



BUDGET & PERSONNEL COMMITTEE MEETING

October 08, 2024 at 6:00 PM
Municipal Building Conference Room

AGENDA

CALL TO ORDER

PUBLIC COMMENT

AGENDA ADOPTION

ALTERNATIVE REVENUE DISCUSSION

- [1.](#) Tax Rebate and BZ Fee Opinion

REVIEW OF SOCIAL MEDIA AND TECHNOLOGY US POLICY

- [2.](#) Proposed Social Media Policy
- [3.](#) Proposed Acceptable Use Policy

REVIEW PROPOSED SALARY SCALE

CLOSED MEETING - *in accordance with Code of Virginia Section 2.2-3711 A 1 - for discussion of specific personnel performance.*

- [4.](#) Closed Meeting Motion

CERTIFICATION OF CLOSED MEETING *in Accordance with § 2.2-3712 (D) of the Code of Virginia*

- [5.](#) Certification Motion

ADJOURN



ATTORNEY OPINION

Tax Rebates and Building Permit Fees

Question:

The attached is an incentive program sponsored by Ocean City Md. that offers tax rebates to full time residents. This was presented to me by a council member. I know that this is not a Virginia program however, would we be legal to adopt a similar “incentive program” for our full-time residents. The program requires all taxes to be paid in full and then grants a “rebate” to citizens who commit to maintain the property as their primary residence and not rent or sell it for 5 yrs. The question of course is, will the Code of Virginia allow such a rebate?

The program also offers to waive building permits fees for certain residents. Since this is a fee and not a tax, I wouldn't think that uniformity applies and we would be free to reduce the fee as we see fit. The State of Va. adds a small surcharge to all of our permits and I am sure that we would still be responsible for that.

Answer:

The Attorney General opined in 1978 that rebates must be authorized by statute or charter. A copy of the opinion is attached. As previously noted, AG opinions are advisory, but I don't see any basis to challenge its validity. There do not appear to be any provisions under the Town Charter or current statutes that would authorize rebates.

Regarding building permit fees, the AG has opined that “Section 36-105 of the Code of Virginia places responsibility for enforcement of the Uniform Statewide Building Code on localities and provides that fees may be levied to cover the costs of enforcement and appeals. A prior Opinion of this Office discusses the general rules applicable to a local governing body in its setting of such regulatory fees and holds that the cost of construction is a proper basis for determining fees “if the resulting fees generate revenue in proportion to the expenses involved in enforcement and administration of the building code.” 1982-83 Va. Rep. Atty. Gen. 649, 1982 WL 175751, attached. The AG went on to opine that “If the costs of inspection and enforcement of a building permit on a project already under construction generally may be distinguished in their amounts from those relating to projects not yet begun, then different fees for the permits involved are justified. In either case, the governing body is accorded wide discretion in setting the fee amount and will not be interfered with unless its action is plainly unreasonable. To avoid having the ordinance regarded as a revenue measure rather than as a valid police power regulation, the particular permit fee set for each category of construction projects should

Town of Chincoteague, Inc.

not be out of proportion to the enforcement expense involved. See 1979-1980 Report of the Attorney General at 360, supra.” Id. The AG took a similar position in a more recent decision, noting that “Where the fee is out of proportion to the expenses involved, an ordinance will generally be regarded as a revenue measure and void as a regulation under the police power.” 1979-80 Va. Op. Atty. Gen. 360 (Va.A.G.), 1979-80 Va. Rep. Atty. Gen. 360, 1979 WL 32031, attached.

Therefore, to justify a different fee schedule you need to determine whether there is a demonstrated difference in costs to the department when dealing with permits for long-term residents and others. If so, the fee differential might be sustainable if challenged.



ATTORNEY OPINION

Tax Rebates and Building Permit Fees

Question:

The attached is an incentive program sponsored by Ocean City Md. that offers tax rebates to full time residents. This was presented to me by a council member. I know that this is not a Virginia program however, would we be legal to adopt a similar “incentive program” for our full-time residents. The program requires all taxes to be paid in full and then grants a “rebate” to citizens who commit to maintain the property as their primary residence and not rent or sell it for 5 yrs. The question of course is, will the Code of Virginia allow such a rebate?

The program also offers to waive building permits fees for certain residents. Since this is a fee and not a tax, I wouldn't think that uniformity applies and we would be free to reduce the fee as we see fit. The State of Va. adds a small surcharge to all of our permits and I am sure that we would still be responsible for that.

Answer:

The Attorney General opined in 1978 that rebates must be authorized by statute or charter. A copy of the opinion is attached. As previously noted, AG opinions are advisory, but I don't see any basis to challenge its validity. There do not appear to be any provisions under the Town Charter or current statutes that would authorize rebates.

Regarding building permit fees, the AG has opined that “Section 36-105 of the Code of Virginia places responsibility for enforcement of the Uniform Statewide Building Code on localities and provides that fees may be levied to cover the costs of enforcement and appeals. A prior Opinion of this Office discusses the general rules applicable to a local governing body in its setting of such regulatory fees and holds that the cost of construction is a proper basis for determining fees “if the resulting fees generate revenue in proportion to the expenses involved in enforcement and administration of the building code.” 1982-83 Va. Rep. Atty. Gen. 649, 1982 WL 175751, attached. The AG went on to opine that “If the costs of inspection and enforcement of a building permit on a project already under construction generally may be distinguished in their amounts from those relating to projects not yet begun, then different fees for the permits involved are justified. In either case, the governing body is accorded wide discretion in setting the fee amount and will not be interfered with unless its action is plainly unreasonable. To avoid having the ordinance regarded as a revenue measure rather than as a valid police power regulation, the particular permit fee set for each category of construction projects should

Town of Chincoteague, Inc.

not be out of proportion to the enforcement expense involved. See 1979-1980 Report of the Attorney General at 360, supra.” Id. The AG took a similar position in a more recent decision, noting that “Where the fee is out of proportion to the expenses involved, an ordinance will generally be regarded as a revenue measure and void as a regulation under the police power.” 1979-80 Va. Op. Atty. Gen. 360 (Va.A.G.), 1979-80 Va. Rep. Atty. Gen. 360, 1979 WL 32031, attached.

Therefore, to justify a different fee schedule you need to determine whether there is a demonstrated difference in costs to the department when dealing with permits for long-term residents and others. If so, the fee differential might be sustainable if challenged.

Responsible Use of Social Media as an Employee

The following constitutes the Town of Chincoteague's (the "Town") policies governing appropriate use of social media. The Town defines "social media" broadly to include online platforms that facilitate activities such as professional or social networking, posting commentary or opinions and sharing pictures, audio, video, or other content. "Social media" includes personal websites and all types of online communities (e.g., Facebook, LinkedIn, Yelp, YouTube, Twitter, Instagram, TikTok, blogs, message boards, and chat rooms). These policies must be followed whether the employee is using a private or public account, and must be followed whether the employee is using the Town's network/computers/devices or not:

1. All employees have a general duty to represent the Town in a positive and ethical manner and refrain from conduct that is competitive or damaging to the Town. This duty extends to your activities on social media. You may not make statements that reflect negatively on the Town in social media postings or messages.
2. You may not display or post video or other images of, or material about, the Town, its employees or managers that are libelous, proprietary, harassing, bullying, negative, discriminatory, retaliatory, or that can create a hostile work environment. Such conduct that would not be permissible in the workplace is not permissible between or among employees online, even if done during non-work hours and away from the workplace on personal devices or home computers. Such conduct includes, but is not limited to, harassing text messages, harassing direct messages through social media platforms, or posting photos of another employee without his or her consent.
3. At any time when posting on social media, you are posting in your individual capacity and the views posted are yours alone and do not necessarily represent the views of our Town. Remember, you are responsible for what you write or present on social media. You can be sued by constituents, other employees or any individual that views your social media posts as defamatory, harassing, libelous, or creating a hostile work environment.
4. All Town policies that regulate off-duty conduct apply to social media activity, including but not limited to, the Town's Code of Ethics and all policies related to illegal harassment, nondiscrimination, and protecting proprietary and/or confidential information. If you are unsure about the confidential or proprietary nature of information you are considering posting, consult with your supervisor or Human Resources.
5. Disclosing any constituent information is an ethical violation and is strictly forbidden. Do not disclose any confidential information that you have obtained during the scope of your employment with the Town via social media, text messaging, or otherwise. All information provided by a constituent or potential constituent, or non-public, is protected and includes even the identity of the constituent or potential constituent.

6. Specifically, posting comments about constituents on social media sites, *even if the constituent is not mentioned by name*, will be considered a breach of confidentiality.

7. Town policies regarding professionalism, employee conduct and non-fraternization should be followed when interacting, or determining whether it is appropriate to interact, with co-workers and constituents on social media sites (for example, “friending” a constituent on Facebook).

8. Our policy on Computers and Communication Systems applies to social media use at work. While working, your activity on social media sites (whether accessed through Town computers or personal devices) should be infrequent and occasional and should not interfere with your work duties. **[LOOKS LIKE YOU NEED A COMPUTERS AND COMMUNICATION POLICY?]**

9. The Town employees in their personal capacity shall:

(a) Follow the statutes, regulations and policies that govern the behavior of the Town employees, including but not limited to the Handbook, which may extend to an employee’s personal/private use of social media.

(b) Follow the laws, regulations and policies related to the prohibition on the dissemination of non-public information.

(c) Not use their official position/title unless several biographical details are included (if permissible on the social media vehicle used) and the employee’s title/position is given no more prominence than the other significant biographical details.

(d) Not use official agency branding on personal social media accounts.

(e) Not create or modify the social media account in such a way that could be construed as implying government sanction or endorsement.

10. The Town employees are encouraged to use a disclaimer clarifying that their social media communications reflect only their personal views and do not necessarily represent the views of the Town. A clear and conspicuous disclaimer will usually be sufficient to dispel any confusion that arises; however, in some cases, a disclaimer may not necessarily eliminate the potential that a reasonable person could construe that the employee’s social media account is sanctioned or endorsed by the Town.

11. It may sometimes be appropriate to use social media for business purposes (i.e., promoting an event. Such use is permitted at the instruction of a supervisor. **[PLEASE REVIEW THE ATTACHED POLICY IF YOU WANT A MORE OFFICIAL POLICY RE: OFFICIAL COMMUNICATIONS]**

12. This policy is not intended to interfere with the right to participate in concerted activity under the NLRA.

Any violation of the above standards of conduct outlined in this Social Media policy may result in disciplinary action, up to and including termination.

TOWN OF CHINCOTEAGUE TECHNOLOGY ACCEPTABLE USE POLICY

PURPOSE

This regulation defines the responsibilities and use for Town of Chincoteague Employees, who use or have access to the computers, telecommunications, network, and Internet resources provided by the school Town.

SCOPE

All Town of Chincoteague (TOC) who have access to the Town's computer system.

STATEMENT OF REGULATION

- Acceptable use of the computer system shall be:
 - For the purposes of conducting legitimate Town business or research to be consistent with the objectives of the Town.
- Use of the Town's computer system is a privilege, not a right.

Key Definitions

- **Computing System:** Includes all TOC assigned users accounts and electronic computing devices purchased by and donated "new in the box" for conducting legitimate business operations. Devices include, but not limited to, computer hardware, software, peripherals, networks, network resources, electronic files, and internet resources and applications.
- **Authorized User:** Any Town Computer System user whose access privileges have not been suspended or revoked.
- **Business Use:** Using TOC resources in the course of performing job-related duties on behalf and for the benefit of TOC.
- **Spamming:** An e-mail user sending annoying, non-school business, or unnecessary message(s) to an individual or a large number of people on a specific e-mail list or site.
- **Phishing:** The act of sending an e-mail to a user falsely claiming to be an established legitimate enterprise in an attempt to fraudulently

deceive or persuade the user to surrender private information which could be used for identity theft.

- **Web based e-mail:** A web-based application or portal that allows access to e-mail through the Internet.

Regulations

1. Security and Use

- Employees are to utilize the Town's provided computer system for all Town related business and in the performance of assigned job duties.
- Access to the computer system is restricted to authorized users. Authorized users are responsible for their individual account information and shall take all precautions to prevent others from accessing their account information.
- At no time is an authorized user allowed to use another authorized users account credentials to access the computer system.
- Authorized users may only destroy files, data and resources that lie within the scope of their responsibilities and as defined by the Library of Virginia and the Town's Records Manager.
- At no time is a connection permitted between the Town's private Local Area Network and a non-Town owned computer system. This includes, but not limited to, donated computing devices, personal computing devices, personal printers, personal scanners and personal portable/mobile devices such as SMART phones, tablets, laptops, etc. unless the employee's assigned duties require access to mobile email and only after approval from the Town Manager.
- Authorized Users shall not use the Town's computer system:
 - For personal gain, commercial purposes, or political lobbying;
 - For the propagation of viruses, phishing, computer worms, Trojan Horses, spamming;
 - To gain access to another computer or system through malicious software applications or attempts such as spoofing;
 - Vandalizing the computer system by destroying data by creating or spreading viruses or other means;

- For sending, posting, publishing, receiving, viewing, or downloading illegal copy righted content or to conduct illegal activities;
- For transmitting fraudulent, threatening, abusive, vulgar, obscene, rude, intimidating, harassing, bullying, or discriminatory information;
- For accessing any external web based email systems while connected to the Town's private Local Area Network;
- For accessing any internal or external system or service posing as another user(s) or posting material created by another person without his/her consent or using the computer system while access privileges are suspended or revoked;
- Downloading unauthorized software or wastefully using resources such as file space and network storage.
- Users should immediately notify their supervisor, or Technology representative of any violations, misuses or possible security breaches.

2. Network Etiquette

- Each user is expected to abide by generally accepted rules of etiquette, including the following:
 - be polite to all users you communicate with on the computer system;
 - users shall not forge, intercept or interfere with electronic mail messages.
 - use appropriate language. The use of obscene, lewd, profane, lascivious, threatening or disrespectful language is prohibited.
 - users shall not post personal information about themselves or others.
 - users shall respect the computer system's resource limits.
 - users shall not post chain letters or download large files.
 - users shall not use the computer system to disrupt others.
 - users shall not modify or delete data owned by others.

3. Confidentially

- Authorized users with access to confidential data, electronic and/or hard copy materials, hold a position of trust and must preserve the security and confidentiality of the information.

- Confidential information includes, but is not limited to, the following:
 - Non-public personal information concerning employees, taxpayers, residents and applicants. This includes first and or last name, date of birth, residence, age, telephone, email address, gender, race, criminal record, driver's license information, system user IDs and passwords, social security numbers, internal communications, banking or financial information, medical and health information, disability status or special needs, insurance information, and personal benefits information.
 - Town information which has not been publicly published or released with authorization to include, but not limited to, proprietary information, budget, financial, negotiation, bidding, and other noted information;
 - Town research data, information, and findings that are protected by law, contract, or policy;
 - Information classified as confidential under any other policy, rule, or directive;
 - Other information and records as directed not to disclose.

- Confidential information does not include information publicly disclosed or information which is disclosed pursuant to law or contract.
- This procedure does not prevent or prohibit the internal use of confidential information for conducting legitimate administrative, and operational business.
- Only Employees with specific and documented job duties requiring the handling of confidential data will be granted security access to such information. All employees are required to safeguard such information and only use or disclose this information as expressly authorized by the Town Manager or specifically required in the course of performing their specific job duties.
- Users of confidential data should work with de-identifiable data whenever possible.

4. Electronic Mail

- The Town's electronic mail (e-mail) system is owned and controlled by the Town. E-mail is the primary medium for delivering and communicating TOC business. All electronic communications related to Town business shall use the TOC e-mail system. At no time should any personal or private email account be used to conduct Town business.
- The Town provides electronic mail to all employees if required by their position. Electronic mail is not private. Employee email may be monitored and accessed by the Town to ensure compliance with Town policies and guidelines. All e-mail is archived. Unauthorized access to the e-mail system or another user's email account by any employee is prohibited.
- E-mail users may be held responsible and personally liable for the content of any e-mail they create or that is created under their account username. Downloading any e-mail file attachment is prohibited unless the user is certain of that message's authenticity and the nature of the content.

5. Copyright

- At no time will any user perform downloads or installations of copyrighted data or software to include music, videos, and movies.

6. System Software

- Only Town-approved and provided software shall be loaded on computer system.

7. TOC Websites

- The Town Manager is responsible for the information published and collected on the Town's web site and for ensuring published content is relevant to business operations of the Town.

9. Violations and Penalties

- Users who violate any aspects of this guideline, at the direction of the Town Manager or his designee, can have their access privileges suspended or revoked.
- Users will be notified of any violations and given an opportunity to provide an explanation to be used for determining the next course of action. Final determination may result in disciplinary action up to and including dismissal.
- Violations of the law will be reported to law enforcement officials. TOC will cooperate fully with local, state, and federal officials in any investigation related to illegal activities.
- The Town of Chincoteague shall not be responsible for any information or equipment that is lost, stolen, damaged or unavailable on the computing system or for any information retrieved from external resources.
- The Town of Chincoteague shall not be responsible for any unauthorized charge or fee resulting from the use of the computing system.
- The Town of Chincoteague shall not be held liable in the event the Internet filtering software, used to screen Internet sites for offensive material, is unsuccessful and authorized users gain access to inappropriate and/or harmful material.
- Every effort will be made to avoid the violation of privacy of individuals or groups however, authorized users have no right of privacy and should have no expectation of privacy in materials sent, received, or stored on the computing system.

Legal Refs: Code of Virginia, 1950, as amended, §§ [18.2-372](#), [18.2-374.1:1](#), [18.2-390](#), [22.1-70.2](#) and [22.1-78](#)

18 U.S.C. §§1460, 2256

47 U.S.C. §254



October 8, 2024, Budget and Personnel Committee:

CLOSED MEETING MOTION:

In accordance with Section § 2.2-3711, A 1 of the Code of Virginia, I move that the Committee convene a closed session for the discussion and consideration of specific personnel performance.

Certification Motion:

In accordance with section 2.2-3712(D) of the Code of Virginia, I will entertain a motion that the Committee certify that to the best of each members' knowledge:

- 1. Only public business lawfully exempted from open meeting requirements was discussed and**
- 2. Only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered.**

Ask for a vote by show of hands