispatch training especially with dispatcher training already.

Councilwoman Richardson asked if this could be done online.

Mayor Tarr stated that he wants to direct questions to staff.

Mr. Jones advised he is also a taxpaying citizen. He asked what the citizens think about the 911 System going away.

Mayor Tarr stated that the right facts have to go out to the public and they are hard to get. He added that if they're going to dispatch 880 calls for fire and EMS, which was last year's total, would it be worth taxpayers paying \$124,000 more a year for those 800 calls when there is a Regional Center that is capable of dispatching those calls.

Mr. Jones stated that the public needs to know if the service is as good there as it is here, and that the citizens of the Island need to have input.

Mayor Tarr interjected that he feels at the present time the service is better there since the Town's 911 Center hasn't been staffed correctly by Council.

Mr. Jones added that when a call comes in and the caller refers to the location as next door to "Uncle Harry's" the dispatchers know who and where they're talking about.

Mayor Tarr responded that a couple of the dispatchers know but the rest do not. He advised that the Town is spending money on a CAD system that will give this information if they choose to keep 911 with the Town. Mayor Tarr advised that looking at the entire state of Virginia there are only 3 dispatch services left and that are probably not as small as the Town's.

Chief Lewis stated that they want the best service possible for every citizen on the island. He stated that at this time they don't have this service.

Councilman Howard stated that they are considering this along with everyone involved with the well being of every citizen of the community. He agreed that they do need to hear from the citizens as it could be a tax increase.

Mayor Tarr stated that it's not just raising taxes one time it is forever. He stated that there will be another tax increase down the road because of the increase in expenses.

Councilman Howard agreed that this needs to be taken into consideration.

Mayor Tarr advised that this was brought up by the Volunteer Fire Company along with letters from other EMS providers and leaders.

Councilman Jester stated that there are different protocols in the County than with the Town. Because the Town gets dispatched to the mainland and the mainland companies to the Island, there should be one set of protocols. He feels everyone would prefer to be self-reliant. He stated that there are 2 questions to ask; Can it be dispatched at the Regional 911 Center at a lesser cost to the Town or continue dispatching here at an additional cost to the Town.

Councilman Howard asked if they were anticipating a vote this evening.

Mayor Tarr advised that the Chief is in limbo and is worried about public safety.

Chief Lewis added that they have equipment that needs to be upgraded and can't until they make a decision.

Councilwoman Richardson advised that they have enough money to get them through this year. She wanted to know why they couldn't finish the year out and make a decision later.

Mayor Tarr advised that the system is failing nearly every other week. Councilwoman Richardson mentioned the grant for this new system.

Mayor Tarr stated that once they upgrade, they are locked in for another 5 years and they're still dispatching the way they were. He commended Chief Lewis for not just repairing the problems and training the dispatchers. He advised that Chief Lewis came to Council with the real problems and the real fix.

Councilwoman Richardson stated that when 20% of the calls are taken, the Town would still have to provide dispatch service for the remaining 80%. She asked what the Town would be gaining by going back to the County.

Mayor Tarr replied that they would be saving approximately \$124,000 per year.

Councilwoman Richardson feels a public hearing is necessary to give the citizens the opportunity.

Mayor Tarr agreed and feels this should be done in a fashion that doesn't put the public at risk.

Councilman Muth asked if the Eastern Shore 911 Center could take it over until a decision is made.

Mayor Tarr feels they shouldn't give it back again without a decision.

Councilman Taylor stated that he feels that the Eastern Shore 911 Center is capable of handling the calls. He strongly feels that they need to go to the citizens and if they're willing to pay an increase in taxes, then it should remain here. He commented that Chincoteague is being double taxed for this service. He asked Chincoteague Dispatcher and Police Department Administrative Assistant Jones if the Eastern Shore 911 System has ever requested our Dispatch Services to handle their calls.

Mr. Jones advised they have not.

Mayor Tarr added that the Town's Service is not a redundant system.

Chief Lewis advised that Chincoteague is not double taxed for 911 services. He added that the tax on the phone bill is for Chincoteague and the County does not tax Chincoteague for the 911 System.

Mayor Tarr stated that it comes from E911, Communications Tax, which is the \$80,000.

Councilman Howard asked who would receive the tax if Council voted to go with the County.

Finance Director Hipple advised that the tax would be paid to the County.

Mayor Tarr added that the state would have to send the County the 911 tax.

Councilman Muth stated that it is important to know that this system is not Accomack County. He also reminded that it is made up of 2 counties and others.

Ms. Turlington again asked to speak.

Mayor Tarr advised Ms. Turlington that at the next meeting she would have to speak during public participation.

Ms. Hook-Turlington stated that she agrees that there should be a public meeting. She feels that Council doesn't fully understand it and the public doesn't fully understand it. She added that Kevin Holloway is fully trained on this and was willing to come and train the dispatchers.

Councilwoman Richardson advised he is a paramedic and an instructor of EMS.

Finance Director Hipple advised that they are not asking dispatchers to be EMTs. She stated their EMS training does not help this situation.

Ms. Turlington asked if he was trained enough in his field that he could help out.

Mayor Tarr advised he was not a medical "dispatcher" instructor.

Ms. Turlington stated that Steve Jones does a wonderful job during storms informing the people of what's going on. She stated that the call comes from down the county to Bryan Rush.

Mayor Tarr advised they do not.

Ms. Turlington asked if the Town doesn't operate the 911 System anymore would the current system be able to have the knowledge and call out for evacuations.

Mayor Tarr advised all that is done through the Town and will continue.

Ms. Turlington advised that she was worried about that because they have done an excellent job keeping the residents informed.

Major Mills advised the system was called Global Connect and is currently transitioning over to a different company. He stated it's a web based system.

Mayor Tarr stated that it is the same system used by the school system that calls the parents when their children aren't at school.

Councilman Jester stated that this has nothing to do with the 'reverse 911' equipment.

Town Attorney Poulson advised that a public hearing on this matter is not a requirement and can be handled in any manner they wish.

There was a comment from the audience about being properly trained to give medical instruction.

Finance Director Hipple interjected that the problem is that there is only one dispatcher on duty and if someone is giving CPR instruction on the phone it cannot be stopped. She stated that if there is another call coming in they cannot stop to answer the other phone. She added that the proposal is to staff with 2 dispatchers 24 hours a day so that one can do the EMD. She also added that existing staff can be trained but can't instruct with only one dispatcher.

There was discussion as to the public hearing date and they decided on October 21st at 7:00 p.m. They also discussed advertising the meeting.

Councilwoman Richardson motioned, seconded by Councilman Taylor to have a public hearing Monday, October 21st, 2013 at 7:00 p.m. Unanimously approved.

4. Budget and Personnel Committee Report of August 28th & September 17th, 2013

Mayor Tarr advised that the report was in the packet and asked for questions or comments.

There were none.

5. Resolution of Irrevocable Election Not to Participate in Virginia Local Disability Program

Town Manager Ritter explained that the state passed a law requiring the Town to make a decision regarding long-term disability. He advised that this means current staff has a one-time option in January to go to the hybrid plan or stay with VRS. All new employees after January 1st, 2014 will be required to go through the new hybrid plan.

Councilman Howard asked what the benefit of changing would be.

Town Manager Ritter stated that the State is getting out of long-term disability and is requiring that employees get on short-term disability. They're getting out of the business for long-term disability. The Town will have to opt out for all new employees getting them on a different plan.

Finance Director Hipple advised that this has been structured by the General Assembly for the Virginia Retirement System. She stated that all current Town employees are covered under the current Virginia Retirement System. She added that the LEO personnel, such as the Police, are not affected by this. However, they must stay in their current retirement system. She stated that this new system is more like a 401K plan rather than strictly a retirement program. The current employees will have an option. She also stated that they will have the option to go to the hybrid plan but this plan has no long-term disability. She explained further that if they get injured "off

the job” they could not get benefits from the retirement program. Finance Director Hipple also stated that the Town is in a transition period and doesn’t know where we’re going with this.

Councilman Howard asked if it was over, provided the resolution was voted down tonight. Finance Director Hipple responded that if this isn’t approved, the Town will stay with the Virginia Long-Term Disabilities Program. She added that at this time it costs more. She stated that the Budget and Personnel Committee discussed that if the Town opts out now, they can shop around for the best price or program for long-term disability coverage.

Councilman Muth asked if opting out would give the Town the most flexibility.

Finance Director Hipple advised it would.

Mayor Tarr stated that there are other things that staff and Council will have to consider down the road.

Councilman Muth motioned, seconded by Councilman Howard to approve the Resolution of Irrevocable Election Not to Participate in Virginia Local Disability Program. Unanimously approved.

RESOLUTION

Irrevocable Election Not to Participate in Virginia Local Disability Program

WHEREAS, by enacting Chapter 11.1 of Title 51.1 of the *Code of Virginia*, the Virginia General Assembly has established the Virginia Local Disability Program (“VLDP”) for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code § 51.1-169; and

WHEREAS, for purposes of VLDP administration, an employer with VLDP-eligible employees may make an irrevocable election on or before November 1, 2013, requesting that its eligible employees not participate in VLDP as of the effective date of January 1, 2014 because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meets or exceeds the coverage set out in Chapter 11.1 of Title 51.1 of the *Code of Virginia*, with the exception of long term care coverage, by January 1, 2014; and

WHEREAS, it is the intent of the Town of Chincoteague, to make this irrevocable election to request that its eligible employees not participate in VLDP;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Town of Chincoteague irrevocably elects not to participate in VLDP because it has or will establish, and

continue to maintain comparable employer-paid disability coverage for such employees; and it is further

RESOLVED that, as an integral part of making this irrevocable election, the Town of Chincoteague certifies that it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

Adopted in Chincoteague, Virginia this 7th day of October, 2013.

John H. Tarr, Mayor

6. Banking Resolution for Shore Bank

Finance Director Hipple advised that Banking Resolutions are done when the signature authority changes with the election of the new Vice Mayor.

Councilman Taylor asked if they were FDIC insured.

Finance Director Hipple responded that they are collateralized as FDIC will only insure up to \$250,000 for any deposits within that bank. She stated that they're talking about moving \$2.3 million because of the interest rates. She reminded him that these are not private funds they are public funds and the bank is responsible for seeing that those funds are guaranteed by collateralizing the deposit.

Councilman Howard asked about the LGIP account.

Finance Director Hipple stated that there is no FDIC insurance on the LGIP accounts. She explained that the bank itself will make the decision to guarantee and secure that deposit. She added that it is a state law and part of the State Code.

There was further explanation and discussion.

Finance Director Hipple stated that Shore Bank is guaranteeing the money and they have much better interest rates. She added that it is called the Public Funds Act under the Administration Code.

Vice Mayor Leonard motioned, seconded by Councilman Jester to approve the Banking Resolution for Shore Bank. Unanimously approved.

7. Public Works Committee Report of September 4, 2013

Councilwoman Richardson advised that the report was included in the packet. She mentioned the Fall Paving Contract, which will be discussed as an agenda item. She mentioned the self-contained cleaning unit. She explained that this is the new machine that the Committee voted for to help clean the public bathrooms.

Public Works Director Spurlock stated it is called a don't-touch cleaning system.

Mayor Tarr asked for the cost per unit.

Public Works Director Spurlock advised the cost is \$1,900 and there is a demonstration scheduled for Friday.

Councilman Howard asked what it cleans.

Public Works Director Spurlock stated it is for cleaning floors, ceilings and walls. He added that you can add up to 3 different chemicals.

There were further comments.

8a. Bids on the Fall Paving Contract #01-PAV-13

Public Works Director Spurlock reported that there was 1 bid received from Branscome Eastern Shore for the Fall Paving Contract. He explained the scope of work, adding that he has included the repairs to the culverts on South Main Street with this bid request. He recommended that the contract be awarded to Branscome Eastern Shore based on them being the lowest qualified bidder in the amount of \$427,047.

Councilman Howard motioned, seconded by Councilwoman Richardson to award the contract to Branscome Eastern Shore in the amount of \$427,047. Unanimously approved.

Public Works Director Spurlock also reported that he has received proposals from Branscome Eastern Shore for the repair of the two South Main Street Fowling Gut culverts. He advised that given the emergency nature of these repairs, coupled with the fact Branscome Eastern Shore was the only firm to submit a bid for the 2013 Fall Paving Contract, he also recommended this work be awarded accordingly. (South Culvert \$6,405 + North Culvert \$37,288 = \$43,693.00.) He added that all the work will be funded by the Virginia Department of Transportation Urban Maintenance Program.

Councilman Muth motioned, seconded by Councilwoman Richardson to award the contract for the repairs to the South culvert for \$6,405 and the North culvert for \$37,288, totaling \$43,693.00. Unanimously approved.

8b. Bids on the Main Street Corridor Improvements, Phase 2C Project

Town Manager Ritter advised that there were 3 bids received for the Main Street Corridor Improvements, Phase 2C Project, Branscome, Parkway and Conway. He advised that Branscome Eastern Shore was the low bidder. He stated that the Town budgeted \$706,412 for the Project, \$565,000 from the Transportation Enhancement Grant, \$141,412 was Town funds. He stated that the consultant recommended approving the bid and going into a contract with Branscome Eastern Shore in the amount of \$532,943.71

There was discussion as to the beginning and completion dates along with the grant money and funding.

Town Manager Ritter advised that should Council choose to go with the lowest bidder, the next step is to forward the bids to VDOT and if all bids meet the requirements they will decide within 30 days. He added that the engineer has reviewed this and recommended to approve Branscome's bid.

There was discussion about completion of the project and having one final paving for Main Street through the project area to smooth out the dips.

Mayor Tarr asked if the Town was using maintenance money as part of the match.

Public Works Director Spurlock advised the Town can't use the maintenance money.

Mayor Tarr stated that the good news is that the Town has received a grant in the amount of \$565,000 and there is a recommendation from staff to go with the low bidder, Branscome Eastern Shore in the amount of \$532,943.71. He advised that this is a fair bid. He asked Council's pleasure.

Councilman Howard motioned, seconded by Councilwoman Richardson to award the contract to Branscome Eastern Shore as the low bidder for the Main Street Corridor Improvements, Phase 2C Project, in the amount of \$532,943.71. Unanimously approved.

9. Recreation & Community Enhancement committee Report of September 10, 2013

Councilman Jester reported that there were 2 primary issues. He stated that the Veteran's Memorial Park was one issue. He mentioned removal of some trees and left as a bit of a "combat zone". He stated that the Public Works Staff has taken care of the issue. He suggested looking at the park funding for repairs to the skateboard ramps and possibly a new item in the playground area. He suggested budgeting money for the playground fund as it is a heavily used park.

Councilman Jester stated that the other issue is the Waterman's Memorial. He feels there is a lot of confusion as there are two different things going on. He stated that the Downtown Memorial would be a bronze statue. He advised of a discussion regarding placement of the statue/memorial. He stated that Town Planner Neville will research this matter and make a recommendation for placement.

Ms. Turlington asked again how much was in the playground fund.

Councilman Jester advised there is \$10,000. He added that this money is set to be used to replace some of the ramps in the Skate Park and to help in purchasing another piece of playground equipment. He stated that there won't be anything left. He explained that there is a separate fund for playground equipment as opposed to the other Park expenditures.

Town Manager Ritter stated that this \$10,000 is donated funds from the Poker Run that Chief Lewis sponsors each year.

Ms. Turlington stated that the park was underwater today and feels it's inappropriate to keep replacing the Skate Park equipment because of the water.

Public Works Director Spurlock clarified that a couple of the ramps in the Skate Park were replaced by the manufacturer, not the Town funds.

Ms. Turlington feels the Skate Park was put in the wrong place and should have been put on higher ground.

Mayor Tarr advised that Council will take this into consideration.

10. Ordinance Committee Report of September 12, 2013

- **Possible Revision to Chapter 2, Article V, Finance**

Councilman Howard reported that there were two items discussed. He advised that they discussed the Drainage Ordinance creating the Zoning Permit for fill. He asked if there was any feedback from FEMA regarding the new requirement.

Town Manager Ritter advised that FEMA did respond and stated that what they've approved sufficed and acknowledged that criteria which refers to a river basin does not apply. He stated that they have backed down on the flooding studies, however, still require the Zoning Permit.

Councilman Howard stated that this has now been addressed.

Mayor Tarr added that it has been addressed, but they have a 6 month time period to review and make corrections and additions to the overall Floodplain Ordinance.

Councilman Howard reported that they have also reviewed the revisions to Chapter 2, Article V, Finance of the Town Code. He stated that there are "number" changes along with the Town Manager and Department Heads acting as purchasing agents.

Town Manager Ritter explained that during the last audit, a recommendation was made to update the Finance Section of the Town Code. Staff has made an attempt to make the appropriate changes. He stated that it is boiler-plate wording from the VML portion regarding finance.

Councilman Howard explained a couple of the changes.

Town Manager Ritter also reviewed the revisions.

Councilman Howard added that this is basically housekeeping type of changes.

Town Manager Ritter further explained the changes.

There was further discussion regarding authorized agents per department and making the suggested changes.

Mayor Tarr asked if there were any other changes to the Procurement Policy. There were none.

Chief Lewis advised that Major Mills is also listed as the Assistant Chief of Police.

Councilman Howard motioned, seconded by Councilman Jester to approve the proposed revisions with the suggested changes to Chapter 2, Article V, Finance. Unanimously approved.

ARTICLE V. FINANCE*

DIVISION 1. GENERALLY

Secs. 2-181—2-205. Reserved.

*Cross references—Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract established or obligation assumed, by the town saved from repeal, § 1-6(a)(2); any fees and charges consistent with this Code saved from repeal- § 1-6(a)(13); taxation, Ch. 54.

DIVISION 2. PROCUREMENT

Subdivision I. In General

Sec. 2-206. Definitions.

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

IFB means invitation for bids.

PO means purchase order.

PR means purchase requisition.

Purchasing agent means the town manager or his designee who is authorized and responsible for the procurement of supplies and services for town use.

RFQ means request for quotations.

Vendor means any person who or company that sells supplies or services.

(Code 1977, § 2-13)

~~Cross reference—Definitions generally, § 1-2.~~

State law reference—Definitions, Code of Virginia, § 2.2- 4301.

Sec. 2-207. Authority.

This division is enacted pursuant to the authority granted in Code of Virginia, § 2.2- 4300 et seq. (Code 1977, § 2-13)

Sec. 2-208. Objectives.

The objectives of this division shall be to:

- (1) Establish an ongoing centralized purchasing function capable of providing daily service and support on an organization-wide basis.
- (2) Introduce a greater measure of responsibility and accountability over implementation of the annual budget, specifically as related to the procurement of contractual services, materials, supplies, and capital outlay items.
- (3) Ensure realization of the principles of competitive purchasing and best buy at the least cost.
- (4) Assist management at all levels in reaching responsible, cost-effective decisions in the procurement of quality supplies and services for town use.
- (5) Formulate policies and procedures designed to systematize and enhance the efficiency of the town's procurement process and ensure procurement in a timely and proper manner.
- (6) Promote good will and clear communication in town-vendor relations and intra organization relations relative to purchasing.
- (7) Promote the realization of equal opportunity policies through procurement relations with vendors.

(Code 1977, § 2-14)

State law reference—Purpose of public procurement law, Code of Virginia, § 2.2-4300.

Sec. 2-209. Implementation.

The town manager shall develop a purchasing procedure based on the policies and procedures established in this division and shall promulgate such administrative regulations necessary for the implementation of the standards established by this division. (Code 1977, § 2-17-1)

Sec. 2-210. Centralized purchasing.

It shall be the policy of the town to maintain a ~~centralized~~ purchasing process with the town manager or ~~his designee~~ **department heads** as purchasing agent. It shall be the purchasing agent's responsibility to administer purchasing performance, negotiate and approve term contracts in connection with town departments, consolidate purchases of like or common items, analyze prices paid for materials and equipment and generally define how to obtain savings and to coordinate purchasing procedures.

(Code 1977, § 2-15-2)

Sec. 2-211. Sources of supply.

~~The purchasing agent shall select sources of supply in connection with the appropriate town department.~~ As a general policy, purchases shall be awarded, with local

vendor preference, on the basis of availability, best price, delivery and quality, taking into consideration the reputation and performance capability of the suppliers.
(Code 1977, § 2-15-3)

Sec. 2-212. Commitments.

In connection with town departments, the purchasing agent shall conduct and conclude all negotiations affecting vendor selection, price, terms, delivery, etc. No one other than the ~~purchasing agent~~ **town manager or department heads** shall commit the town to any purchase, vendor, or product. Exceptions to this include emergencies and purchases made from the petty cash fund.
(Code 1977, § 2-15-4)

Sec. 2-213. Interdepartment relations.

It shall be the policy of the town to promote an intelligent and harmonious relationship between the ~~purchasing agent~~ and other town departments relative to procurement.
(Code 1977, § 2-15-5)

Sec. 2-214. Vendor relations.

The ~~purchasing agent~~ **town** will develop and promote a program of fairness with all vendors and salespersons.
(Code 1977, § 2-15-6)

Sec. 2-215. Expediting.

Expediting or "follow-up" on the delivery of materials or orders will be accomplished by the ~~purchasing agent~~ **town manager or department heads**. Any information other town departments may acquire or be requested to acquire concerning the delivery status of ordered material should be passed on to the purchasing agent.
(Code 1977, § 2-15-17)

Sec. 2-216. Tax exemption.

The town is exempt from all state and federal sales and excise taxes.
(Code 1977, § 2-15-18)

Sec. 2-217. Compliance with federal grants.

The town may comply with mandatory federal requirements in grants or contracts not in conformance with this division only upon a written determination of the town council that acceptance of the applicable provisions is in the public's interest.
(Code 1977, § 2-15-19)

Sec. 2-218. Vendor selection.

Vendors will be selected on a competitive basis. Bids, quotations and proposals will be solicited by newspaper advertisement, by direct mail request to prospective suppliers, and/or by telephone. Purchase orders or contracts will be awarded to the lowest and best responsible vendor. All bids, etc., may be rejected if it is in the public's interest

to do so. In determining the lowest and best responsible vendor, in addition to price, the following will be considered:

- (1) The character, integrity, reputation, judgment, experience and efficiency of the vendor.
 - (2) The ability, capacity and skill of the vendor to perform the contract, fill the order or provide the service.
 - (3) The ability of the vendor to provide material or service promptly or within the time specified, without delay or interference-
 - (4) The quality of performance by the vendor on previous contracts, orders or services.
 - (5) The ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.
- (Code 1977, § 2-16-1)

Sec. 2-219. Invitation for bids; opening of bids; award of bids generally.

(a) When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services other than professional exceeds ~~\$30,000.00~~ **\$50,000.00** (Code of Virginia, § 11-41(F)), an invitation for bids (IFB) notice will be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice must appear not less than seven days and not more than 21 days before the due date for bid proposals. The IFB will include a general description of the items to be purchased and the bid deposit and performance bond required and shall state where bid blanks and specifications may be secured and the time and place for opening bids. The ~~purchasing agent~~ **town manager or department heads** may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

(b) Sealed bids will be opened in public by the town manager at the time and place stated in the IFB. The bids will be tabulated by the town manager. The results of the tabulation and the bid material will be examined by the town manager, the appropriate department head and the appropriate appointed committee to determine the best bid. Recommendations for the bid award will be submitted by the town manager to the town council at a public meeting. After the bid award is made by the town council, a purchase order and/or contract shall be prepared for execution by the successful bidder. After the purchase order is issued and/or the contract signed, all bid deposits will be returned to all unsuccessful bidders.

(Code 1977, § 2-16-2)

Sec. 2-220. Request for quotations or electronic or written or telephone quotes.

(a) Purchases of supplies, equipment and services of less than ~~\$30,000.00~~ **\$50,000.00** (Code of Virginia, § ~~11-41(F)~~ **2.2- 4303 (H)**) but of ~~\$500.00~~ **\$30,000.00** or more will require a **4 attempted** request for quotations (RFQ). An RFQ is similar to an IFB except that ~~legal~~ advertising in the local newspaper is ~~not~~ required and detailed specifications may ~~not~~ be appropriate. **Forward your quotes with your purchase order and check requisition to accounts payable.**

(b) Purchases of supplies, equipment and services of less than \$30,000.00 but of \$10,000.00 or more will require at least 3 attempted electronic or written quotes to be obtained by the department. Forward your quotes with your purchase order and check requisition to accounts payable.

(c) Purchases of supplies, equipment and services of less than \$10,000.00 but of \$1,000.00 or more will require at least 2 attempted telephone, catalog or electronic or written quotes to be obtained by the department. Forward your quotes with your requisition to accounts payable.

(d) The following procedures will be followed in obtaining a request for quotations:

- (1) Complete a request for quotations and distribute copies to vendors.
- (2) File unopened sealed quotations received, together with a machine copy of the original request for quotations.
- (3) On the designated date, remove the quotes received from the file.
- (4) Open the quotes and determine which vendor offers the item at the lowest price and issue a purchase order to the successful vendor.

(Code 1977, § 2-16-3)

Sec. 2-221. Open market purchases.

Purchases of less than \$500.00 ~~\$1,000.00~~ will be made in the open market without necessary resort to an IFB or RFQ. ~~Every effort will be made, however, to get the lowest and best price and to share the business among responsible vendors.~~ **No competition is required. Forward your purchase order and check requisition to accounts payable.**

(Code 1977, § 2-16-4)

Sec. 2-222. Emergency purchases.

Emergency purchases shall be exempt from this division, provided that an emergency exists which affects the public health, safety or welfare. The mayor shall certify that an emergency exists.

(Code 1977, § 2-16-7)

Sec. 2-223. Bidders' list.

With the aid of other town departments, the town manager shall compile and maintain a bidders' list. Vendors desiring to be listed shall advise the town manager, in writing, of the following:

- (1) Type of business;
- (2) Names of officers, owners or partners;
- (3) Persons authorized to sign bids, offers and contracts;
- (4) Type of equipment, supplies, materials sold and/or services provided; and
- (5) How long in the present business.

(Code 1977, § 2-15-10)

Sec. 2-224. Competitive bidding on state-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building by the town or any subdivision of the town for which state funds of not more than \$30,000.00 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection 2-296(c). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this division.

State law reference—Similar provisions, Code of Virginia, § ~~11-41.1~~ 2-2-4305.

Sec. 2-225. Withdrawal of bid due to error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. One of the following procedures for withdrawal of a bid shall be selected by the town and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or (ii) the bidder shall submit to the town or designated official his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, such work papers, documents and materials may be considered as trade secrets or proprietary information subject to the conditions of Code of Virginia, § 11-52(D). The bids shall be opened one day following the time fixed by the town for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined in this subsection and withdraw his bid. The contract shall not be awarded by the town until the two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered as required in this subsection.

(b) The town may establish procedures for the withdrawal of bids for other than construction contracts.

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) If the town denies the withdrawal of a bid under this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. (Code 1977, § 2-15-12)

State law reference—Withdrawal of bid due to error, Code of Virginia, § ~~41-54~~ **2.2- 4330**.

Sec. 2-226. Bid deposits.

Bid deposits or surety may be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of that deposit or surety. A successful bidder, upon failure on his part to enter into a contract within the time specified after written notification of the bid award, shall forfeit, as liquidated damages, any surety deposited with the town.

(Code 1977, § 2-15-8)

State law reference—Bid bonds, Code of Virginia, § ~~41-57~~ **2.2- 4334**.

Sec. 2-227. Bid bonds.

(a) Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in the commonwealth, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) No forfeiture under a bid bond shall exceed the lesser of the following:

(1) The difference between the bid for which the bond was written and the next low bid; or

(2) The face amount of the bid bond.

(c) Nothing in this section shall preclude the town from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.00.

(Code 1977, § 2-15-14)

State law reference—Bid bonds, Code of Virginia, § ~~11-57~~ 2.2- 4336.

Sec. 2-228. Alternative forms of security.

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

(b) If approved by the town, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the town equivalent to a corporate surety's bond.

(Code 1977, § 2-15-14)

State law reference—Similar provisions, Code of Virginia, § ~~11-61~~ 2.2- 4338.

Sec. 2-229. Prequalification for construction.

(a) Any prequalification of prospective contractors for construction by the town subsequent to July 1, 1995, shall be pursuant to a prequalification process for construction projects adopted by the town. Such process shall be consistent with this section.

(b) The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. Such form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this section shall be considered a trade secret or proprietary information subject to Code of Virginia, § 11-52(D).

(c) In all instances in which the town requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this section to be accomplished.

(d) At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the town shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. If a contractor is denied prequalification, the written notification to such contractor shall state the reasons for such denial of prequalification and the factual basis of such reasons.

(e) A decision by the town denying prequalification under this section shall be final and conclusive unless the contractor appeals the decision as provided in Code of Virginia, § 11-63.

(f) The town may deny prequalification to any contractor only if the town finds one of the following:

(1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the town shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement;

(2) The contractor does not have appropriate experience to perform the construction project in question;

(3) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including but not limited to design-build or construction management;

(4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the town has not contracted with a contractor in any prior construction contracts, the town may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The town may not utilize this subsection to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

(5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including but not limited to a violation of (i) Code of Virginia, § 11-72 et seq., (ii) the Virginia Governmental Frauds Act (Code of Virginia, § 18.2498.1 et seq.), (iii) Code of Virginia, § 59.1-68.6 et seq., or (iv) any substantially similar law of the United States or another state;

(6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

(7) The contractor failed to provide to the town in a timely manner any information requested by the public body relevant to subsections (f)(1) through (6) of this section.

(g) If the town has a prequalification ordinance which provides for minority participation in municipal construction contracts, the town may also deny prequalification based on minority participation criteria; provided, however, that nothing in this subsection shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the commonwealth.

State law reference—Similar provisions, Code of Virginia, § ~~11-46~~ 2.2- 4317.

Sec. 2-230. Use of brand names.

Unless otherwise provided in the invitation for bids, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named—it conveys the general style, type, character, and quality of the article desired—and any article which the town in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

(Code 1977, § 2-15-11)

State law reference—Use of brand names, Code of Virginia, § ~~11-49~~ 2.2- 4317.

Sec. 2-231. Award of bid-based contracts.

The town council will award bid-based contracts on the recommendation of the appointed reviewing committee, which is to be created in each case, and the town manager. The award will usually be to the lowest and best responsible bidder. A full and complete statement of the reasons shall be prepared by the committee and town manager and shall be filed along with other papers relating to the transaction.

(Code 1977, § 2-15-16)

Sec. 2-232. Performance and payment bonds.

(a) Upon the award of any public construction contract exceeding \$100,000.00 awarded to any prime contractor, such contractor shall furnish to the town the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

(2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. The term "labor or materials" shall include public utility services

and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

- (b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in the commonwealth.
- (c) Such bonds shall be payable to the town.
- (d) Each of the bonds shall be filed with the town or a designated office or official thereof.
- (e) Nothing in this section shall preclude the town from requiring payment or performance bonds for construction contracts below \$100,000.00.
- (f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.
(Code 1977, §§ 2-15-9, 2-15-14)
State law reference—Similar provisions, Code of Virginia, § 41-58. [2.2- 4337](#).

Sec. 2-233. Employment discrimination by contractor prohibited.

The town shall include in every contract of over \$10,000.00 the following:

- (1) During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- (2) The contractor will include the provisions of subsections (1)a, (1)b and (1)c of this section in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.
(Code 1977, § 2-15-15)

State law reference—Employment discrimination by contractor prohibited, Code of Virginia, § ~~41-51~~. **2.2- 4311**.

Sec. 2-234. Retainage on construction contracts.

(a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.
(Code 1977, § 2-15-13)

State law reference—Retainage on construction contracts, Code of Virginia, § ~~41-56~~. **2.2- 4333**.

Sec. 2-235. Deposit of certain retained funds; failure to timely complete contract.

(a) When contracting directly with contractors for public contracts of \$200,000.00 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, the town shall include in the bid proposal an option for the contractor to use an escrow account procedure for utilization of the town's retainage funds by so indicating in the space provided in the proposal documents. If the contractor elects to use the escrow account procedure, the escrow agreement form included in the bid proposal and contract shall be executed and submitted to the town within 15 calendar days after notification. If the escrow agreement form is not submitted within the 15-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

(b) In order to have retained funds paid to an escrow agent, the contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the commonwealth. The escrow agreement and all regulations promulgated by the town shall be substantially the same as that used by the commonwealth department of transportation.

(c) This section shall not apply to public contracts for construction for railroads; public transit systems; runways; dams; foundations; installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter; the installation or maintenance of telephone, telegraph or signal systems for public utilities; and the construction or maintenance of solid waste or recycling facilities and treatment plants.

(d) Any such public contract for construction, which includes payment of interest on retained funds, may require a provision whereby the contractor, exclusive of

reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

(e) Any subcontract for such public project which provides for similar progress payments shall be subject to this section.

State law reference—Similar provisions, Code of Virginia, § ~~41-56.1~~. **2.2- 4334**.

Sec. 2-236. Public construction contract provisions barring damages for unreasonable delays declared void.

(a) Any provision contained in any public construction contract entered into on or after July 1, 1991, that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor, if and to the extent such delay is caused by acts or omissions of the town, its agents or employees and due to causes within their control is against public policy and is void and unenforceable.

(b) Subsection (a) of this section shall not be construed to render void any provision of a public construction contract that:

- (1) Allows the town to recover that portion of delay costs caused by the acts or omissions of the contractor or his subcontractors, agents or employees;
- (2) Requires notice of any delay by the party claiming the delay;
- (3) Provides for liquidated damages for delay; or
- (4) Provides for arbitration or any other procedure designed to settle contract disputes.

(c) A contractor making a claim against the town for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the town and shall pay it for a percentage of all costs incurred by the town in investigating, analyzing, negotiating, litigation and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

State law reference—Similar provisions, Code of Virginia, § ~~41-56.2~~. **2.2- 4335**.

Secs. 2-237—2-265. Reserved.

Subdivision II. Purchase Orders

Sec. 2-266. When required; contents; procedures for approval.

(a) Purchase orders are required for all purchases over ~~\$25.00~~ **\$100.00**. The purchase must be approved in advance of the actual purchase, except in emergency situations.

- (b) The purchase order shall include the following:
 - (1) Items required;
 - (2) Quantity required;
 - (3) Price of each item;
 - (4) Date required;
 - (5) Tax exempt number;
 - (6) Short reason for the items required; and
 - (7) Classification of expense; budget line item account number shall be shown for each line if the items are not all the same on one purchase order.
 - (c) Authorization levels for purchase order approval shall be as follows:
 - (1) A purchase order of \$0.00 to ~~\$500.00~~ **\$2,000.00** may be approved by the following:
 - a. Town manager.
 - b. Finance director.
 - c. Chief of police.
 - d. Assistant chief of police (may approve only in the absence of primary authorized personnel for each department).
 - e. Public works director.
 - (2) A purchase order of ~~\$501.00~~ **\$2001.00** to ~~\$1,000.00~~ **\$4,000.00** may be approved by the following:
 - a. Town manager.
 - b. Public works director.
 - c. Chief of police.
 - (3) A purchase order of ~~\$1,001.00~~ **\$4,001.00** to \$10,000.00 may be approved by the town manager.
 - (4) A purchase order of \$10,001.00 and over may be approved by the town manager and the mayor with prior approval by the town council.
- (Code 1977, § 2-18)

Sec. 2-267. Notice to vendors; tax exempt number.

All regular vendors shall be notified that an approved purchase order is required before giving credit for any item or purchase over ~~\$25.00~~ **\$100.00**. The tax exempt number shall also be sent to each vendor where regular charge accounts are maintained. The tax exempt number is also printed on the purchase order, to ensure that no tax is charged to the town.

(Code 1977, § 2-18-6)

Sec. 2-268. Purchasing procedures.

As each purchase is made, the following must be accomplished:

- (1) The purchase order shall be approved if the purchase is going to be over ~~\$25.00~~ **\$100.00**,
- (2) When the purchase is made, whether over or under ~~\$25.00~~ **\$100.00**, the invoice must be approved.

(3) After the purchase is made, the invoice must be turned in for payment **requisition**.

(Code 1977, § 2-18-3)

Sec. 2-269. Payment approval procedures.

(a) *Responsibilities of office staff.* In the approval of payment for purchase orders, the office staff will be responsible for the following:

(1) Matching the purchase order to the appropriate invoice if the item/purchase is over ~~\$25.00~~ **\$100.00**, posting invoices to accounts payable on a daily basis and ensuring that invoices are scheduled for payment prior to the due date or earlier in order to obtain prompt payment discounts.

(2) Checking the actual purchases on the invoice to the items authorized for purchase on the purchase order, to ascertain that only authorized items were received for all purchases over ~~\$25.00~~ **\$100.00**.

(3) Mathematical verification of each invoice before approval by the town manager for all invoices whether over or under ~~\$25.00~~ **\$100.00**.

(4) No sales tax appears on the invoice.

(b) *Responsibilities of approving official:* The approving official shall verify that the following items of control have been accomplished before approving invoices for payment:

(1) The attached purchase order was appropriately authorized.

(2) The office staff member has verified items, quantities, and mathematical calculations on the invoices to the appropriate purchase order and the purchase order is in fact attached to the invoice.

(Code 1977, § 2-18-4)

Secs. 2-270—2-295. Reserved.

Subdivision III. Competitive Negotiation

Sec. 2-296. Procedures generally.

(a) Upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

(b) Upon a written determination made in advance by the town council that competitive negotiation is either not practicable or not fiscally advantageous, insurance

may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in Code of Virginia, § 11-37. The basis for this determination shall be documented in writing.

(c) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) For the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than \$500,000.00;

(2) For the construction of highways and any draining, dredging, excavating, grading or similar work upon real property; or

(3) As otherwise provided in Code of Virginia, § ~~11-41.2:2~~. ~~2.2-~~ 4303.
(Code 1977, § 2-16-5)

State law reference—Methods of procurement, Code of Virginia, § ~~11-41~~. ~~2.2-~~ 4303.

Sec. 2-297. Award of a service generally.

The town manager or his designee shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project. These discussions may encompass nonbinding estimates of total projects costs, including where appropriate design, construction and life cycle costs. Methods to be utilized in arriving at price for services may also be discussed. At the conclusion of discussion on the basis of evaluation factors published in the request for proposals and all information developed to this point, the town manager shall select in the order of preference two or more offerors whose professional qualification and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

(Code 1977, § 2-16-6)

Sec. 2-298. Procurement of professional services.

Where the cost of a professional service is expected to exceed \$30,000.00 in the aggregate or for the sum of all phases of a contract or project, the town shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence

to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man hours or cost for services. At the discussion stage, the town may discuss nonbinding estimates of total project costs, including but not limited to life-cycle costing, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this section, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the town shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the town determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

State law reference—Similar provisions, Code of Virginia, § ~~41-37~~. **2.2- 4301**.

Secs. 2-299—2-325. Reserved.

Subdivision IV: Ethics in Public Contracting

Sec. 2-326. Purpose.

The sections of this subdivision supplement, but do not supersede, other provisions of law, including but not limited to the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.), the Virginia Governmental Frauds Act (Code of Virginia, § 18.2-498.1 et seq.), and Code of Virginia, §§ 18.2-438 et seq. and 18.2-446 et seq. The sections of this subdivision apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

State law reference—Similar provisions, Code of Virginia, § ~~41-72~~. **2.2- 4367**.

Sec. 2-327. Definitions.

The words defined in this section shall have the meanings set forth throughout this subdivision.

Immediate family means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

Official responsibility means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary interest arising from the procurement means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.).

Procurement transaction means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee means any person employed by the town, including elected officials or appointed members of the town council.

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § ~~41-73~~. 2.2- 4368.

Sec. 2-328. Penalty for violation.

Willful violation of any section of this subdivision shall constitute a **class 1** misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

State law reference—Similar provisions, Code of Virginia, § ~~41-80~~. 2.2- 4377.

Sec. 2-329. Proscribed participation by public employees in procurement transactions.

(a) Except as may be specifically allowed by Code of Virginia, § 2.1-639.11(A)(2) and (3), no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the town when the employee knows that:

(1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or

(2) The employee, the employee's partner, or any member of the employee's immediate family:

a. Holds a position with a bidder, offeror or contractor, such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

b. Has a pecuniary interest arising from the procurement transaction; or

c. Is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(b) This section prohibits officers and employees who have dealt in a procurement capacity with a particular firm from accepting employment with that firm for a period of one year from cessation of the public employment, unless the officer or employee provides written notification to the town council prior to the start of employment with such private firm.

(Code 1977, § 2-15-7)

State law reference—Similar provisions, Code of Virginia, § ~~41-74~~. 2.2- 4369.

Sec. 2-330. Solicitation or acceptance of gifts.

(a) No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The town may recover the value of anything conveyed in violation of this section.

(b) Accordingly, the town may terminate, at no charge to the town, any purchase order or contract if it is found that substantial gifts or gratuities were offered to a town employee. The town may also take disciplinary action, including dismissal, against a town employee who solicits or accepts gifts or gratuities of any value whatsoever.

(Code 1977, § 2-15- 7)

State law reference—Similar provisions, Code of Virginia, § ~~41-75~~. 2.2- 4371.

Sec. 2-331. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the town unless the employee or former employee provides written notification to the town or a public official if designated by the town or both prior to commencement of employment by that bidder, offeror or contractor.

State law reference—Similar provisions, Code of Virginia, § ~~41-76~~. 2.2- 4370.

Sec. 2-332. Gifts by bidders, offerors, contractors or subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

State law reference—Similar provisions, Code of Virginia, § ~~41-77~~. 2.2- 4371.

Sec. 2-333. Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make or offer to make kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the town and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

State law reference—Similar provisions, Code of Virginia, § ~~44-78~~. 2.2- 4372.

Sec. 2-334. Participation in bid preparation; submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of a town shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the town determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the town.

State law reference—Similar provisions, Code of Virginia, § ~~44-78.1~~. 2.2- 4373.

Sec. 2-335. Purchase of building materials, supplies or equipment from architect or engineer.

(a) No building materials, supplies or equipment for any building or structure constructed by or for the town shall be sold by or purchased from any person employed as an independent contractor by the town to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in Code of Virginia, § 2.1-639.2.

(b) No building materials, supplies or equipment for any building or structure constructed by or for the town shall be sold by or purchased from any person which has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in such building or structure to the independent contractor employed by the town to furnish architectural or engineering services in which such person has a personal interest as defined in Code of Virginia, § 2.1-639.2.

(c) Subsections (a) and (b) of this section shall not apply in cases of emergency or for transportation-related projects conducted by the department of transportation and the Virginia Port Authority.

State law reference—Similar provisions, Code of Virginia, § ~~11-79~~. 2.2- 4374.

Sec. 2-336. Certification of compliance; false statements.

(a) The town may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with this subdivision.

(b) Any public employee required to submit a certification as provided in subsection (a) of this section who knowingly makes a false statement in such certification shall be punished as provided in section 2-328.

State law reference—Similar provisions, Code of Virginia, § ~~11-79.1~~. 2.2- 4375.

Sec. 2-337. Misrepresentations.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.

State law reference—Similar provisions, Code of Virginia, § ~~11-79.2~~. 2.2- 4376.

Secs. 2-338—2-380. Reserved

11. Mayor & Council Announcements or Comments

Councilman Taylor thanked Town Planner Neville and Staff regarding the FEMA matter. He mentioned the Town employees and appreciated that they fight for the community and go above and beyond. He appreciates their concerns and clarifying everything with the FEMA issue.

Councilman Jester agreed that staff has done a great job with FEMA.

Vice Mayor Leonard advised he had a couple of issues to address. He stated that several watermen approached him about the bridge openings. He asked if they should contact VDOT regarding a radio opening as opposed to the scheduled opening.

Councilwoman Richardson stated that the Coast Guard is the contact to have this changed.

Vice Mayor Leonard stated that it is every 90 minutes if requested or they have to wait. He stated that there have been a couple of “old head” citizens that have recently passed away and he hates to see them go because they had so much information.

Councilwoman Richardson advised that a citizen has volunteered to adopt and clean the Reed Cemetery on Deep Hole Road. She requested a sign to be put up regarding adoption. She stated that it is 98% complete.

She also reminded that the Cemetery Committee meeting is October 22nd, at 6:00 p.m. and they will be discussing the fall cemetery cleanup.

Councilman Howard advised that the cemetery volunteer is Mr. Alex Hubb.

12. Closed Meeting in Accordance with Section 2.2-37(A)(7) of the Code of Virginia.

• Legal Matters

Councilman Howard moved, seconded by Vice Mayor Leonard to convene a closed meeting under Section 2.2-3711(A)(7) of the Code of Virginia to discuss personnel matters.

Unanimously approved.

Councilwoman Richardson moved, seconded by Vice Mayor Leonard to reconvene in regular session. Unanimously approved.

Councilman Howard moved, seconded by Vice Mayor Leonard 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.

VOTE: Ayes-Jester, Leonard, Howard, Richardson, Muth, Taylor

Nays-None

Absent- None

Adjourn

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

Unanimously approved.

Mayor

Town Manager

MINUTES OF THE OCTOBER 17, 2013
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

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

CALL TO ORDER

Mayor Tarr called the meeting to order at 5:00 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 at this time.

- Supervisor Thornton thanked Council for moving forward with the Flood Evaluation Study. She hopes the Town will continue to move forward and implement the Study.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Taylor motioned, seconded by Councilman Muth to adopt the agenda as presented. Unanimously approved.

1. Presentation on the Two Flood Evaluations by Clark Nexsen

Public Works Director Spurlock introduced, Mr. Sherman and Mr. Parkinson with Clark Nexsen.

Mr. Sherman, explained the study objectives that are to look at the progressive elevations of floodwaters. He stated that they wanted to know the effects of the rise of water levels in specific areas and the roadways. He discussed the tide levels and ground elevations. The first project they researched was Fowling Gut. He reviewed the range of flood levels, elevations and impacts. They used the Town's GIS to assist in the study. They considered raising properties, swing gates and raising roads, which could be very costly.

Mr. Sherman reviewed the rough estimate of associated costs; 2 flood gates at the opening of Fowling Gut with power would cost upwards of \$200,000. Road elevating would cost roughly \$1.5 - \$2 million dollars. Raising Bunker Hill Road would roughly be \$200,000 - \$300,000. He talked about the levels of raising the elevation. He mentioned the problems along Hallie Whealton Smith Drive and looked into the possibility of increasing the size of pipe to 6" and

install additional piping to help evacuate water quicker. He advised that Public Works Director Spurlock advised him of other flood prone areas. He feels that with the current system, to make some improvement will increase in the performance of the system. He also suggested bulk-heading in areas to protect some of the roadways.

Councilman Howard asked about pipe size recommendations to increase the outfall.

Mr. Sherman stated that they recommend approximately 30" under the road all the way out to the channel

Mayor Tarr asked about floodgates on those pipes.

Mr. Sherman stated there should be some sort of backflow preventer on them.

There was further discussion regarding floodgates and placement.

Councilwoman Richardson discussed the man-made wooden floodgates installed years ago on Hallie Whealton Smith Drive. She advised that because the floodgates were closed during certain times that Misty Meadows was dry. She asked if a floodgate is installed which side it would be installed.

Mr. Sherman advised that they would have to look into that further.

Councilwoman Richardson also stated that the current pipe is in the mud and it gets clogged so that Town will have to clear it from time to time.

Supervisor Thornton advised she agrees with Councilwoman Richardson and her reports regarding the floodgates used years ago are accurate. She stated that once that area is inundated from Oyster Bay it can't get back out. She feels that a floodgate would alleviate the water levels remaining in that area. She stated that she has never seen the water levels staying as long as they did during recent storms and feels it's because the water can't get out. She mentioned the culverts along Hallie Whealton Smith Drive. She suggested a larger pipe as opposed to two small pipes. She asked if they had looked into excavating Fowling Gut and making it deeper.

Mr. Sherman advised that this was not considered in the analysis. He stated that excavating and making it deeper doesn't change the flood elevations. He stated that making it wider may help with the capacity.

Supervisor Thornton advised that over the years it has filled in a lot. She feels the Town should push to have a study done. She added that something needs to be done and quickly.

Councilman Jester mentioned a pipe in the canal at Oyster Bay. He asked if a larger pipe would help.

There was discussion regarding the pipes and sizes, private property and acquiring additional easements.

Mr. Sherman suggested that there may be debris blocking drainage that can be removed.

Discussion continued.

There was also discussion regarding current areas prone to flooding which weren't a problem in the past.

Mr. Tommy Daisey asked about the floodgates. He feels that floodgates during a nor'easter could be enough. He mentioned issues with the debris that's clogging the flow of outfall. He asked if there was something to allow the water to get through. Mr. Daisey further commented and suggested installing larger drain pipes and floodgates.

Comments and discussion continued.

Mr. Sherman added that they couldn't take into consideration those flood-prone homes as this information isn't available on the GIS.

Someone commented that since those Beebe and Bunting Roads culverts pipes were increased in size the flooding also increased.

Mr. Austin Smith commented on flooding a couple of years ago. He feels that nor'easters and non-storm related flooding could be controlled better by floodgates. He also talked about many years ago having a floodgate at Capt. Bob's but was removed. He feels that the high tides and flood tides that cause flooding could be helped with floodgates.

Councilman Taylor asked if pumps on both ends of Hallie Whealton Smith Drive would help drain the nonmoving water.

Mr. Sherman stated that artificially pumping water out of that area could cause a long-term impact to existing wetlands.

Councilman Jester mentioned mosquito breeding areas.

Supervisor Thornton stated that the Army Corps of Engineers aren't against drainage controls but they would have to be manually operated.

Mayor Tarr added that it is going to have to flush and stay in its natural condition to the extent it is today.

There was discussion about the benefit of pumps.

Vice Mayor Leonard stated that this is an island-wide problem where neighbors are building their land up causing flooding on lower neighboring properties.

They discussed the differences in flooding caused by, nor'easters, flood tides, storms etc.

Mr. Daisey asked what the Town was looking to pass and how long before they can implement some of the corrective solutions.

Mayor Tarr advised that the report is the first step. He stated that he has to allow staff time to review and make plans with cost estimates. He added that they would also have to apply for permits from the Army Corps of Engineers along with VMRC adding that it's a long process.

Councilman Muth added that with the increase in size of the Inlet there is an increase in water flow.

Supervisor Thornton suggested that Public Works Director Spurlock contact the County as they have done something similar on Tangier and is familiar with this process.

There were further suggestions to assist in water flow.

Mr. Smith asked if there was any assistance for drainage from the County.

Supervisor Thornton reported that the Town just received a check for nearly \$13,000 for drainage. She stated that this is per year and every district receives this amount.

Mayor Tarr reminded those present that the county brings the 'spider' every year to dig out debris from the drainage areas. He directed staff to compile a plan of projects with the pros and cons along with cost estimates.

2. Discuss a Contract with Clark Nexsen on the Hallie Whealton Smith Drive, Bicycle Trail.

Town Planner Neville stated that this has been a long process to follow VDOT's guidelines for hiring a consultant. He advised that they have received approval from VDOT and are ready to move forward. He explained that what was estimated as the design fee amount with the initial application wasn't enough to accomplish what is needed. He reviewed the cost estimates. He added that it was more important to have a complete set of plans even if all of it couldn't be built at this time.

Councilman Howard asked about the consultant cost increase.

Town Planner Neville stated that VDOT awarded the construction grant and it's about dividing it up to see which part of the construction phase can be built. They approved the portion of trail on the Elementary School property and the portion of the High School property. However, construction funds were not approved for the portion on the Town's property. Therefore, they are trying to stretch the money out if at all possible. He stated that this was discussed with VDOT for a set of plans that designs the entire project.

There were further explanations and comments.

Mayor Tarr stated that the Town is fortunate to have this grant at 100%, which never happens.

Town Planner Neville advised that staff recommended awarding Clark Nexsen the contract for engineering design services for the Hallie Whealton Smith Drive Bicycle Trail in the amount of \$70,403.

Councilman Howard motioned, seconded by Vice Mayor Leonard to award the contract with Clark Nexsen for the engineering of VDOT project SRTS-190-204 in the amount of \$70,403. Unanimously approved.

3. Discuss Sending a Letter to the Governor on Unmanned Aircraft Systems Support

Mayor Tarr advised that there was a draft letter in their packet in support of the UAS. He explained that if chosen as one of the 6 test flight sites this could have a large economic impact for the Town. There were bills passed in the state that watered down what they thought of UAVs. He suggested a letter be written to all the elected officials. They understand that if NASA is selected it affects them also. He advised that Maryland pulled out. He added that New Jersey hung in but is willing to work with Virginia's NASA site. He reported that they are currently using the UAVs for agriculture, as crop dusters. He added that he and Councilman Jester went to a presentation yesterday and were advised that they have underwater ones that can map the ocean bottom. He stated it was approved through the Economic Development Committee with the ANPDC. He feels that it's important to the economy and feels the Town should send a letter of support.

Councilman Muth motioned, seconded by Councilman Taylor to send a letter to the Governor and other elected officials including officials from the adjacent states, regarding the Town's support for the Unmanned Aircraft Systems. Unanimously approved.

4. Mayor & Council Announcements or Comments

Vice Mayor Leonard reminded Council that it is Homecoming week. He invited them to the parade and football game, He also explained that the high school's Athletic Boosters, PTSA and PASS are sponsoring the Homecoming Dinner this year. He stated that they have changed it from the spaghetti dinner to a tailgate party under a tent with pulled pork and all the fixings.

Mayor Tarr thanked Vice Mayor Leonard and others for all they do in the community for the kids.

Vice Mayor Leonard also advised of the bonfire.

Councilwoman Richardson would like to explain why the Mayor and Council received two copies of last year's letter from the Fire Company. She stated that it started October 5th, 2013. She discussed 911 returning to Accomack. She advised that there were other people who wanted to know why there was a test period and why they were considering sending 911 back. She stated that Chief Harry Thornton advised her that he had enough votes to send it back. She then explained that she told him that at this meeting it will be a discussion about it and funding. She was told again that he had at least 3 votes and working on the 4th vote.

Councilwoman Richardson also advised she spoke with Mr. Kevin Holloway to explain how the County's dispatchers are hired and trained. She then stated that Chief Thornton came up behind her at the firehouse interjecting into the conversation and was unhappy with her. She feels that the people of Chincoteague need to know why and what was going on. She stated that Chief Thornton advised her that whether she liked it or not 911 was going back to the County. She asked when this goes what goes next, the Police Department. His response to her was "why not, because there's a deputy on every corner". She then asked him if EMS was next. She stated that his response to her was that wasn't going to happen. She advised him not to say it was never going to happen. She stated that they didn't think that last year when the Town was fighting the tax issue and they took the Fire Company and EMS issue under the Town's blanket that they were going to get a 3 or 4 cent raise, but got it. She then found 2 letters from last year's hearing. She asked Chief Thornton if the whole Fire Company wanted this to go back to the County and his response was yes. She then asked Chief Thornton if the Chincoteague Volunteer Fire Company was willing to work with the Town of Chincoteague to correct this problem. She stated that he responded that they were not. She left it alone and made a copy of the 2 letters.

Councilwoman Richardson stated that she still wonders why he won't sit down and speak to her about this. She asked another fireman yesterday and they stated that this wasn't the way it was supposed to be. She also added that Chief Thornton wrote a letter stating that he didn't say that and she stated that he most certainly did.

Mayor Tarr advised of the Public Hearing scheduled for Monday night at 7:00 p.m. He stated that he will hold his comments until then.

Councilman Howard addressed flooding issues. He feels that there is something they can do as Clark Nexsen has reported. He also stated that when a property is filled it keeps the property from holding water. He mentioned the Ordinance that pertains to filling and the natural drainage on the Island. He feels it has been discussed but nothing definite has been done formally. He thinks Council should discuss this and decide what can be done and considered.

Mayor Tarr stated that there are rules on the books and in the County's books regarding stormwater management and drainage. He stated that the State will make it mandatory for all localities to issue stormwater permits.

Town Planner Neville added that the Virginia Stormwater Management Permits will begin on July 1st of 2014 along with permits for fill under the Soil and Sediment Control Program. He added that this County Ordinance will look at the flow of storm water.

Mayor Tarr stated that both counties are getting ready to work on a Plan. He advised of a meeting with the Army Corps of Engineers at Shore Bank in Onley tomorrow about this.

Councilman Howard stated that Council is put there to help the people.

There was brief discussion.

Mayor Tarr stated this will be discussed this coming year.

Adjourn

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

Mayor

Town Manager

MINUTES OF THE OCTOBER 21, 2013
CHINCOTEAGUE SPECIAL COUNCIL MEETING

Council Members Present:

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

AGENDA ADDITIONS/DELETIONS AND ADOPTION

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

1. Public Hearing on 911 Services

Mayor Tarr introduced the Director of the Eastern Shore 911 Commission, Mr. Jeff Flournoy who will give a brief presentation about the Eastern Shore 911 Center.

Mr. Flournoy explained that they are a bi-County Commission created by the Board of Supervisors of Accomack County and Northampton County over 20 years ago. They provide services to both counties regarding fire, EMS and 911 dispatches. He added that both counties financially support the services. He stated that there is a 12 member 911 Commission consisting of; Virginia State Police representatives, both counties' Sheriffs, both counties' Administrators, Fire & EMS (1 each from both counties), 2 members of the Accomack County Board of Supervisors and 1 member of the Northampton Board of Supervisors.

Mr. Flournoy advised that as the Director he is responsible for hiring, training, managing the equipment, Capital Plans, Fiscal Management along with general management duties. He also stated that there are 3 supervisors at the 911 Center along with 6 full time positions and 12 part-time staff.

Mr. Flournoy explained the equipment for 911. He stated that it is very similar to Chincoteague's 911 equipment. Their equipment was upgraded in 2011 and will be upgraded again in 3 years. He described the consoles and daily operations. He advised that there are generally 2 telecommunicators on duty along with the supervisor who will answer 911 calls

when it's busy. They process all fire and EMS calls in both counties. He also added that if a law call comes in, they transfer the call to the appropriate law office. He advised that they are an accredited emergency dispatch or EMD agency. They are allowed to conduct consistent questioning and trained to give allowable medical instructions. They have to keep their training up to date and recertify every couple of years. They regularly attend the meetings regarding dispatch regulations and policies. He feels they strive for perfection doing their best. However, they make mistakes also.

Mr. Flournoy also touched on training for new hires. There are over 120 classroom hours of training for new hires with 50-100 hours of live on the radio training. He advised that all of the staff is certified in APCO, basic telecommunicator. All of the supervisors are also instructors to teach those classes as well. He discussed the trial period in July and feels it was a success.

Mayor Tarr advised that the reason they are here is because the Town's equipment has to be updated this year. He also reported that in the Spring of this year they lost 4 part-time dispatchers at one time. He added that they had to hire 4 new dispatchers and train them for the summer months, which caused some issues. He stated that currently the Town's 911 Center is operating with 4 full time dispatchers and 5 to 6 part-time dispatchers. He added that they have 2 options; 1) to ask for the Eastern Shore 911 Center to take over dispatching 911 calls or 2) upgrade the 911 equipment and hire 3 additional full time dispatchers with 4 part-time dispatchers,

Mayor Tarr stated that in doing this the Town Council had to review the costs associated with the upgrade, hiring and training. He added that this would be a large increase to the budget. He advised that they tried to put together some numbers. He reported that it appears it would cost the Town \$124,000 more a year to hire the new dispatchers and continue dispatching. He added that this would result in a \$0.02 increase in real estate taxes, which would take the Town through the next 5 years. He also reported, by sending the 911 dispatch to the County that they would be losing \$80,000 in 911 fees and 911 telephone fees, which is offset by \$42,000 worth of equipment that the Town wouldn't need. He stated that this brings the loss down to \$38,000 the first year and over \$40,000 the second year.

Mayor Tarr advised that the Town would continue dispatching the police, U. S. Fish and Wildlife and the Park Service calls. He stated that the Town would still have the Emergency Operations Center during storms or emergencies. He also stated that the Town would still have the reverse 911 callout system. He added that they would not be laying off any employees. Mayor Tarr commended the Police Department; Chief, Assistant Chief and all staff, for a great job over the years in handling 911 calls on this equipment. He added that they handled over 22,000 phone calls last year, they sell boat decals during evenings and weekends along with being the mail drop-off. He reported that the Center does more than just 911 calls. He thanked Chief Lewis for a great job.

Mayor Tarr asked that the speakers come to the podium and state their name. He stated Council entertains any questions or comments. He asked that they direct questions to the Town Council. He then advised that Council could ask any member of the 911 Commission any questions once

the public hearing is over. He requested that speakers keep their comments as close to 3 minutes as possible.

Mayor Tarr opened the floor at 7:16 p.m. for public comments.

- Mrs. Peggy Thomas asked if there was any proof that this is not going to give Accomack County a reason to increase Chincoteague's taxes. She also advised of a mobile home fire in her mobile home park several years ago. She stated that she called Accomack's 911 and never did get through. She had to go to the firehouse and set the alarm off herself.

Mayor Tarr stated that with an additional cost to the Town of \$124,000, the Town will have to raise taxes.

Mrs. Thomas advised that between the County and the Town taxes she is paying close to \$5,000.

Mayor Tarr responded that this is one of the reasons this is being put out to the public.

Mrs. Thomas would like proof that they won't raise taxes.

Mayor Tarr believes that the Eastern Shore 911 doesn't work off of tax money.

Mr. Flournoy responded that their funding comes from 3 primary sources; the Communications Sales and Use Tax which comes from both counties, local contributions and the State Wire-Line Surcharges.

- Ms. Denise Bowden, President of the Chincoteague Fire Company, stated that there are rumors about the Police not getting along with the Fire Company or the Fire Company not getting along with the Police. She stated that this isn't true as they have to work together. She advised that this is an issue that has to be solved as soon as possible. She stated that when it comes to the safety of lives and property of the community the Fire Company and Police all come together. Ms. Bowden advised that as President of the Fire Company and a citizen her #1 concern is the safety of the residents and visitors. She advised of a couple of recent calls that she responded to that she didn't know what they were coming up on. She expressed that this is a bad feeling.

Ms. Bowden feels there are issues that need to be taken care of. She stated that as a citizen, when the 911 system was implemented in 1997 or 1998 there was a 911 Commission made up of the Fire Company and members from the Town. She stated that it was abolished and could have saved a lot of the issues they're having now. She also wanted to know why they haven't set aside any money for upgrades. She mentioned the Communications Tax that the Town has been receiving. She asked where the money has gone.

Mayor Tarr responded that its \$80,000 and it's going to the 911 Center. He added that they pay \$264,000 per year to dispatch and would only be taking \$80,000 off E-911 fees.

Ms. Bowden asked if they took into consideration what they will need 5 years from now.

Mayor Tarr advised they look at the equipment costs over a period of time. He reported that the first time with the costs they saved a certain amount of money in the budget. He added that the second time they didn't put any money away for new equipment.

Ms. Bowden feels that the "why's" are irrelevant and the Fire Company's stance is that if it cannot be fixed it has to go back to Accomack. She feels there is no other way to fix it other than raising taxes. She stated that they know with the problems they've had and with the current system, it cannot continue. She advised that a couple of months ago she stated that the Police Department has the best training and best equipment, the Fire Company has the best training and equipment money can buy. However, they're working with a \$0.10 communication tax system. She feels it has to be fixed. She told Council if they can figure out how to fix it without raising taxes then it stays. She added that if they can't figure it out without raising taxes it has to go. She reminded Council that the people in attendance were the people that put them on Council and they are the people they have to listen to.

- Mr. Steve Jones advised he is an employee at the Town's 911 Center. However, he is before Council as a citizen. He thanked Mayor Tarr and Council for the public hearing. He advised that he wants what's best for the community and thanked Council for having the meeting.

- Mr. Stewart Baker stated that after listening to the overview of the issues with 911, it appears to be two options. He advised that they have to decide what is best for public safety for the citizens of the island or the recourse of raising taxes. He stated that Council indicated a shortfall of \$38,000 - \$48,000 each year over the next 5 years. He asked if this would indicate more of a tax increase. He mentioned raising taxes \$0.01 to cover this would look like the Town would be getting an additional \$40,000 in revenue. He added that it wouldn't be applied or earmarked for a specific fund to maintain the Police Department's communications.

Mr. Baker also commented on a statement in the Beacon which indicated that if the 3 additional full time employees were hired it would exceed the threshold of the Affordable Healthcare Law. He asked Council if they had any indication of what the financial impact that this would have on the Town. He added that they haven't addressed what kind of tax increase would be necessary for this, beyond the \$124,000. He understands, after talking with Chief Lewis, there is grant money to upgrade the equipment. He added that this grant is for now and expressed they can't be guaranteed they'll receive the grant again as Federal dollars are dwindling.

Mr. Baker also stated that they are looking at a tax increase now and asked what could happen if Accomack County raised taxes. He added that unfortunately all communities are looking to raise taxes for other reasons within the next 5 years. He beseeched Council to make the decision as to where the safety of the citizens of the Island would be well provided for. He added that whether it's here or there they need to decide what the cost is. He added that he wouldn't want to be in their shoes.

Mayor Tarr thanked Mr. Baker and advised that this is what Council has been considering.

- Mrs. Wanda Thornton advised she was before Council as a private citizen. She stated that she was ignorant about the Town's 911 System and Accomack County's. She also stated that over the past several weeks Mr. Flournoy has enlightened her. She feels Mr. Flournoy does a great job. She added that Northampton County is the physical agent for the Eastern Shore 911 Service and they do not see the audit. She also added that Accomack County pays them and they disperse to the Commission. Mrs. Thornton reported that Accomack provides Northampton with 36.7% of the Communication Tax for Accomack County which is approximately \$390,000. She added that Accomack County also provides them with the money they were getting for the 911 System which is \$97,746 per year. She feels that Accomack County is contributing a substantial amount to the System.

Mrs. Thornton advised that she asked how much of the Communication Tax the Town of Chincoteague receives as she believes the Town receives a Communications Tax each year.

Mayor Tarr interjected that they do and it equals \$80,000.

Mrs. Thornton advised that the audit showed \$40,600 for the 911 Tax and not the total from Communications.

Mayor Tarr stated that if broken out from the phone lines it's another \$40,000. He stated that Mr. Flournoy and the Town staff have looked at the numbers before the trial period.

Mrs. Thornton asked if the total for 911 Tax is \$80,422.20.

Mayor Tarr stated that it is \$40,000 for E911 numbers and \$40,000 for the 911 landline charges which equals \$80,000.

Mrs. Thornton advised that this wasn't all that the Town received.

Mayor Tarr advised the Town will still receive the other money.

Mrs. Thornton asked what portion of the Communications Tax was being made available to the System. She also added that Mr. J. W. Jeffries and Mr. Ollie Reed were on the Commission.

Mayor Tarr stated that their system is taken from the General Budget. He believes the Communications Tax is \$100,000+ total tax and the E911 is \$40,000, approximately \$190,000 and the budget is \$260,000.

Town Manager Ritter advised the other portion of the Communications Tax is the Pole Tax for ANEC and Verizon.

Mayor Tarr advised that what they would be losing is \$80,000.

Mrs. Thornton advised that she wasn't being condescending and further stated that the Town receives approximately \$20,000 from the Fish and Wildlife for dispatching which goes into the General Fund. She feels they have to have trained people and the Town's Fire Company and

EMS is the most valuable asset they have. She stated that to put them on a call and the responders not know what they're coming up on is not the right thing to do. She feels that there is always money they can find if they need to. She expressed doing the right thing. She expressed her support for the Fire Company and understands the questions and mistrust. She wants the community and public to feel comfortable.

- Chief Harry Thornton advised that he was representing the Chincoteague Volunteer Fire Company. He stated that they went through a trial basis with the blessing of the Town Council. They all worked together with 911 and did a great job in the busiest month of the year for the Chincoteague Fire Company and the Police Department. He stated that there were a couple of glitches. He feels they all need to work together. He mentioned Hurricane Sandy where the Town, Fire Company, EMS and Police all worked together and believes that no other town could have worked any better together. He advised that the bottom line is that the trial period worked well. He added that those calling 911 didn't know they were being answered by Accomack.

Chief Thornton added, with no disrespect to anyone, the Town's 911 dispatchers were answering calls that were not being properly dispatched. He stated that the calls were made and personnel didn't know what was going on. He added that this is one community that has always worked together. He feels that to service the community the best is to have the 911 turned over to the 911 Commission. He agreed with Mrs. Thornton. He also added that he works in Accomack every day and they don't like Chincoteague any better than the day before. This is a true statement and I work there and get paid there. He also stated that they have worked with the paid staff, with Chief Lewis, the Town and citizens. They are looking at it from the service point and who is liable in the long run with things happening like they have been. Chief Thornton added that it has been proven with the busiest month of the year and the storm during the Pony Swim everything went great. He added that it is a moot point of how it got to this point. He stated that they are looking at fixing it.

- Ms. Jane Hook-Turlington stated that what she was interested in is that about a year ago everyone was here to go down and support the Fire Company. She feels that communication is problem. She was unaware that the Town's 911 Commission was abolished and feels this may be a reason they're at this point. She is bothered because no one wants to be taxed. She feels that Chincoteague has a great Fire Company and a great Police Department. She stated that it seems that if there is a break in the communication it's not going to work. She praised the Police Department and the Fire Department for all they do. She expressed her concerns with 911 being dispatched down-the-county. She mentioned County personnel helping Chincoteague with only one way off. She stated that she appreciates Mr. Rush and all the safety stuff he does. She also commended Mr. Jones for what he does in informing and calming the people. She thinks the problem is a lack of communication. She suggested that members from the Fire Department and the Police Department belong to a committee whether 911 goes or stays. She reported that the bush on Bunting Road and Willow Street has been cut. She also reported that the park lights have been repaired.

Mayor Tarr added that the condemned structure is getting ready to come down.

Mrs. Hook-Turlington stated that the lighting is an asset to the Park because it's a very dark area. She appreciates everything they've done and would like to see them work together.

- Ms. Barbara Walker advised she is a retired dispatcher from Accomack County Sheriff's Department. She advised that she has worked with the 911 Commission. She feels that the Dispatchers have enough on them without 911. She stated that the Fire Company is wonderful. She stated that the 911 Center is wonderful. She added that they can't help what the County is going to do. She feels there are a lot of people that would like to speak but it's not in their nature. Ms. Walker added that the Fire Company has all they can say grace over. She added that it's about the citizens and what's best for the community and not personal agendas.

- Ms. Denise Bowden also added that Council has better things to do than to hash this out. She stated they're going to have to make a decision and live with it. She added that no one wants to see anything go across the Causeway. She stated that there are no guarantees and they have to do their best to provide for the community here. She agreed with Ms. Walker that some of the people just don't want to speak because it isn't in their nature. She feels that hopefully Council will get it right.

- Mr. Willis Dize stated that he is hearing a lot of talk about taxes and the County taxing the Town. He stated that he is concerned as to the taxes they're going to have to pay. He mentioned the impact on senior citizens. He added that the full time people have to handle the brunt of this situation. He is concerned as to where they are going to go with the taxes. He stated that if they can do it for \$80,000 they're getting away cheap. However, if they have to do it for several hundred thousand dollars, that's not so cheap.

Mayor Tarr stated that the Town's projected cost is \$124,000 for the first year, which includes raising salaries and hiring new employees. He added that this doesn't include benefits and this is only the first year to be funded July 1st. He added that if it leaves here there would be a loss of \$38,000-\$46,000. He stated that the bottom line is, they're not going to find \$120,000+ laying around. They also have to look at the future, which is why they're having the public hearing. He added that if it goes they lose \$38,000 and if it stays they pay \$124,000.

Mr. Dize stated that it is a big difference.

Mayor Tarr stated that they found a new supplier for communication equipment which saved money in the current budget, but after July 1, they can't guarantee the funding for any increases.

Mr. Dize advised Council to think about the constituents. He feels they would rather Council go with the \$38,000 bill as opposed to the \$124,000 bill.

- Mr. John Hudson, resident of Chincoteague, advised that he has been thinking about all the comments said. He stated that if they are looking into the option of hiring 3 new full time employees, they should consider the turn-over rate. He stated that some new hires find out that dispatching isn't for them and then you have to start the process all over again with additional costs. He stated that the elderly here can't take another increase. He feels it is financially

responsible to go with Accomack. He advised that he is lucky that he can work 2 jobs but not many people are able to do that. He added that it is a fact of good business.

- Mr. Spiro Papadopoulos, a resident of Chincoteague, expressed his view on retaining the 911 or sending it to the Eastern Shore 911 Commission. He doesn't feel they should do anything else with the service or economics behind it. He stated that if it goes to the Eastern Shore 911 Commission those dispatchers will dispatch accordingly to the Police Department or the Fire Department. He also stated that the problem comes if it is a medical emergency and if the dispatcher is qualified enough to talk the caller until the emergency medical services arrive. Mr. Papadopoulos feels this is the real issue, whether the dispatchers are qualified. He asked if they were planning to have 911 on the Island and what it's going to cost. He understands that the Eastern Shore 911 does have the trained dispatchers for medical emergencies who are able to assist the caller until the proper help arrives. He stated that we do not have that and in order to build it up it will cost much more. He concluded that it is his view to send the 911 service to the Eastern Shore 911 Commission.

- Chief Thornton stated that he realizes that money is an issue. He also stated that the 911 Service in Accomack can do all the things that we need them to do. He added that if it stays here we're just not equipped or trained. He stated that in 1998 when 911 started here, this was the best there was. He added that we do have the best EMS Service on the Eastern Shore. He stated that Accomack is having a lot of trouble with their EMS Service. He asked that if they keep 911, what can be done to provide the best service. He added that money is an issue but service is what they're looking at.

Mayor Tarr interjected that he realizes the importance of time-frame, which is why the meeting was called this evening. He advised that Chief Lewis asked to have this meeting as quick as possible.

Chief Lewis stated that they're all in the same boat. He added that it would probably be a blessing if he didn't have 911 Service. He stated that dispatch has enough on them handling Fire, EMS, Police Department, Fish & Wildlife, Park Service and everything else. He also added they sell boat launch tickets.

- Chief Edward Lewis advised that he has worked with the Eastern Shore 911 Commission and they have a good working relationship through the years. He feels they provide good service. He stated that he takes pride in his Department with the Dispatchers and Police. He stated that he has been before members of Council in the past and this has been an ongoing issue, longer than a year. He mentioned the expense, but advised that what comes first is you (the citizens). He stated that he is going to make sure that you (the citizens) are responded to with proper instructions to save your life, and they can't do that right now. Chief Lewis also stated that 911 is an ongoing expense with breakdowns, new employees and equipment failure. He stated that it is a lot to consider. He added that they need to look after the residents of the Island.

- Ms. Barbara Walker agreed with Chief Lewis because he is right about his dispatchers, his department and about 911.

Mayor Tarr closed the public hearing. He thanked Mr. Flourney for attending. He expressed his concerns of the costs. He asked Mr. Flourney if he was aware of his staff levels and wanted to know if he anticipated hiring new employees and would the E911 money cover that cost. Mr. Flourney advised that he is looking at additional staff, but should be able to manage the additional calls for EMS, Fire and transferring calls to Chincoteague. He stated that they did increase staff during the 4th of July and Pony Penning events as they would for other events on the shore. He stated that, excluding what they talked about this evening, he is looking at call loads and asking if they need to increase the staff. He explained that if there is an accident, all 911 lines light up. He added that he is looking at staff increases during the busy shifts. He also stated that they will have to look at the additional funds. He expressed the possibility of asking for additional funds from both counties. He added that he is unsure without looking at all the math and data on this.

Mayor Tarr asked if Council had questions.

Councilman Taylor also thanked Mr. Flourney. He asked that if they decide to send 911 to the County, would the Town have to sign anything that says the Town couldn't take this back.

Mr. Flourney stated that there have been discussions regarding this at their meetings. He advised they would have to receive some type of memorandum or agreement with special language to memorialize what's happening. He stated that the reality is that the 911 Commission's budget would be based on the additional funding that's expected to go to them if it is transferred. He added that if they were to make up the budget based on that and without any notice it reverts back to Chincoteague it could put their budget in disarray. He suggested putting some type of time period so that they can allow for this in their budget. He also mentioned the repeater and maintaining the radio system adding that this should be the responsibility of the 911 Commission and noted in the document also.

Councilman Taylor asked if they were willing to put this in writing, would they be willing to do this. He stated that things do change. He advised that they wouldn't want to just take it back, but they don't want to give up their right for that option if things didn't work out. He suggested one year.

Mr. Flourney stated that 12 months would be the expectation to allow for that.

Councilman Howard asked about them (Eastern Shore 911 Commission) taking care of the system that's left here.

Mr. Flourney advised he was referring to the Town's radio system. He was unable to say conclusively how the current channel would be used. He spoke of the Chincoteague Rescue Channel and being used for Fire, EMS operations in the Island. He stated that he would expect that they (Eastern Shore 911 Commission) would maintain the VHF radio system if they assume the radio responsibility.

Councilman Howard asked if it (the radio) breaks, this means you would fix it.

Mr. Flourney advised that he was correct, if it breaks the 911 Commission would have to fix it.

Councilman Howard stated that this was a plus.

Councilman Muth asked that assuming they come to the difficult decision, how quickly are they able to dispatch for Chincoteague. He asked how much time they would need.

Mr. Flourney stated that it would be less than a month. He mentioned the alarm companies' call numbers that didn't get changed during the trial, and added that it all can be done fairly quickly. He stated that there is no need for a long delay.

Councilman Jester stated that if there is a problem with the Town's 911 the County is the backup. He stated that with the research throughout the state, the Regional Centers seem to be the thing. He asked Mr. Flourney if this is his experience.

Mr. Flourney advised that there are a few small towns left but it is looked on favorably for Regional Centers because of grants federally are for consolidation purposes.

Councilwoman Richardson referred to an email from Mr. Flourney regarding grant money. She asked if the Town received grant money for the radio would that grant money automatically go to the Eastern Shore 911 Commission.

Mr. Flourney understands that the current grant is not for the radio. He stated that it is for replacement of the 911 telephone equipment. He stated it is not a definitive no, but there is no guarantee that they will have those funds.

Councilwoman Richardson asked about a comment from earlier about hiring more staffing.

Mr. Flourney stated that he did say that and they are currently evaluating staffing. He added that he isn't linking the additional staffing to the acquisition of the Town's 911 service, but, linking it to general expectations on the 911 Center and potential call-ins.

Councilwoman Richardson asked about the potential immediate capital needs related to this change. She explained that this is regarding money with this change and would it be expected from the Town's taxpayers.

Mr. Flourney asked Councilwoman Richardson if she was asking if they were to do the transfer of 911 Services would they need immediate capital expenditures asking Chincoteague to fund them. He responded that he could think of none. He added that there are current capital expense projects that would benefit in the transfer. He advised of the project which is increasing the transmitter from the Temperanceville tower. He doesn't anticipate any plans in the future for immediate capital expense expectations from the Town.

Councilwoman Richardson stated that when Supervisor Hart was at the last Council meeting he suggested that Chincoteague Council should have a seat on the 911 Commission.

Mr. Kellam, Chairman of the 911 Commission, stated that they are represented by 2 Board of Supervisors currently. He advised that they have been through this twice in the past and wasn't approved at that time. He added that he doesn't anticipate this happening.

Councilwoman Richardson stated that Supervisor Hart was incorrect.

Mr. Kellam responded that Supervisor Hart spoke out of turn. He added that unless something from Chincoteague has changed, then it should go before the Commission. He stated that from his previous experience the response is "no".

Chief Lewis advised Council that should they decide to revert this back to the Eastern Shore 911 Commission they will need a few weeks for 911 trunk and phone lines. He stated that the current phone system won't work and they'll need 2-3 weeks.

Councilwoman Richardson asked if it stays here, how long before our Department could have it up and running along with training dispatchers.

Chief Lewis stated that he would have to send 4 dispatchers for EMD training at one time and then the other 4 for training. He feels that it could take up to 6 months.

Councilwoman Richardson asked about the equipment.

Chief Lewis advised that the new equipment could be up and running by Christmas.

Councilwoman Richardson wanted to say something to the Fire Company. She advised that she is also a member of the Chincoteague Fire Company Ladies' Auxiliary. She loves the Fire Company and has never done anything against the Fire Company. She stated that she has always said the Fire Company and the Town of Chincoteague need to work together. She added that she knows what it is when you call for help and want someone immediately. She advised that she will not do anything that will hurt anyone on the Island. She has given 50 years to the Ladies Auxiliary and plans to continue. She would like to see the Town and the Fire Company work better and closer together. She stated that she has asked how this came to this point and why didn't they know anything about it. Councilwoman Richardson also stated that they take it to the Committee and a lot of the times the Committee doesn't take it to full Council. She isn't against the Fire Company and not against turning 911 over to the Eastern Shore 911. She added that she is also not against it staying on Chincoteague.

Mayor Tarr asked Mr. Rush if he had any questions or comments.

Mr. Rush advised that he didn't have any questions, but would entertain any questions.

Chief Thornton stated that Councilman Howard brought up a good point earlier. He mentioned transferring the 911 and keeping the Town's radio frequency. He explained that the Town is on their own radio frequency and when they transferred for the 30 day trial period they were still on their own radio frequency. He further explained Chincoteague's radio frequency. Chief

Thornton also mentioned that if there was a major storm it would come back to channel 15 (on the radio) like it never left. He stated that it gives the County another channel also.

Councilman Howard thanked Chief Thornton and feels it's a plus for the 911 Center. He stated that he has been to a lot of public hearings on Council. He stated that sometimes you come to a meeting and believe it's an ordinary night and there's a crowd ready to do battle. He advised that in his 32 years on Council he has never seen a better behaved group of people than the group tonight. He stated that he had concerns of which way would better serve the people. He feels that his concerns have been addressed. Councilman Howard stated that it worked well during the trial period. He also stated that when you're looking at a tax increase, Accomack may raise taxes. He stated that the Town can't do anything about that. However, Council can do something about raising taxes here this evening depending on how they vote. He mentioned the comments that the people in Accomack don't like us (Chincoteague). He stated that he found out during the storm that this was a myth. He stated that people all up and down the County came to their rescue. He believes there are good people down there and good people here.

Town Manager Ritter commended Chief Lewis for his fine job with the 911 Dispatch. He stated that however Council decides to go this evening, he wanted to thank Chief Lewis for everything he has done.

Councilman Jester stated that they have handicapped Chief Lewis for hiring. He stated that the budget is very limited on how far they can go. He feels they should still look to improve the Police Dispatch Center because things could happen that 911 calls would have to come back here. He feels the Centers should work together no matter what they decide with 911.

Councilman Howard advised that he spoke with Town Manager Ritter prior to coming into the meeting. He stated that there were times that he wished for more time to make a better decision. He feels that he has heard enough tonight to bring this to a vote.

Council agreed that they were ready to vote on this issue.

Councilman Taylor asked if the 1 year option to take it back should be added to the motion.

Councilman Howard added that with anything like this there should be a Memorandum of Understanding (MOU) or some kind of agreement which is good business. He feels there is a mechanism in the memorandum that can address this.

Mayor Tarr feels they should entertain the memorandum in the vote.

Mr. Kellam suggested including in the Memorandum a 12 month notice, exactly what equipment the 911 Commission is responsible for and the funding that would be transferred to Accomack/Northampton to provide 911 Services. He feels that it's something that the 911 Commission, himself along with Town Manager Ritter and Chief Lewis could come up with an agreement to be executed.

Town Manager Ritter said that the State gives the Town the money so they (the State) would have to make the decision.

Mr. Kellam isn't sure about this and would like to look into that.

Councilman Howard doesn't feel there is any reason they couldn't include a reservation in the motion to say they reserve the right to take back the Service if they were so inclined or in need of it in a specific amount of time.

Councilman Howard made a motion, seconded by Councilman Jester to send Chincoteague's 911 Service to be handled by the Eastern Shore of Virginia 911 Center for 911 EMS and Fire dispatching services contingent upon the approval of the Memorandum of Understanding. Motion carried.

Ayes: Howard, Taylor, Muth, Jester, Richardson

Nays: Leonard

Absent: None

Vice Mayor Leonard advised that his vote against this is because the citizens of Chincoteague are not getting enough information. He added that Chincoteague is proud of its dependency on no one but themselves. He stated that as a community they come together when a situation arises and now as a community they're throwing their hands up because they don't want to handle it. He doesn't like our community not being able to handle something and that is why his voted no tonight.

Mayor Tarr thanked everyone for attending. He also thanked Mr. Flournoy for attending and apologized for putting him on the hot seat.

2. Mayor & Council Announcements or Comments

There were none.

Adjourn

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

Mayor

Town Manager

Memorandum of Agreement Between

Eastern Shore of Virginia 9-1-1 Commission and Town of Chincoteague, VA

I. Purpose

The purpose of this Memorandum of Agreement is to memorialize the request from the Town of Chincoteague, a municipal corporation, ("Town") to transfer 9-1-1 services (defined as the reception point for 9-1-1 calls and the dispatch of Fire/EMS services for the Chincoteague Fire Company) to the Eastern Shore of Virginia 9-1-1 Commission ("9-1-1 Commission") and to specify items of agreement associated with this transition of services. At the October 21st, 2013 Town of Chincoteague public hearing/council meeting, authorization was approved by vote of the Chincoteague Town Council to transfer 9-1-1 services pending execution of this Memorandum of Agreement.

II. General Terms and Conditions

The Eastern Shore of Virginia 9-1-1 Commission and the Town of Chincoteague agree to the following terms and conditions.

- A. Effective on November 18th, 2013, 9-1-1 services and Fire/EMS dispatch services for the Chincoteague Fire Company shall be transferred to the ESVA 9-1-1 Commission. The ESVA 9-1-1 Commission shall dispatch and provide dispatch related services for the Chincoteague Volunteer Fire Company (as is done for other Fire/EMS agencies in Accomack County) and transfer law enforcement related matters to the Chincoteague Police Department.
- B. The Town shall ~~assure~~ **notify the Commonwealth of Virginia** that the funds the Town receives for processing 9-1-1 calls, ~~beginning in November 2013, are~~ **relinquished.** ~~transferred back and received by the Commission's fiscal agent, Northampton County.~~ This includes all funds from two revenue sources; the wireless E-911 surcharge and the Communications Sales and Use Tax (percentage for 9-1-1 services). **The Commonwealth of Virginia will decide on the disbursement of funds.**
- C. The Commission shall ~~assume ownership and~~ **all** maintenance responsibilities for the VHF Fire/EMS radio infrastructure used for fire/EMS Communications upon receipt of a complete inventory of the existing radio infrastructure owned by the Town. This inventory includes but is not limited to the VHF repeater, duplexer, and **radio** antenna system used for fire/EMS Communications with the Chincoteague Fire Company. The radio infrastructure does not include console related equipment/infrastructure. The Town warrants and represents that at the time of execution of this Agreement, all VHF infrastructure equipment is operational with no deficiencies and all infrastructure equipment and field equipment (including radio equipment operated by the Chincoteague Volunteer Fire Company) is compliant with any state and federal requirements. All equipment ~~replaced by the Commission~~ shall **remain** ~~become~~ the property of the **Town of Chincoteague** ~~Commission.~~
- D. The applicable FCC license (VHF Fire/EMS radio system) shall also be transferred to the Commission within 6 months of the effective date of this Agreement. Should the town elect to resume 9-1-1 services; the Commission shall then effect the transfer of the applicable FCC license (VHF Fire/EMS radio system) back to the Town.

- E. Immediate (24/7) access shall be provided to ESVA 9-1-1 Center staff to the VHF Fire/EMS communications equipment for needed repairs, testing, and maintenance, with the Town of Chincoteague being responsible for security of all equipment.
- F. If the Town of Chincoteague elects to resume 9-1-1 services and the dispatch of Fire/EMS services for the Chincoteague Fire Company, twelve months' notice shall be provided to the ESVA 9-1-1 Commission, unless otherwise agreed to by the ESVA 9-1-1 Commission and the Town of Chincoteague. This notice shall be presented in writing to the Chairman of the ESVA 9-1-1 Commission and to the Mayor of the Town of Chincoteague.
- G. The term of this Memorandum of Agreement is for one year beginning on November 18, 2013. This Agreement shall automatically renew annually on November 18 each year unless notice to terminate has been presented as described in item F.

Approved this ____ day of _____, 2013 by the Eastern Shore 9-1-1 Commission and on the ____ day of _____, 2013 by the Town of Chincoteague, a Virginia municipal corporation, and executed by the ESVA 9-1-1 Commission Chairman and the Mayor of the Town of Chincoteague, VA:

ESVA 9-1-1 Commission

By: _____

Its: _____

Date: _____

TOWN OF CHINCOTEAGUE, VA

By: _____

Its: _____

Date: _____



MEMORANDUM
Town of Chincoteague Inc.

To: Mayor and Council
From: Robert Ritter, Town Manager
Date: October 30, 2013
Subject: Repeal of Chapter 54, Article III, Div 3, Sec 216 - 223

As a result of the 911 dispatch going to Eastern Shore Virginia 911 Commission, the Town Council will need to Repeal Chapter 54 on Taxation, Article III, Consumer Utility Tax, Division 3, Enhanced Emergency Telephone service, in its entirety. Below is the portion of the code that will need to be repealed:

DIVISION 3. ENHANCED EMERGENCY TELEPHONE SERVICE

Sec. 54-216. Definitions.

All words and terms as used in this division shall, for the purpose of this division, have the same meaning as set forth in Code of Virginia, § 58.1-3813, except when the context clearly indicates a different meaning.

(Code 1977, § 6-61; Ord. of 11-3-1997)

Cross reference—Definitions generally, § 1-2.

Sec. 54-217. Authority.

The authority for the enactment of this division and the tax imposed under this division is Code of Virginia, § 58.1-3813.

(Code 1977, § 6-60; Ord. of 11-3-1997)

Sec. 54-218. Imposition of tax.

There is levied and imposed, in accordance with and pursuant to Code of Virginia, § 58.1-3813, within the corporate limits a special tax of \$1.00 per month per line on local consumers of telephone service or services provided by any corporation coming within the provisions of Code of Virginia, § 58.1-2600 et seq., except as may be expressly excepted under this division, for the establishment, operation, and maintenance of an E-911 system.

(Code 1977, § 6-63; Ord. of 11-3-1997)

Sec. 54-219. Exceptions.

(a) No tax on enhanced emergency telephone service is levied and imposed on any federal, state, or local government agency.

(b) Any subscriber to individual telephone service who resides in a nursing home or similar adult care facility is exempted from payment of the tax. Such determination shall be made by the town council, upon application on forms as prescribed by the town manager.
(Code 1977, § 6-64; Ord. of 11-3-1997)

Sec. 54-220. Utilization of tax.

The tax on enhanced emergency telephone service as imposed by this division shall be first utilized solely for the initial capital, installation, and maintenance costs of the E-911 emergency telephone system. The tax rate shall be reduced by the town council when, in its opinion, capital and installation costs have been fully recovered to the level necessary to offset recurring maintenance, repair, and system upgrade costs and salaries or portions of salaries of dispatchers or call takers.
(Code 1977, § 6-65; Ord. of 11-3-1997)

Sec. 54-221. Compensation of utility.

The tax on enhanced emergency telephone service shall be collected by the telephone utility provider of services, which shall collect and remit the tax monthly to the town council, provided that any such telephone utility company shall be permitted to deduct three percent of the tax due and accounted for from such collections to offset its costs.
(Code 1977, § 6-66; Ord. of 11-3-1997)

Sec. 54-222. Notification and jurisdiction

This division shall be subject to the notification and jurisdictional provisions of Code of Virginia, § 58.1-3812.
(Code 1977, § 6-67; Ord. of 11-3-1997)

Sec. 54-223. Conflicting provisions.

If any section of this division is in conflict with Code of Virginia, § 58.1-3813, such statutory section shall have priority and govern.
(Code 1977, § 6-69; Ord. of 11-3-1997)

Secs. 54-224—54-250. Reserved.



CHINCOTEAGUE POLICE DEPARTMENT



To: Mayor and Council

From: Edward W. Lewis, Chief *EL*

Date: November 4, 2013

Subject: Reporting & Documentation Upgrade

As discussed at a previous Council meeting, we are requesting to purchase Dispatch Essentials Software (CAD) for the purpose of Police dispatching. The software requested will give our dispatchers the technology to quickly and accurately document and report all calls for service. It will help create a seamless flow of information to the officers in the field.

Attached is the Quote from Southern Software, Inc. Please note the Chincoteague Police Department has been successfully working with Southern Software, Inc. for over 10 years. It is our recommendation to add this service to our technology to accurately report important calls. The DES software links the MDIS and RMS applications together that we are currently utilizing.

We are formally requesting to approve the quote to purchase Dispatch Essentials Software in the amount of \$27,716.00 from Southern Software, Inc.



Agency: Chincoteague Police Department, VA

Contact: Major Randy Mills

Date: 10/22/2013

DISPATCH ESSENTIALS SOFTWARE

Qty

Dispatch Essentials - Full Positions	1	\$8,995.00
	25% Anniv Discount:	\$2,249.00
	Total Full Positions:	\$6,746.00
Dispatch Essentials - Additional Admin Positions	1	\$4,000.00
Preliminary Dispatch Essentials Build	1	\$3,850.00
	Total Software:	\$14,596.00
	Call Log Discount:	\$3,000.00
	Total Software After Discount:	\$11,596.00

PROJECT MANAGEMENT

Project Management Fee - including Installation, Training and Project Management

Total Project Management: \$4,970.00

YEARLY SUPPORT

Dispatch Essentials	8:30-5, M-F	1	
			Total Support: \$2,550.00

TOTAL INVESTMENT (STATE TAX AND SHIPPING NOT INCLUDED) \$19,116.00

NOTE: MICROSOFT® SQL SERVER 2008 R2™ IS REQUIRED.

NOTE: PROPOSAL DOES NOT INCLUDE PROVISIONS FOR DATA CONVERSION, DATA IMPORT, OR FIELD MAPPING (WITH EXCEPTION OF INITIAL BUILD WHICH INCLUDES MSAG, ESN, INTERSECTIONS AND ADDRESSES THAT ARE PROVIDED TO US IN NENA STANDARD FORMAT AS APPLICABLE. NOTE: DISPATCH ZONES AND LANDMARKS WILL BE VIEWED ON A CASE BY CASE BASIS DEPENDING ON THEIR FORMAT.)

OPTIONS

Qty

Wireless Messaging (with 5 Additional Connectors)		1	
Wireless Messaging	8:30-5, M-F	1	
			Total Wireless Messaging Option: \$8,600.00

TOTAL INVESTMENT WITH OPTIONS (STATE TAX AND SHIPPING NOT INCLUDED) \$27,716.00

Proposal of software is valid for (60) days from date of proposal.

Proposal of hardware is valid for (30) days from date of proposal.

Dispatch Essentials Software includes (30) days of free support, including all updates.

Management fees include training, installation, and project management.

Southern Software will install its software products only on computer configurations compatible with these products. Hardware specifications are available upon request.

Contact information for Public Safety Representative:

Steve Libera

Southern Software

150 Perry Drive

Southern Pines, NC 28387

Business: 800.842.8190

Mobile: 828.291.9147

Fax: 910.695.0251

E-Mail slibera@southernsoftware.com



MEMORANDUM
Town of Chincoteague Inc.

To: Mayor and Council

From: Robert Ritter, Town Manager

Date: November 4, 2013

Subject: Upgrade Phone System (Town, Police Department and Public Works)

As a result of Council's recent vote, the 911 Communication System will no longer be viable for the Police Department's use. Once the 911 transfer is complete to the Eastern Shore 911 Commission the Police Department will need a new phone system as they will no longer have the 911 phone system to conduct regular business. We have contacted the company that the Town Office currently uses, Delmarva TelePlus, Inc. to reprogram the Police Department's phones to include them in the Town's Communications Server. We were informed that their phones are not compatible with the Town's current system and server. The last phone upgrade was February 2003. Delmarva TelePlus, Inc. gave the attached quote of \$3,990.00.

However, the Communications Server and Cabinet is outdated and will need an upgrade as Delmarva TelePlus, Inc. is unable to simply reprogram the phones and server. We are requesting to purchase all new phones to completely upgrade the Town's entire system. The cost for all new phones is \$7,433.00.

The total amount of the upgrade is \$11,423.00. Please note that the 911 transfer will be completed within the next 2 weeks and it is important to expedite the authorization to purchase the upgrade so that our Police Department will have a current usable phone system to utilize. According to Delmarva TelePlus, Inc., if approved this evening, they can have everything installed and programmed within 2 weeks.



A Business Communications, Co.

300 B Mill Street
 Salisbury, Maryland 21801
 410-546-5150 - Fax 410-548-2265

Telecommunications Division

QUOTATION / ESTIMATE

Bill To: Town of Chincoteague
 6150 Community Dr.
 Chincoteague, VA 23346
 Attn: Kelly Fox

Date: 10/30/2013
Prices Valid Until: 11/29/2013
Prepared By: Jay Waddell
Proposal Number: 206765

Reference: *NEC UNIVERGE SV8100 Digital Telephone System*

Quantity	Description / Scope of Work:	\$\$\$
	<p><u>EQUIPMENT LIST:</u></p> <p>1 NEC UNIVERGE Communications Server ~ ("the main chassis") Equipped to support: Twelve (12) outside lines & Thirty-two (32) digital telephones. The cabinet is equipped with a Central Processor Unit, AC Power Supply, full system battery back-up along with the Blade listed below:</p> <p>2 Central Office Line Interface Blade ~ Support for Twelve (12) outside lines with Caller ID* (*Telephone company subscription to caller ID feature is required).</p> <p>2 Digital Station Interface Circuit Card ~ Support for sixteen (16) digital telephones.</p> <p><u>VOICE MAIL:</u></p> <p>1 NEC VM8000 InMail ~ 4-Port Voice Messaging System.</p> <ul style="list-style-type: none"> • Includes personal greetings. • Full Automated Attendant Capability with Multiple Greetings. • 33 Hours of Storage. • Mailboxes for all extensions and unlimited virtual extensions. • Five (5) Initial seat licenses of Unified Messaging (Voice Mail to Desktop) <p>NOTE: Additional seat licenses are available in increments of four (4).</p> <p><u>Standard Telephone System Installation Includes the Following:</u> Installation of all new system components detailed in equipment list. Complete system programming. On-site training. End user system documentation and user's guides, as required.</p> <p><u>New System Warranty included in Purchase:</u> System warranty covers all new parts and labor for a period of One (1) Year. Labor Warranty covers normal business hours: (8am - 5pm, Mon. - Fri.) Warranty repairs performed after normal business hours are subject to overtime charges.</p>	
TOTAL:		\$3,990.00

Thank You for your Business!

(+ Tax)

**MINUTES OF THE MARCH 21, 2013
TOWN OF CHINCOTEAGUE
CEMETERY COMMITTEE**

Members Present

Ellen Richardson, Chairwoman
Terry Howard, Councilman
Gary Turnquist

Others Present

Robert Ritter, Jr., Town Manager

Call to Order

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

Roll Call/Introduction of New Members

Mrs. Amanda Betts and Mr. Ken Webb were unable to attend.

Open Forum/Public Participation

There was no public participation.

Agenda Adoption

Councilman Terry Howard motioned, seconded by Mr. Gary Turnquist to adopt the agenda. Unanimously approved.

1. Schedule Fall Clean-Up

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

a. Review proclamation

The committee reviewed the proclamation and all agreed on the dates.

A motion was made by Councilman Howard and seconded by Mr. Gary Turnquist to take the Proclamation to Council for their approval

b. Select cemetery project

Mrs. Amanda Betts approached Chairwoman Richardson and stated she could possibly get the football team to help with cleaning a cemetery. The committee agreed that the Clayville/Whealton cemetery would be a good project for the football team due to its location near the school.

Mr. Gary Turnquist stated the Holly Ridge Cemetery was in need of cleaning. The committee selected this cemetery as their project for this year.

2. Discuss Cemetery Maintenance and Fund Raising

a. Report of donations and maintenance costs

Chairwoman Richardson reported there is \$2,425.00 in the cemetery fund.

b. Sample maintenance agreement

Chairwoman Richardson reviewed the maintenance agreement. She also advised the committee that Mr. Alex Hubb has adopted the Reed Cemetery.

The committee will give the individuals that are maintaining the cemeteries a copy of the agreement and keep one on file with the Town.

c. Sample donation letter

The committee briefly discussed the donation letter.

3. Committee Member Comments

Mr. Gary Turnquist stated his concern with the letter to the editor that he usually writes and a lot of the time it doesn't get published. The Committee discussed several other options of announcing the Clean-Up Week to the public. The ideas were WCTG, Facebook, Town of Chincoteague Website and the Beacon in the form of a Public Service Announcement.

Mr. Gary Turnquist also commented on how far the committee has come over the past years.

The committee will meet in the Sanctified Church parking lot on November 9th to begin work on Holly Ridge.

Councilman Howard along with the committee thanked the Public Works Department for all of their help in the maintenance of the cemeteries.

ADJOURN:

Councilman Howard motioned, seconded by Mr. Gary Turnquist to adjourn the meeting.



PROCLAMATION

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

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

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

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

NOW, THEREFORE, I, Mayor John H. Tarr do hereby proclaim the week of November 9TH through 15TH, 2013, 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 4th day of November, 2013.

John H. Tarr, Mayor

ATTEST:

Robert G. Ritter Jr., Town Manager