

**MINUTES OF THE JUNE 4, 2012  
CHINCOTEAGUE REGULAR TOWN COUNCIL MEETING**

**Council Members Present:**

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

**CALL TO ORDER**

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

**INVOCATION**

Councilman T. Howard offered the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Tarr led in the Pledge of Allegiance.

**PRESENTATION**

Mayor Tarr invited Mr. Jack Van Dame to come forward. He presented Mr. Van Dame with a Certificate of Honorable Service as he has recently retired from the Town of Chincoteague as the Director of Transportation.



**CERTIFICATE OF HONORABLE SERVICE**

awarded to

**Mr. Jack Van Dame**

**for your dedication and devotion to duty on  
the occasion of your retirement from  
the Town of Chincoteague.**

**You have had a valuable effect on this community,  
and we extend to you our sincere appreciation  
for your outstanding performance.**

**I, as Mayor of the Town of Chincoteague, along with  
the Town Council do hereby extend our sincere  
congratulations on your retirement.**

**Dated this 4th Day of June 2012.**

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**John H. Tarr, Mayor**

Mr. Van Dame thanked Mayor Tarr and Council.

Mayor Tarr thanked Mr. Van Dame for running the Trolley Service throughout the years minimizing the cost for the residents.

#### **OPEN FORUM/PUBLIC PARTICIPATION**

- Mrs. Suzanne Taylor, with the Chincoteague Chamber of Commerce, thanked Mr. Van Dame for all of his help. She thanked Town Council for their support of the Chamber of Commerce in the annual budget and gave a packet to Council that summarized last year's activities.
- Mrs. Ginny Van Dame thanked Councilwoman Conklin and Councilman J. Howard for all their hard work on the Town Council. She also commented on the Conklins' hard work and support in the community along with Mr. Howard's.
- Mrs. Nancy Lane advised Council she is there on behalf of everyone who has worked so hard to bring the Island Theatre back. She advised they are planning to open and show movies this weekend. She also advised the first live performance will be June 16<sup>th</sup>. She encouraged everyone to come to the movies.

#### **STAFF UPDATE**

##### **Police Department**

Officer Greenley reported that the Police Department handled 2,092 calls, 256 were 911 calls, 78 from landlines and 178 were wireless calls. 39 of the calls were EMS and 2 were for fire. The Police Department received 48 calls for service which resulted in 20 investigations into criminal offenses: 1) shoplifting, 3) driving under the influence of alcohol, 1) aggravated assault, 4) simple assaults, 1) obtaining money under false pretenses, 1) drunk in public, 6) other larcenies and 5) misdemeanor offenses. There were 12 arrests and 14 charges as a result of these investigations. The Department issued 82 summonses for traffic offenses, 50 warning tickets and investigated 6 vehicle accidents.

### **Public Works Department**

Public Works Director Spurlock stated that in addition to the monthly report he submitted to Council, that the Chicken City Road, Ridge Road intersection is essentially complete with only a few items remaining. The Downtown milling is complete with the first cut of asphalt and the final paving is scheduled for Friday.

### **Planning Department**

Town Planner Neville reported that the Waste Water Advisory Committee is focusing on research of similar coastal communities as far as costs and communication to the community. They met with the D.E.Q. and Health Department. He advised there will be a workshop at the Eastern Shore Community College to give an overview of wastewater operations on the Eastern Shore. He also reported that regarding the Beach Access Committee the FWS consultant is continuing to work on the revised CCP and Economic Study.

### **General Government**

Town Manager Ritter stated that in addition to Council's report, there were a total of 67 EMS calls in May. He stated that the Emergency Management Coordinator Rush has been working on a Space Tourism Action Response Plan for the upcoming rocket launches. He reported that the Town should hear more later in the month regarding the Transportation Enhancement Grant for the other half of the planned Main Street improvements. Staff is collecting Town Surveys.

Councilman Jester asked if the surveys can be completed online.

Town Manager Ritter advised the link is listed in the Town's newsletter and will be put on the website. He then introduced Mr. Rob Catron the Town's political consultant from Washington, D.C.

Mr. Rob Catron reported about the beach access matter. He advised there is a meeting scheduled for tomorrow with the advisor that the U. S. Fish and Wildlife Service has hired to possibly mend some fences with the Town. He stated that since the Congressional Hearing in March there was great interest in finding out whether the Fish and Wildlife Service could be more responsive to the Town. He stated that what the Town is going through is not unique. He feels that between now and November he is confident that the Town will have a great deal of interest from the Delegation and Congressman Rigell who have weighed in on the Town's point of view in protecting the interest in what happens to the beach. They want to make sure that environmental protection doesn't take priority over the economy of the Town and Accomack County.

Councilman J. Howard stated that there is dredging over on Wallops Island. He feels that if the sand they're dredging is put on Assateague Island the Town wouldn't have to worry about erosion at the beach for the rest of our lives.

Mr. Catron advised they are working on it and it could take some time.

Mayor Tarr thanked Mr. Catron for all his work.

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

1. Councilman T. Howard motioned, seconded by Councilwoman Conklin to adopt the agenda removing item #7 - Consider Permission to Pump and Haul at Christ's Sanctified Holy Church. Unanimously approved.

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

- **Regular Council Meeting of May 7, 2012**
- **Special Council meeting of May 16, 2012**

Councilwoman Conklin motioned, seconded by Vice Mayor Richardson to adopt the minutes as presented. Unanimously approved.

### **3. Public Hearing for the Fiscal Year 2013 Budget, Consisting of:**

- Revenues for all Divisions
- General Government Fund Expenses
- Water Division Expenses
- Total Main Street Fund Expenses
- Trolley Division Expenses
- Harbor Division Expenses
- Harbor, Water, & Gen Gov. Rate Sheets

Mayor Tarr opened the public hearing at 7:29 p.m. advising that he was opening all 3 public hearings at the same time and closing all 3 public hearings at the same time.

Town Manager Ritter asked Finance Director Hipple to present the graphs.

Finance Director Hipple reviewed the FY2013 Budget graphs. She stated that in order to cover the budgeted expenditures the Town would have to raise taxes \$0.01 per \$100.00 of assessed value. She also added that this increase is still not quite sufficient to meet the same revenue as last year due to the change in property values.

Town Manager Ritter further explained the reassessment and tax decrease at that time.

Finance Director Hipple then stated that the budget includes a Transient Occupancy Tax increase of 1% to begin January 1, 2013 to be collected in February which would only give the additional revenue for 5 months. She stated that the increase in Transient Occupancy revenue will go into a Beach Reserve Fund up to \$65,000. She gave examples for possible use of the beach reserve fund. She continued to explain the budget and the increase in employee retirement costs. She discussed revenues.

Finance Director Hipple informed Council of a decrease in the Town decal fee. She discussed putting money in Water Reserve, expenditures of the Harbor, Trolley Fund, Water Fund, bond payments, Emergency Medical Services, Public Works Department, Mosquito Control, Roads, and the Police Department. She also explained how the audit report breaks down the revenue. She reviewed the revenues in detail including the grants and taxes.

Finance Director Hipple discussed the increase in Transient Occupancy Tax again. She informed Council of the Transient Occupancy Taxes charged by other jurisdictions. She also reminded Council of the operating costs for the services that the Town offers. She continued to review the projects and funds.

Mayor Tarr explained the reason for the tax rate increase. He also stated that the Transient Occupancy Tax increase may help the Town pay for the consulting fees that have been instrumental to protecting the Town's interests. He feels that the cost is minimal except the Town has to find a way to pay for the services. He advised that the consultant has also assisted in other county issues. He added that the Town acquired the gym for youth programs and the Town acquired the operating costs to go with it. He also stated they are working on an emergency plan that takes funds also.

Mayor Tarr closed the public hearing at 9:44 p.m.

#### **4. Public Hearing on the Transient Occupancy Rate Increase of 1%.**

Mayor Tarr opened the public hearing at 7:29 p.m.

- Mr. Gene Wayne Taylor expressed his opposition of the Transient Occupancy Tax increase. He stated that this adds to the visitors' fees for coming to Chincoteague.

Mayor Tarr added that when tourism is up the Town's costs are up also and gave an example of the increase in water flow and chemicals along with 911 dispatch and Emergency Medical Services.

- Mrs. Wanda Thornton stated that she appreciates everything the Town does knowing they have to make hard decisions. She also knows what Mr. Catron is doing for the Town. She mentioned the Transient Occupancy Taxes in other jurisdictions. She further commented that the Town of Chincoteague has had hundreds of thousands of dollars going from the Town to the County just for personal property taxes for trailers that are on the campground lots. She also added that she asked that the budget overage from last year be placed in a reserve fund. She asked Finance Director Hipple what the Town does with the excess money left over.

Finance Director Hipple advised it goes into the General Fund and it will offset over-expenditures and the rest will go into long-term savings.

Mayor Tarr asked Mrs. Thornton if seasonal sites paid transient occupancy tax.

Mrs. Thornton advised they don't, but was giving an example. She was trying to make a case for the tourist. She added that if the Town had created the fund last year there would be approximately \$86,000 in there. She stated that \$0.01 is going to generate \$79,000.

Town Manager Ritter advised that Council already approved Mr. Catron's services for another 6 months to be taken out of LGIP.

Mrs. Thornton stated that the County takes all of the end of year budget excess and rolls it into major capital improvements.

Mayor Tarr advised that they have reviewed the LGIP funds. The Town has borrowed from those funds for the last 4 years to balance the budget so that they wouldn't have to raise taxes.

He stated that this was the first time that the Town hasn't borrowed from long-term savings to balance the budget.

Mrs. Thornton asked if the maximum amount to be put in that reserve was \$65,000.

Mayor Tarr was unsure how the maximum amount was established because there is no actual maximum.

There was discussion as to what was collected and having no cap.

Mrs. Thornton suggested putting the entire amount of that 1% in a separate fund and passing a council resolution to that effect. She also added that this didn't seem fair to enact the tax after the new council came on.

Mayor Tarr responded that it will be passed in the new budget to begin January 1<sup>st</sup>.

There were further comments.

- Mr. Jim Frese asked Council to consider what could be cut from the budget. He referred to the 1% Transient Occupancy Tax increase and feels it's inappropriate. He further explained how the local businesses would lose business with the increase.
- Mr. Paul Katsetos expressed his opposition of the 1% increase to the Transient Occupancy Tax.
- Mr. Spider Fleming voiced his opposition to the Transient Occupancy Tax increase. He mentioned the downtown project and asked if the Town would reconsider.
- Mr. Tommy Daisey also expressed his opposition to the Transient Occupancy Tax increase. He mentioned the unemployment and asked Council to cut the fat. He stated that he knows the families personally that come to the Island that gets hit with the taxes. He stated it's hard for visitors to come now but to raise it would make it harder. He told Council they are going to have to quit spending. He stated that if they keep adding taxes it's not going to be better it will be worse. Mr. Daisey explained the decrease in business over the past couple of years. He asked Town Attorney Poulson how long a public hearing had to be advertised.

Town Attorney Poulson responded that it only had to be one week.

Mr. Daisey asked Council to tighten the belt.

- Mr. Tommy Mason stated that higher taxes discourage people from coming to Chincoteague. He feels we're slipping into a recession. He asked about the assessment of the real estate taxes.

Mayor Tarr advised that most residential properties went down and commercial properties stayed where they were. He advised that the 1% doesn't bring the Town where they were last year and is still short for this year. He explained the increase in assessed values and increases to the costs

to maintain services. He also stated that the Town could cut services to save money. He also added that they look at the employee salaries and advised it is a struggle. He urged anyone to go through the budget and give suggestions.

- Mr. Richard Conklin, Sr. advised Council that when his business income decreased he cut employees. He stated that the Town is in the same situation and wants to raise taxes. He stated he couldn't raise prices. He stated that he sees high salary employees, new vehicles and equipment. He urged Council to cut back somehow.
- Ms. Denise Bowden asked how the Beach/Recreation/Tourism Reserve is going to be used. She asked if this was for the lobbyist or to help the Fish & Wildlife to put parking back.

Mayor Tarr advised it's for both.

Ms. Bowden asked if they would accept the money.

Mayor Tarr responded that the Town doesn't know if they'll accept it. However, they legally can accept the financial assistance from the Town.

Ms. Bowden asked how much of the Transient Occupancy Tax that the Town collects goes to the County.

Mayor Tarr stated that none of the amount collected by the Town goes to the County as they collect their own.

Ms. Bowden stated that if they decide to increase this tax, she feels it's quite a large sum. She agreed with Mr. Mason to invite more people here. She also understands that it takes money to make money. She feels that the government on every level has beaten the people of Chincoteague to death. She stated that between the Fish & Wildlife and the County it's hard to swallow taking a beating from your own town. She understands the hard job and asked to keep in mind that people come to the Island because they love it and 1% can make a difference.

- Mr. David Johnson stated that he understands that this is a very difficult issue. He stated that saving the beach is important to save the tourism industry. He explained that the reason people are concerned about the extra 1% transient occupancy tax is that it may have an impact on their business. He suggested that the Town needs objective information and data on tourism in Chincoteague to determine whether there is a change in visitors or spending.

Mayor Tarr advised that the Town tracks the Transient Occupancy and the visitors to the beach monthly.

- Mrs. Donna Mason complimented Finance Director Hipple's budget presentation. She feels that 1% is a lot for a family to add to their vacation. She feels that keeping it down will entice those families to stay a little longer to offset the shortfall. Mrs. Mason advised that she grocery shops on the Island to keep that grocery store here. She asked Council to look at the big

picture, keeping in mind we're all in this together. She added that the goal is to keep the money here and help each other.

- Ms. Laurie Walton advised that her rentals are down and the Town has lost 4 events this season. She feels that if the Town doesn't start thinking outside the box for tourist season it's going to get worse. She stated that over the last 6-8 months the Town's transient tax revenue is up and meals tax revenue is up but sales tax revenue is down. She explained that the visitors are coming and eating but not buying or paying for the extra services. She asked if the Town could develop some type of system to help each other out.

Councilwoman Conklin asked which events were lost.

Ms. Walton advised that the Chili Chowder Cook-off went from the Main Street Merchants to the Fire Company, the Daffodil Festival and the Blessing of the Fleet along with the concert in the park for that day. She feels they need continuity.

Mayor Tarr stated that something has to happen to keep the events and it is getting more difficult to hold the two major festivals. He stated that if the Town loses the events, revenue goes down.

Mrs. Mason asked Council to wait to add the 1% and see if the economy doesn't pick up a little. She also added that if they want funding for the beach, that people will give something for that specific purpose.

Councilman Jester interjected that you can't depend on "something". He asked how the Town fights for the beach. He stated that in order to fight this it is done through the halls of Congress. He added that Mr. Catron the Town's lobbyist is how you go about it. He asked what should be cut, EMS, Mosquito Control, street lights or the garbage collection. He reminded the residents that they will suffer the loss of the beach if the Town does nothing. He feels this is necessary to win the battle for the beach and a lobbyist is the only way.

- Mr. Richard Conklin asked where the Town stands on the beach issue. He believes this is what is hurting the Island's economy.

Mayor Tarr advised that the property acquisition was stopped until the CCP is complete. He added that Mr. Lou Hinds has taken a step back and the Town now deals with the FWS Northeast Region Chief, Scott Kahan. They have hired an advisor who is a retired refuge manager and are working hard to move toward a better resolution to the beach access issue.

- Mrs. Ina Rae Adams asked about cutting mosquito control as it doesn't do any good in her back yard.

- Ms. Laurie Walton added that the Chincoteague Chamber of Commerce are receiving calls every day about the beach access.

Mayor Tarr closed the public hearing at 9:44 p.m.

Mayor Tarr asked Town Manager Ritter what the process of moving forward would be.

Town Manager Ritter advised that Council needs to clarify if they wish to continue with the Transient Occupancy Tax increase for January 1, 2013 or bring a proposal taking out the recreation and tourism line item. This will be decided at the next meeting, June 21, 2012. He stated that Council should clarify where to make up the shortfall in the budget should they cut the increase in taxes.

Councilman T. Howard asked about the water rate increase.

Town Manager Ritter advised that if there is no water rate increase they would have to cut the \$75,000 scheduled to be put into reserves.

Councilwoman Conklin asked what the Town would do if something happens and there is nothing in the reserves.

Councilman T. Howard asked what the importance of the \$65,000 is.

Finance Director Hipple stated that the \$65,000 going to the reserve is from the 1% increase in Transient Occupancy Tax.

Town Manager Ritter added that this is a tourism recreation reserve.

Councilman T. Howard feels these items have to be addressed before they are voted on.

Town Manager Ritter asked for Council's direction in bringing the budget back for adoption. He advised that Council can vote on the increases.

Finance Director Hipple informed Council that if they vote tonight it will direct staff to use the funds in the budget or to cut items from the budget.

Councilman T. Howard feels that by listening to the citizens they need time to digest the information before they vote.

Town Manager Ritter advised that the law requires the budget to sit for 10 days after the public hearing prior to voting. However, the tax increases can be voted on after the public hearing.

Councilman J. Howard explained why he doesn't want to run for Council anymore. He feels there are too many employees in Public Works and fuel costs should be cut. He made a few suggestions.

Mayor Tarr asked for discussion regarding the Transient Occupancy Tax rate increase of 1%. He stated that this will generate \$65,000 in the budget.

There was discussion as to what would be cut without the increase.

Mayor Tarr asked where the Town would find the money to extend Mr. Catron's services another 6 months.

Town Manager Ritter advised that it would come from LGIP.

Councilman Jester reiterated that it will have to come from the increase or it will have to come from savings.

Councilwoman Conklin feels they shouldn't go into the reserves. She suggested approving the increase and if there's any overage they won't have to collect it next year.

Councilman Jester stated they can't keep borrowing from savings especially if there is a major storm and asked how the Town would pay for this. He added that with the water increase they will be able to put money into the reserves.

Councilman T. Howard stated that he doesn't know anything any more important than the beach closing. He added there is nothing wrong with having savings if you get it fair-and-square. He agreed that the Town has to spend money to keep that beach open. He expressed his discord about raising taxes.

Mayor Tarr advised Councilman T. Howard that this issue has to be voted on. He also stated that there were 3 budget meetings where everything was on the table. He stated that they discussed what this could do to the businesses.

Councilman Jester motioned, seconded by Councilwoman Conklin to include the Transient Occupancy Tax increase of 1% in the FY2013 budget. Motion Carried.

Ayes: Conklin, Jester, Muth, Tarr

Nays: Richardson, T. Howard, J. Howard

**5. Public Hearing on a Real Estate Tax Increase From \$.06/100 Assessed Value to \$.07/100**

Mayor Tarr opened the public hearing at 7:29 p.m.

- Mrs. Peggy Thomas stated she is before Council regarding the real estate tax increase. She asked if the people could afford it. She explained the assessment of her properties. She asked Council to do something somewhere.

Mayor Tarr closed the public hearing at 9:44 p.m.

Councilwoman Conklin motioned, seconded by Councilman Muth to include the real estate tax increase from \$0.06/100 assessed value to \$0.07/100 in the FY 2013 budget. Motion Carried.

Ayes: Conklin, Jester, Muth, Tarr

Nays: Richardson, T. Howard, J. Howard

**6. Possible Adoption of the Following Resolutions:**

- a. Irrevocable Election Not to Participate in the Line of Duty Act Fund**
- b. VML – Amendment to Membership Agreement**

- c. VRS – Employer Contribution Rate**
- d. VRS – Member Contribution Rate**

Town Manager Ritter explained each item.

Finance Director Hipple explained the Line of Duty Act.

There was discussion of the County's participation.

Finance Director Hipple advised that the Fire Chief went to the Fire Commission and told them to remove the Chincoteague Fire Company from the Line of Duty Act that Chincoteague would take care of them.

Councilman T. Howard asked what the difference was between the VML, VRS or state.

Finance Director Hipple stated that the Town doesn't know the difference in the premium or the benefits if there are any. She also stated that there is a problem with the Line of Duty Act, this will cover insurance for the families until the children are 18 or finish college. It also covers health insurance for the rest of the spouse's life even if the spouse remarries. She also doesn't feel that inactive members should be on the list.

Mayor Tarr feels this should be discussed with the Fire Company. He advised that the County has picked up the Line of Duty Act for all of the other 14 companies.

Ms. Bowden commented that if the County doesn't pickup Chincoteague it's another classic example.

Finance Director Hipple stated that when she received the roster there were many inactive members and non-members as the list is not maintained. She added that the roster must be submitted to VML.

Mayor Tarr advised that because this is coming to the Town, the Town has to question the roster.

Ms. Bowden advised she would get an updated roster.

Finance Director Hipple also advised they have until June 30, 2012 as they were given one year to make this irrevocable decision. She advised that the resolution has to be adopted and it states that the Town is covering the Fire Company. She informed Council of the cost.

There was further discussion regarding the rate increase.

## AMENDMENT TO MEMBERSHIP AGREEMENT

**THIS AMENDMENT TO MEMBER AGREEMENT** (this “Amendment”) is made and entered into this 1<sup>st</sup> day of July, 2011 (the “Effective Date”) by and among VML Insurance Programs (the “Pool”), a group self-insurance pool licensed by the Bureau of Insurance (the “Bureau”), the Virginia Municipal league (“VML”), a local association of city, town, and county governments, and the undersigned Virginia political subdivision or agency thereof, which is a member (individually the “Member”, and together with other political subdivisions, the “Members”) of the Pool.

**WHEREAS**, the parties entered into the Member Agreement (the “Member Agreement”) dated July 1, 2010 pursuant to which the parties agreed to provide for joint cooperative action to form a group self-insurance pool pursuant to Chapter 27 of the Title 15.2 of the Code of Virginia (the “Act”) for the purpose of providing risk management services and insurance coverages for the Members pursuant to Virginia Code § 15.2-2703(A); and

**WHEREAS**, the Bureau has confirmed with VML and the Pool that the lines of insurance authorized under the Act will extend to the benefit obligations required by the Virginia Code § 9.1-400 *et seq.* (“Line of Duty Act”); and

**WHEREAS**, THE PARTIES DESIRE TO BECOME PARTIES TO THIS Amendment for purposes of including Line of Duty Act coverage, to comply with the conditions set forth herein, and to ratify and confirm all of the terms and provisions of the Member Agreement except as otherwise set forth in this Amendment.

**NOW, THEREFORE**, for and in consideration of the mutual covenants, promises and obligations herein contained, the parties hereto covenant and agree as follows:

1. **Amend and Restate Section 15.** Section 15 of the Member Agreement is hereby amended and restated as follows:

Each Member agrees to execute necessary authorization forms permitting the Pool to obtain information and data required in determining the experience or other rating modification of such Member. Each Member agrees to pay contributions to the Pool as computed in accordance with a rating plan approved by the board, as amended from time to time. Each Member agrees that the contributions shall be payable in full in advance of coverage unless the Board in its discretion determines otherwise. Such contributions are deemed earned by the Pool when received and are nonrefundable.

For all lines of coverage other than workers’ compensation coverage and Line of Duty Act obligations, in the event of the Pool’s deficit for any fiscal year, the Board may adopt, following approval by the Commission, a plan it deems equitable for the elimination of such deficit. The plan may include, but is not

limited to, the year in which such deficit occurs; provided, however, in no event shall such assessment exceed two (2) times the Member's annual contribution.

Notwithstanding the foregoing paragraph, in the event of the Pool's deficit for any fiscal year with respect to Line of Duty Act obligations, the Board may adopt, following approval by the Commission, a plan it deems equitable for the elimination of such deficit. The plan may include, but is not limited to, the assessment of all Members that purchase Line of Duty Act coverage in the proportion which the contribution of each member bears to the total contributions of all members that purchase Line of Duty Act coverage in the year in which such deficit occurs.

For Members purchasing workers' compensation insurance, such members shall be jointly and severally liable to other Members as to workers' compensation coverage, and membership in the Pool shall not relieve the member's obligations imposed by Title 65.2 as an employer to its employees.

With respect to all lines of coverage, a Member is obligated to pay any assessment which applies to a Pool year in which it was a Member. The Pool has the authority to assess its Members according to line of coverage, and according to any particular fiscal year. If the Pool is required to obtain the assessment by suit or by other means in which the Pool incurs expenses to recover such reimbursement, the member agrees to pay the Pool's reasonable attorneys' fees and all costs incurred in the suit.

2. **Amend and Restate Section 17.** Section 17 of the Member Agreement is hereby amended and restated as follows:

To the extent of a Member's limitation of liability set forth in this Member Agreement, and payment of the funds described in Sections 13(a) and (b), the Pool shall defend in the name of and on behalf of each Member any suits or other proceedings which may at any time be instituted against such member on account of claims within the purview of this Agreement and any such coverage agreement in force at the time of the loss, even though such allegations or demands are wholly groundless, false, or fraudulent, and to pay all costs reasonably incurred in any legal proceeding defended by the Pool, including all interest accruing against an entry of judgment, and all expenses incurred for investigation, claimant's attorney fees awarded by the court and negotiated settlements. If a personal appearance by an official or employee of a Member is necessary in any dispute, the expense of such appearance shall be paid by the Member. The Pool shall select, retain and supervise legal counsel on behalf of and at the expense of the Pool necessary for the prosecution or defense of any litigation. Each Member agrees to fully cooperate by supplying any information and assistance deemed by the Board, the service agent, or legal counsel, to be needed or helpful to defend such action. Upon notice in writing to the Board, the service agent and the Administrator, a Member may refuse to settle a claim involving its locality but in

such event the Members shall be obligated for any payment of sums above the proposed settlement amount if such payment, including attorneys' fees, is thereafter required.

3. **Miscellaneous.** Except as expressly provided herein, all other terms and conditions of the Member Agreement shall apply and remain in full force and effect. This Amendment may be executed in one or more counterparts, all of which together shall constitute one and the same Amendment. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regards to principles of conflicts of law. This Amendment may only be amended by a writing expressly amending the same and executed by the parties to be bound. All recitals are incorporated herein by reference. Unless otherwise specified herein, the terms used herein shall have the meanings as set forth in the Member Agreement. Any waiver by and party of any term hereof shall not constitute a waiver of such term or any other term in the future. If any term or provision hereof shall be deemed unenforceable by a court of competent jurisdiction as against public policy, that term or provision shall be deemed deleted and the remainder of this Amendment shall be enforced in accordance with its terms.

**IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS** Amendment to be signed as follows: on behalf of the Pool by a duly authorized representative, on behalf of VML by a duly authorized representative, and on behalf of the Member by its chief executive officer or other officer designated by its governing body.

**VML INSURANCE PROGRAMS**

By \_\_\_\_\_

**VIRGINIA MUNICIPAL LEAGUE**

By \_\_\_\_\_

**MEMBER LOCALITY**

By \_\_\_\_\_

Title: \_\_\_\_\_

Name of Locality: \_\_\_\_\_

Town Manager Ritter advised Council of the next two resolutions. He explained that one resolution is because the state has mandated that the Town pick up 12.08% and the second refers to the employees paying 5%.

Vice Mayor Richardson motioned, seconded by Councilman J. Howard to adopt the Resolution for VRS – Employer Contribution Rate and adopt the Resolution for the VRS – Member Contribution Rate. Unanimously approved.



Employer Contribution Rates for Counties, Cities,  
Towns, School Divisions and Other Political Subdivisions  
(In accordance with the 2012 Appropriation Act Item 468(H))

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**RESOLUTION**

BE IT RESOLVED, that the Town of Chincoteague (55341) does hereby acknowledge that its contribution rates effective July 1, 2012 shall be based on the higher of a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium (the “Alternate Rate”) provided that, at its option, the contribution rate may be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to Virginia Code § 51.1-145(I) resulting from the June 30, 2011 actuarial value of assets and liabilities (the “Certified Rate”); and

BE IT ALSO RESOLVED, that the Town of Chincoteague (55341) does hereby certify to the Virginia Retirement System Board of Trustees that it elects to pay the following contribution rate effective July 1, 2012:

**(Check only one box)**

- The Certified Rate of 12.08%                       The Alternate Rate of 9.44%; and

BE IT ALSO RESOLVED, that the Town of Chincoteague (55341) does hereby certify to the Virginia Retirement System Board of Trustees that it has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of any election made under the provisions of this resolution; and

NOW, THEREFORE, the officers of Town of Chincoteague (55341) are hereby authorized and directed in the name of the Town of Chincoteague to carry out the provisions of this resolution, and said officers of the Town of Chincoteague are authorized and directed to pay

over to the Treasurer of Virginia from time to time such sums as are due to be paid by the Town of Chincoteague for this purpose.

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John H. Tarr, Mayor

**CERTIFICATE**

I, Robert G. Ritter Jr., Clerk of the Town of Chincoteague, certify that the foregoing is a true and correct copy of a resolution passed at a lawfully organized meeting of the Town of Chincoteague held at 6150 Community Drive, Chincoteague Island, Virginia at 7:00 O'clock pm on June 4, 2012. Given under my hand and seal of the Town of Chincoteague this 4<sup>th</sup> day of June, 2012.

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Clerk



Member Contributions by Salary Reduction for Counties, Cities,  
Towns, and Other Political Subdivisions

(In accordance with Chapter 822 of the 2012 Acts of Assembly (SB497))

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**Resolution**

WHEREAS, the Town of Chincoteague (55341) employees who are Virginia Retirement System members who commence or recommence employment on or after July 1, 2012 ("FY2013 Employees" for purposes of this resolution), shall be required to contribute five percent of their creditable compensation by salary reduction pursuant to Internal Revenue Code § 414(h) on a pre-tax basis upon commencing or recommencing employment; and

WHEREAS, the Town of Chincoteague (55341) employees who are Virginia Retirement System members and in service on June 30, 2012, shall be required to contribute five percent of their creditable compensation by salary reduction pursuant to Internal Revenue Code § 414(h) on a pre-tax basis no later than July 1, 2016; and

WHEREAS, such employees in service on June 30, 2012, shall contribute a minimum of an additional one percent of their creditable compensation beginning on each July 1 of 2012,

2013, 2014, 2015, and 2016, or until the employees' contributions equal five percent of creditable compensation; and

WHEREAS, the Town of Chincoteague (55341) may elect to require such employees in service on June 30, 2012, to contribute more than an additional one percent each year, in whole percentages, until the employees' contributions equal five percent of creditable compensation; and

WHEREAS, the second enactment clause of Chapter 822 of the 2012 Acts of Assembly (SB497) requires an increase in total creditable compensation, effective July 1, 2012, to each such employee in service on June 30, 2012, to offset the cost of the member contributions, such increase in total creditable compensation to be equal to the difference between five percent of the employee's total creditable compensation and the percentage of the member contribution paid by such employee on January 1, 2012.

BE IT THEREFORE RESOLVED, that the Town of Chincoteague (55341) does hereby certify to the Virginia Retirement System Board of Trustees that it shall effect the implementation of the member contribution requirements of Chapter 822 of the 2012 Acts of Assembly (SB497) according to the following schedule for the fiscal year beginning July 1, 2012 (i.e., FY2013):

Type of Employee	Employer Paid Member Contribution	Employee Paid Member Contribution
Plan 1	%	5%
Plan 2	%	5%
FY2013 Employees	0%	5%

**(Note: Each row must add up to 5 percent.); and**

BE IT FURTHER RESOLVED, that such contributions, although designated as member contributions, are to be made by the Town of Chincoteague in lieu of member contributions; and

BE IT FURTHER RESOLVED, that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and

BE IT FURTHER RESOLVED, that member contributions made by the Town of Chincoteague under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and

BE IT FURTHER RESOLVED, that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the Town of Chincoteague directly instead of having them paid to VRS; and

BE IT FURTHER RESOLVED, that notwithstanding any contractual or other provisions, the wages of each member of VRS who is an employee of the Town of Chincoteague shall be

reduced by the amount of member contributions picked up by the Town of Chincoteague on behalf of such employee pursuant to the foregoing resolutions.

NOW, THEREFORE, the officers of the Town of Chincoteague (55341) are hereby authorized and directed in the name of the Town of Chincoteague to carry out the provisions of this resolution, and said officers of the Town of Chincoteague are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the Town of Chincoteague (55341) for this purpose.

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John H. Tarr, Mayor

**CERTIFICATE**

I, Robert G. Ritter Jr., Clerk of the Town of Chincoteague, certify that the foregoing is a true and correct copy of a resolution passed at a lawfully organized meeting of the Town of Chincoteague held at 6150 Community Drive, Chincoteague Island, Virginia at 7:00 o'clock pm on June 4, 2012. Given under my hand and seal of the Town of Chincoteague this 4<sup>th</sup> day of June, 2012.

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Clerk

**7. Accomack County Board of Supervisors Update**

Supervisor Wanda Thornton addressed Council. She first asked Council that they stipulate in a resolution that the 1% increase in Transient Occupancy be “only” used for beach replenishment. She added that she appreciates Councilman Jester for his dedication and helping her when they went to Washington. She reported on the County’s tax rate increase for calendar year 2012. She mentioned the Fire Tax issue that it has not been discussed on the board level and the payments beginning in February. She also reported that she obtained the Transient Occupancy Tax amounts. She reported that as of May 31, 2012 the County collected \$330,000 from Chincoteague and from the remainder of the County collected \$26,000.

Councilman T. Howard asked if there was anything the County gave back to Chincoteague to help with tourism.

Supervisor Thornton advised the only thing they do is donate some money to the Tourism Commission which is for Northampton and Accomack Counties. She stated that the other districts pay \$0.06/100 for EMS that the Town does not pay. She is concerned about the resolution where it did not eliminate the EMS Tax. The County Administration is also looking into more space as the Board of Supervisors and School Board offices are over-crowded. She advised Council that Star Transit is now back on Chincoteague. She stated that regarding the Atlantic Town Center, the Board of Zoning Appeals has turned down their sewage treatment facility. They are appealing the decision in the Circuit Court. There is a sewage workshop with

the DEQ at the Eastern Shore Community College Wednesday evening. This will inform the community of the advanced technology. She stated that there is so much misinformation of how this system works. She discussed the County's requirement for central water and central sewer and having a mechanism in place.

Supervisor Thornton advised she asked the Army Corps of Engineers to request a meeting with the Fish & Wildlife Service to discuss environmental impacts of the CCP alternatives. The meeting is scheduled later this month. She added that the Army Corps of Engineers has been very good to the Town.

There were questions and comments about the Wallops Research Park property and the Navy taking the old little league field.

Mayor Tarr thanked Supervisor Thornton.

**~~8. Consider Permission to Pump and Haul at Christ's Sanctified Holy Church~~**

**9. Consider Adoption of the State Motor Vehicle Code**

Town Manager Ritter advised that this is an annual adoption of the State Motor Vehicle Code.

Councilman T. Howard motioned, seconded by Vice Mayor Richardson to adopt Section 58-1 of the State Motor Vehicle Code adding "any future provisions or amendments are adopted automatically unless expressly rejected by Council". Unanimously approved.

**Sec. 58-1. Compliance with chapter; violations and penalties generally.**

(a) It shall be unlawful for any person to violate or fail to comply with any of the sections of this chapter or of any rule or regulation promulgated pursuant to this chapter.

(b) Every person convicted of a violation of any of the sections of this chapter for which no other penalty is provided shall be punished by a fine of not more than \$200.00.

(Code 1977, § 11-21)

**State law references**—Penalties for motor vehicle violations, Code of Virginia, § 46.2-113; town prohibited from imposing a penalty for violation of motor vehicle ordinance in excess of that imposed by state for a similar offense, Code of Virginia, § 46.2-1300.

**Sec. 58-2. Adoption of state law; former provisions.**

Sec. 58-2. Adoption of state law; former provisions.

(a) Pursuant to the authority of §46.2-1313 of the Code of Virginia of 1950 as amended, all of the provisions and requirements of the laws of the Commonwealth of Virginia contained in Title 46.2 of the Code of Virginia of 1950 as amended; Article 9 (§16.1-278 *et seq.*) of Chapter 11 of Title 16.1 of

the Code of Virginia of 1950 as amended; and Article 2 (§18.2-266 *et seq.*) of Chapter 7 of Title 18.2 of the Code of Virginia of 1950 as amended, in effect on July 1, 2012, except those provisions and requirements the violation of which constitute a felony and except those provisions and requirements which by their very nature can have no application to or within the Town, are adopted and incorporated herein by reference and made applicable within the Town. References to “highways of the state” contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways, and other public ways within the Town. Such provisions and requirements hereby adopted, mutatis mutandis, are made a part of this section as fully as though set forth at length herein, and it shall be unlawful for any person within the Town to violate or fail, neglect, or refuse to comply with the provisions of Title 46.2 of the Code of Virginia of 1950 as amended; Article 9 (§16.1-278 *et seq.*) of Chapter 11 of Title 16.1 of the Code of Virginia of 1950 as amended; and Article 2 (§18.2-266 *et seq.*) of Chapter 7 of Title 18.2 of the Code of Virginia of 1950 as amended, which are adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia of 1950 as amended; Article 9 (§16.1-278 *et seq.*) of Chapter 11 of Title 16.1 of the Code of Virginia of 1950 as amended; and Article 2 (§18.2-266 *et seq.*) of Chapter 7 of Title 18.2 of the Code of Virginia of 1950 as amended. Amendments to the above provisions of the laws of the Commonwealth of Virginia hereafter adopted shall be incorporated herein on their respective effective dates unless specifically rejected by the governing body of the Town.

**Sec. 58-3. Display of state license plate with current decal.**

It shall be unlawful for any person to operate or for the owner or person in control thereof to knowingly permit the operation of, upon a street or highway of the town,

**10. Possible Adoption of a Resolution for the FY 2013 Litter Grant Program**

Town Manager Ritter stated this resolution is for the annual grant.

Councilman T. Howard motioned, seconded by Councilwoman Conklin to adopt the Resolution for the FY2013 Litter Grant Program. Unanimously approved.



**RESOLUTION**

**WHEREAS**, The Town Council of the Town of Chincoteague, Incorporated desires to submit an application for an allocation of funds of up to \$5,000 through the Virginia Department of Transportation Fiscal Year 2013, Revenue Sharing Program; and,

**WHEREAS**, \$5,000 of these funds are requested to fund recycling collection fees along with the Spring and Fall Cleanup Projects;

**NOW, THEREFORE**, The Town Council of the Town of Chincoteague, Incorporated hereby supports this application for an allocation of up to \$5,000 through the Virginia Department of Transportation Revenue Sharing Program.

**BE IT FURTHER RESOLVED** the Town Council of the Town of Chincoteague, Incorporated hereby grants authority for the Town Manager to execute project administration agreements for any approved revenue sharing project.

**ADOPTED** by unanimous vote of the Town Council on June 4, 2012.

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John H. Tarr, Mayor

Attest:

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Robert G. Ritter, Jr., Town Manager

**11. Ordinance Committee Report of May 10, 2012**

- Chapter 22, Article III. Nuisances, Sec. 22-62 (D) Grass, Weeds and other Foreign Growth on Private Property

Councilman T. Howard explained that Council never meant to get into large tracts of undeveloped land with the Grass and Weed Ordinance. He stated that they were primarily focusing on lots that were improved with a building, developed or at least a water meter servicing the property. He advised Council of the draft Ordinance before them and explained the intent. He stated that they also discussed itinerant vendors or peddlers but will discuss that further at another meeting.

Councilwoman Conklin asked Town Attorney Poulson if he reviewed the draft ordinance.

Town Attorney Poulson advised that this wouldn't work.

Ms. Bowden gave an example of her grandmother's property and the overgrowth. She advised she does the best she can to cut back to the property line. She asked what a citizen is to do about this. She also added that this is undeveloped property.

Councilman T. Howard stated that this is why they can address the three different types of property; occupied property, developed unoccupied property or undeveloped property. He stated that the Town may want to consider the first two. He feels it could be addressed separately.

There was discussion about current overgrowth on undeveloped property and the remedy.

Town Attorney Poulson stated that it cannot be put as item D under Nuisances because it would be considered as a civil conflict. He also stated that under the old statute before the amendment, it was vacant developed property that could be acted on. He explained vacant developed property. He stated that there is an issue with what constitutes occupied. He also stated that the Town needs to look at vacant developed property, undeveloped property and occupied property deciding how to apply the ordinance to each classification. He explained that years ago referring to undeveloped property it specified footage to the property line. He suggested getting to the heart of it and making decisions as to what to apply.

Councilman T. Howard concurs.

There was further discussion as to the details of things to consider in the ordinance.

Town Attorney Poulson suggested this topic be carried over to the next meeting for further discussion.

## **12. Mayor & Council Announcements or Comments**

Vice Mayor Richardson discussed the Fish & Wildlife Service's sign on the Causeway letting people know when the beach parking lot is full. She feels this will turn visitors away as opposed to giving them the opportunity to visit other businesses on the Island.

They discussed the signs and feel they are definitely an eyesore and don't want to turn visitors away.

Mayor Tarr advised that staff would draft a letter about the signs. He also added that every year Council goes through the same process for the budget and tries to cut costs during the meetings. He stated that Council agrees during the meetings, but when employees and the public are in attendance it doesn't happen. He added that it's a hard decision.

## **Adjourn**

Councilwoman Conklin motioned, seconded by Councilman J. Howard to adjourn.

Unanimously approved.

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Mayor

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Town Manager