

MINUTES OF THE NOVEMBER 4, 2024
CHINCOTEAGUE TOWN COUNCIL MEETING
Council Chambers
7:00 p.m.

Council Members Present:

J. Arthur Leonard, Mayor
Christopher D. Bott, Vice Mayor
Denise P. Bowden, Councilwoman
William T. McComb, Jr., Councilman
Ellen W. Richardson, Councilwoman
K. Jay Savage, Councilman
Gene W. Taylor, Councilman

Council Members Absent:

Staff Present:

Mr. Michael T. Tolbert, Town Manager
Mr. Tyler Greenley, Chief of Police
Mr. Bryan Rush, Director of Emergency Services
Mr. Wes Parks, Public Works Director

Call to Order

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

Invocation

Councilman Taylor offered the invocation.

Pledge of Allegiance

Mayor Leonard led in the Pledge of Allegiance.

Public Comment

Mayor Leonard opened the floor for public comment

- Mrs. Nancy Cunningham, Chincoteague Island Library, came before Council reviewing the programs, events, and fundraisers over the past year. She reported on the building maintenance and projects which included exterior paint, and the addition of a security system for safety. She advised that the Library is open 6 days a week to serve the Community and Library Cards are free. She thanked the Town for their continued support and hopes the overview reminds everyone of the gem on Main Street.

- Ms. Kathy Michaelian, Island Pickleball Group, thanked Council for their continued support. She reported on a donation they made which helped build the outdoor courts. She explained “drop-in play” verses “open play”. She also advised that there were 700 individuals signed up for “drop-in play” which were 47% from the Island, 34% tourist, and 19% from the Eastern Shore of Virginia. She reported on the coaches, and levels of players, along with their fundraisers. She thanked the Town for their support.

- Mr. David Landsberger, YMCA, gave a brief update on the gym construction. He reminded Council of the funds that was raised by the Community for the Brianna's Kindness Park that hasn't been spent yet and asked for sun shading.

Agenda Adoption

Councilwoman Bowden motioned, seconded by Councilman McComb to adopt the agenda as presented. Unanimously approved.

Staff Reports

General Government

Town Manager Tolbert stated that there was a modification in the fall of 2023 to the Solid Waste Collection Ordinance. He stated that among other requirements, these include placing all dumpsters on a cleanable pad and screening them from view from public right of ways or adjacent properties. He added that the Town office will begin enforcing this ordinance in January of 2025. He reported that all business owners were notified of the changes to this ordinance in January of 2024 in their business license renewal notice and again by mail last month. Town Manager Tolbert also advised that the Town has two positions in the Town office, the Town Planner and Finance Director. He stated that the Planner position has been vacant for several years and our current Finance Director will be retiring in April. Both vacancies have been advertised on an internet hiring site as well as the VML website. He added that he is currently reviewing multiple applications for both jobs.

Town Manager Tolbert advised that tax time is here. The bills were mailed today with a due date of December 5th. He advised that there was a small error on some of the Personal Property tax bills. He explained that there was a charge on the utility and boat trailers for the vehicle tax in error. He stated that the Finance Department is investigating the source, and staff is in the process of correcting the error. He then gave the monthly report for the Chincoteague Center. They held an indoor rummage sale, the Candidate Forum, 2 weddings, a blood drive, and Bingo. He reviewed November's upcoming events as well. He also gave the upcoming scheduled events as well. He reviewed the Meals and Transient Occupancy Report for October along with the Financial Report.

Town Manager Tolbert also reviewed the Building and Zoning Report for October, with 6 Code violations, 4 zoning site visits, 31 permit plans reviews. Building and Zoning Administrator Bowden attended training this month. There were 37 walk-ins. The total value for the building cost of construction was \$1,228,899.10, and the total building permit fees collected for the month were \$2,273.73.

Councilwoman Bowden asked if people were utilizing the online building permit application site.

Town Manager Tolbert advised this allows someone to complete and submit the building permit application online. He added that it is being utilized but would like to move more people to use it. He commented further.

Vice Mayor Bott stated that he is perplexed with the Transient and Meals Tax Report.

Town Manager Tolbert advised he will investigate this further.

Councilman McComb stated that there is a correlation between Meals and Transient Occupancy Taxes and both are down significantly.

Police Department

Chief Greenley reviewed the monthly Police report advising that on October 1st – 4th he, Sgt. Stevens, and Cpl. Butler attended the annual VALEAC conference for accreditation training. October 2nd – 4th Investigator Barnes attended the Pre-Employment Background Investigations for police applicants at Newport News Police Training Academy. October 4th the CPD completed traffic control and escort for the Homecoming Parade. October 7th – 11th Lt. Gladding attended in-service training at the Chesapeake Bay Bridge Tunnel. October 8th, he attended a recertification course for Intox EC/IR II. October 12th the CPD completed traffic and foot patrol for the Oyster Festival. October 16th, he and Inv. Barnes provided extra staffing at CHS for multiple threats. October 24th SRO Geminiani completed a community outreach program at the Island Library, reading to kids and show-and-tell of the police cruiser. October 24th all officers completed requalification with firearms. October 29th all officers attended Axon training for body worn cameras and in-car videos systems. On October 30th all officers completed annual physical fitness testing. October 31st the CPD completed traffic and foot patrol for Halloween Trick-or-Treating downtown and in Sunnywood Manor.

Public Works Department

Public Works Director Parks reported that the Public Works Department conducted drainage maintenance in Ocean Breeze and Misty Meadows. He explained what they found and repaired or corrected. The trees and shrubbery were groomed at the Dog Park. Drip-inlets were made in preparation for storm drain and collapsed pipe replacement on Poplar Street t. He also advised that they permanently patched where cuts were made in the roads for maintenance. He reported that the Road Scholars worked for 3 afternoons painting street signs, trash enclosures, and miscellaneous improvements. They rebuild benches and fence at the Robert Reed Park. They also had a street sweeper demo. They power washed at the Center along with putting in mulch and completed some road grading. He advised of planned work for November, which included Wildcat waterline, Christmas decorations, along with projects that the RCEC approved.

Councilwoman Richardson commented on the Eastside Road patchwork.

Mayor Leonard asked if they had cut back the roots at the Dog Park.

Public Works Director Parks advised they have not.

Emergency Services

Director of Emergency Services Rush reported that they had 89 calls in October which was 11 more than last year. EMS Staff went with the Fire Department to the Elementary School for Fire Prevention where they allowed the children to check out the ambulance. He reported on the 911 Center phone app. “What 3 Words”. He explained how it worked which would help locate a caller within a 10’ grid. This is done by a link on a cellphone. He stated they are monitoring the weather. Hurricane Season ends November 30th but could have other events. The Regional

Catastrophic Planning Workgroup met in October and addressed electric vehicle evacuation routes. They planned and oversaw Trick-or-Treating. He attended the Eastern Shore District Preparedness held the quarterly meeting in October and Rocket Lab is planning another launch on the 19th. He reminded everyone to prepare now. He gave a brief update on the med kits which have been extended to April.

Councilwoman Bowden asked if the “What 3 Words” app. was implemented.

Director of Emergency Services Rush advised it is.

Committee Report

Cemetery Committee

Councilwoman Richardson reported they met on October 3rd and decided that this week, November 4th – 9th is Cemetery Cleanup Week. She asked citizens to check the cemeteries and pickup and cleanup where it needed. She reported that she, Town Manager Tolbert, and Mrs. Mandy Betts walked 5 cemeteries on Saturday to see what needed to be done.

Budget and Personnel Committee

Vice Mayor Bott reported that they met in October and continued discussion to find ways to increase revenue and encourage permanent residency. They also talked about the Employee Handbook and reviewed the proposed salary schedule.

RCEC

Councilman Taylor reported that they met on October 10th. He advised Mr. Landsberger that they approved the sunshade structures, benches, hangouts and charging stations, and wheelchair access at the Brianna’s Kindness Park. He expressed his appreciation for everything everyone did to raise money. He commented on the pickleball courts. He also reported they approved fencing at Memorial Park, to replace dugouts with fencing, and decking for the fishing pier. He added that a lot of the work will be done in-house and will save a lot of money. They have also approved platform for the benches at the Dog Park. He added that the shade structure will be installed in the spring.

Councilwoman Bowden asked about the timeline for replacement of the decking at Memorial Park.

Town Manager Tolbert advised that it would be after the 1st of the year but will be done for the spring.

Councilwoman Bowden showed pictures that need immediate attention.

Adoption of Minutes of October 7th and October 17th Council Meetings

Councilman Taylor motioned, seconded by Councilwoman Bowden and Councilman McComb to adopt the minutes of the October 7th and October 17th Council meetings as presented. Unanimously approved.

Public Hearing - Murals

Town Manager Tolbert read the rules for the public hearing.

Mayor Leonard opened the public hearing at 7:46 p.m.

- Mrs. Patricia Farley, 3243 Lisa's Lane, advised that she spoke at the last Planning Commission meeting and she also spoke with Town Manager Tolbert asking for an ordinance regarding murals. She feels that most of what is proposed makes sense. She suggested that murals be differentiated from signs. She read a section of the ordinance stating that this section eliminates most future murals. She commented further and referred to the mural downtown which is an enhancement. She also read another section and commented further about allowing words, such as the name of an old building, a business, or the name of a ship. She feels that the two sections are not necessary. She stated that 2 bodies are wise enough to understand that the placement of the mural is a distraction rather than an enhancement. She feels that with the way it reads the Town of Chincoteague, the Mayor and Councilmembers do not want murals, or to be easily seen. She hopes it's not true and doesn't think that it's true. She urges the modification of the ordinance for enhancement of the Town.

Mayor Leonard closed the public hearing at 7:52 p.m.

Councilwoman Bowden commented that when she read this, she was under the impression that "murals must not contain wording of any kind" was related to advertising. She explained further.

Councilman Taylor stated that it states, "words of any kind". He stated that this needs to be changed.

Councilman McComb suggested that maybe it can state slogans or something to that effect.

Councilwoman Bowden interjected that it could be "not to contain any advertisement".

Councilman McComb asked, with the way this is written, where could murals be placed.

Town Manager Tolbert responded that it's not allowed on the primary façade of the building. He stated that the mural downtown conforms to this. He also advised that he researched other municipalities and used the exact words from 3 communities. He stated that you can also have a commercial message without words. He added that Council has the right to bypass that under the Conditional Use Permit and allow it as accepted conditions. These are guidelines to use. He explained further.

Councilwoman Bowden asked if this would go to the Planning Commission first.

Town Manager Tolbert advised it would, adding that it would be reviewed and approved by the Planning Commission just as a sign would.

Vice Mayor Bott asked about the cost of the Conditional Use Permit.

Town Manager Tolbert stated that he believes it is \$475.

Vice Mayor Bott stated that there's a \$500 charge for the Conditional Use Permit and design fees. He feels it isn't fair to add the constrictions. He doesn't like the 2 primary façades. He believes this goes against the Building Code which states one primary façade.

Town Manager Tolbert added that the Code defines the front of the building which is the narrowest part of a lot, and if it's a corner lot the front of the building is considered the shortest width.

Vice Mayor Bott likes the primary entrance and feels that in most cases you won't have one on the entrance. He doesn't like the primary façade and wording restriction. He added that when someone puts an investment with time, money, and effort of design taking a risk that they may not know if it will be approved or not. He thinks the wording is covered in all other restrictions.

Councilwoman Bowden referred to Taylor Bank with the primary façades. This limits and is being very restrictive. The Planning Commission may strike it down and Council won't get the chance to review it.

Town Manager Tolbert explained that the BZA appeal for a variance is the same amount of money. He also stated that in a lot of cases they don't meet the definition of a hardship but still get approved. He added that the fee is for advertisements.

Councilman McComb would like changes in the façade and terms of no wording.

Councilwoman Bowden agreed.

Councilman McComb motioned, seconded by Councilwoman Bowden to approve the proposed Mural Ordinance with the suggested changes to the façade, and eliminating “no wording”. Unanimously approved.



An Ordinance Regulating the Creation and Display of Murals.

WHEREAS: The display of any mural is often significantly larger than commercial signs as allowed by current zoning regulations and is likewise viewed by proportionally more people; and,

WHEREAS: Any mural, by virtue of its difficulty and expense, would be intended to be displayed for multiple years and decades: and,

WHEREAS: The display of a mural would signal a community's character and values and likewise leave a lasting impression on visitors to the community and inappropriate or distasteful displays can adversely affect levels of business and property values; and,

WHEREAS: The Town Council desires to maintain the upstanding character of the community and relate its puritan values by allowing only appropriate and tasteful public displays within its jurisdiction; now

THEREFORE BE IT ORDAINED by the Town Council of Chincoteague on this 4th day of November, 2024 that:

Appendix A, Article VI of The Code of the Town of Chincoteague, Virginia shall be amended to add section H. "Murals", Section 6.17-6.18 which said sections read as follows:

ARTICLE VI – GENERAL PROVISION

SECTION H . Murals

Sec. 6.17 Standards.

Sec 6.17.1 – Definition.

Mural shall mean a hand produced or machined graphic applied or affixed to the exterior of a building wall through the application of paint, canvas, tile, metal panels, applied sheet graphic or other medium generally so that the wall becomes the background surface or platform for the graphic generally for the purpose of decoration or artistic expression, including but not limited to, painting, fresco, or mosaic. Murals shall not be considered as signs as defined by Sec. 7.2.47.

Sec 6.17.2 – Mural Placement.

- a. Mural shall be allowed in all Commercial zones on structures with a current commercial use. Murals shall not be allowed on structures used as residences regardless of zone.
- b. ~~Mural shall not be permitted on the primary façade of a structure. A primary façade is defined, for purposes of this section, as the building elevation that faces the adjacent street right-of-way and/or is the primary pedestrian entrance. A building located on a corner street shall be considered to have two (2) primary façades.~~
- c. Mural shall be prohibited on the backs of buildings that back onto residential districts.

Sec 6.17.3 - Prohibited Mural Types (this list is not all inclusive).

- a. Murals or other representations which imitate or appear to imitate any official traffic sign or device which appears to regulate or direct the movement of traffic, or which interferes with the proposed operation of any traffic sign or signal, or which obstructs

- or physically interferes with a motor vehicle operator's view of approaching, merging, or intersecting traffic.
- b. Murals that project from the wall surface, except for the minimum necessary protrusion to mount the mural to the wall or structure.
 - c. Murals which contain material that when taken as a whole (i) applying contemporary community standards, its predominant appeal is to prurient interest in sex; and (ii) the average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and (iii) a reasonable person would find the material lacks serious literary, artistic or scientific value.
 - d. Murals that are directed to incite or produce imminent lawless action and are likely to incite or produce such action.
 - e. Murals that convey threats of violence that are directed at a person or group of persons that have the intent of placing the target at risk of bodily harm.
 - f. ~~Murals that contain a commercial message or represent a commercial product or service which can be reasonably inferred as an advertisement.~~

Sec 6.17.4 - Surface Preparation.

Sand and high-pressure water blasting are not permitted as a cleaning process for either surface preparation or for mural maintenance purposes in any historic district or any building listed or eligible for listing on the Local, State, or National Register of Historic Buildings. Treatments that cause damage to historic materials shall not be used, which may include painting directly onto brick or other building materials that contribute to the historic integrity of the building.

Sec. 6.17.5 - Maintenance.

- a. The mural shall be kept in good condition for the life of the mural according to the maintenance schedule and responsibilities approved by the Director of Public Works and incorporated into the Conditional Use Permit (CUP). A mural exhibit shall be deemed to be in a state of disrepair when twenty-five (25) percent or more of the display surface area contains peeling, fading or flaking paint or is otherwise not preserved in the way it was originally created by it by natural degradation or damage.
- b. The display surface shall be kept clean and neatly painted and free from corrosion.
- c. Any mural that is not maintained according to the maintenance schedule incorporated into the mural permit or that falls into a state of disrepair may be ordered removed or covered with opaque paint, similar to the primary building materials/colors or other appropriate material by the Director of Public Works, or his/her designee, all in the manner provided for in the Conditional Use Permit. Murals subject to removal shall be provided a time limit of thirty (30) days from the date of the written notice for such removal or covering. Additional time may be authorized by the Director of Public Works for good cause.

Sec. 6.17.6 - Design Standards.

- a. ~~Murals must not contain wording of any kind.~~ Artist signatures shall be allowed and shall be sized as appropriate to the mural's overall scale with a maximum limit two (2) square feet. Proposed size of the signature shall be included in the initial application.
- b. The proposed mural will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic.
- c. The location and scale of the proposed mural shall enhance the commercial district and the building or structure on which it is located.
- d. The proposed mural will be well integrated with the building's wall and other elements of the property and enhance the architecture or aesthetics of a building.
- e. The proposed mural, by its design, construction, and location, will not have an adverse effect on any adjoining property or the permitted use thereof.
- f. The proposed mural shall not be detrimental to the public health, safety, or welfare.
- g. The mural will not have a detrimental effect on the structural integrity of the wall on which it is applied or affixed. An analysis by a licensed Engineer may be appropriate in some cases and will be as required by the Building Code official.
- h. The maintenance schedule shall be reasonable for the mural and the building on which it is applied or affixed.

Sec 6.18 Mural Permit.

Sec. 6.18.1 – Conditional Use Permit Required

The installation of any mural shall require a Conditional Use Permit issued by the Town Council with such conditions as are appropriate for each application. No permit shall be considered without written permission from the owner of the building upon which the mural is proposed.

Sec. 6.18.2 - Application Requirements.

Each application shall contain, as a minimum, the following information:

- a. Site plan showing the lot and building dimensions and indicating the proposed location of the mural.
- b. Pictures of the building elevations.
- c. A scale drawing and color photo of the building elevation showing the proposed size and placement of the mural.
- d. A color drawing, minimum 11" X 17" of the proposed mural.
- e. A proposed maintenance schedule that includes a definite service life of the mural along with the description of required maintenance and the intervals at which maintenance is required.
- f. Specifications for any paint or coating used in the preparation of the mural. Paint and coatings shall be reviewed for appropriateness of use by the Public Works Director.
- g. Written confirmation by the mural provider/installer that no damage or negative impact will occur to the wall surface that the mural is to be applied to affixed to.

- h. Written permission from the owner of the building to which the mural is intended to be applied if the applicant is not the building owner.
- i. An acknowledgement that the mural must be removed or covered if so ordered by the Town Council for failure to maintain the mural as provided herein, for reaching a state of dilapidation as described in subsection 5.c above or for violating any condition included in the original Conditional Use Permit.

Sec 6.18.3 - Mural Permit Review.

Applications for a mural conditional use permit shall be distributed to the Planning Commission for comments regarding consistency between the application and the requirements herein. The Planning Commission shall review the application and make a recommendation to the Council who shall, after the appropriate public hearing, issue or deny the Conditional Use Permit. The Planning Commission and/or Town Council may, at their discretion, include conditions not specifically listed here as appropriate for individual applications.

Yeas:

Nays:

Adopted by the Town Council of Chincoteague on November 4, 2024.

By: _____

John Arthur Leonard, Mayor

ATTEST: _____

Michael T Tolbert, Town Manager

Mayor and Council Comments

Councilwoman Richardson stated that the people here love their children, but a lot of people don't respect buses. They're either not paying attention or don't care. She gave information on a couple of bus incidents where a child nearly lost their life. She advised that the County Transportation Department is currently putting cameras on the stop arms of the buses. She hopes people are listening. She stated that these little people are our tomorrow, they need to be more

careful in driving. She added that this also goes for bicyclists. She suggested signage on bike paths.

Councilwoman Bowden stated that tomorrow is a big day for our Country, State, and Town. She believes there is still a lot of good in the County. She believes that there are a lot of good people and good things happening. She also believes that we live in the greatest Nation on the whole planet. She wished everyone luck tomorrow and that everyone plays nice, fair, and civil. She asked that they remember that they're all there for the greater good. She thanked everyone in the Town and Police that goes above and beyond. She concluded that she is extremely proud to live here.

Councilman McComb advised that he volunteered at the Manna Café today with a group from work. He heard comments about the forum and suggestions to have an annual or biannual event. He heard good comments on how it was hosted and conducted. He congratulated everyone who had a part in undertaking that. He wished everyone good luck tomorrow and concluded with "get out and vote".

Councilman Taylor agreed with Councilwoman Bowden and stated that we do pray for our Country. He feels if everyone would get out and work with each other they would start respecting each other and become friends. He urged everyone to love people because friendships mean more than political divides. He hopes and prays the Country will get through this.

Councilman Savage commended Chief Greenley, adding they were fortunate with the incident at the high school. He appreciated the response and gave kudos to the Police Department and all of the Town staff. He wished everyone luck tomorrow and added that "God's will be done".

Mayor Leonard stated that it starts with the man in the mirror. He added that you see how you would like to be treated, and you treat other people that way. He congratulated those who are running for election tomorrow, and for running a good clean fair election. He added that no one got out of the way or did anything to embarrass themselves. He concluded with "Roll Tide".

Adjourn

Councilwoman Bowden and Councilman McComb motioned, seconded by Councilwoman Richardson to adjourn. Unanimously approved.

J. Arthur Leonard, Mayor

Michael T. Tolbert, Town Manager