Joint Public Hearing
Northampton County Planning Commission
Northampton High School, Eastville, VA
March 11, 2014 7:00 pm

This was a Joint Public Hearing of the Northampton County Planning Commission with the Northampton County Board of Supervisors held on Tuesday, March 11, 2014, at the Northampton High School at 16041 Courthouse Road, Eastville, Virginia

Those present were Chair Dixon Leatherbury, Vice-Chair Martina Coker, Michael Ward, Sylvia Stanley, Jacqueline Chatmon, Roberta Kellam, and Henry Heneghan.

Also attending were Charles McSwain Economic Director, Peter Stith, Long Range Planner, Melissa Kellam, Zoning Administrator, Alice Custis, Process Manager, and Nyoka Hall, Office Manager.

The meeting was called to order by the Chairman at 7:00 p.m. The invocation was offered by Mr. Trala. The Pledge of Allegiance was recited. Ms. Katherine H. Nunez, County Administrator, presented her bi-monthly report for the Board's review.

Citizen Information Period:

Mr. Robert Richardson urged caution by the Board in considering the renovation of the former middle school. He also asked that the Board redirect Mr. McSwain's duties to economic development.

Public Hearings:

Chairman Lemond called to order the following public hearing:

(5) Conduct a public hearing to solicit public comment on the proposed 2014 Northampton County Zoning Code text and map and proposed Chesapeake Bay Preservation Areas text and map. *(This is a joint public hearing with the Planning Commission.)*

The Northampton County Planning Commission was present and in session. Development Department staff shared with the Board a PowerPoint presentation on the proposed zoning ordinance. Prior to receiving public comment, several questions were asked by members of the Planning Commission as follows.

Vice Chairman Coker said that she was concerned with the process used to create the ordinance and noted numerous instances where the zoning ordinance is in conflict with the Comprehensive Plan. Ms. Coker asked what the justification is for presenting the Zoning Ordinance when it is in conflict with the current comprehensive plan; the revised comprehensive plan has not been released; public input was not obtained as part of the process. Mr. Mcswain responded "We are

engaged in public input and have been since at least October; the Comprehensive plan as currently adopted was 'reasonably considered' as part of the process. As explained earlier this was a response to a request by the Board to develop a zoning code." The Vice Chairman then asked about potential impacts on aquaculture through the removal of the Chesapeake Bay regulations from the seaside and the reduction of shoreline lot widths and whether any analysis had been conducted on water quality. "There are a lot of studies on the impact of various things on water. We have examples that we want to present to you next week in terms of case studies, but no scientific studies have been prepared specifically for this (the proposed draft zoning code)." Mr. McSwain suggested that she review public comment received from residents as it relates to this matter. The Vice Chairperson asked if studies have been done to determine what the potential impact of the many proposed by right uses would have on property values. Mr. McSwain stated that the best way to judge is to look at the comments. We received from residents a number of comments about the current and future zoning. We have a number of people who have requested the opportunity to keep animals, but that is not a scientific study, there has been no scientific analysis.

The Vice Chairman asked if there were any plans to develop guidelines for review of special use permits by the Board of Supervisors and Mr. McSwain replied in the affirmative, adding that staff is available to assist the Board in this research. The Vice Chairman then said that numerous studies are required by the Code of Virginia and asked what studies had been utilized by the applicant in the preparation of the ordinance. Mr. McSwain responded that much insight has been obtained from the public process. Mr. McSwain responded that much insight has been obtained from the public process. Mr. McSwain responded "we have limited studies on issues of that nature, however the planning process we went through for the past ten years gave us a lot of insight into those issues." Mrs. Coker questioned whether any modeling was done and Mr. McSwain said that staff (Mr. Stith) has done various analyses, such as the build-out analysis contained in the powerpoint presentation. When questioned by Mrs. Coker, Mr. McSwain said that the ordinance had been written by two members of the County's legal counsel, all of the presenters tonight, as well as the County Administrator.

Mrs. Roberta Kellam of the Planning Commission questioned how the elimination of single wide mobile homes from residential districts help affordable housing, noting that the Planning Commission would not exclude any affordable housing options. Mr. McSwain replied that there are much better, more economical housing solutions available. With regard to the Planned Unit Development district, Mrs. Kellam questioned if this district would have minimum lot dimensions. Mr. McSwain stated that the district is structured in such a way as to allow flexibility for approval by the governing body; i.e.., an "open pallet that may be accepted by the community." Mrs. Kellam questioned if the County's noise ordinance was being defended.

The County Attorney, Bruce D. Jones, Jr., responded that the County's former noise ordinance, modeled after the Virginia Beach ordinance, has been declared unconstitutional and that a revised ordinance is currently being drafted. Mrs. Kellam noted that under the Energy Policy Act, noise standards are needed for wind turbines. Mrs. Kellam then said that the Planning Commission has not heard any public comment and that "this is one of the most disappointing examples of violating the public trust."

Vice Chairman Coker referenced e-mails received from Mr. Bob Meyers in regard to health issues associated with wind turbines. These materials will be attached hereto.

Chairman LeMond opened the floor for public comment. All written comments that have been submitted to date will be attached hereto.

Mr. John Cleveland said that he was concerned with the transfer of agricultural lands to residential and said that one of the board's membership should recuse himself because his spouse is a real estate agent.

Mr. Robert Richardson said that the zoning ordinance was partly to blame for the depopulating of the county and requested that the ordinance be suspended within Capeville District.

Ms. Jill Bieri, director of The Nature Conservancy, noted that the Nature Conservancy had invested $100 million on the seaside. She said that good water quality was necessary on the seaside and that more time is needed to consider the impact of the proposed removal of the Chesapeake Bay regulations from the seaside.

Ms. Olester Manual, president of the West Birdsnest Community Action Group, read a list of requests for citizens in that area. Her full comments are attached hereto.

Mr. Art Schwarzschild, chairman of the Willis Wharf Steering Committee, said that the village was opposed to the proposed changes and was supportive of its Vision Statement and expressed opposition to removal of the Waterfront Village designation, expressed concern with the removal of water dependent use designation. He reported that, after Hurricane Irene, Northampton County was the only county not closed to shellfish harvest.

Ms. Jill Wilt asked for copies of the studies as referenced by the Code.

Mr. Al Voss said that as a resident of the seaside, he couldn't even put gravel in his driveway without being in violation of the Chesapeake Bay act and he would like to see a change to address that.

Mr. Grayson Chesser was very concerned with limiting commercial industries in Oyster. He said that agriculture and aquaculture should be encouraged. He was also concerned with the potential loss of mobile homes.

Mr. Ken Dufty spoke about the prior Comprehensive Plan process and noted the public participation/community outreach efforts at that time, indicating that he did not see that happening now. He was also concerned with proposed biomass facilities being allowed, calling them "dangerous and troublesome". He also asked that the Board consider eliminating the need for braking or feathering systems for wind turbines which produce less than 2,000 watts.

Mr. Arthur Upshur, President of Citizens for a Better Eastern Shore, read a statement from that group, indicating its opposition to the proposed zoning ordinance. These comments are attached hereto.

Mr. H. B. Arnold requested that language be provide to eliminate the "residency first" provision; i.e., prohibiting the construction of a garage or shed without a main dwelling unit.

Mr. Jack Ordeman said that he wished to yield his time to Mr. Jay Ford.

Ms. Sue Mastyl called these proceedings a "wholesale disregard of the process" and urged the Board to return the operation to the Planning Commission; to go back to the Comprehensive Plan and "rethink the consequences."

Mr. Polk Kellam was opposed to the removal of the Chesapeake Bay regulations from the seaside and said it was an "abuse of local public process" to circumvent the Planning Commission.

Mr. Paul Strong said that he was an advocate of clean water but understood Northampton's desire to provide economic development.

Mr. Darryl Hayslett urged the Board not to remove the Village-Waterfront designation from Willis Wharf and noted that it would be a disaster to remove the Chesapeake Bay regulations from the seaside.

Mrs. Araminta Travis requested that her property near Dalbys be zoned Commercial and asked the County to support existing businesses.

Mr. Jay Ford, Executive Director of the Virginia Shorekeepers, said that the proposal to remove the Chesapeake Bay regulations from the seaside is reckless and presented a petition with over 400 signatures calling for a slow-down of the process. That petition is attached hereto.

Mr. Robert Gleason requested the Board to cease all permits and variance for turbines that will scar the land and eradicate the wildlife population.

Mr. Tony Picardi, a member of the Accomack County Planning Commission, asked that the Chesapeake Bay regulations remain on the seaside.

Rev. Debbie Lee Bryant, pastor of Shorters Chapel and president of the Historic Bridgetown Association, supported hamlet zoning and said that the process should go through the Planning Commission. Her full comments are attached hereto.

Ms. Margaret Chandler of Concerned Citizens of Sylvan Scene reiterated similar comments as Rev. Bryant. The full text of her comments is attached.

Ms. Katherine Campbell questioned the definition of "inn' and said that the County should leave the choice of management style up to the innkeeper.

Mrs. Mary Miller said that the proposed zoning ordinance does not comply with State Code, was not meant to provide economic development but was really to benefit residential development. Her comments are attached hereto.

Mr. Justin Colson said that the current zoning hand-cuffs their agricultural operation through provisions of the Bay Act. He hoped that the proposed regulations would allow replacement of their existing office and possible expansion of the entire operation. His comments are attached hereto.

Mr. Bob Meyers said that this has not been an open public process. He listed several concerns including health risks associated with wind turbines and possible pollution of the aquifer from agricultural irrigation ponds. His complete comments are attached hereto.

Ms. Grace Cormons asked that the Chesapeake Bay regulations not be removed from the seaside.

Ms. Cela Burge said that she has been able easily to access staff and written documentation with regard to the proposed zoning ordinance amendments and has already provided written comments at the public information sessions. She noted that special use permits are expensive and time-consuming and that the current ordinance is hard to read and understand. She felt that the identification of a simple commercial district was sound; additionally, the removal of shoreline setback requirements and Chesapeake Bay regulations on the seaside will remove a critical flaw in the current processing of "exceptions".

Mr. Andrew Barbour said that "simplification of the process" was being used as a cover for something that runs counter to the existing Comprehensive Plan. He said that this ordinance will cost taxpayers a great deal.

Mr. Pat Coady said that he supported the simplification of the zoning code and that the proposed clustering of development is wise. He did note that he did not agree with "bypassing" the Planning Commission for special use permit decisions.

Mr. Hank Bowen said that easing of land use requirements in the Village Waterfront Commercial District would allow him to expand his operations in Willis Wharf but increasing waterfront lot density could increase pollution and decrease access to the waterfront for aquaculture, harming his business. Do not decrease lot widths.

Mr. Tom Gallivan said that the Board was ignoring the aquaculture industry and that Northampton is the only county that controls its seaside watershed on the east coast. He noted that Parting Creek is one of the most consistent hatcheries in the country and stated that we should keep the Chesapeake Bay Protection Act on the seaside.

Mr. Bill Prettyman spoke in support of the proposed ordinance amendments, indicating that it was much more transparent than the existing ordinance. He also noted that it should help affordable housing by reducing costs associated with housing development and allow for more capital infusion in the County.

Ms. Heather Lusk, speaking for H. M. Terry Co., read a letter into the record, urging the Board not to remove the Chesapeake Bay regulations from the seaside. Her text is attached hereto.

Mr. Tucker Watson, representing Treherneville MHP, LLC, noted that this property is proposed to be rezoned to "Village", which is a dramatic change. The owner plans significant investment in the property and was concerned that the rezoning may prohibit him from replacing certain units within the Park. He requested that the existing four mobile home parks be allowed to remain as "Mobile Home Park" or that another designation be created to reflect their current zoning.

Ms. Montaigne Cree said that the current zoning is extremely complicated and that she appreciated the clarification and simplification efforts. She also agreed with the proposed accessory structure provisions.

Mr. Barrett Cree, who owns commercial property along U S Route 13, said that "we are all here for personal reasons" and that he applauded the efforts to restore historic commercial properties.

Mrs. Kay Downing, former Planning & Zoning staff member, said that the existing zoning ordinance is “much worse” than the proposed version and was hopeful that the governing body could address those concerns noted tonight including prohibition of single wide mobile homes in residential districts, use of windmill farms and their danger to migratory birds and the importance of agriculture and aquaculture. She said that the County’s existing businesses need to be helped and that new businesses need to be allowed. She commented that “the mentality of the boards of supervisors, planning commissions and special interest groups have led to the current situation.”

Mrs. Joanne Molera, newly elected member of the Northampton School Board, said that we need to have children who grow up and stay here and urged the Board not to over-regulate. She asked the Board to improve the residents’ economic chances so they can remain on the Shore.

Dr. Federico Molera stated that he felt “déjà vu” from ten years ago. He said that people are not coming to the County because they are no jobs and we lost the hospital.

There being no further speakers, motion was made by Mr. Trala, seconded by Mr. Bennett, that the public hearing be closed on the 2014 Northampton County Zoning Code text and map and proposed Chesapeake Bay Preservation Areas text and map and the matter having been previously referred to the Planning Commission, pursuant to the Code of Virginia Section 15.2-2285 (B) and the County’s Zoning Ordinance; the Planning Commission is allotted a maximum of 100 days, or no later than May 30, 2014, to submit a recommendation to the Board of Supervisors on the aforesaid matters. All members were present and voted “yes.” The motion was unanimously passed.

In answer to a question from Mr. Hogg, County Attorney Bruce D. Jones, Jr., said that the Planning Commission and Board of Supervisors could continue to receive public comment.

The Planning Commission closed its hearing and recessed until March 19, 2014 for a work session.

_____CHAIRMAN _____SECRETARY