

REGULAR COUNCIL MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

January 4, 2010 - 6:00 P.M. - Council Chambers - Town Hall

CALL TO ORDER

INVOCATION BY COUNCILMAN T. HOWARD

PLEDGE OF ALLEGIANCE

OPEN FORUM / PUBLIC PARTICIPATION

STAFF UP-DATE

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

1. Consider Adoption of the Minutes
 - Regular Council Meeting of December 7, 2009 (Page 2 of 76)
 - Joint Council Planning Comm. Meeting of December 14, 2009 (Page 11 of 76)
2. Possible Adoption of the New Final Draft of the Comprehensive Plan
(Please Bring Your Draft Copy of the Comp Plan)
3. Christmas Home Decoration Judging Results (Page 13 of 76)
4. Request that the Town Agree to Act as Holder for an Open Space (Ruth Lane) (Page 14 of 76)
5. Fiscal Year 2011 Trolley Application Resolution (Page 48 of 76)
6. Professional services for Storm Water Related Projects (Page 51 of 76)
7. Possible Forwarding of a Rezoning Application to the Planning Commission (Page 58 of 76)
8. Public Safety Committee Report of December 1, 2009 (Mayor Tarr) (Page 66 of 76)
9. Recreation and Community Enhancement Committee Report of December 8, 2009
(Councilman Frese) *The following action by the Committee occurred and will need to be acted upon:*
 - Recommendation to hire Eastern Shore Surveyors. (Page 68 of 76)
10. Committee/Commission Appointments and Recommendations (Page 70 of 76)
 - Building Code of Appeals
 - BZA Recommendation
 - Planning Commission
11. Discuss the up coming Course for Council and Planning Commission Members (Page 72 of 76)
12. Mayor & Council Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)
13. Closed Meeting in Accordance with Section 2.2-3711(A) (1) of the Code of Virginia.
 - Personnel Matters

ADJOURN:

MINUTES OF THE DECEMBER 7, 2009
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor
James Frese, Councilman
Terry Howard, Councilman
Ellen W. Richardson, Councilwoman

John N. Jester, Vice-Mayor
Nancy B. Conklin, Councilwoman
John H. Howard, Councilman

Call to Order

Mayor Tarr called the meeting to order at 6:00 p.m.

Invocation

Councilman J. Howard offered the invocation.

Pledge of Allegiance

Mayor Tarr led in the Pledge of Allegiance.

2. Certificate of Special Recognition to Honorable Donald Hart

Mayor Tarr asked Supervisor Wanda Thornton if she had anything to say before the presentation.

Supervisor Thornton spoke of Supervisor Hart's achievements.

Mayor Tarr stated thanked Supervisor Hart for his many years of support for the Island's District. He then read the Certificate of Recognition:



Certificate of Special Recognition

WHEREAS, Mr. Donald L. Hart, Jr. has served this community and Accomack County well for many years in numerous capacities, including 30 years as a member of the Accomack County Board of Supervisors; and

WHEREAS, these years of service have been marked by exemplary dedication to the best interests of the county as he has worked constantly

for the betterment of its economic, cultural, educational and aesthetic development; and

WHEREAS, he has earned the admiration and high regard of those with whom he has come into contact, and the affection of his fellow public servants, who are proud to call him “friend” and

WHEREAS, his exceptional performance of the duties and responsibilities has not only earned respect throughout Accomack County but throughout each county of the Commonwealth of Virginia by his election as Chairman of the Virginia Association of Counties;

NOW, THEREFORE, I, John H. Tarr, Mayor of the Town of Chincoteague on behalf of the Town Council and all our citizens, do hereby express our sincere appreciation to Donald L. Hart, Jr. congratulating him on his distinguished service and extend him our best wishes for continued success as Chairman of the Virginia Association of Counties.

ADOPTED this 7th day of December 2009.

John H. Tarr, Mayor

Attest:

Robert G. Ritter, Jr., Town Manager

Supervisor Hart thanked Mayor Tarr and Council. He advised that he has been on the board for 30 years. He stated that Chincoteague has Supervisors that fight for our Island. He also added no matter where you're raised we're all part of the County and should be one big family. He added that his fight on the Board is that all citizens are being treated the same and fairly. Supervisor Hart stated that he is there to represent Districts 1-9. He again thanked Mayor Tarr and Council.

Open Forum / Public Participation.

- Mr. Joe Justice came before Council regarding a 4th flooding of his property. He asked if Council has addressed the Army Corps of Engineers regarding the flood gate at Captain Bob's. He feels that nothing is being done about it.
- Mr. Dan Whealton addressed Council regarding the naming of the new Chincoteague Drawbridge. He explained that he meant no disrespect, but feels that the Causeway from beginning to the end, including the bridges, was rightfully named in honor of John B. Whealton.

He explained some of the Whealton history to the Island. He feels that renaming landmarks sets a bad precedence. He suggested renaming the downtown dock as the William Lee “Fishman” Moore Dock, as he spent most of his life on that fish dock.

Councilwoman Richardson stated that the Causeway is still the John B. Whealton Causeway and the Channel Bridge is still the Channel Bridge. She agrees with Mr. Whealton and feels that it should be left alone.

Councilman J. Howard stated that Council has no intention of renaming the Channel Bridge.

Councilwoman Richardson asked if the plaque from the Drawbridge is to be placed on the new bridge.

Council was advised that the plaque was not allowed on the new bridge and should be placed in the Downtown Park.

- Ms. Michelle Mardis of Bunting Road addressed Council about the drainage issues near her home. She advised that she keeps getting flooded and may have to lose the downstairs living space of her home. She advised that Building and Zoning Administrator Lewis gave her some information that would help. She stated that she has nowhere to live at this time because of the condition of her home. She asked Council for help writing letters to Arlington, Virginia appealing to have her home removed from the frequent flooding list.

There was discussion about FEMA and having Town Manager Ritter assist Ms. Mardis with a letter to Arlington.

Town Manager Ritter suggested involving Mrs. Edwards, with the ANPDC for future flooding issues.

Ms. Mardis also stated that her home couldn't be raised because it is on a cement slab and the first floor block has rotted because of the water damage. She advised it would cost thousands of dollars to demolish the first floor and rebuild at the required flood elevation.

There were questions about drainage issues around the Island.

Public Works Director Spurlock reported that the Town put out a RFQ for Storm Water Management. He advised that the interviews will be Monday with the engineering firms. He added that they will address various flooding issues throughout the Island. Public Works Director Spurlock stated the he would like to have a Storm Water Master Plan. He also added that there was a study in 1991 and this particular drainage system was evaluated and should be reviewed. He feels that ideally they should begin at the Inlet. There was further discussion regarding the issues with Fowling Gut and waste water management.

Public Works Director Spurlock advised that there was over 40” of rainwater since July along with extreme high tides.

Councilman Frese feels that the Town's approach is wrong. He would like to see the political approach change and address Washington directly. He commended Public Works Director Spurlock on a great job, but feels this should be addressed directly.

Staff Update

Police Department

Chief Lewis reported for January 1, 2009 through December 2, 2009:

Calls = 24,732 911 Calls = 2,005 Police Responses = 3,516
Arrests = 201 Traffic Summons = 836.

Vice Mayor Jester and Councilman Frese asked how this report compared to last year's report. They also suggested a report comparing the previous years to see the trend.

Chief Lewis advised that the calls are down as the drug arrests and crime rates are down.

Public Works Department

Public Works Director Spurlock reported that they are currently engaging an engineering firm for storm water management. He stated that along with the routine operations there was a week of storm debris collection. This was coordinated with the landfill's free tipping fee week for storm debris. He continued to report that they have been working diligently on drainage maintenance along with the installation of new drains. The paving patchwork along Maddox Boulevard will be done tomorrow. He stated that Branscome is not able to hold the prices that were quoted and the Town will have to put out another RFQ.

Public Works Director Spurlock also reported that the Christmas decorations were put up. They also cleaned the Harbor along with berm restoration. They will be installing the drainage line on Margaret's Lane. The Pension Street project will start mid-January, and will include new water services. Also in January the USDA will begin the annual deer depopulation program. He stated that the Water Department, along with the monthly meter readings, installed new water services on the west end of Maddox Boulevard. He added that the fire suppression water meter for the Library has been installed. He concluded that the chlorinator needed unexpected repairs. Maddox Boulevard will be paved in the spring when the bridge intersection is paved.

General Government

Town Manager Ritter reported that the tax billing was complete and now in the process of posting payments. He stated that the water billing was done for the month. He advised that the Town received 26 applications for the Planner position. They have scheduled 5 interviews. He also added that evaluations are almost complete. Town Manager Ritter advised that a letter has been sent to VDOT and the ANPDC thanking them for their help during the November Nor'easter. They reviewed the drawings of the Downtown Corridor Project.

Town Manager Ritter also reported:

R/E taxes –	\$219,278	last year = \$227,273	down \$7,995
P/P taxes -	\$52,063	last year = \$65,918	down \$13,855
M-tax	- \$332,763	last year = \$324,381	up \$8,382
T/O tax	- \$473,291	last year = \$464,727	up \$8,564

Water rent \$438,079 last year = \$409,931 up \$28,048

Town Manager Ritter stated that with the Broadband Grant the Town is required to work with the VEC and open a satellite office in the Town office. They are requiring that the Town help employ 20 people from now until the project is completed.

Councilman J. Howard asked when the VEC services would be up and running.

Town Manager Ritter stated that Mrs. Chesser has agreed to sit in on the training and will begin the first of the year and run until the construction is completed at which time the Town is no longer obligated.

Vice Mayor Jester advised that the broadband completion to the Island will be 2011. He also added that the Chamber of Commerce will be meeting with the local businesses to get them to register with the VEC. He feels this would be a good service for the community.

Town Manager Ritter also reported that a letter was issued to all fuel providers giving them until November 2010 to strap down all fuel tanks.

Councilman T. Howard feels that the public should be notified about this deadline also.

Town Manager Ritter added that he has worked on the Personnel Policy for the Budget and Personnel Committee. He also stated that he and Public Works Director Spurlock will be meeting with Steve Minor and Stewart Hall on Thursday. He also announced that the Healthcare Committee Meeting has been cancelled for December. They have also reviewed the plans for Chicken City Road intersection.

Agenda Additions/Deletions and Adoption

Councilman T. Howard motioned, seconded by Councilman Frese to adopt the agenda with the change of moving the Certificate of Recognition presentation to the beginning of the meeting. Unanimously approved.

1. Consider Adoption of the Minutes

- **Regular Council Meeting of November 2, 2009**
- **Recessed Council Meeting of November 6, 2009**

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

3. Resolution on Determination of the State of Emergency on the Storm in November

Vice Mayor Jester motioned, seconded by Councilman Frese to adopt the resolution. Unanimously approved.

Mayor Tarr read the resolution.



AUTHORIZING RESOLUTION

WHEREAS, the November 2009 Nor-Easter caused moderate flooding to the Town of Chincoteague and potential of loss of life and property existed; and

WHEREAS, this resolution recognizes the potential disaster that could have occurred in the Town of Chincoteague; and

NOW, THEREFORE, the Town Council resolves that the Town of Chincoteague declared a local disaster at 5:00 am November 13, 2009.

ADOPTED This 7TH Day of December 2009.

I certify that the foregoing is an accurate copy of the Resolution/Ordinance adopted by the Town of Chincoteague on December 7, 2009.

John H. Tarr, Mayor

Attest:

Robert G. Ritter Jr., Town Manager

4. Public Hearing on a Wind Energy Ordinance

Mayor Tarr opened the Public Hearing. He asked Vice Mayor Jester to highlight the ordinance. He stated that the primary focus of the ordinance is safety and creating guidelines.

There was lengthy discussion and Town Attorney Poulson recommended changes. He also raised a few questions about the wording.

Council concurred to forward the ordinance to Town Attorney Poulson and to the Planning Commission for further review.

5. VDOT Bridge Update

Mayor Tarr welcomed Mr. Tom Rakowski with VDOT for another bridge update.

Mr. Rakowski advised that the bridge project is still on schedule for mid to late January 2010. He stated that the current detour will remain in place for the next 30-45 days. He explained the details of the work in progress. He advised that the landscaping is scheduled to begin next month. He also added that it is hard to schedule an exact opening date. However, he has set a date for the opening ceremony. Mr. Rakowski also stated that the Marsh Island connector will be completed in June 2010 and the demolition of the existing bridges and completion will be September 2010.

There were also comments and general questions from the public.

6. Discussion on Moving Forward With an Arts and Cultural District

Mr. Bob Behr explained to Council that in 2006 he worked with Sen. Nick Rarras on a bill that was approved, that the Town could create an Arts Cultural District. He read from the Code of Virginia and the proposal. He stated that the Arts Committee would be a subcommittee of the Planning Commission. He thanked the Committee for their work. Mr. Behr also added that they didn't include any incentives at this time.

There was lengthy discussion regarding possible costs to the Town and the feasibility.

Vice Mayor Jester motioned, seconded by Councilman T. Howard to have a meeting with Council, the Planning Commission and the Subcommittee to decide what direction the Town wants to go with the planning process to create an Arts & Cultural District. Unanimously approved.

7. Public works Committee Report of November 3, 2009

Council reviewed the report. There was discussion regarding drainage at the traffic circle.

8. Harbor Committee Report of November 5, 2009

Councilman T. Howard reviewed the report. He advised that the dredging is complete. There was discussion regarding donations for the fuel pump grant and the surveillance system. He announced the next meeting will be January 7, 2010 at 5:00 p.m.

9. Budget and Personnel Committee Report of November 10, 2009

Councilwoman Conklin reviewed the report. She stated that they will be reviewing the retirees' insurance benefit at the next meeting.

There was discussion regarding holidays in the employee handbook and leaving the paid holidays as they currently are.

10. Recommendation on a Video Monitoring System for the Harbor

Public Works Director Spurlock stated that they have asked 2 vendors to present the Town with their design of a monitoring system. He reviewed the 2 systems with Council and made his

recommendation to have Startech Communications install their system based on the cost coupled with an adequate system. There was further discussion.

Mayor Tarr asked Public Works Director Spurlock if he would ask if this system could be upgraded to include additional sites.

Public Works Director Spurlock also recommended that they approve the upgrade in memory to allow additional hours of recording.

Councilman J. Howard motioned, seconded by Vice Mayor Jester to purchase the video monitoring system with Startech Communications and the upgrade in memory. Unanimously approved.

11. Rezoning Application Submitted and the Process to go Forward

Town Manager Ritter reviewed the application from Mr. Philip Ettinger to rezone his property just south of Oyster Bay II. He is requesting that they change the zoning from R1 to R2. He advised that because of the Town's Zoning Ordinance there is a time restriction. He suggested putting this item on the January agenda and then forwarding the request to the Planning Commission so it returns to the Council before the deadline.

Mr. Jeff Potts, with Coldwell Banker stated that this property was 4 ½ acres and part of the Oyster Bay community and known as the common area. However, because of the lack of use it was sold and was zoned R1, but, the surrounding properties are zoned R2 or R3. He feels that this should have been zoned as the adjacent properties are zoned.

There was lengthy discussion resulting in tabling this matter and placing it on the agenda for the next Council meeting.

12. Mayor & Council Announcements or Comments

Councilwoman Richardson announced that the Cemetery Cleanup will be after the first of the year. She also thanked Mr. Carlton Leonard for cleaning the Leonard Park.

Councilman J. Howard asked to discuss having the administrative fees for sidewalks be removed at the next Council meeting.

Mayor Tarr asked staff to research the current charge, including the information in the January agenda.

Vice Mayor Jester informed Council that he emailed the Commonwealth about fragmites control. He was informed that there was no government program for this. He also mentioned having VDOT clean the debris away from the Causeway.

Councilwoman Conklin announced that the Chincoteague Christmas Parade was rescheduled for Tuesday night.

Mayor Tarr reminded Council that the Committee Christmas Social is scheduled for Wednesday at 5:00 p.m. The Recreation and Community Enhancement Committee meeting for Tuesday is rescheduled for December 8th at 5:00 pm.

Mayor Tarr informed Council that he along with, Supervisor Thornton, Town Manager Ritter and Mr. Steve Minor toured the beach. He stated that they are currently replacing some of the parking lots. However, there are larger issues to come before Council at a later time. He announced that there is a leadership meeting on the 14th and possibly a special meeting with Council and the Park Service.

13. Closed Meeting in Accordance with Section 2.2-3711(A) (1 & 7) of the Code of Virginia.

- **Legal Matters**
- **Personnel Matters**
- Councilman T. Howard moved, seconded by Vice Mayor Jester to convene a closed meeting under Section 2.2-3711(A)(1 & 7) of the Code of Virginia to discuss personnel and legal matters. Unanimously approved.
- Councilman T. Howard moved, seconded by Vice Mayor Jester to reconvene in regular session. Unanimously approved.
- Councilman T. Howard moved, seconded by Vice Mayor Jester 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)(1 & 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- Conklin, Frese, T. Howard, Richardson, J. Howard, Jester
- Nays- None
- Absent- None

Adjourn.

Councilman T. Howard moved, seconded by Vice Mayor Jester to adjourn the meeting. Unanimously approved.

**MINUTES OF THE DECEMBER 14, 2009
Special Joint Council/Planning Commission Meeting**

Council Members Present:

John H. Tarr, Mayor
James Frese, Councilman
Terry Howard, Councilman
Ellen W. Richardson, Councilwoman

John N. Jester, Vice-Mayor
Nancy B. Conklin, Councilwoman
John H. Howard, Councilman

Planning Commission Members Present:

Tripp Muth, Commissioner
Gene W. Taylor, Commissioner
Robert Behr, Vice-Chairman
Ray Rosenberger, Chairman

Mollie Cherrix, Commissioner

Planning Commission Members Not Present:

Steve Katsetos, Commissioner

Call to Order Call to Order

Mayor Tarr called the meeting to order at 6:00 p.m.

Invocation

Councilman T. Howard offered the invocation.

Pledge of Allegiance

Mayor Tarr led in the Pledge of Allegiance.

Agenda Adoption/ Deletions

Councilman T. Howard motioned, seconded by Councilwoman Conklin **“to adopt the agenda as presented.”** Unanimously approved.

1. Public Hearing – Comprehensive Plan Update

Mayor Tarr opened the Public Hearing and the only public comment was by Supervisor Thornton to correct that the conversation was about “Resort Commercial,” not “Resort Residential” as it had been stated a few times.

Town Planner Anderson began by explaining what has been updated since the last comprehensive plan meeting. Most of the updates were to Chapter 3- Land Use Areas, more specifically Resort Commercial.

He mentioned that language was included at the end of the Resort Commercial that stated that this land use area would follow current C-1 permitted uses by right and any other uses identified in the Comp. Plan Update.

Town Planner Anderson also stated that more language was included to describe Planned Unit Development (PUD) on Chincoteague, but noted that it would have to be fleshed out when the Planning Commission addresses it through the zoning process.

An Agricultural Land Use Area was established at the end of Chapter 3; and the chart, on page 3-1, that broke down the percentage of the Island that was in each land use area was removed because the information was not correct. It could be added at a later date in-house but it was not seen as necessary for the Comp. Plan Update.

Mr. Behr asked if the photo on page 5-1 could be taken out and replaced. It was mentioned that in the most current draft this and other non-Chincoteague specific photos have been replaced with Chincoteague specific and/or contemporary photos of the Island.

Councilman J. Howard had concerns about Home Occupations in residential areas. The amount of signage is his main concern.

Councilman T. Howard acknowledged Councilman J. Howard's concerns but had his own concerns about restricting Home Occupations and their importance to many individuals on the island.

Councilman J. Howard asked if the Planning Commission could look at Home Occupation signs. He also had concerns with the fact that this Comp Plan Update did not really address where people with construction equipment can put that equipment. He indicated that there are many people that are in the same situation that he is in with his construction equipment.

Mayor Tarr again asked if there was anyone in the audience that would like to speak. No one came forward and Mayor Tarr closed the public hearing, and indicated that it was in the hands of the Planning Commission.

Since it was properly advertised, the Planning Commission by way of a motion forwarded the Comprehensive Draft Plan to Council. Mr. Behr motioned, seconded by Mrs. Cherrix **“to send the Comprehensive Plan Update to the Council for approval.”** Unanimously approved.

Councilwoman Richardson requested that each member of Council be given a hard copy of the very latest version of the draft plan before the next meeting.

Planning Commission Adjourned:

Mr. Behr motioned, seconded by Mr. Muth **“to adjourn the Planning Commission portion of the joint meeting.”** Unanimously approved.

Town Planner Anderson believed that according to the State Code, Council has 90 days with which to act once the Planning Commission has forwarded the Update. There could be a possible January meeting to vote on/ discuss the forwarded update.

Council Adjourned:

Councilman Frese motioned, seconded by Councilwoman Richardson **“to adjourn the meeting.”** Unanimously approved.



2009 WINNERS OF THE ANNUAL CHRISTMAS DECORATIONS:

Judges Choice *

Jack & June Moyer
6593 Church Street

Most Festive *

Connie Bailey
6333 Church Street

Most Illuminated *

Dill Wilgus/Arlene
4169 Ridge Road

Most Traditional *

Ricky & Mandy Betts
6317 Church Street

Honorable Mention


Barbara Kambarn, 4246 Ridge Road
Chester Williams, 6337 Anderton Avenue
Ray Rosenberger, 7297 Sunset Drive

* Each category winner will receive a \$100 savings bond

◇ A Special thank you to all the judges

MEMORANDUM

TO: Mayor John H. Tarr and Chincoteague Town Council

FROM: Ruth Lane, East Piney Island  .

DATE: 4 January 2010

SUBJECT: Request that the Town agree to act as holder for an Open Space Property Easement on my property at 5431 Cedar Drive

I request that the Town of Chincoteague agree to act as holder of an Open Space easement on my property at 5431 Cedar Drive. A draft easement is attached.

The Eastern Shore Soil and Water Conservation District has agreed to act as monitor the property easement annually and report to the Town (I will set up a trust fund to perpetually cover the cost of this monitoring). Draft agreements to this effect are attached.

If, after my death and the sale of the property, major violations should occur, the Town would require payment of its court and other legal costs by the then property owner.

There will therefore be no cost to the Town in acting as holder of this easement, nor is any Town staff required for its implementation.

This request has already been presented to the Town Planning Commission (August 2008) which voted to send it along to Council, and to the Recreation and Community Enhancement Committee.

My attorney, David Rowan of Accomac, will accompany me to answer legal questions.

I request that the Council set a public hearing on the petition at its next monthly meeting.

Attached to this memorandum are:

- Photograph of home at 5431 Cedar Drive.
- Sketch of lot, showing wetlands, marsh, and yard layout.
- Plat of East Piney Island subdivision, showing relevant lot (formerly three lots)
- Letter from Eastern Shore Soil and Water Conservation District, agreeing to monitor property.
- Letter from East Piney Island Community Association approving easement.
- Letters from abutting property owners approving the easement.
- Memorandum of Understanding (draft) between property owner, Town, and ESSWCD.
- Cooperative Agreement (draft) between Town and ESSWCD, and sample report form for annual monitoring of the property.
- Open Space Easement (drafted by attorney David Rowan of Accomac).
- Vacation of property lines by Town (17 May 2007) making three lots into a single lot.

TO: Mayor John H. Tarr and Chincoteague Town Council
FROM: Ruth Lane, East Piney Island
DATE: 4 January 2010
SUBJECT: Request that the Town agree to act as holder for an Open Space Property Easement on my property at 5431 Cedar Drive

Benefits to the Town of Chincoteague

- Preservation of open space in the community, on the initiative of private landowners.
- Preservation of trees, woodlands, lawns and gardens in residential neighborhoods.
- Retention of neighborhood character and its attractiveness to year-round tourism.
- Property remains on the tax rolls (unlike the case where the owner makes the land a gift).
- 'Up-zoning' of neighborhoods by increasing the size of home lots and decreasing density.
- Reduction of need for Town-provided services.
- Property maintenance is done by the home-owner, who lives within and cares for yard.
- Guaranteed natural space raises the assessment of other homes in the neighborhood.
- These benefits are initiated by and maintained by private individuals, at no cost to town.

Benefits to the property owner

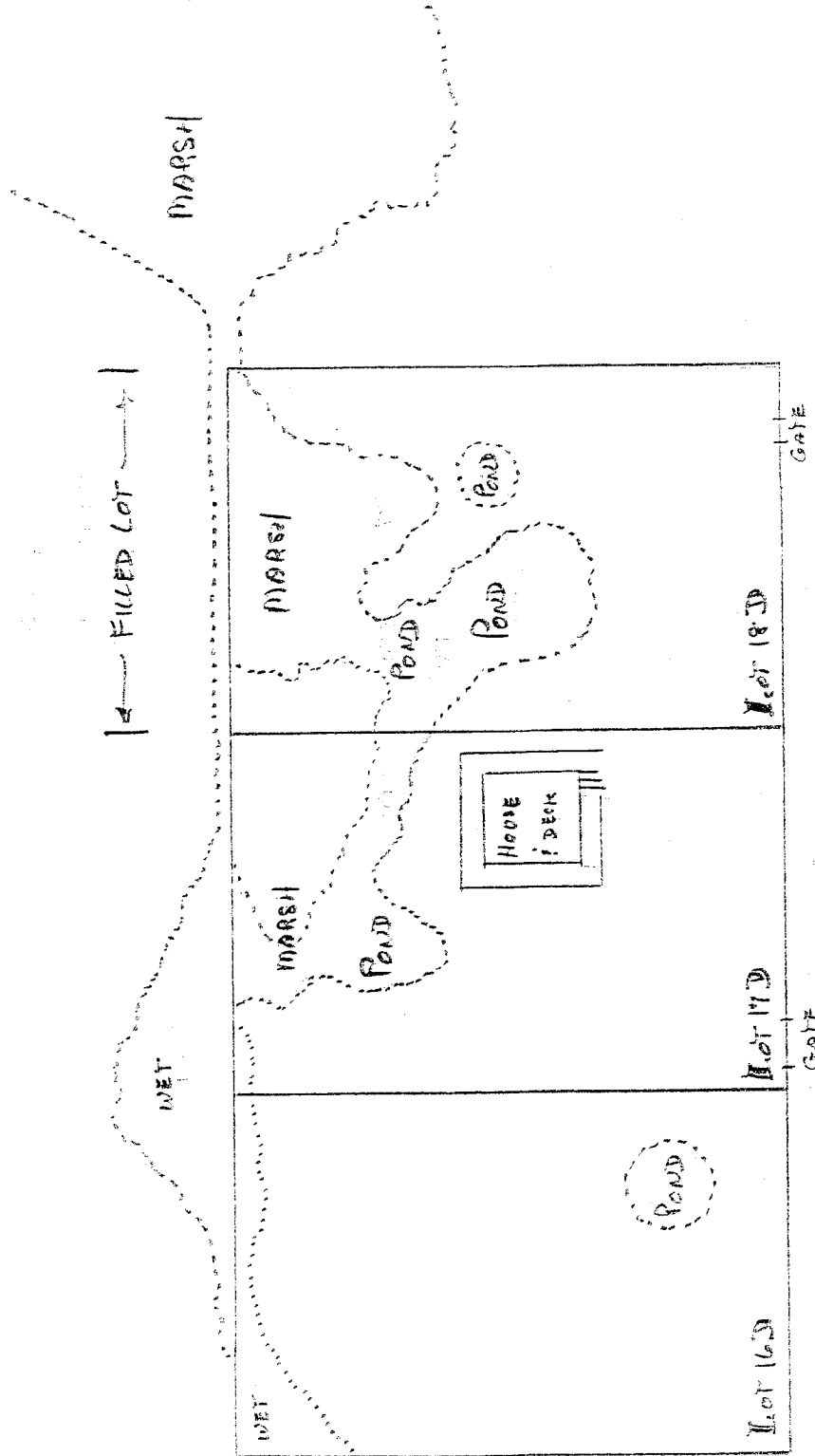
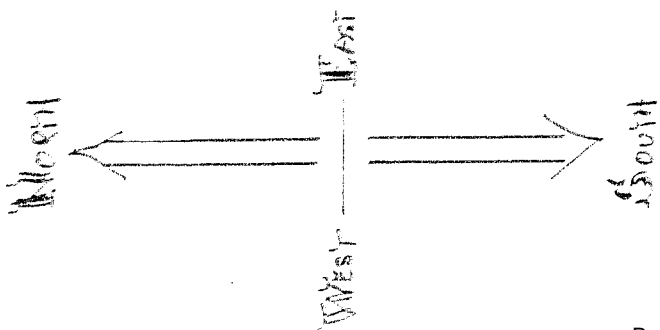
- Property owner is able to preserve trees, woodlands, natural contours of land.
- Open Space easements allow homeowners to keep extra property undeveloped as buffers.
- The easement, which means property cannot be sold for development, reduces owner taxes, but increases values of surrounding property, which is assured of its privacy.
- Aesthetic and natural values are maintained, whether as parkland, woodland, or gardens.
- Particularly in the Town's historic neighborhoods, the traditional character is retained.





Lane house at 5431 Cedar Drive, taken from driveway; house faces South.

PROPERTY OF JOHN T. LANE
EAST WINDY ISLAND, CINCINNATI, OHIO

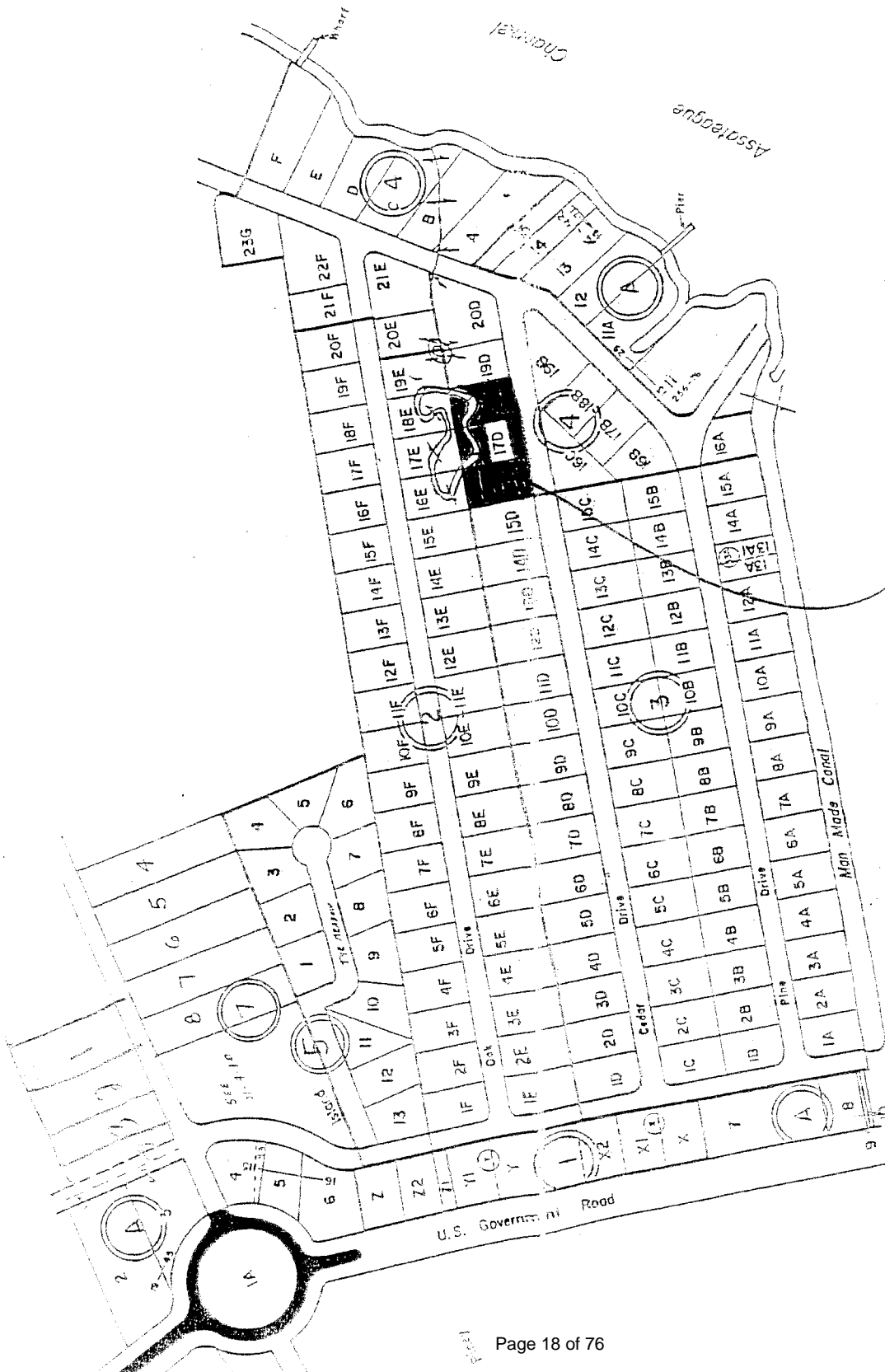


CEDAR DRIVE

SCALE

1 INCH = 50 FEET

100 = 100 FEET



(A) ACREAGE PARCELS

(1) WYLE MADDOX LOTS V.V.T.



Robin Rich-Coates, Chairman
Richard H. Hall, III, Vice-Chairman
Robert S. Bixson, Jr., Director

William E. Shockey, Director
Fred Holland, II, Director
W. Rawlings Scott, III, Director

September 11, 2007

Ruth Lane
2700 Q Street NW
Apartment 247
Washington, DC 20007

Dear Ms. Lane:

The District appreciates your presentation at our August board meeting and request that we consider entering into an agreement with the Town of Chincoteague and yourself to monitor your donated conservation easement on the Island.

Upon review of the draft language in your deed of gift of easement, the Board is favorable to establishing a relationship with yourself and the Town to provide monitoring services. As you know, we monitor easements for the Virginia Outdoors Foundation on the Eastern Shore and feel the District is well-situated to provide yearly inspections and monitoring reports on protected lands in our area.

As you move forward with your proposal to maintain conservation values on your property, District staff will be happy to work with you on a more detailed scope of services.

Sincerely,

Robin Rich-Coates
Chair

EPICA
East Piney Island Community Association, Inc.
P. O. Box 503
Chincoteague Island, Virginia 23336

15 August 2008

Ms. Ruth Lane
5431 Cedar Drive
(Mail address PO Box 128)
Chincoteague Island, VA 23336

Dear Ruth:

I am writing so that you will have for your records this confirmation of the East Piney Island Community Association members' vote in support of your open space easement project for your property at 5431 Cedar Drive. The vote was taken at the association's annual meeting on 9 August 2008, on a motion by Barbara Young, seconded by Nora Milner, and was unanimous.

The text of the resolution was as follows:

- The East Piney Island Community Association strongly supports the principle of maintaining open space in Chincoteague's traditional neighborhoods, especially that of Piney Island;
- The East Piney Island Community Association strongly supports the encouragement by the Town of Chincoteague of such open space through its willingness to act as holder of open space easements on private property, so long as there is no cost to the taxpayers;
- The East Piney island Community Association supports specifically the request of Ruth Lane that the Town act as holder of such an open space easement on her property at 5431 Cedar Drive.

As you know, EPICA is a voluntary neighborhood association created, in the words of its Bylaws, "to promote the welfare of the Community, to protect its residential character in accordance with the zoning ordinance of the Town of Chincoteague, to enhance the quality of the residential environment, and to take all such other action as may be agreed upon by the membership to help ensure the general welfare and protection of property within the Community and the related interests of the property owners."

Sincerely Yours,



Marna Andrew
President, EPICA

Ruth Lane
5431 Cedar Drive
Chincoteague Island, VA 22336

1 September 2008

Robert E. and Terry Lynn Richards
23101 Howard Chapel Road
Brookeville, MD 20833

(Piney Island address 5416 Oak Drive)

Dear Mr. and Mrs. Richards:

I am polling my East Piney Island neighbors to see how they would feel about my plans to place an open space easement on my property (three lots, one of which is adjacent to yours) at 5431 Cedar Drive. The easement would prevent any further building on the three lots, would prevent any cutting of trees except for safety, and would prevent any landfilling.

To enforce such an easement I need approval of the Town of Chincoteague, and they will want to know whether my neighbors are comfortable with the plan. If you could jot a brief word (approve, disapprove) on the open space below on this letter, sign it, and return it to me in the enclosed stamped envelope, I would appreciate it.

If you have any questions or issues of concern, please contact me in any of the various ways listed below; or note it in your mailed reply. I'll be glad to make suggested adjustments.

Thank you for your time.

Sincerely,


Ruth Lane

rlane@american.edu

DC phone: 202-333-5066

Office phone: 202-885-6232

Piney Island: 757-336-6194

Dear Ruth
My wife and I are delighted with your decision to put an open space easement on your lots. Such open space will provide habitat for wildlife and add to the quiet community nature of Piney Island. Thank you for your generous and forward looking decision.
Ruth Lane

*Ruth Lane
5431 Cedar Drive
Chincoteague Island, VA 22536*

1 September 2008

Michael Hannigan and Julia Turner
700 Poplar Drive
Falls Church, VA 22046

(Piney Island address 5420 Cedar Drive)

Dear Michael Hannigan and Julia Turner:

I am polling my East Piney Island neighbors to see how they would feel about my plans to place an open space easement on my property (three lots, one of which is adjacent to yours) at 5431 Cedar Drive. The easement would prevent any further building on the three lots, would prevent any cutting of trees except for safety, and would prevent any landfilling.

To enforce such an easement I need approval of the Town of Chincoteague, and they will want to know whether my neighbors are comfortable with the plan. If you could jot a brief word (approve, disapprove) on the open space below on this letter, sign it, and return it to me in the enclosed stamped envelope, I would appreciate it.

If you have any questions or issues of concern, please contact me in any of the various ways listed below; or note it in your mailed reply. I'll be glad to make suggested adjustments.

Thank you for your time.

Sincerely,

Ruth Lane

rlane@american.edu

DC phone: 202-333-5066

Office phone: 202-885-6232

Piney Island: 757-336-6194

*Further to
We are happy to
support your plan.
Signed: The Town of
Chincoteague
to seal a letter
has been
2008-09-01
Ruth Lane*

Ruth Lane
5431 Cedar Drive
Chincoteague Island, VA 23330

1 September 2008

Thomas and Constance Pettit
7586 Seabrook Lane
Springfield, VA 22153

(Piney Island address 5446 Cedar Drive)

Dear Mr. and Mrs. Pettit:

I am polling my East Piney Island neighbors to see how they would feel about my plans to place an open space easement on my property (three lots, one of which is adjacent to yours) at 5431 Cedar Drive. The easement would prevent any further building on the three lots, would prevent any cutting of trees except for safety, and would prevent any landfilling.

To enforce such an easement I need approval of the Town of Chincoteague, and they will want to know whether my neighbors are comfortable with the plan. If you could jot a brief word (approve, disapprove) on the open space below on this letter, sign it, and return it to me in the enclosed stamped envelope, I would appreciate it.

If you have any questions or issues of concern, please contact me in any of the various ways listed below; or note it in your mailed reply. I'll be glad to make suggested adjustments.

Thank you for your time.

Sincerely,



Ruth Lane

rlane@american.edu

DC phone: 202-333-5066

Office phone: 202-885-6232

Piney Island: 757-336-6194

Ruth:

We support your plans to
establish an open space easement
on your property because the threat
from our property.

Tom Pettit
Constance Pettit

9/5/08

*Ruth Lane
5431 Cedar Drive
Chincoteague Island, VA 22536*

1 September 2008

Thomas M. and Ann Recknagel
3210 Thornapple St
Chevy Chase, MD 20815

(Piney Island address 6496 Pine Drive)

Dear Mr. and Mrs. Recknagel:

I am polling my East Piney Island neighbors to see how they would feel about my plans to place an open space easement on my property (three lots, one of which is adjacent to yours) at 5431 Cedar Drive. The easement would prevent any further building on the three lots, would prevent any cutting of trees except for safety, and would prevent any landfilling.

To enforce such an easement I need approval of the Town of Chincoteague, and they will want to know whether my neighbors are comfortable with the plan. If you could jot a brief word (approve, disapprove) on the open space below on this letter, sign it, and return it to me in the enclosed stamped envelope, I would appreciate it.

If you have any questions or issues of concern, please contact me in any of the various ways listed below; or note it in your mailed reply. I'll be glad to make suggested adjustments.

Thank you for your time.

Sincerely,



Ruth Lane

rlane@american.edu

DC phone: 202-333-5066
Office phone: 202-885-6232
Piney Island: 757-336-6194

Approved

*Thomas M. Recknagel
5431 Cedar Drive*

Sept 4, 2008



Faith and Dave
<faithanddave@verizon.net>
09/10/2008 10:24 PM

To: rlane@american.edu
cc: Kathie Cox <kathie@kathiecox.com>, Faith Tennent - work
<president@abc-chesapeake.org>
bcc:
Subject: Chincoteague Properties

Dear Ms. Lane,

We are in receipt of your letter dated Sept. 1, 2008 and are interested in discussing the open space easement request of your properties. We are not opposed nor in favor of the easement strictly due to the fact we don't know enough about it and the reasons for your request.

Can you please enlighten us on what the easement you are seeking would provide and just importantly how this proposed easement would effect our adjoining property.

We jointly own our Chincoteague home with my sister and her husband and the four of us will all be in Chincoteague the weekend of Nov. 22nd. Would it be possible to meet you there and have you show us the easement lines and to have a land enforcement official there to help answer questions?

Again, Ms. Lane we are not opposed to your request we just want to ensure we are fully aware of how this could potentially impact our property in the future.

Should you like to discuss this prior to our November Chincoteague visit please feel free to contact me via any of the phone numbers or email addresses listed below. We look forward to hearing from you soon and working with you in your request.

Sincerely,

Faith and David Tennent

Annapolis office: 410.267.0347
Home ph: 301.262.7111
Chinco ph: 757.336.3333
Home email: faithanddave@verizon.net
Office email: ftennent@abc-chesapeake.org

*oral permission
at 22 november meeting*

**Memorandum of Understanding
Between Ruth Lane, The Town of Chincoteague, Virginia
and
The Eastern Shore Soil and Water Conservation District**

WHEREAS, Ruth Lane ("Lane") is the owner of certain real property located in Chincoteague, Virginia, more particularly described in Exhibit "A" attached hereto (the "Property") and

WHEREAS, Lane wishes to encumber the Property with an open space easement (the "Easement"), the grantee of which would be the Town of Chincoteague, Virginia (the "Town"); and

WHEREAS, the Town would agree to accept such Easement only if the Town were relieved of the responsibility and liability for monitoring compliance with the Easement; and

WHEREAS, The Eastern Shore Soil and Water Conservation District, a political subdivision of the Commonwealth of Virginia (the "ESSWCD") has agreed with Lane to monitor future compliance with the terms of the Easement; and

WHEREAS, Chapter 17 of Article 10.1 of the Code of Virginia (the "Open Space Land Act") authorizes public bodies to acquire and manage open space easements in partnership with other persons or entities; and

WHEREAS, Lane, the Town and ESSWCD wish to have a Memorandum of Understanding with respect to the monitoring and enforcement of the Easement.

NOW, THEREFORE, in consideration of the benefits and burdens accruing to them and other good and valuable consideration, the parties enter into this Memorandum of Understanding, intending it to be a general guide to future obligations and agreements. This Memorandum of Understanding provides as follows:

1. The Town and ESSWCD will draft a mutually acceptable cooperative agreement setting forth their respective rights and responsibilities in managing the Property once it has been subjected to the Easement. The agreement would provide for:

a) A background or "baseline" description of the Property, including plats and photographs, to be prepared by ESSWCD.

b) Annual monitoring of the Property by ESSWCD and reporting of its findings to the Town annually.

c) The fees for this service will be paid for by a trust established by Lane for this purpose.

d) Enforcement actions in the event of noncompliance with the terms of this Easement will be undertaken by the Town. The Property owner at the time would be responsible for payment of court costs in the event court action is required.

e) A suggested form of such agreement is attached hereto as Exhibit "B."

2. Lane will convey the Easement to the Town by means of a Deed of Gift of Easement to be recorded in the Office of the Clerk of the Circuit Court for Accomack County, Virginia. Any lienholders, co-owners or any other party with an interest in the Property will join in said Deed. The Easement conveyed will run with the land and the burdens and benefits thereof will inure to the successors and assigns of the parties hereto.

A proposed form of the Deed of Gift of Easement is attached hereto as Exhibit "C."

3. All parties to the Memorandum of Understanding agree to work cooperatively toward the goal of establishing an Easement on the Property and each acknowledges that open communication is a key element of success in this endeavor. The parties acknowledge that the attached documents may require modification and that other documents may have to be executed and will cooperate in good faith toward the creation and maintenance of an Easement on the Property.

WITNESS the following signatures and seals this ____ day of _____, 2009.

The Town of Chincoteague, Virginia

By: _____ (Seal)
Its: _____

The Eastern Shore Soil and Water
Conservation District

By: _____ (Seal)
Its: _____

Ruth Lane

**Cooperative Agreement between the Town of Chincoteague, Virginia
and the Eastern Shore Soil and Water Conservation District**

WHEREAS, Pursuant to Chapter 17 of Article 10.1 of the Code of Virginia (the "Open Space Land Act") a public body, including a municipality, may acquire "open space easements" on real property as defined in §10.1-1700 of the Act; and

WHEREAS, Virginia Code Section 10.1-1702 provides that the functions and powers under the Act may be shared with other public bodies of the Commonwealth; and

WHEREAS, the Eastern Shore Soil and Water Conservation District (the "ESSW"), a political subdivision of the Commonwealth of Virginia is such another public body; and

WHEREAS, the Town of Chincoteague and ESSW wish to enter into this cooperative agreement with respect to the monitoring of the easement held by the Town of Chincoteague (the "Town").

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, it is hereby agreed that ESSW will undertake the function of monitoring and where appropriate, enforcing the terms of the opens space easement to be held by the Town pursuant to the following terms and conditions:

1. ESSW shall prepare a background "baseline" description and inventory of the Property in form similar to the Stewardship Field Report attached hereto as Exhibit "A".

2. ESSW will prepare an annual monitoring report in form similar to the one-page Stewardship Field Report attached hereto as Exhibit "B".

3. Monitoring and reporting shall be at no cost to the Town. It is anticipated that ESSW's costs herein shall be paid through a trust established by the property owner/grantor of the Open Space Easement.

4. The Town and ESSW shall make information and files pertaining to the easements available to each other and to the U.S. Internal Revenue Service, the State Treasurer and Office of the Attorney General as requested.

5. Copies of any approval requested by the property owner or notice given by the property owner to either party to this agreement shall be provided to the other party. Likewise, copies of any approval or notice given to the property owner by either party to this agreement shall be provided to the other party.

6. Periodic monitoring visits to the easement property shall be in accordance with a memorandum of understating between the parties hereto dated

_____.

7. If questions arise concerning interpretation of easement provisions, ESSW shall consult with the Town before a determination is made about such interpretation. In the event that the Town and ESSW are unable to reach an agreement on interpretation, ESSW shall, after consultation with the Office of the Attorney General, make such determination and shall take primary responsibility in communicating any determination to the landowner.

8. If a violation of the restrictions set forth in the easement is discovered by ESSW, the monitoring party, it shall contact the Town to review possible remedies before any contact is made with the property owner. Where the parties hereto disagree about whether a violation has occurred or what action should be taken to correct a violation, the opinion of the Office of the Attorney General shall be sought and action shall be taken in keeping with such opinion. ESSW shall cooperate with and assist the Town and the Virginia Office of the Attorney General in enforcing the terms and conditions of each co-held easement.

This cooperative agreement, dated this ____ day of _____, 2009 made and entered into of behalf of the Town of Chincoteague, Virginia, and the Eastern Shore Soil and Water Conservation District, a political subdivision of the Commonwealth of Virginia.

The Town of Chincoteague, Virginia

By: _____ (Seal)
Its: _____

The Eastern Shore Soil and Water
Conservation District

By: _____ (Seal)
Its: _____

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**STEWARDSHIP FIELD REPORT****I. ADMINISTRATIVE INFORMATION**

Control Number: -VOF- Site visit date: _____ Previous inspection date: _____
 Site visit conducted by: _____

II. LANDOWNER CONTACT INFORMATION

(place an "x" in the box if the information is updated)

☐ **NEW OWNER**

☐ Landowner name: _____
☐ Mailing address: _____
☐ Home phone: () - ☐ Work Phone: () - ☐ Cell: () -
☐ e-mail address: _____ ☐ Fax: () -

☐ Other contact: _____ Relationship to owner: _____
☐ Mailing address: _____
☐ Home phone: () - ☐ Work Phone: () - ☐ Cell: () -
☐ e-mail address: _____ ☐ Fax: () -

III. EASEMENT HISTORY

Donor Name: _____ Easement recordation date: _____
☐ Original easement area has been divided Total acreage of original easement: _____

Conservation Values (from recorded easement document):

--

IV. PROPERTY INFORMATION

Property address / location/property name:			
Locality:		Total acreage:	
Tax Map	Parcel #	County acreage	Notes

V. LANDOWNER INTERACTION

Permission to visit site given on

by:

Names and titles of those accompanying VOF staff during site inspection:

Landowner or representative comments:

VI. STRUCTURES/IMPROVEMENTS

☐ No structures observed on the property under easement

☐ Separate sheet attached

Structure type/description/year	Size (sq. ft.)	On site?	In county records?
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

Notes on structures:

VII. GENERAL OBSERVATIONS

Current land use, activities, and overall physical description of property and features

VIII. EXTENT OF SITE INSPECTION

Any significant portions of the property that were NOT inspected? Please explain below (i.e. topography, restricted access, etc.)

IX. CHANGES TO PROPERTY SINCE PREVIOUS VISIT

(i.e. tree clearing, new/demolished structures, land disturbance, roads, trails, new uses, etc.)

X. OTHER OBSERVATIONS/MANAGEMENT CONCERNS/COMMENTS

Signage:

- ☐ VOF conservation easement sign displayed on site ☐ VOF sign provided previously, but not displayed
☐ VOF sign provided during current visit ☐ Sign offered, but declined by landowner ☐ Unknown/sign not visible

XI. CERTIFICATION

This report and attached photos/documents accurately describes, to the best of my ability, the condition of the property on the day of the site visit.

Doug Wetmore, Stewarasnip Specialist

Date Report Prepared



VOF Control Number: -VOF- Site visit date: Conducted by:
 Previous Documentation: ☐ BDR (Year Completed:) ☐ PCR (Year Completed:) Previous Site Visit:

☐ No change in landowner information; no changes needed in database

☐ Updated information listed below; please place an "x" in the appropriate box and update in EML

☐ Landowner name: _____

☐ Mailing address: _____

☐ Home phone: () - ☐ Work Phone: () - ☐ Cell: () - _____

☐ e-mail address: _____ ☐ Fax: () - _____

Landowner contacted: _____ Date of conversation: _____

Have any changes occurred since the previous site visit (forest management, building construction, subdivision or any other activity)?

No ☐ Yes ☐ If yes, explain? _____

Does the landowner have any future plans for the property (forest management, building construction, subdivision, or any other activity)? No ☐ Yes ☐ If yes, explain? _____

Any other landowner comments: _____

Extent of Site Visit:

Observations (General observations of property, changes since previous visit, including structures/size, management concerns, etc.):

This report and attached photos/documents accurately describe, to the best of my ability, the condition of the property on the day of the site visit.

Date Report Prepared

Please return this deed to:

David W. Rowan, P.C.

POB 561

Accomac, VA 23301

Title Insurer: _____

Tax Map No.: 031A004000017DO

Exempted from recordation tax
under the Code of Virginia (1950), as amended,
Sections 58.1-811 (A) (3), 58.1-811 (D) and 10.1-1803 and
from Circuit Court Clerk's fee under Section 17.1 - 266

THIS DEED OF GIFT OF EASEMENT (this "Easement"), made this _ day of _____ 2009, (between/among) **Ruth Lane** ("Grantor"); and **the Town of Chincoteague, Virginia a municipality organized under the Constitution and laws of the Commonwealth of Virginia** ("Grantee") (the designations "Grantor" and "Grantee" refer to the Grantor and Grantee and their respective successors and assigns).

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of real property known as 5431 Cedar Drive, and identified as Lots 16D, 17D, and 18D as shown on "Revision of a Subdivision for Wyle Maddox" dated August 6, 1970 made by R. L. Beebe, C. E., revising a "Division of Property of Wyle Maddox," dated July 3, 1965 by R. L. Beebe (Plat book 13, page 71) said plat being recorded in the Clerk's Office of the Circuit Court of Accomack County, Virginia in Plat Book 16, Page 42; and

WHEREAS, pursuant to the Request of the Grantor, the Town Council voted on May 17, 2007 to vacate the property lines between Lots 16D, 17D, and 18D, a copy of the approved Ordinance being attached hereto as Exhibit A:

WHEREAS, Grantee is a governmental agency of the Commonwealth of Virginia and a "qualified organization" and "eligible donee" under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended (and corresponding provisions of any subsequent tax laws)(IRC) and Treasury Regulation §1.170A-14(c)(1), and is willing to accept a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, Chapter 461 of the Acts of 1966, codified in Chapter 17, Title 10.1, §§10.1-1700 through 10.1-1705 of the Code of Virginia, as amended (the "Open-Space Land Act"), declares that the preservation of open-space land serves a public purpose by curbing urban sprawl, preventing the spread of urban blight and deterioration and encouraging more economic and desirable urban development, helping provide or preserve necessary park, recreational, historic and scenic areas, and conserving land and other natural resources, and

authorizes the acquisition of interests in real property, including easements in gross, as a means of preserving open-space land; and

WHEREAS, pursuant to Section 10.1-1700 and 10.1-1703 of the Open Space Land Act, the purposes of this Easement include retaining and protecting open-space and natural resource values of the Property, and the limitation on division, residential construction and commercial and industrial uses contained in Section II ensures that the Property will remain perpetually available for forest or open-space use, all as more particularly set forth below; and

WHEREAS, Chapter 525 of the Acts of 1966, Chapter 18, Title 10.1, §§10.1-1800 through 10.1-1804 of the Code of Virginia, declares it to be the public policy of the Commonwealth to encourage preservation of open-space land; and

WHEREAS, this Easement is granted "exclusively for conservation purposes" under IRC § 170(h)(1)(C) because it effects "the preservation of open space" under IRC 170(h)(4)(A)(iii). Specifically, the preservation of open-space on the Property is pursuant to clearly delineated state and local governmental conservation policies and will yield a significant public benefit; and

WHEREAS, this open-space easement in gross constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to the clearly delineated governmental policies set forth below:

(i) Land conservation policies of the Commonwealth of Virginia as set forth in:

a. Section 1 of Article XI of the Constitution of Virginia, which states that it is the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth;

b. The Open-Space Land Act cited above;

c. Chapter 18, of Title 10.1, §§10.1-1800 through 10.1-1804 of the Code of Virginia cited above;

d. The Virginia Land Conservation Incentives Act, Chapter 3 of Title 58.1, §§58.1-510 through 58.1-513 of the Code of Virginia, which supplements existing land conservation programs to further encourage the preservation and sustainability of the Commonwealth's unique natural resources, wildlife habitats, open spaces and forest resources;

(ii) Land use policies of the Town of Chincoteague as delineated in its draft comprehensive plan, dated December 2006, which contains the following goals, objectives, strategies:

a. To "Encourage preservation of open space and environmentally responsible development" (Page 2.2)

b. In the North Island Residential District, to "Insure that any development or redevelopment activities within the district minimize impacts to environmental resources and preserve or enhance drainage patterns in the area" (Page 3-8); and

WHEREAS, the Property is one of the last undeveloped parcels in the Piney Island subdivision, and harbors significant wetland and forest habitat; and

WHEREAS, this Easement will yield significant public benefit to the citizens of the Commonwealth as set forth in Section I; and

WHEREAS, Grantor and Grantee desire to protect in perpetuity the conservation values of the Property as specified in Section I by restricting the use of the Property as set forth in Section II; and

WHEREAS, Grantor and Grantee agree that Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, including the maintenance of usual and customary limits of liability insurance.

WHEREAS, Grantee has determined that the restrictions set forth in Section II (the Restrictions) will preserve and protect in perpetuity the conservation values of the Property, which values are reflected in Section I; and

WHEREAS, Grantee has determined that the Restrictions will limit use of the Property to those uses consistent with, and not adversely affecting, the conservation values of the Property and the governmental conservation policies furthered by the Easement; and

WHEREAS, Grantee, by acceptance of this Easement, designates the Property as property to be retained and used in perpetuity for the preservation and provision of openspace land pursuant to the Open-Space Land Act.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein and their acceptance by Grantee, Grantor does hereby give, grant and convey to Grantee a conservation and open-Space easement in gross (Easement) over, and the right in perpetuity to restrict the use of, the Property, which is described in SCHEDULE "A" attached hereto and made a part hereof, and which consists of Lots 16D, 17D, and 18D as shown on "Revision of a Subdivision for Wyle Maddox" dated August 6, 1970 made by R. L. Beebe, C. E., revising a "Division of Property of Wyle Maddox," dated July 3, 1965 by R. L. Beebe (Plat book 13, page 71) said plat being recorded in the Clerk's Office of the Circuit Court of Accomack County, Virginia in Plat Book 16, Page 42, the said lots having been subject to a town ordinance establishing a lot line vacation, as approved the Town Council on May 17, 2007 and the consolidated lot having been assigned Tax Map Number 031A004000017DO.

SECTION I - PURPOSE

The purpose of this Easement is to preserve and protect the conservation values of the Property in perpetuity by imposing the restrictions on the use of the Property set forth in Section II and providing for their enforcement in Section III. The conservation values of the Property are its open-space, scenic, natural, and recreational values and its values as land preserved for open space. Grantor covenants that no acts or uses that are inconsistent with the purpose of this easement or the conservation values herein protected shall be conducted on the Property.

SECTION II - RESTRICTIONS

Restrictions are hereby imposed on the use of the Property pursuant to the public policies set forth above. The acts that Grantor covenants to do and not to do upon the Property, and the restrictions that grantee is hereby entitled to enforce, are and shall be as follows:

1. **DIVISION.** Division of the Property is prohibited. The Property shall not be sold or conveyed except as a whole. Boundary line adjustments with adjoining parcels of land shall not be permitted.
2. **BUILDINGS AND STRUCTURES.** No buildings or structures other than the following are permitted on the Property:

One single-family dwelling existing on the date of this Easement. The single-family dwelling may not be increased, developed or modified in any manner which either (a) increases the existing footprint, or (b) increases living space. Should the existing building be destroyed, it may be rebuilt only on site where the current single-family dwelling is sited, with a gross living area no greater than 100% of the living area at the date of this Easement.

No other dwellings, structures, sheds, canopies, gazebos, pergolas, pools, hot-tubs, garages, barns, or similar auxiliary structures shall be permitted.

Any deck surrounding or attached to the house shall be no wider than 5 feet and shall extend no further than 5 feet from the outside edge of the single-family dwelling as existing on the date of this Easement.

Grantor shall give Grantee 30 days written notice before beginning any allowable construction on the dwelling on the Property.

The existing private driveway may be maintained, but may not be paved or surfaced in a manner that increases impermeability of the driveway. Underground public and private utilities whose construction and maintenance will not significantly impair the

Property's conservation values may be constructed and maintained if Grantee, in its sole and absolute discretion, should give its prior written approval.

3. **INDUSTRIAL OR COMMERCIAL ACTIVITIES.** Industrial or commercial activities are prohibited with the exception of activities that can be and in fact are conducted within permitted buildings without material alteration to their external appearance.
4. **MANAGEMENT OF FOREST.** Best efforts shall be used to preserve 100% of existing vegetation on the Property in its existing state as of the date of this Easement. Dead trees and snags may only be cut or removed to the extent they present a clear and present danger to either the structural integrity of the existing single family dwelling or the health, safety, or property of any adjoining property owner. To the extent individual trees, whether dead or alive, are threatening to the structural integrity of the existing single-family dwelling, best efforts shall be made to top-off, trim, prune, or stabilize such tree short of removal.

The vegetation on the site currently is comprised of native herbaceous and woody vegetations, including loblolly pine, sassafras, wild cherry, water oak, red maple, red cedar, bayberry, groundsel, marsh elder, viburnum, and alder. Such native trees and woody shrubs shall be protected, but non-native woody underbrush and herbaceous plants may be removed as reasonable and necessary to maintain the Property in neat and attractive appearance, while emphasizing the site's natural characteristics and native vegetation.

To the extent practicable, fallen trees shall not be removed, however, if removal is required no heavy machinery such as a bulldozer, backhoe or similar machine may be used.

5. **PROHIBITION ON GRADING.** No fill, dirt, gravel or other materials shall be brought to or used on the Property for the purpose of altering the grade or topography of the Property existing at the time of this Easement.
6. **ACCUMULATION OF TRASH.** Accumulation or dumping of trash, refuse, junk or toxic materials is not permitted on the Property.
7. **SIGNS.** Display of billboards, signs, or other advertisements is not permitted on or over the Property except to: (i) state the name and/or address of the owners of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property, (iv) provide notice necessary for the protection of the Property, (v) give directions to visitors, or (vi) recognize historic status or participation in a conservation program. Temporary political signs are allowed. No signs visible from outside the Property shall exceed nine square feet in size.

SECTION III - INSPECTION AND ENFORCEMENT

1. **RIGHT OF INSPECTION.** Representatives of Grantee may enter the Property from time to time for purposes of inspection (including photographic documentation of the condition of the Property) and enforcement of the terms of this Easement after permission from or reasonable notice to the Grantor or the Grantor's representative, provided, however, that in the event of an emergency, entrance may be made to prevent, terminate or mitigate a potential violation of these restrictions with notice to Grantor or Grantor's representative being given at the earliest practicable time. Grantee may enter into an agreement of Memorandum of Understanding with a third party, including the Eastern Shore Soil & Water Conservation District or The Virginia Outdoors Foundation) to conduct inspections and ensure appropriate stewardship of the Property.
2. **ENFORCEMENT.** Grantee has the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the right to require restoration of the Property to a condition of compliance with the terms of this Easement as existed on the date of the gift of the Easement, except to the extent such condition thereafter changed in a manner consistent with the Restrictions; to recover any damages arising from non-compliance; and to enjoin non-compliance by *ex parte* temporary or permanent injunction. If the court determines that Grantor failed to comply with this Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and attorney's fees, in addition to any other payments ordered by the court. Grantee's delay shall not waive or forfeit its right to take such action as may be necessary to insure compliance with this Easement, and Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act by Grantee. Notwithstanding any other provision of this Easement, Grantor shall not be responsible or liable for any damage or change to the condition of the Property caused by fire, flood, storm, Act of God, governmental act or other cause outside of Grantor's control or any prudent action taken by Grantor to avoid, abate, prevent or mitigate damage or changes to the Property from such causes.

SECTION IV -DOCUMENTATION

Documentation retained in the office of Grantee including, but not limited to, the baseline Documentation Report ("Documentation Report"), describes the condition and character of the Property at the time of the gift. The Documentation Report may be used to determine compliance with and enforcement of the terms of this Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination. Grantor has made available to Grantee, prior to donating this Easement, documentation sufficient to establish the condition of the Property at the time of the gift. The parties hereby acknowledge that the Documentation Report contained in the files of Grantee is an accurate representation of the Property.

SECTION V -GENERAL PROVISIONS

1. **DURATION.** This Easement shall be perpetual. It is an easement in gross that runs

with the land as an incorporeal interest in the Property. The covenants, terms, conditions and restrictions contained in this Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. Landowner's rights and obligations under this Easement terminate upon proper transfer of Landowner's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

2. **NO PUBLIC ACCESS.** Although this Easement will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to, or use of the Property. Grantor retains the exclusive right to such access and use, subject to the terms hereof.
3. **TITLE.** Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances (other than utility and access easements) including, but not limited to, any mortgages not subordinated to this Easement.
4. **ACCEPTANCE.** Grantee covenants and warrants that Grantee is authorized to accept this conveyance, as evidenced by the signature of the Town attorney.
5. **INTERACTION WITH OTHER LA WS.** This Easement does not permit any use of the Property which is otherwise prohibited by federal, state, or local law or regulation. Neither the Property, nor any portion of it, shall be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage or open-space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other property pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.
6. **CONSTRUCTION.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of the Easement and the policy and purposes of Grantee. If any provision of this Easement is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Notwithstanding the foregoing, lawful acts or uses not expressly prohibited by this Easement are permitted on the Property. Grantor and Grantee intend that the grant of this Easement qualify as a "qualified conservation contribution" as that term is defined in Section 170(h)(1) of the Internal Revenue Code and Treasury Regulations §1.170A-14, and the restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this Easement from being a qualified conservation contribution.
7. **REFERENCE TO EASEMENT IN SUBSEQUENT DEEDS.** This Easement shall be referenced by deed book and page number, instrument number or other appropriate reference in any deed or other instrument conveying any interest in the Property.

8. **NOTICE TO GRANTEE.** Grantor agrees to notify Grantee in writing (i) before exercising any reserved right that Grantor believes may have an adverse effect on the conservation or open-space values or interests associated with the Property; and (ii) at or prior to closing on any *inter vivos* transfer, other than a deed of trust or mortgage, of all or any part of the Property.
9. **TAX MATTERS.** The parties hereto agree and understand that any value of this Easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in IRS regulations (see Section 1.170A-13(c)(5)), and that the appraisal is subject to review and audit by all appropriate tax authorities. Grantee makes no express or implied warranties that any tax benefits will be available to Grantor from donation of this Easement, or that any such tax benefits might be transferable, or that there will be any market for any tax benefits that might be transferable. By its execution hereof, Grantee acknowledges and confirms receipt of the Easement and further acknowledges that Grantee has not provided any goods or services to Grantor in consideration of the grant of the Easement.
10. **MERGER.** Grantor and Grantee agree that in the event that Grantee acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.
11. **ASSIGNMENT BY GRANTEE.** Grantee may not transfer or convey this Easement unless Grantee conditions such transfer or conveyance on the requirement that (1) all restrictions and conservation purposes set forth in this Easement are to be continued in perpetuity and (2) the transferee then qualifies as an eligible donee as defined in Section 170(h)(3) of the IRC as amended and the applicable Treasury Regulations.
12. **GRANTEE'S PROPERTY RIGHT.** Grantor agrees that the donation of this Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time.
13. **EXTINGUISHMENT, CONVERSION, DIVERSION.** Grantor and Grantee intend that this Easement be perpetual and acknowledge that no part of the Property may be converted or diverted from its current use except in compliance with the provisions of Section 10.1-1704 of the Open-Space Land Act which does not permit extinguishment of open-space easements or loss of open space. Nevertheless, should an attempt be made to extinguish this Easement, such extinguishment can be made only by judicial proceedings and only if in compliance with Section 10.1-1704. In any sale or exchange of the Property subsequent to an extinguishment, Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of this Easement computed as set forth in Section 12 above, but not to be less than the proportion that the value of this Easement at the time of extinguishment bears to the

then value of the Property as a whole. Grantee shall use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purpose of this easement and the Open-Space Land Act.

14. **AMENDMENT.** Grantee and Grantor may amend this Easement to enhance the Property's conservation values or add to the restricted property, provided that no amendment shall affect this Easement's perpetual duration or reduce the Property's conservation values. No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded among the land records of the County of Accomack, Virginia.
15. **SEVERABILITY.** If any provision of this Easement or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Easement shall not be affected thereby.
16. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement.
17. **CONTROLLING LAW.** The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Virginia.
18. **RECORDING.** This Easement shall be recorded in the land records in the Circuit Court Clerk's Office of the County of Accomack, Virginia, and Grantee may re-record it any time as may be required to preserve its rights under this Easement.
19. **LIABILITY AND INSURANCE.** Grant and grantee agree that Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, including the maintenance of usual and customary limits of liability insurance.

In compliance with the provisions of Va. Code Ann. §15.2-1803, this deed is in the form approved by Jon C. Poulson, attorney for the Town of Chincoteague and is accepted by him on behalf of the Town of Chincoteague, which approval and acceptance are evidenced by his execution of this Deed of Gift of Easement.

WITNESS the following signatures and seals:

_____(SEAL)
RUTH LANE, Grantor

The Town of Chincoteague, Virginia a
municipality organized under the Constitution
and laws of the Commonwealth of Virginia.
Grantee

By: _____ (SEAL)

JON C. POULSON

Its: Attorney

COMMONWEALTH OF VIRGINIA

COUNTY OF _____, to-wit:

I, _____, a notary public for the County and
Commonwealth aforesaid, do certify that RUTH LANE, whose name is signed to the
foregoing instrument, has acknowledged the same before me in my County aforesaid this ____
day of _____, 2009.

NOTARY PUBLIC

Printed Name of Notary Public

Notary Public Registration Number

My Commission expires: _____

COMMONWEALTH OF VIRGINIA

COUNTY OF _____, to-wit:

I, _____, a notary public for the County aforesaid, in the
Commonwealth of Virginia, do certify that JON C. POULSON, attorney for the Town of
Chincoteague, Virginia a municipality organized under the Constitution and laws of the
Commonwealth of Virginia, whose name is signed to the foregoing instrument has
acknowledged the same before me in my County aforesaid this ____ day of
_____, 2009.

NOTARY PUBLIC

Printed Name of Notary Public

Notary Public Registration Number

My Commission expires: _____

2007 05367

**AN ORDINANCE VACATING A PROPERTY LINE OF A SUBDIVISION PLAT
PURSUANT TO §15.2-2272.2**

WHEREAS, one Ruth Lane, owns Lot 16D, Lot 17D, and Lot 18D as shown on a certain plat of survey entitled "Revision of a Subdivision for Wyle Maddox," dated August 6, 1970, made by R. L. Beebe, C. E., revising a "Division of Property of Wyle Maddox," dated July 3, 1965, by R. L. Beebe (Plat Book 13, page 71) said plat being recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia, at Plat Book 16, Page 42, within the Town of Chincoteague, Tax Map number 031A004000016D0, 031A004000017D0, 031A004000018D0, and

WHEREAS, one or more lots within said Subdivision have been sold, and

WHEREAS, the said Ruth Lane has requested that the division or property line between Lot 16D and Lot 17D and the division or property line between Lot 17D and Lot 18D be vacated so as to result in one (1) lot with a total width of three hundred feet (300 ft.) instead of three (3) lots with a width of one hundred feet (100 ft.) each, and

WHEREAS, the notice requirement of §15.2-2272.2 has been complied with:

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

1. That the division or property line between Lot 16D and Lot 17D and the division or property line between 17D and 18D as shown on the plat of survey entitled "Revision of a Subdivision for Wyle Maddox" dated August 6, 1970, made by R. L. Beebe, C. E., revising a "Division of Property of Wyle Maddox," dated July 3, 1965 by R. L. Beebe (Plat Book 13, page 71), be and is hereby vacated.
2. That as the result of said vacation, former Lots 16D, 17D, and 18D shall result in one (1) lot with a width of three hundred feet (300 ft.).

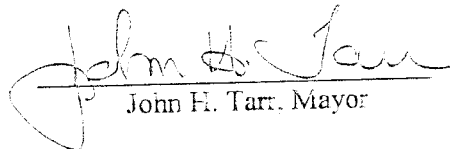
RECEIVED
CIRCUIT COURT
200705367-1 11:00

3. That the Town manager after the time for an appeal of the adoption of this ordinance has expired, or if it appealed the action of counsel is upheld, shall cause a copy of this Ordinance to be recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia.

Ayes: Anita Speidel, Vice Mayor
Nancy B. Conklin, Councilwoman
Terry Howard, Councilman
Ellen W. Richardson, Councilwoman
E. David Ross, Councilman

Nays: _____

Approved this 17th day of May, 2007


John H. Tarr, Mayor

State of Virginia
County of Accomack, to wit:
Acknowledged this 23rd day of August, 2007.
Notary Stephanie F. Montross

Prepared by
Jon Foulson

Stephanie F. Montross, Notary Public
Commonwealth of Virginia
County of Accomack
Commission Expires
October 31, 2011
Notary Registration # 274585

INSTRUMENT #200705367
RECORDED IN THE CLERK'S OFFICE OF
ACCOMACK COUNTY ON
OCTOBER 4, 2007 AT 10:40AM
SAMUEL H. COOPER, CLERK

RECORDED BY: NJR

2

Ruth Lane/rlane/AmericanU
12/10/2009 01:52 PM

To "David Rowan" <drowan2@verizon.net>
cc
bcc
Subject Re: Lane Open Space Easement/Chincoteague

David--

Thanks for the suggestions. I am holding off requesting they put it on the agenda until I talk with one more Councilman.

Attached is the memo I have sent him, and which I would use for the council meeting. I'd appreciate your comments on it. (all the materials referred to, mostly, you have since you wrote them).

Note that I will be on the web (and email) only until next Wednesday (December 16), and that I won't be able to make changes in the memo after that since I don't carry my computer with me.

Any comments therefore I need soon. After the 16th I'll be in touch by phone from the island, but email will not work.

--Ruth

"David Rowan" <drowan2@verizon.net>



"David Rowan"
<drowan2@verizon.net>
12/07/2009 09:52 AM

To "Ruth Lane" <rlane@american.edu>
cc
Subject Re: Lane Open Space Easement/Chincoteague

Ruth,

You may have already done this, but the way to approach this is for you to send the proposed document to the town manager with a formal request to be put on the agenda for the January Council meeting, explaining what it is you will be asking for at the meeting.

I will send Jon a courtesy copy of the deed in advance. As a practical matter, since Jon is paid by the job and is not a full-time employee of the town, he probably won't look at the document until his client asks him to do so and is prepared to pay him.

I think I would avoid asking them to refer it to Jon for an opinion unless it's clear they aren't going to schedule a public hearing on their own. If you ask them up front to get an opinion from Jon, that would pretty well guarantee that a public hearing won't even be considered at this meeting. I am not familiar with how formally they run their meetings, but is there the chance that if they put a public hearing to a vote and it fails, they will give you a chance to request, on the spot, that they at least refer the thing to Jon? If you know a council member personally, you might be able to get him/her to agree to raise that as a second motion if the public hearing motion fails.

David

----- Original Message -----

From: Ruth Lane

To: David Rowan

Sent: Monday, November 30, 2009 10:44 AM

§ 10.1-1700. Definitions.

As used in this article, unless the context requires a different meaning:

"Open-space easement" means a nonpossessory interest of a public body in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

"Open-space land" means any land which is provided or preserved for (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) historic or scenic purposes, (iv) assisting in the shaping of the character, direction, and timing of community development, or (v) wetlands as defined in § 28.2-1300.

“(Public body” means any state agency having authority to acquire land for a public use, or any county or municipality, any park authority, any public recreational facilities authority, any soil and water conservation district, any community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2 or the Virginia Recreational Facilities Authority.

(1966, c. 461, § 10-156; 1974, c. 348; 1986, c. 360; 1988, c. 891; 1997, c. 130; 2000, cc. 181, 724, 747.)

§ 10.1-1701. Authority of public bodies to acquire or designate property for use as open-space land.

To carry out the purposes of this chapter, any public body may (i) acquire by purchase, gift, devise, bequest, grant or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land and (ii) designate any real property in which it has an interest of not less than five years' duration to be retained and used for the preservation and provision of open-space land. Any such interest may also be perpetual.

The use of the real property for open-space land shall conform to the official comprehensive plan for the area in which the property is located. No property or interest therein shall be acquired by eminent domain by any public body for the purposes of this chapter; however, this provision shall not limit the power of eminent domain as it was possessed by any public body prior to the passage of this chapter.

(1966, c. 461, § 10-152; 1974, c. 259; 1981, c. 64; 1988, c. 891.)

Code of Virginia sections relevant to Towns' right to acquire easements

MEMORANDUM

December 23, 2009

To: The Mayor & Town Council

VIA: Robert G. Ritter, Jr.

From: Jack G. Van Dame

Subject: FY11 Grant Application

The grant application to the Department of Rail & Public Transportation (DRPT) for FY11 operating funds must be submitted prior to February 1, 2010.

To this end we require and request a resolution from The Town Council of Chincoteague:
Motion: "To approve the attached Resolution and supporting budget authorizing Robert G. Ritter, Jr., Town Manager to apply for an operating grant for FY2011 to The Department of Rail & Public Transportation for \$75,400.00. The Town of Chincoteague, Inc. will commit \$20,000.00 as its matching funds for this grant."

Included in the budget is \$12,000.00 for rent and office services and \$3,600.00 for maintenance services which will be transferred to the town's general fund for these services.

The grant application total cost for FY2011 is identical to the requested funds for FY2010. Actual expenditures for FY2009 were \$74,670.00.

The budget being used for the application is the same budget that will be submitted for inclusion in the town's final total FY11 budget.

Attachments:

Resolution
FY11 Operating Budget

Resolution Authorizing the Application for State Aid to Public Transportation

BE IT RESOLVED by the Town of Chincoteague, Inc. Council that Robert G. Ritter Jr., Town Manager, is authorized, for and on behalf of the Town of Chincoteague, Inc., hereafter referred to as the, **PUBLIC BODY**, to execute and file an application to the Department of Rail and Public Transportation, Commonwealth of Virginia, hereafter referred to as the, **DEPARTMENT**, for a grant of financial assistance in the amount of \$75,400.00 to defray the costs borne by the **PUBLIC BODY** for public transportation purposes and to accept from the **DEPARTMENT** grants in such amounts as may be awarded, and to authorize Robert G. Ritter Jr., Town Manager, to furnish to the **DEPARTMENT** such documents and other information as may be required for processing the grant request.

The Town Council of Chincoteague, Inc certifies that the funds shall be used in accordance with the requirements of Section 58.1-638.A.4 of the Code of Virginia, that the **PUBLIC BODY** will provide funds in the amount of \$20,000.00, which will be used to match the state funds in the ratio as required in such Act, that the records of receipts of expenditures of funds granted the **PUBLIC BODY** may be subject to audit by the **DEPARTMENT** and by the State Auditor of Public Accounts, and that funds granted to the **PUBLIC BODY** for defraying the expenses of the **PUBLIC BODY** shall be used only for such purposes as authorized in the Code of Virginia. The undersigned duly qualified and acting Town Manager of the **PUBLIC BODY** certifies that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Town of Chincoteague held on the 4th day of January, 2010.

(Signature of Recording Officer)_____

(Official Seal)

Robert G. Ritter, Jr. Town Manager

January 5, 2010

PONY EXPRESSFY11 GRANT APPLICATION BUDGET

Oct 1, 2010 to sept 30, 2011		FY11
CODE	Expense Description	Budget
703010-0100	Salaries & Wages	\$ 30,000.00
703010-2001	Fringe Benefits	\$ 2,300.00
703030-4403	Education & Training	\$ 500.00
703030-4404	Cleaning Supplies	\$ 425.00
703030-4701	Motor Fuels & Lubricants	\$ 7,000.00
703030-4702	Tires & Tubes	\$ 600.00
703030-4704	Parts	\$ 1,000.00
703030-4406	Supplies & Materials(Other)	\$ 200.00
703030-4407	Memberships/Dues	\$ 125.00
703030-4408	TravelMeals	\$ 100.00
703030-4400	Communications Services	\$ 1,000.00
703030-4401	Printing & Reprod.	\$ 4,000.00
703030-7302	Repairs & Maintenance	\$ 10,000.00
703030-4402	Advertising & Promotions	\$ 750.00
703030-5201	Drug Testing	\$ 900.00
703030-8505	Rent	\$ 12,000.00
703030-3401	Insurance & Bonding	\$ 4,000.00
703030-4703	Uniforms	\$ 500.00
	Total Expenses	\$ 75,400.00
	Program Revenues	\$ 7,000.00

MEMORANDUM

TO: Town Council

FROM: Harvey Spurlock, Public Works Director

DATE: January 04, 2010

SUBJECT: Storm Water Management Consultant

The following companies submitted responses to RFQ 09-001 Storm Water Management Services:

George, Miles and Buhr, L.L.C.
URS Corporation
Davis Bowen & Friedel, Inc.
AWB Engineers
Patton Harris Rust & Associates
Clark Nexsen Architects and Engineers

Although each of the firms interviewed were able to demonstrate a proficiency in storm water management I recommend Clark Nexen be selected to provide storm water management consulting services based upon a combination of factors; to include single source capabilities and a demonstrated working relationship with State of Virginia regulatory agencies.

**AGREEMENT
BETWEEN THE TOWN OF CHINCOTEAGUE
AND
Clark Nexsen Architecture and Engineering
FOR
PROFESSIONAL ENGINEERING CONSULTANT SERVICES**

THIS AGREEMENT. Dated _____ by and between the **TOWN OF CHINCOTEAGUE** of the Commonwealth of Virginia hereinafter called the "Town", party of the first part, and **Clark Nexsen Architecture and Engineering**, hereinafter called the "Consultant" or "Offeror", party of the second part.

WHEREAS. The Town requires professional engineering consultant services on an annual basis and deems it desirable to secure the professional services of said Consultant in connection therewith, as described in the Request for Qualifications Letter for the subject services issued by the Town dated November 9, 2009, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, and

WHEREAS, the Consultant maintains that he is qualified and willing to undertake the services delineated herein.

NOW, THEREFORE, WITNESSETH: The Town and the Consultant for the consideration hereinafter set forth, hereby agree as follows:

1. SCOPE OF SERVICES: The Consultant shall render the Town complete professional services as follows:

Provide, in the manner described therein, all services detailed in Exhibit A.

The Consultant(s) represents that it will perform all tasks in accordance with generally accepted professional standards and the Consultant(s) further represents that it will provide the Town the best possible advice and consultation within the Consultant(s) authority and capacity as a professional.

2. COMPENSATION TO CONSULTANT: The Town shall pay the Consultant subject to the provisions set forth in the Request for Qualifications dated November 9, 2009, unless otherwise modified in a separate writing, and as further set forth in the Consultant's Hourly Rate Schedule, a copy of which is attached hereto as Exhibit B and which is incorporated herein by reference.

Town personnel will provide the Consultant with a proposal scope of services, time constraints, and supporting plans and data for each individual work order. Prior to issuance of an individual work order the Consultant shall develop a final scope of services, establish delivery times, and itemized cost of services for review. Upon approval by the Town, an individual work order will be processed and the work initiated.

A. To Consultant:

(1). Consultant shall submit to the Town not more than once a month (by the 15th day of the month), an itemized invoice for each work order, setting forth services that he has performed and his charge therefore. The Town shall pay such invoice within forty-five (45) days from the date of invoice. Ten (10) days shall be allowed to review the invoice for accuracy. All invoices shall show the Town contract number and/or purchase order number and the federal employer identification number.

B. To Subcontractors:

(1) The Consultant awarded a contract under this solicitation is hereby obligated:

(a) To pay the subcontractor(s) within thirty (30) days of the Consultant's receipt of payment from the Town for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

(b) To notify the Town and the subcontractor(s), in writing, of the Consultant's intention to withhold payment and the reason.

3. CONTRACT TERM: This agreement shall be for a minimum period of three (3) years upon award of the Chincoteague Town Council. The contract will be deemed as renewed unless either party notifies the other in writing within sixty (60) days of any anniversary date of the agreement of intent not to renew the contract.

4. RESPONSIBILITY OF THE PARTIES.

A. Consultant: The Consultant shall, without additional cost or fee to the Town, correct or revise any errors or deficiencies in his performance. Neither the Town's review, approval or acceptance of, nor payment for, any of the services required under this Agreement shall be deemed a waiver of rights by the Town and the Consultant shall remain liable to the Town for all costs which are incurred by the Town as a result of the Consultant's negligent performance of any of the services furnished under this Agreement. The Consultant agrees and covenants that its agents and employees shall comply with all Town, state, and federal laws, rules, and regulations applicable to the business to be conducted under the contract.

B. Town: Town shall provide the Consultant with all information and data in possession, which relates to the requirement for the Project. If the Town becomes aware of any fault or defect in the Consultant's services, while under no obligation, the Town may notify the Consultant of any fault or defect. The Town shall furnish required information or services as expeditiously as reasonably possible for the orderly performance of the work. The Town shall designate to the Consultant as the Town's representative(s) who shall serve as the principal contact(s) and give direction to the Consultant throughout the duration of the work. The Town shall provide access to and make all provisions for Consultant to enter upon public and private property as required by Consultant to perform its services.

5. OWNERSHIP OF DOCUMENTS / CONFIDENTIALITY: The Consultant shall provide to the Town the original documents/ reports, logs and daily reports. All documents shall become the property of Town upon complete payment of the applicable work order. Any reports, information, data, drawings, specifications, estimates and summaries given to or prepared or

assembled by the Consultant under this Agreement shall not be made available to any individual or organization by the Consultant without prior written approval by the Town.

6. GOVERNING LAW AND VENUE: This solicitation is subject to the provisions of the Code of Virginia Public Procurement Act, Va. Code §2.2-4300, et seq. Any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia. Any litigation with respect thereto shall be brought in the courts of the locality, or the United States District Court for the Eastern District of Virginia, Norfolk Division, if independent federal jurisdiction exists. The Consultant shall comply with applicable federal, state and local laws, rules and regulations.

7. ANTI-DISCRIMINATION: By submitting their proposals, Offerors certify to the Town that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E) in every contract over \$10,000 the provisions in 1. and 2. below apply:

A. During the performance of this contract, the Consultant agrees as follows:

(1). The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Consultant. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(2). The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that such Consultant is an equal opportunity employer.

(3). Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

B. The Consultant will include the provisions of (1). above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

8. DRUG-FREE WORKPLACE: During the performance of this contract, the Consultant agrees to (i) provide a drug-free workplace for the Consultant's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Consultant that the Consultant maintains a drug-free workplace; and (iv) include the provisions of the foregoing

clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a Consultant, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

9. ETHICS IN PUBLIC CONTRACTING: Pursuant to Virginia Code §2.2-4367, et seq., by submitting their proposals, Offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this 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 was exchanged.

10. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By submitting their proposals, Offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

11. DEBARMENT STATUS: By submitting their proposals, Offerors certify that they are not currently debarred by the federal government, the Commonwealth of Virginia, or any political subdivision thereof from submitting proposals on contracts for the type of services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred. Should the Town determine during the course of performance of the Contract that the Consultant is so debarred, the Town may immediately terminate the Contract and seek all appropriate damages.

12. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the Consultant in whole or in part without the written consent of the Town.

13. MODIFICATIONS OR CHANGES TO THE CONTRACT: Modifications or changes can be made to the contract in any of the following ways:

A. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract

B. The Town utilizing any contract arising out of this solicitation may order changes within the general scope of the contract at any time by written notice to the Consultant. Changes within the scope of the contract include, but are not limited to, items such as services to be performed and the place of performance. The Consultant shall comply with the notice upon receipt. The Consultant shall be compensated for any additional costs incurred as the result of such change order and shall give the Town a credit for any savings. Said compensation shall be determined by mutual agreement between the parties in writing.

14. DEFAULT: In case of failure to deliver satisfactory services in accordance with the Contract terms and conditions, the Town shall give written notice to the Consultant of the default. If the Consultant fails to cure the deficiency within thirty (30) days of the notice, then the Town may immediately terminate the Contract, may procure replacement services from other sources and hold the Consultant responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Town may have. For purposes of the Contract, "written notice" shall mean notice in writing transmitted by United States mail, courier service, personal delivery, facsimile machine, or email.

15. INSURANCE: By signing and submitting a proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have insurance coverage at the time the contract is awarded. The Offeror further certifies that the Consultant and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. Consultant Insurance Certificates are provided in Exhibit C.

16. DISPUTE RESOLUTION: Any dispute arising under the terms of the contract shall first go to mediation, and if the dispute is not concluded through mediation, then the dispute must be litigated in a proper forum within six (6) months of the termination of the mediation proceeding.

17. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the Town shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

18. PROPOSAL ACCEPTANCE PERIOD: Any Proposal in response to this solicitation shall be valid for ninety (90) days. At the end of the ninety (90) days, the Proposal may be withdrawn at the written request of the Offeror. If the Proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

19. CANCELLATION OF CONTRACT: The Town of Chincoteague reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon fifteen (15) days written notice to the Consultant. Any contract cancellation notice shall not relieve the Consultant of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

20. MINORITY/WOMEN OWNED BUSINESSES SUBCONTRACTING AND REPORTING: Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the Consultant is encouraged to offer such business to minority and/or women-owned businesses. When such business has been subcontracted to these firms and upon completion of the contract, the Consultant agrees to furnish the following information: name of firm, phone number, total dollar amount subcontracted and type of service provided.

21. INDEMNIFICATION: Consultant agrees to indemnify, defend and hold harmless the Town of Chincoteague, its officers, agents, and employees from and against liability for all claims, losses, damages and expenses, to the extent such claims, losses, damages and expenses are caused

by the Consultant's negligent acts, errors or omissions. In the event claims, loses, damages and expenses are caused by the joint or concurrent negligence of the Town of Chincoteague and Consultant, they shall be borne by each party in proportions to its negligence, to the extent of applicable law.

22. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the Town. In the event that the Consultant desires to subcontract some part of the work specified herein, the Consultant shall furnish the Town the names, qualifications and experience of their proposed subcontractors. The Consultant shall, however, remain fully liable and responsible for the work to be done by its subcontractors and shall assure compliance with all requirements of the contract.

23. SEVERABILITY: Should any part of this Contract be deemed void or otherwise unenforceable at law or equity, that part shall be deleted from the Contract, and the remainder of the terms shall be in full force and effect.

24. FULL AGREEMENT: This writing incorporates the full Contract, and no term of this Contract may be varied except in a writing signed by both parties. The Contract consists of the following documents:

EXHIBIT A. Request for Proposals

EXHIBIT B. Consultant's Hourly Rate Schedule

EXHIBIT C. Certificate of Insurance

WITNESS the following Signatures:

Clark Nexsen Architecture and Engineering

Town of Chincoteague

By:



By:



Title: PRINCIPAL

Title:



MEMORANDUM

To: Robert Ritter, Town Manager

From: Kenny L. Lewis, Zoning Administrator

Date: November 18, 2009

Subject: Request to Rezone Property

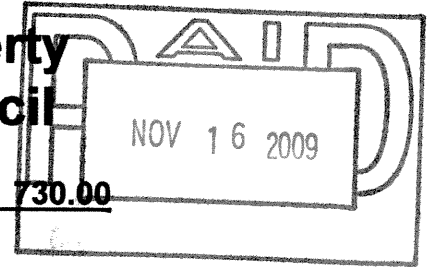
I have received an application from Jeff Potts to rezone property on North Main Street from Residential R-1 to Residential R-2, see attached application.

The Town's Zoning Ordinance section 11.1.4 states *"That changes shall be made by the governing body in the zoning ordinance or the zoning map only after such changes have been referred to the Planning Commission for a report. Action shall be taken by the governing body only after a report has been received from the Planning Commission, unless a period of 30 days has elapsed after the date of referral to the commission, after which time it may be assumed the commission has approved the change or amendment."*

The Mayor and Town Council will need to refer this application to the Planning Commission their required report of the proposed change in the zoning classification .

As noted above the commission must submit such report within 30 days or it will be assumed that the request is approved by the commission .

CHINCOTEAGUE, VIRGINIA
Application to Rezone Property
To The Mayor & Town Council



CASE NUMBER: _____

FEE: \$ 730.00

I, JEFF POTTS / REALTOR ASSOCIATE COLDWELL BANKER EASTERN SHORE,

AGENT FOR PHILLIP P. ETTINGER WOULD LIKE TO FILE THE
FOLLOWING APPLICATION TO THE MAYOR & TOWN COUNCIL TO REZONE PROPERTY
UPON THE NOTED STATE CODE AND ZONING ORDINANCE(S):

TITLE 15.2, CODE OF VIRGINIA, 1959 (AS AMENDED)

ARTICLE XI, SECTION 11.1

1. ☒ REQUEST TO REZONE PROPERTY FROM RESIDENTIAL DISTRICT R-1 TO :
 R-2 ☒ R-3 _____ AG _____ C-1 _____ C-2 _____
2. ☐ REQUEST TO REZONE PROPERTY FROM RESIDENTIAL DISTRICT R-2 TO :
 R-1 _____ R-3 _____ AG _____ C-1 _____ C-2 _____
3. ☐ REQUEST TO REZONE PROPERTY FROM RESIDENTIAL DISTRICT R-3 TO :
 R-1 _____ R-2 _____ AG _____ C-1 _____ C-2 _____
4. ☐ REQUEST TO REZONE PROPERTY FROM AGRICULTURAL DISTRICT AG TO :
 R-1 _____ R-2 _____ R-3 _____ C-1 _____ C-2 _____
5. ☐ REQUEST TO REZONE PROPERTY FROM COMMERCIAL DISTRICT C-1 TO :
 R-1 _____ R-2 _____ R-3 _____ AG _____ C-2 _____
6. ☐ REQUEST TO REZONE PROPERTY FROM COMMERCIAL DISTRICT C-2 TO :
 R-1 _____ R-2 _____ R-3 _____ AG _____ C-1 _____

TOWN COUNCIL USE ONLY:

MEETING DATE: _____

ACTION ON APPLICATION:

☐ APPROVED

☐ DENIED

☐ CONDITIONAL: _____

TOWN MANAGER

DATE: _____

PLEASE PRINT

THE PROPERTY IN WHICH THIS APPLICATION IS SUBMITTED IS LOCATED AT (911 ADDRESS)

UNIMPROVED ACREAGE, PARCEL "E" NORTH MAIN STREET, TAX MAP # 31B1-12-E

THIS PROPERTY IS CURRENTLY OWNED BY:

NAME: PHILLIP P. ETTINGER

ADDRESS: 2904 MAPLEWOOD PLACE

CITY, STATE, ZIP: ALEXANDRIA, VA 22302

PHONE: (703) 549-5762

WORK PHONE: N/A

FAX (703) 549-1444

(1.) EXPLAIN REASON FOR REQUEST

THIS REQUEST IS FOR THE MOST PART A "CORRECTION"; WHEREAS THE RESIDENTIAL-1 DESIGNATION IS FOR UPSCALE SINGLE-FAMILY SUBDIVISION LOTS; ALONG WITH ASSOCIATION OWNED TAX EXEMPT PROPERTIES USED FOR PARKS, LAKES, COMMUNITY BUILDINGS ETC.

THE PROPERTY IN QUESTION WAS ONCE A PART OF THE OYSTER BAY II SUBDIVISION; BUT WAS REMOVED AND SOLD IN DECEMBER, 1975; AND HAS STOOD ON ITS OWN AS A 4-1/2 ACRE PARCEL WITH ACCESS ONLY FROM NORTH MAIN STREET; AND NOT FROM THE 60 FT. PRIVATE ROAD (HIBISCUS DRIVE) THAT RUNS PARALLEL TO ITS NORTHERN BORDER.

(2.) PROPOSED USE OF LAND TO BE REZONED:

OWNER'S INTENT IS TO SELL THIS PROPERTY.

AN R-2 CLASSIFICATION WILL ALLOW ANY PROSPECTIVE BUYER MORE OPTIONS AND LESS RESTRICTIONS AS TO WHAT THEY CAN DO WITH IT.

I.E. - SINGLE FAMILY DWELLING

- TWO FAMILY DWELLING

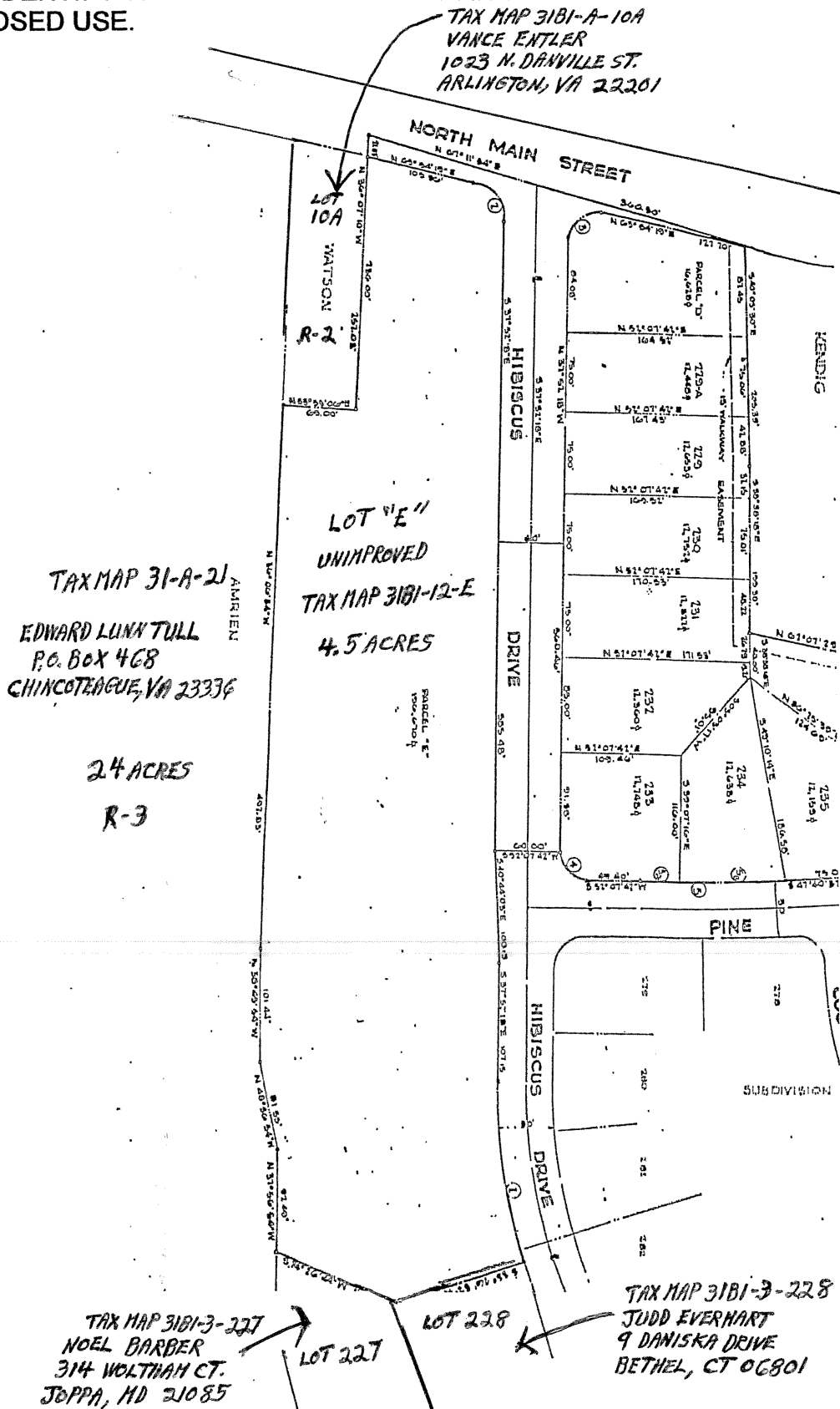
- HOME OCCUPATION; TOURIST RENTALS

(3.) VOLUNTARY PROFFERS:


NO PROFFER STATEMENTS NECESSARY; WHEREAS THIS IS NOT A SUBDIVISION.

SITE PLAN

SHOW FULL DETAIL THE LOT TO BE REZONED. IDENTIFY ADJOINING PROPERTIES AND OWNERS. IDENTIFY THE LOCATION OF ANY EXISTING STRUCTURES AND THEIR EXISTING AND/PROPOSED USE.



Site Plan



Official Website of
Accomack County
Eastern Shore of Virg

[Home](#) | [Help](#) | [Additional Info](#) | [Login](#)

[Search](#) [Results](#) [Details](#) [Map](#)

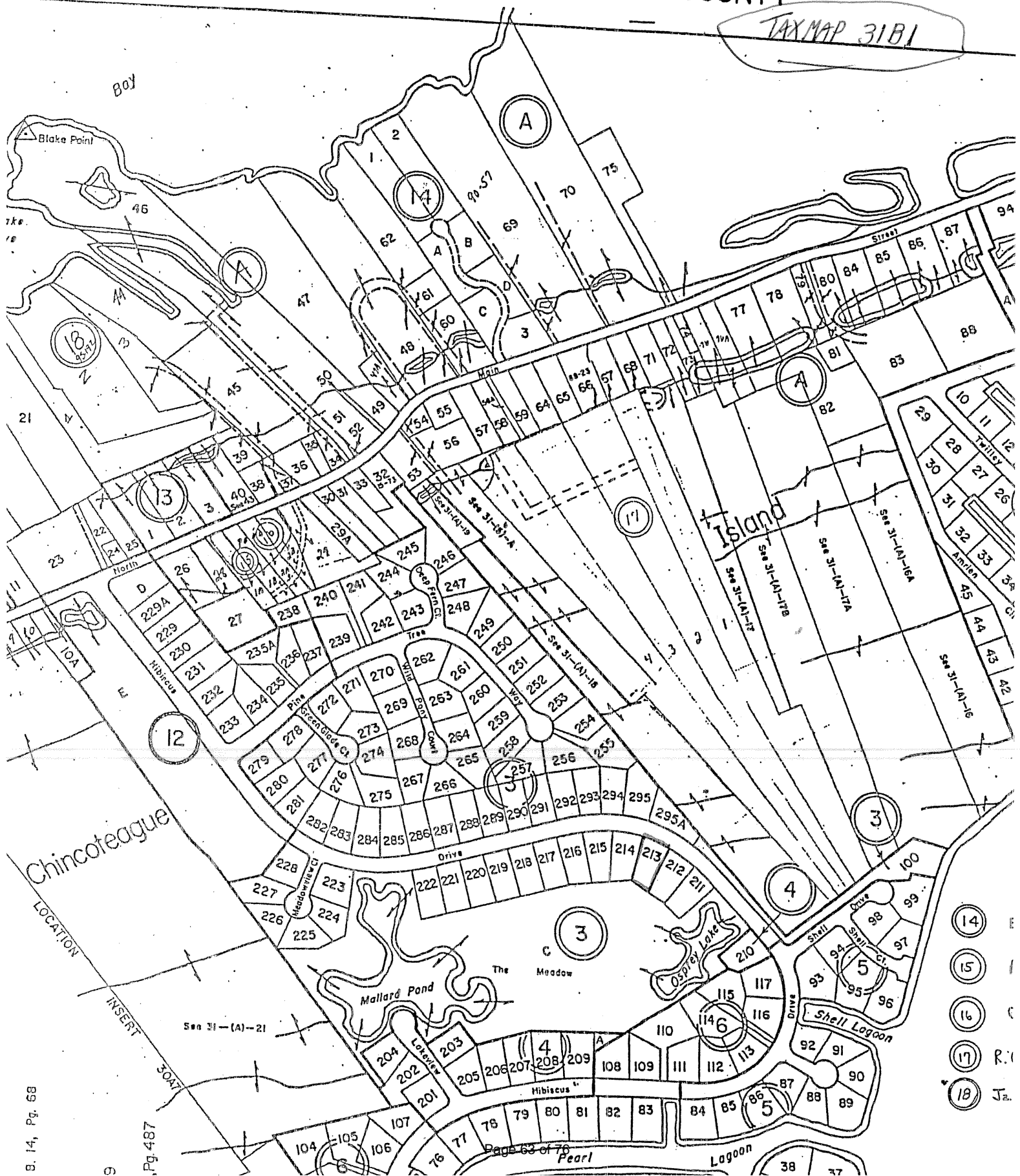
 [Map](#)  [Print](#)







Map ID: 31B1-12-E **Parcel ID:** 031B11200E00000 **GPIN:** 3888-93-9761 **Account:** 126440

[Summary](#) [Land](#) [Building](#)

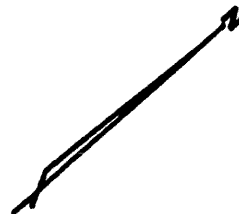
Property Class:	100-Incorporated Town	Utility Information
Legal Description:	PARCEL E 196.670 SQ FT 4 1/2AC	Electricity: Subscription Only
Land Description:	No Data	Gas: Subscription Only
Street Type:	Subscription Only	Sewer: Subscription Only
		Water: Subscription Only

TAX MAP 31B1



-  C-1, Commercial
 C-2, Commercial
 R-1, Residential
 R-2, Residential
 R-3, Residential
 A, Agricultural

Chinletoque Bay





EASTERN SHORE

4243 CAPTAIN'S CORRIDOR
P.O. BOX 219
GREENBACKVILLE, VA 23356-0219
TOLL FREE (800) 258-5843
OFFICE (757) 854-4141
FAX (757) 854-4247
www.ColdwellBankerEasternShore.net

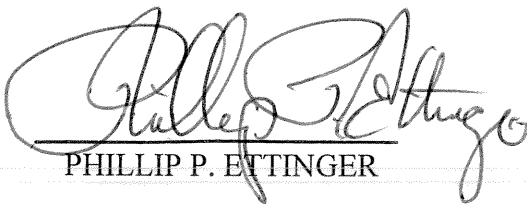
NOVEMBER 10, 2009

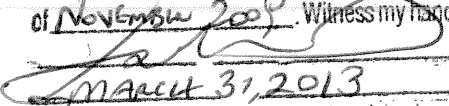
TOWN OF CHINCOTEAGUE
DEPTS. OF PLANNING &/ OR ZONING
CHINCOTEAGUE ISLAND, VA

TO WHOM IT MAY CONCERN:

THIS LETTER IS TO INFORM YOU THAT I HAVE DESIGNATED JEFF POTTS OF
COLDWELL BANKER EASTERN SHORE TO ACT AS AGENT ON MY BEHALF
IN REGARDS TO THE REZONING APPLICATION OF MY PROPERTY KNOWN
AS PARCEL "E" NORTH MAIN STREET, CHINCOTEAGUE, VA.
(TAX MAP 31B1- 12- E)

SINCERELY,


PHILLIP P. ETTINGER

City/County of ALEXANDRIA
Commonwealth/State of Virginia
Sworn to and subscribed before me this 3rd day
of November 2009. Witness my hand and official seal.

MARCH 31, 2013
(Print your expiration date above)

NOTARY



Safety Advisory Committee Minutes

December 1, 2009

Members Present:

Mayor Tarr, Chairman
Councilwoman Ellen Richardson
Councilman John Jester

Others Present:

Robert Ritter, Jr., Town Manger
Bryan Rush, EM Coordinator
Edward Lewis, Police Chief

CALL TO ORDER:

Chairman John Tarr called the meeting to order at 5:07 pm.

AGENDA ADOPTION:

Ellen Richardson made a motion, seconded by John Jester to adopt the agenda. The motion passed unanimously.

MONTHLY EMERGENCY MANAGEMENT REPORT - E. Bryan Rush

Mr. Rush said he is planning an EOC drill in mid-late January as a refresher and practice. VDEM is also preparing for another drill in 2010, regional, eastern Tidewater areas involved.

Training

ICS training will be posted 300 and 400 courses when they are available. We are ahead of schedule for training

Ambulance inspections were successful, with one ambulance out of service due to mechanical problems. The inspector will be back at a later date to complete the inspection.

Nor'easter November 12 thru 15, 2009

The situation, damage assessments, initial damage assessment (IDA) and last situation reports have been completed and submitted. Two residents suffered tidal/fire damage. Red Cross assisted with placement of the family. One residence had damage from a tree and a few businesses had water damage from tide. The town did not qualify for financial assistance for recovery purposes; however, the town expenses were very minimal. The public can receive assistance via low interest loans due to the fact the state was under a state of emergency. Information is available from VDEM or the town. For future natural disasters, information to the public about assistance will be made available.

Mr. Jester suggested a letter be sent to the propane carriers requesting a status report on tying down their propane tanks.

DISCUSSION OF DRAFT BADGES

Bryan Rush brought a laminated paper with cardboard backing as a potential badge system, but stressed concerns about low cost initial but high cost in future due to the instability of the badges. It was agreed upon to go with the format and color system that Mr. Rush proposed. It was proposed to seek out the price of a badge maker, software and printer to make in house plastic badges. Mr. Rush will do the research for the materials needed.

Each department needs to determine essential employees and inform the committee via email to Mr. Rush about by January 15, 2010.

CHINCOTEAGUE VOLUNTEER FIRE DEPARTMENT – NO REPORT/NONE PRESENT

POST STORM DISCUSSION

We need to update the emergency contact list and include email addresses.

NOAA- has been in contact with Mr. Rush about reference points for next storm. Mr. Rush will to contact them about getting a tide gage.

VDOT was great in assisting with the causeway closures and there has been positive feedback about the Reverse 911 system informing the public; however, there were some problems with voicemail receiving the entire message. In any event in the future the EOC will be open.

Chairman Tarr suggested that all departments need to be informed on future events. Chief Lewis said that in the future, all departments should be informed of any messages sent via the Reverse 911 System so that anyone taking calls has the correct information.

Mr. Jester commented that everyone did a really good job and that he received many calls complimenting the Reverse 911 system. He also said he would like to see a press release in the papers and on Channel 9 informing the public to contact the Police Department about the system if they did not receive a call.

Chairman Tarr asked Mr. Ritter to draft a letter of appreciation to VDOT and ANEC for their assistance during the storm.

Mr. Rush said that once the new bridge is completed, the 'Storm Ready Community' sign will be placed at the entrance of the island.

Mr. Jester asked about H1N1 shots and EMS providers. Discussion continued about various CDC recommendations. It is suggested that this be added to EMS job requirements and/or as a condition of employment. Mr. Rush said we need to check legality.

Mr. Jester said we need to look at crosswalks and handicap signs for Chicken City, Maddox Blvd and the bridge entrance.

Mr. Rush said there is a meeting on Monday December 7, 2009 at 9:30am with National Park Service and Fish and Wildlife to discuss emergency plans and beach usage, etc.

Chairman Tarr commented that a resolution needs to be drafted and voted on at the next Council meeting for the State of Emergency that was declared during the storm.

ADJOURNMENT:

Ellen Richardson made a motion, seconded by John Jester to adjourn. The motion passed unanimously. The meeting adjourned at 5:50 pm.

Recreation and Community Enhancement Committee Meeting Minutes December 15, 2009

Committee Members Present:

James Frese, Chairman
John H. Howard, Councilman
Ellen W. Richardson, Councilwoman
Bob Conklin
Cathy Plant
Gene W. Taylor
Jack Van Dame

Committee Members Not Present:

Others Present:

Mr. Robert G. Ritter, Town Manager
Harvey Spurlock, Public Works Dir.

Call to Order

Chairman Frese called the meeting to order at 5:01 PM

Adoption of the Agenda

There was a motion by Mr. Bob Conklin, seconded by Mrs. Cathy Plant to adopt the agenda as presented. The motion unanimously passed.

1. Flag Size at Robert Reed Park

Town Manager Ritter presented a suggestion from Public Works Director Spurlock, that we downsize from the current 9' by 17' flag, which cost \$270 each at 3 to 4 times per year, to a 5' by 9'6" flag which cost \$77. Public Works Director Spurlock reported that the fiberglass pole was not meant to support the larger flag.

John Howard motioned, seconded by Bob Conklin, to downsize and purchase the smaller flag. The motion passed unanimously.

2. Update on National Fish & Wildlife Bicycle Path

Town Manager Ritter presented the updated drawings of the path for review by the Committee. He explained that fiber optic will be run through our loop to Fish & Wildlife because they are at capacity. He explained changes and additions to plan and concerns about storm water drainage.

Discussion continued about problems with water pooling at the circle and exactly how far the bike path would go. Public Works Director Spurlock commented that he planned to develop a Storm Water Drainage plan in the future.

3. Update on Ocean Blvd Extended Bicycle Path

Public Works Director Spurlock reported that the best quote received was from Eastern Shore Surveyors at \$2,000 to survey the area for the path. Discussion continued about having the survey done for lesser cost, licensed surveyors, information included with survey, and possible legal issues. A new plat will be included with survey from Eastern Shore Survey.

Discussion continued about areas that will require additional work, fill dirt, the need for a bike path, usage, and possible traffic patterns. Councilman J. Howard motioned, seconded by Gene Wayne Taylor, to recommend to Council to hire Eastern Shore Surveyors. The motion passed unanimously.

4. Discuss Scrapping the Edge of the Roads for Bicyclist

Town Manager Ritter said that a Committee Member wanted this discussed.

Councilman Frese commented that he thought this was a Town policy. Members discussed various streets that had grass growing through blacktop and tools that could be used without damaging the blacktop and scraping versus cleaning.

Councilman J. Howard stated that anything that is wide enough to walk or ride a bike on should be cleaned or scraped of debris. Mrs. Plant requested that overhanging, bushy limbs be trimmed as well.

5. Committee Member Comments

Mr. Gene Wayne Taylor expressed his appreciation for the biking and parks on the Island. He stated that people come to the island for this purpose. He feels that if there's anything the Town could do to improve these things, it should be done.

Mr. Conklin said that it was brought up in the past to build a platform at the harbor for people to lookout at the surf, etc.

Councilman Frese requested that Mr. Conklin and Public Works Director Spurlock come up with some ideas so it can be added to the agenda for the next meeting.

Councilman J. Howard asked that we keep an eye on the Inlet because it is getting wider and the Harbor is being affected.

Councilman Frese commented that some of this was just natural progression.

Adjournment:

Mr. Conklin made a motion, seconded by Mrs. Plant, to adjourn the meeting. The motion passed unanimously and the meeting adjourned at 5:57 pm.

MEMORANDUM

THE TOWN OF CHINCOTEAGUE

To: Mayor & Town Council
From: Robert Ritter, Town Manager
Date: December 30, 2009
Subject: Committee/Commission/Board Vacancy Appointments

The term for the following member currently serving on the Building Code Board of Appeals will elapse on December 31, 2009:

1. Reginald Birch, Jr.

The term shall be for a period of 5 years and shall expire on December 31, 2014.

The terms of the following members currently serving on the Board of Zoning Appeals will elapse on December 31, 2009:

- 1. Arthur Leonard**
- 2. John Gilliss**

Mr. Leonard & Mr. Gilliss have voiced their desire to be re-appointed to this Board. The term shall be for a period of 5 years and shall expire on December 31, 2014.

A letter will be sent to the Honorable Glenn Tyler, Judge, regarding their re-appointment.

The term for the following members currently serving on the Planning Commission will elapse on December 31, 2009:

- 1. Mollie Cherrix**
- 2. Ray Rosenberger**
- 3. Bob Behr**

Ms. Cherrix and Mr. Rosenberger have voiced their desire to be re-appointed to the Commission. Mr. Bob Behr has stated that he does not desire to be re-appointed.

The term shall be for a period of 4 years and shall expire on December 31, 2013.

Council will need to take the necessary action to replace or fill the above applicants at your convenience. I suggest that we advertise the Building Code Board of Appeals and the Planning Commission positions this month and bring back a list of names to the next regular scheduled meeting in February.

December 28, 2009

Mr. Jon Poulson, Attorney
P. O. Box 221
Accomac VA 23301

RE: Reappointment to BZA

Dear Mr. Poulson:

On December 31, 2009 the term of Arthur Leonard & John Gilliss serving as a member of the Board of Zoning Appeals expires.

Please submit to Judge Tyler the desires of Mr. Leonard & Mr. Gilliss to be reappointed to this Board.

The terms of the appointed members will be for a period of 5 years and shall expire on December 31, 2014.

If you have any questions regarding this matter please give me a call.

Sincerely,

Kenny L. Lewis
BZA Secretary



A-NPDC

ACCOMACK-NORTHAMPTON PLANNING DISTRICT COMMISSION

P.O. BOX 417 • 23372 FRONT STREET • ACCOMAC, VIRGINIA 23301
(757) 787-2936 • TOLL FREE (866) 787-3001 • FAX: (757) 787-4221
EMAIL: anpdc@a-npdc.org • WEBSITE: www.a-npdc.org

MEMORANDUM

TO: Mayors and Planning Commission Chairs - Accomack and
Northampton County Towns
Middle Peninsula Planning District Commission
Hampton Roads Planning District Commission

FROM: Curtis W. Smith
Regional Planner

DATE: December 4, 2009

SUBJECT: Certified Planning Commissioner training scheduled

The A-NPDC along with support from the Virginia Coastal Zone Management Program and the National Oceanic and Atmospheric Administration (NOAA) has coordinated the Certified Planning Commissioner (CPC) training program which is to be held on the Eastern Shore. All interested individuals are encouraged to take advantage of this great opportunity.

The CPC training consists of a 10-week course with classroom work followed by homework and a closing classroom session. An opening session will be held January 28-29, 2010 and the program's closing session will be held March 31, 2010. All sessions will be held at the Eastern Shore Community College in Melfa, Virginia. The cost is \$450 per person.

All participants will need to complete a registration form for each person who plans to attend the program. The CPC registration form will be placed on the CPEAV website. Please register no later than January 7, 2010.

Please do not hesitate to contact me with any questions. I can be reached via email at csmith@a-npdc.org or by phone at 757-787-2936 x114. I hope this training will be useful to you.



The Virginia 2010 Certified Planning Commissioners Program

Please view our [Training Calendar](#) for upcoming training events

Program Background

Since the mid-1970's CPEAV has been committed to the goal of offering the best possible training to those who give of their time and talent to make their communities better places in which to live, work and do business.

A majority of CPEAV members are planning commissioners (approximately 85%). Because our members face the pressures of accommodating growth in an appropriate manner, even though it often comes rapidly; we are keenly aware of their need for training and assistance. Such help and knowledge are essential to enable planning commissioners, boards of zoning appeals members, other public decision makers, and support personnel to properly make decisions. These public servants must meet their legal responsibilities, yet do so in a manner that will withstand legal challenges while earning the trust of those being served.

The **CPEAV Virginia Certified Planning Commissioners' Program** which has received both state and national recognition and awards, is designed to provide the legal and technical background needed by citizen-planners and decision makers. The course is the most thorough and comprehensive available. There is nothing like it available in the nation. It thoroughly covers the law and principles that guide the practices of planning so the student will learn and understand both **"why"** and **"how"** to properly handle the various matters that come before a planning commission. The techniques of making legally defensible planning and zoning decisions are literally built into the core of the course. Indeed, a growing number of Planning Commissions are insisting their members learn these techniques by requiring them to successfully complete this Program within a reasonable period following their appointment or even as a prerequisite to their appointment.

Because the CPEAV course provides its students a thorough understanding of the legal background, the planning process and practices; many localities also find it to be excellent, invaluable and affordable training for elected officials. A growing number of localities are also requiring their administrative and support staff to complete the course as well because the process and procedures to make a proper and defensible planning decision must rest on a solid foundation, the construction of which begins at the administrative level.

The Program is designed to provide a basic foundation of planning law, history, and to provide the technical expertise needed by planning commissioners to maximize their competency and ability to render legally defensible decisions and recommendations. This course is particularly important for planning commissioners whether they are newly appointed or are veteran commissioners who have never received formal training. The ever-growing and changing legislation which mandates and regulates the operation of planning programs and procedures makes training a necessity because the traditional OJT or "on the job training" is simply no longer adequate in the more technical, complex, and expensively litigious world of the 21st Century.

This training is also exceedingly helpful for elected officials, as well as others such as

real estate persons, lawyers, builders and developers, engineers, architects and landscape architects. Moreover, members of citizen groups and community representatives, as well as anyone else who works with matters normally going before planning commissions for decisions will greatly benefit from the knowledge gained in this Program.

Staff members serving planning commissions and elected officials are welcomed and encouraged to attend this program. It will provide them an invaluable foundation of general knowledge on which to build and improve their skills. They will not only be more knowledgeable about what their planning commission does, but what, why and how it must discharge its responsibilities.

In order to accommodate varying schedules, this certification program is presented several times each year— usually in early March, in June and again in September. A certificate is awarded to those who successfully complete all requirements.

The Program is divided into Sessions — two classroom and one home study Session.

The two-day opening session features classroom instruction from 8:00 AM to 5:00 PM on the first day and from 8:00 AM to 4:30 PM on the second day. This first session focuses on the principles and practices of planning, the planning process, the legal foundations for planning, planning commission duties and responsibilities, the tools of planning, and the job of the planning commissioner.



Accommodations are comfortable and spacious at the Marriott West hotel in northwest Richmond with easy and quick access to I-64, I-288, I-295 and I-95.

The concluding session also features two days of classroom instruction. The topics covered include principles of meeting management, communication skills, decision making skills, conflict management, principles of community visioning, creative thinking and leadership principles.

Between the two classroom sessions, all students are required to read several books

that are included in the registration fee and complete and submit a series of open-book tests and essays. Everyone is also required to attend a planning commission meeting in another locality and analyze and report on the meeting using an observation guide that is provided during the first session.

All instruction during the Program is provided by the CPEAV cadre of highly regarded, skilled professionals with considerable experience in their respective fields.



Here guest speaker, Bob Hammond, the Goochland County Director of Planning, addresses a class. This type of training brings real-world experience of other localities to students.

Attendance

CPEAV urges you to carefully consider this information and then act quickly to reserve your place in the Course of your choice. Courses fill rapidly and attendance may be limited and registration is on a first-come, first-served basis.

The published registration fee for the Program includes all education materials and most meals during both classroom sessions. Transportation and lodging costs are the personal responsibility of each registrant. The Registration Form will provide first session hotel contact information and how Program participants may obtain special lodging rates for their stays.

If you consult the current Training Schedule and still have questions, please contact either Michael Chandler, CPEAV Director of Education or Allen Webb, CPEAV Executive Director for help.

To obtain registration and information contact either Michael Chandler or the CPEAV office. Mr. Chandler's email address is rmchan@vt.edu and his telephone number is **804-794-6236**. The CPEAV office 24/7 voice mail is **804-270-0532** within the Richmond area and **888-827-2482** outside of the Richmond calling area. The CPEAV Executive Director may be [emailed](#).

Rev October 29, 2009

Virginia Certified Planning Commissioners Program 66 Registration

The Opening Session on Thursday-Friday, January 28-29, 2010 will be held in Melfa at the Eastern Shore Community College.
The Closing Session on Wednesday March 31, 2010 will also be held at the Eastern Shore Community College.

Required Information:

Name (One person per form. Print large and clearly with black ink):

The Locality you represent and your Title:

Home Address:..... City:..... State:..... Zip:.....

Home Phone:..... Work Phone:..... Fax Phone:..... Cell Phone:.....

Email:.....

General Information, Deadlines, Early and Regular Fees and Cancellations:

A completed Registration Form and a \$450 Early Registration Fee (or payment agreement) must be filed with CPEAV on or before January 7, 2010. After January 7, 2010 the Regular Registration Fee of \$500 will be charged unless CPEAV has agreed to accept the Early Registration Fee. The Regular Registration Fee will be invoiced if necessary. Any Registration received after the filing deadline will be accepted only if space and education materials are available. Because courses are limited in size and often fill to capacity before the filing deadline is reached, Early Registration is encouraged.

I am a (please check all applicable):

- Planning Commission Member
- Board of Zoning Appeals Member
- Elected Official
- Other Appointed Official
- Director or other Staff Member
- Citizen
- Other (please specify below)

The Program registration fee includes educational materials, refreshment breaks and meals unless otherwise indicated. The fee includes the Opening Session, the Home Study Module, and the Closing Session. Participants are personally responsible for their travel and lodging accommodations if they need or choose to have them. A Certificate will be awarded upon completion of all requirements.

Cancellation requests received by January 7, 2010 will result in a full refund (except Credit Card payments which will be subject to a 7.5% service fee). Requests received from January 7, 2010 through January 14, 2010 will result in a 50% refund less any prepayments required of CPEAV. Cancellation requests received after January 14, 2010 can not be honored. Another person may be substituted with notification of CPEAV by January 14, 2010.

CPEAV will accept Registrations, Checks, Purchase Orders or Credit Card Payment Information by mail or by Fax to 804-794-6257. Make your check payable to CPEAV. If payment can not be submitted with your completed Registration form, please indicate expected payment date on the form. Mail Registration and payment to:

Michael Chandler
603 Farnham Cir
Richmond VA 23236-4173

For information phone Michael at 804-794-6236 or email him at rmchan@vt.edu OR call or fax Allen Webb at CPEAV 888-827-2482 or email to staff@cpeav.org. CPEAV is a nonprofit 501 (c)(3) Association and its Federal TIN number is: 20-1598674. CPEAV is not subject to withholding tax. Form W-9 is available on request.

For Credit Card Payment Mail or Fax to **804-794-6257**

CPEAV accepts VISA and MasterCard payments. CPEAV will invoice if information is illegible, incorrect, incomplete or the card is rejected by your bank. Please include the last 3 digits of the security code on the back of your card (the CVV2 code) to reduce the potential for bank rejection.

Please print large and legibly using black ink.

Card Number:.....

Expires:..... (MM/YY) Security Code:.....

Email Receipt to:

Approved by:

Phone: