

**MINUTES OF THE August 6, 2012
CHINCOTEAGUE TOWN COUNCIL MEETING**

Council Members Present:

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

Council Members Absent:

John N. Jester, Jr., 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.

Mayor Tarr asked for a moment of silence for Mr. Jay Lewis and family.

OPEN FORUM/PUBLIC PARTICIPATION

Mayor Tarr opened the floor for public participation.

- Ms. Debbie Ritter, Cherrix Lane, approached Council regarding the abuse of the Emergency Ambulance Service. She stated that within the last 6 months there have been numerous calls by a patient on Cherrix Lane. She advised that this patient walks to the ambulance and is transported then returns within a few hours by private ambulance. She feels that this takes an ambulance out of service for no less than 2 hours for someone who doesn't actually need an ambulance. She doesn't know how the ambulance service is being paid for the transports. Ms. Ritter also stated that people dig deep to pay the \$84 in December for the Ambulance Insurance. She feels there is something that could be done. She also asked if the Police Officers have sensitivity training.

Sgt. Fisher advised they do.

Ms. Ritter explained an incident about contacting the Police Department regarding someone that hit a utility pole and box. She advised of a remark made to her by an officer.

Sgt. Fisher suggested speaking with Chief Lewis about this incident.

Ms. Ritter advised she has tried and will speak with him again. She asked if they could resolve the ambulance issue.

Mayor Tarr stated there is a Safety Advisory Committee meeting next week and this matter will be on the agenda.

STAFF UPDATE

Planning Department

Town Planner Neville stated that his written update was included in the monthly agenda packet. He commented on the Safe Routes to the Schools meeting and added that a successful project kickoff meeting was held today. He also advised that there is a Beach Access Committee meeting later this month.

Councilman Howard stated that the Healthy Community walk was very interesting. He asked about the next step in this process.

Town Planner Neville advised that the consultant's job is to present a report to the community giving illustrations simulating how a community could change along with their recommendations.

Police Department

Sgt. Fisher advised Council that the monthly report has been included in the agenda packet. He reminded Council of the upcoming Annual Poker Run, September 8th.

Councilwoman Richardson asked about the street closure from Church Street to Mumford Street.

Vice Mayor Leonard stated that he has been receiving complaints about the mopeds and the rash of moped accidents lately. He mentioned helmets and asked if there was anything for public safety that the Town can do as far as the law goes.

Sgt. Fisher advised that mopeds or scooters have to be less than 50 CC's and can't go over 35 mph. He continued that the driver is required to have an I.D. and must be over 16 to drive them. However, helmets are not currently required.

Councilman Howard stated that he has seen many on Beebe Road some with children standing in front of the driver along with very small children sitting behind the driver. He expressed his concerns.

Sgt. Fisher advised there are no restrictions.

There was discussion regarding a helmet requirement.

Mayor Tarr interjected that this will also be an item for the Public Safety Committee meeting. He stated that there was opposition from the rental shops and others. He also added that most helmets do not meet the DOT requirements.

Discussion continued regarding the helmet and insurance issues.

Sgt. Fisher also added that they have to abide by all the road rules and are treated as a motorcycle or vehicle. He feels that the people renting scooters or mopeds aren't as experienced as they should be.

Public Works

Public Works Director Spurlock advised that the monthly report is included in the agenda packet. He also reported that this has been a very productive and busy summer for the Public Works Department. He stated that they are having serious issues with Southern Pine Bark Beetles behind the shop and on the new nature trail. He advised that the only way to contain the beetle is to remove the timber. He stated that according to the State Forestry Department they need to cut a 75 foot perimeter around the last affected tree. He has contacted Melville Lumber in Snow Hill, Maryland and they have agreed to do the removal. He reported that the cost impact would be offset by the timber itself. He added that the damage can be seen.

There was further discussion.

Vice Mayor Leonard asked if there were any plans to replant the area.

Public Works Director Spurlock advised they haven't made definite plans but will work with the Forestry Department.

General Government

Town Manager Ritter advised that the monthly report is included in the agenda packet. He stated that there was a tabletop exercise on July 17th for Emergency Management regarding the Space Tourism Action Response Plan. He also advised that the E.S. Broadband Authority meeting is scheduled for Wednesday at 2:00 p.m. and the local Broadband Committee will meet Thursday at 9:30 a.m.

Councilman Howard asked about water rent revenue.

Public Works Director Spurlock advised that the summer months haven't been billed as of yet.

There were comments regarding the revenue report.

There was a question about the lack of "No Littering" signs around town.

Public Works Director Spurlock stated that in his experience with signs, the more that are put up the less people look at them. He added that the Adopt the Road Program is the best program for eliminating the litter issues.

AGENDA ADDITIONS/DELETIONS AND ADOPTION

Councilman Howard motioned, seconded by Councilwoman Richardson to adopt the agenda. Unanimously approved.

- 1. Consider Adoption of the Minutes**
 - **Regular Council Meeting of July 2, 2012**
 - **Special Emergency Council Meeting of July 18, 2012**

Councilwoman Richardson motioned, seconded by Councilman Muth to approve the minutes as presented. Unanimously approved.

2. Accomack County Board of Supervisors Update

Supervisor Wanda Thornton also commented on the infestation of the Pine Bark Beetles in Pine Grove Campground. She feels it is devastating at how many trees they can destroy in a short time. She suggested looking at the entire Island to have all of the affected timber removed.

Councilman Howard commented.

Supervisor Thornton suggested working together to get rid of the infestation.

Public Works Director Spurlock explained the different beetles.

Supervisor Thornton reported on several recommendations to the Board of Supervisors. She stated there was a change to what was a policy of the Board's to represent everyone fairly and equally on all committees and boards. They asked to not appoint citizens to more than 1 policy making board and that members of the Wetlands Boards should not serve on the Planning Commission. They feel if the individual is not elected they should not serve more than 1 term, however, this was opposed. One of the members wanted to completely dissolve the Airport Commission. She stated that no board member should be on a council where they pay rent. She suggested having the Board establishing what the hanger rent would be. She stated that Mr. Mason gave an update on the 3rd quarter, FY 2012. The County is down 1.7% in major revenues. There are a lot of zoning issues regarding redevelopment and a sewage issue was raised. She advised that at the meeting, there were comments regarding pumping sewage to the mainland.

Supervisor Thornton also reported that they discussed bonuses without requiring an evaluation. She commented on the Wallops Research Park. She stated that the state is willing to give the County approximately \$4,000,000 and will lose it if they don't do something soon. She suggested someone attending the meeting August 15th in support. She stated that Congressman Rigell sponsored the bill to take the deed restrictions off. She added that they couldn't get Warner or Webb to sponsor the bill. She's hoping they will after the election.

They discussed the Wallops Research Park and moving forward.

Supervisor Thornton also stated that they are looking at reconfiguring the Research Park. She made further comments. She advised that she appointed Councilman Taylor to the Wetlands Board and they are looking into the legalities of allowing a Councilman on this Board. She added that he can't vote until they get the legal opinion back. She also commented on the Baylor-ground Survey meeting being put together by Lynwood Lewis on August 22.

Councilman Howard discussed the Airport Commission.

Councilman Taylor talked about property values and reassessments. He suggested that if the agricultural land was reassessed at the new rates everyone else's taxes would not have gone up.

There was further discussion.

Supervisor Thornton added that the Board can eliminate the taxes on tidal marshlands. She suggested putting up resistance.

Councilman Taylor doesn't like how they're changing the rules for each subdivision of farmland.

Supervisor Thornton suggested having Town Planner Neville research the proposed State Storm Water Ordinance. She feels the Town should write a letter and attend the upcoming meeting. She stated that the Island should be exempted because it is at sea level as there is no way that the Island can comply.

Mayor Tarr advised that Public Works Director Spurlock has been looking into this.

Supervisor Thornton stated that the people implementing this haven't considered a lot.

Mayor Tarr thanked Supervisor Thornton.

3. Ordinance Committee Report of July 12, 2012

- **Chapter 22, Article VI. Grass, Weeds and Other Foreign Growth on Private Property**
- **Chapter 10, Article II Dogs**

Councilman Howard stated that they reviewed a draft Grass, Weeds and Other Foreign Growth on Private Property Ordinance. He also stated they have to decide the height the grass has to be before it is required to be cut and violations. He added that this alternative will take care of the problems of developed occupied property. He explained the meaning of "undeveloped" property, mentioning the width or depth of 5 feet around the perimeter to be cut.

Town Attorney Poulson reviewed some basic typos. He also stated that they will continue to use the other definitions of the ordinance. He suggested inserting "any adjacent vacant developed property or occupied property, any street, roadway or easement when the height of such grass...". He feels that one of the problems through the years is basically property that is developed but unsure if the property is vacant and how long before it is considered vacant. At one point, a property may be considered vacant developed property or occupied property. He feels this would be hard to enforce. He tried to clarify the definitions. He stated that the penalty depends on the same operative facts. He added that it is a violation if it isn't cut, there doesn't have to be a notice.

Town Attorney Poulson also explained that vacant developed means that someone hasn't been on the property for 45 days and if they have been to the property within 45 days it's considered occupied property. He added that it gives the Zoning Administrator a thick standard. He stated that under vacant developed property, it applies when the growth exceeds 6 inches (or whatever Council wants it to be) and it has to be cut to 3 inches. He continued to explain that under occupied property, Council suggested that 6 inches and has to be cut to 3 inches. Undeveloped property is different. It has to be cut 5 feet from the boundary, roadway or right-of-way of

developed property and the height requirement has to be 10 inches. Town Attorney Poulson continued that it would not apply to the boundaries of two undeveloped properties. He added that the Town can give a notice to cut it or the Town will and they can bill for cutting the property. He stated that if they don't pay the bill within 15 days there will be a lien placed on the property. He asked Council if they want to apply it to the number of feet back for undeveloped property and height. He suggested that this is significant and should be a public hearing.

Councilman Howard feels the height limit of 6 inches may be disagreed upon at a public hearing.

Councilman Taylor asked if the State (VDOT) has anything cut down to 6 inches. He stated that the Town has to clean up around the Island before they mandate a height requirement.

Town Attorney Poulson stated that the reason for the change is because this is a vacation community and the Town wants the community to look nice and maintained.

Councilman Howard added that there is vacant developed property where people leave their property unattended.

There was discussion regarding the 45 days and policing this.

Councilman Howard commented on overgrowth in a neighborhood.

Building and Zoning Administrator Lewis explained that 6 inches is tough especially with a rainy week. He gave an example of a lot that the 1st half is maintained and the 2nd half is growth. He feels this should be addressed in the Ordinance also. He stated that there are many lots that half is occupied and half is wooded. He asked if it was the intent of Mayor and Council to make a resident clear the entire lot from a partially wooded or partially undeveloped lot.

Town Attorney Poulson feels that it is the intent to make the resident clear all growth from the entire developed property. He explained property in Wildcat regarding uncontrolled growth. He described the lots. He feels they may need to rework the language for that definition.

Mayor Tarr also understands Building and Zoning Administrator Lewis' opinion about a lot that is partially cleared with a dwelling and the back of the lot is in its natural wooded state.

Town Attorney Poulson is concerned in breaking up a lot and enforcing the ordinance on only a portion.

Councilman Howard mentioned a person having a parcel 1,000 feet deep and cleared 150 feet to build a house on and the rest of the parcel is of undeveloped state. He doesn't feel Council would want to get into that.

Mayor Tarr suggested that the first half would have to be cut to 6 inches and the back half a 5 feet strip adjacent to a developed property.

Town Attorney Poulson feels that this would be convoluted and difficult to enforce.

Councilman Howard expressed his concerns and feels a public hearing would be beneficial. Town Manager Ritter suggested considering bamboo and a definition of land in the natural state. He explained land on Piney Island. Town Attorney Poulson interjected that it is a platted subdivision.

Councilman Howard also explained overgrowth from an undeveloped property onto a developed property and feels it needs addressing.

Town Attorney Poulson asked how many deep lots there are on Chincoteague.

Councilman Howard stated that there aren't many undeveloped lots left but it is still an issue.

Town Attorney Poulson advised that it is not required to go to public hearing, however, suggested advertising to hear from people and work on the issues.

Councilman Taylor asked if the Town can just cut the property and charge for it without having violation charges, such as a misdemeanor and fine.

Town Attorney Poulson stated that a letter of violation requesting they cut the property would be issued. He added that if they don't cut it then the Town cuts it and bills for it, and if they don't pay the bill a lien is placed on the property. He suggested making the charge more each time the Town has to cut the property and if they continue to violate the ordinance they should be charged.

Councilman Howard stated that this is the maximum the judge will impose.

There were comments and questions.

Mayor Tarr stated that there was discussion about doing this on a complaint basis.

Town Attorney Poulson feels this shouldn't be on a complaint basis and if the Zoning Administrator sees it, he should act on it.

There was further discussion.

Public Works Director Spurlock stated that if this Ordinance is left at 6 inches they will need more manpower in the Public Works Department.

Councilman Howard also feels it's too strong.

Mayor Tarr suggested that the Building and Zoning Administrator should ride around taking pictures of the issues on the Island.

Councilman Howard motioned, seconded by Councilwoman Richardson to take Chapter 22, Article VI. Grass, Weeds and Other Foreign Growth on Private Property to a public hearing. Unanimously approved.

Town Attorney Poulson asked Building and Zoning Administrator Lewis to send him the pictures and potential problems.

Mayor Tarr asked to move on to Article II, Dogs.

Councilman Howard asked why this Ordinance is being changed.

Councilman Taylor explained that one of the Town's Officers had an issue with a dog that had to be shot and the owner got off on a technicality because of the way the ordinance was written.

Town Manager Ritter advised that the judge ruled that the owner didn't allow the dog to roam free. He stated that the key word was "owner".

Town Attorney Poulson referred to the memo included in the packet. He advised that he used the state statute and suggested using the definition of "owner" so it would be clear. He recommended: 1) change the definition of "Owner" to the following "*Owner*" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors and animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal. Use for State Law Reference §3.1-6500.

Sgt. Fisher advised that they didn't have an attorney on this incident giving their evidence and they didn't have any recourse because the state law didn't define the "owner" as this.

Town Attorney Poulson interjected that there was an owner of this dog. He stated that the owner of the dog could have explained that he was in Naples, FL and left the dog in someone else's care. He added that the person caring for the dog should have been charged. He feels this would be sufficient.

There was further discussion.

Supervisor Thornton explained her experience in the legal system due to a dog attack.

Town Attorney Poulson added that this section is pertaining to dogs running at large not vicious dogs.

Councilman Taylor motioned, seconded by Councilman Muth to approve Town Attorney Poulson's recommended changes to Article II Dogs: "Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors and animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal. Use for State Law Reference §3.1-6500. Unanimously approved.

4. Cemetery Committee Report of July 17, 2012

Councilwoman Richardson reported that Town Planner Neville has issued a letter to different organizations asking for their support and thanking for their past support.

Mayor Tarr feels the letter should state that staff is working on all cemeteries and a Maintenance Plan. He mentioned a working packet that shows all the cemeteries. He liked the document and feels it should be shown to the public. He suggested including information on the cemeteries on the website.

There was brief discussion about damage to the cemetery signs.

Councilwoman Richardson advised that someone suggested contacting the Sheriff's Department to have some people brought to help clean the cemeteries. She advised of the next meeting in October.

Councilman Taylor stated that Mr. Chuck Ward mentioned having a trust for donations and being able to write it off as a charitable donation.

Mayor Tarr isn't sure the Town can set up a trust, however, a group of individuals can.

Town Attorney Poulson advised that the Town cannot set up a trust.

Mayor Tarr suggested Mr. Ward setting up a nonprofit trust.

There was further discussion.

5. Mayor & Council Announcements or Comments

Town Attorney Poulson announced that Mr. Chuck Ward has been appointed to the BZA.

Adjourn

Councilwoman Richardson motioned, seconded by Councilman Howard to adjourn.
Unanimously approved.

Mayor

Town Manager