

VIRGINIA:

At a regular meeting of the Board of Supervisors of the County of Northampton, Virginia, held in the Board Chambers of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 10th day of January, 2012, at 4:00 p.m.

Present:

Willie C. Randall, Chairman	Samuel J. Long, Jr., Vice Chairman
Oliver H. Bennett	Laurence J. Trala
Richard L. Hubbard	

The meeting was called to order by the Chairman.

Closed Session

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board enter Closed Session in accordance with Section 2.2-3711 of the Code of Virginia of 1950, as amended:

(A) Paragraph 1: Discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees or employees of any public body.

*Appointments to Boards/Commissions*

(B) Paragraph 3: Discussion or consideration of the condition, acquisition, or use of real property for public purpose, or of the disposition of publicly held property.

(C) Paragraph 5: Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

(D) Paragraph 7: Consultation with legal counsel and briefings by staff members, consultants, or attorneys pertaining to actual or probable litigation, and consultation with legal counsel employed or retained by the Board of Supervisors regarding specific legal matters requiring the provision of legal advice by counsel.

All members were present with the exception of Mr. Long and voted “yes.” The motion was unanimously passed.

After Closed Session, the Chairman reconvened the meeting and said that the Board had entered the closed session for those purposes as set out in paragraphs 1, 3 5 and 7 of Section 2.1-3711 of the Code of Virginia of 1950, as amended. Upon being polled individually, each Board member confirmed that these were the only matters of discussion during the closed session.

The Chairman read the following statement:

*It is the intent that all persons attending meetings of this Board, regardless of disability, shall have the opportunity to participate. Any person present that requires any special assistance or accommodations, please let the Board know in order that arrangements can be made.*

Board and Agency Presentations:

(1) Dr. Walter Clemons, Division Superintendent of the Public School System, informed the Board that he is pursuing costs for a possible feasibility study with regard to the middle school/high school concept. He also indicated that he would be “spacing out” his meetings with the Board (which to date have been monthly); in that light, he did request a joint meeting with the Board in March. Dr. Clemons answered several questions of Mr. Bennett with regard to stipends and dress code.

(2) Ms. Elaine Meil, Executive Director of the Accomack-Northampton Planning District Commission, provided the draft Chesapeake TMDL submission prepared on behalf of the County. Following comments by the Board, motion as made by Mr. Trala, seconded by Mr. Hubbard, that the draft Chesapeake Bay TMDL submission be approved as presented with the understanding that it can be amended in the future if deemed appropriate. All members were present with the exception of Mr. Long and voted “yes.” The motion was unanimously passed.

(3) Mr. Eyre Baldwin made a presentation to the Board and discussed the status of three development projects in the County (Webster's property; Oyster parcels and Cape Charles property). He stated that it was his family's and development partners' goal to create jobs using our natural assets.

Consent Agenda:

(4) Minutes of the meeting of December 13, 2011.

(5) Consider adoption of a Resolution endorsing Community Unity Day on January 16, 2012.

**RESOLUTION**

WHEREAS, Northampton County's economic and social well-being requires the best efforts and cooperation of county residents of all races, creeds and backgrounds; and

WHEREAS, the Northampton County Branch of the National Association for the Advancement of Colored People, the Citizens for a Better Eastern Shore, and the Northampton County Public Schools have organized a COMMUNITY UNITY DAY to commemorate the life of Dr. Martin Luther King, Jr., which includes a community breakfast to be held at 8:30 a.m. at Northampton High School, followed by a walk to Eastville.

NOW, THEREFORE, the Northampton County Board of Supervisors does hereby endorse the COMMUNITY UNITY DAY to be held January 16, 2012

\* \* \* \* \*

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Consent Agenda be approved as presented with the correction of one typographical error in the December 13<sup>th</sup> minutes. All members were present with the exception of Mr. Long and voted "yes." The motion was unanimously passed.

County Officials' Reports:

(6) The County Administrator presented the following Budget Amendments and Appropriations which stated in part:

**TO:** Board of Supervisors

**FROM:** Katie H. Nunez, County Administrator  
**DATE:** January 4, 2012  
**RE:** Budget Amendments and Appropriations – FY 2012

Your approval is respectfully requested for the attached budget amendments and supplemental appropriations.

1. The County has received insurance proceeds as follows:

(A) **\$19,918.45** – damages to the middle school as a result of a lightning strike. These funds should be returned to the Facilities Management Repairs Account (100-4302-50800) and the Information Technology Computer Hardware Account (100-1240-55450)

(B) **\$16,337.76** – damages to the wastewater treatment plant as a result of a lightning strike. These funds should be returned to the Regional Jail’s Repairs Account (225-3302-50800) and the Public Utilities Repairs Account (501-4500-50800)

*Motion was made by Mr. Bennett, seconded by Mr. Trala, that the budget amendments and appropriations be approved as presented. All members were present with the exception of Mr. Long and voted “yes.” The motion was unanimously passed.*

2. Request from the School Board as follows:

**\$1,125.21** – reduction in the 2011-2012 School Operating Budget. This is to reflect the 2011 Grant Awards for Title III, Part A, Limited English Proficiency and Immigrant & Youth. The Limited English Proficiency grant is tracked separately within the Federal Grants Fund while the Immigrant & Youth grant is tracked as Other Federal Funds within the Federal Grants Fund. For both grants, Expenditures are classified within the category of Instruction.

*Motion was made by Mr. Bennett, seconded by Mr. Trala, that the budget amendments and appropriations be approved as presented. All members were present with the exception of Mr. Long and voted “yes.” The motion was unanimously passed.*

3. **\$50.00** – Transfer from the Employee Discretionary Fund (Eastern Shore Regional Jail) for flowers (225-3302-51950)

*Motion was made by Mr. Trala, seconded by Mr. Bennett, that the budget amendments and appropriations be approved as presented. All members were present with the exception of Mr. Long and voted “yes.” The motion was unanimously passed.*

Amendments and appropriations approved as noted on the attached pages.

\* \* \* \* \*

(7) Ms. Sandra Benson, Director of Planning, presented that departmental update which included activity reports for the following projects: Board of Zoning Appeals, Staff Activities, Kings Creek Water Sampling and Analysis, Comprehensive Plan Advisory Committee, and Comprehensive Plan Review.

The Board recessed at 6:00 p.m. for a dinner break.

At 7:00 p.m., the Chairman reconvened the meeting.

The invocation was offered by Rev. Lynda Moore, Cheriton United Methodist Church.

The Pledge of Allegiance was given.

(8) Organizational Matters:

The floor was opened for nominations for the office of Chairman. Mr. Hubbard nominated Mr. Randall for Chairman. Mr. Randall nominated Mr. Bennett for Chairman. There being no further nominations, the floor was closed. In the matter of the election of Mr. Bennett for Chairman, Mr. Bennett, Mr. Randall and Mr. Trala voted “yes”; Mr. Long and Mr. Hubbard voted “no.” In the matter of the election of Mr. Randall for Chairman, Mr. Long and Mr. Hubbard voted “yes”; Mr. Bennett, Mr. Randall and Mr. Trala voted “no”. Mr. Bennett assumed the Chair.

The floor was opened for nominations for the office of Vice Chairman. Mr. Trala nominated Mr. Randall for Vice Chairman. There being no further nominations, the floor was closed. In the matter of the election of Mr. Randall for Vice Chairman, all members were present and voted “yes.” The motion was unanimously passed. Mr. Randall was elected Vice Chairman.

Motion was made by Mr. Trala, seconded by Mr. Randall that the Board retain the same

schedule for regular and work session meetings as set out below. All members were present and voted “yes.” The motion was unanimously passed. Said meeting schedule is set out below:

Regular meetings:

Second Tuesday of each month, commencing at 4:00 p.m. in the Board Room, 16404 Courthouse Road, Eastville, Virginia.

Work Session meetings:

Fourth Monday of each month, commencing at 5:00 p.m. in the Board Room, 16404 Courthouse Road, Eastville, Virginia.

With slight amendment to the Mission Statement, motion was made by Mr. Randall, seconded by Mr. Hubbard, that the Board Member Manual be adopted. All members were present and voted “yes.” The motion was unanimously passed. Under the listing of various boards, committees and commissions, Mr. Trala asked staff to research whether the appointment of a Board member was a requirement to the Tourism Commission.

(9) Ms. Katie Nunez, County Administrator, presented the following work session agenda schedule for the Board’s information:

- (i) 1/23/12: Work session – Topic to be announced
- (ii) 1/28/12: Board Retreat
- (iii) 2/27/12: Work session – Topic to be announced

The County Administrator’s bi-monthly report was presented as follows:

**TO:** Board of Supervisors  
**FROM:** Katie H. Nunez, County Administrator  
**DATE:** January 6, 2012  
**RE:** Bi-Monthly Update

**I. PROJECTS:**

A. ESVA Public Services Authority Update:

The ESVA PSA met on Tuesday, December 20, 2011 but did not have a quorum. The next meeting is scheduled for Tuesday, January 17, 2012 @

7:00 p.m. I have received notice from the Department of Environmental Quality that the application submitted by the PSA for the Northern Node project has been approved for a \$4,000,000 loan at 0% interest rate for 30 years. The entire project is estimated at \$11.3 million so the ESVA PSA has significant work to obtain the balance of funds for the Northern Node, either through grants or business user contributions. It is important to note that the loan terms from DEQ have been modified to provide the greatest benefit possible for this project, both in terms of the interest rate and the length of the loan.

B. FY2013 BUDGET CALENDAR

Enclosed is the FY2013 Budget Calendar for your information.

C. Board Goals & Objectives/Retreat Session

For the last six years, the Board has reviewed, revised and adopted annual goals and objectives. I would propose the Board's consideration for the development and adoption of a five-year strategic plan that contains your goals and objectives and provides greater details in the deployment of those goals and objectives for completion, including identifying which department or entity is responsible for working on a component of the goal or objective as well as a timeframe for completion of said component.

I would recommend a Board retreat be scheduled to dedicate time to work on this matter, possibly the last week in January (January 27 – 28, 2012).

\* \* \* \* \*

Citizen Information Period:

Mr. Allan Stanz, Visitor Services Manager with the Eastern Shore of Virginia National Wildlife Refuge, briefed the Board on a new project of the Refuge to promote visitation and tourism efforts by locating a 68 ft. (120 ton) gun barrel similar to that which was housed at the Ft. Custis bunker.

Mr. Robert Richardson said that Northampton County was being blamed for the massive annual flushings of Washington, D.C. He also said that the County needs to develop standards for its ordinances, noting that citizens cannot built or start businesses.

Public Hearings:

Chairman Bennett called to order the following public hearing:

**(10) Special Use Permit 2011-10:** Timothy & Jeanine Wivell have applied for a minor special use permit to operate a small-scale oyster shucking and grading business with on-premise sales in an existing 400 square-foot structure located at 19444 Nu Lane. The property, zoned H Hamlet District, contains 6.37 acres of land located in the Cobb Station area and is described as being Tax Map 76, double circle 7, parcel L.

The Chairman asked if there were any present desiring to speak.

Ms. Benson reported that the Planning Commission was recommending approval of the petition.

The applicant, Mr. Wivell, asked for the Board's favorable consideration of his request.

Mr. Robert Richardson spoke in support of the application noting that it was a great idea.

There being no further speakers, the Chairman closed the public hearing.

Motion was made by Mr. Trala, seconded by Mr. Randall, that Special Use Permit 2011-10 be approved as presented. All members were present and voted "yes." The motion was unanimously passed.

Chairman Bennett called to order the next public hearing as follows:

**(11) Zoning Text Amendment 2012-01:** The Northampton County Board of Supervisors intends to amend the Northampton County Code, Chapter 154 Zoning Code, by revising the following sections: **§154.003 Definitions**, revisions to the definitions of *Coastal Primary Sand Dune* and *Construction Footprint*; **§154.040 Zoning Clearance**, to delete (B) (1) *Zoning clearance required*; **§154.043 Amendments**, to delete (2) (c) providing for a quarterly application schedule; **§154.141 General Modifications to Yard Regulations**, addition of structures and installations for which setbacks may be modified; **§154.142 Front Setback/Yard Regulations**, addition of language to clarify an abbreviation; **§154.145 Height and Bulk Regulations**, revision to correct conflict with height restrictions in Appendix A and to eliminate the maximum area for a widow's walk; **§154.146 Accessory Buildings and Fences**, clarification of fence placement; **§154.164 Chesapeake/Atlantic Preservation District (CAP)**, addition of language in *General performance standards for development and redevelopment* to allow for yard area; **§154.191 District Sign Regulations**, to allow business signage in the Agriculture/Rural Business District; **§154.207 Cooperative Parking**, to allow administrative approval of reduction of spaces for combined usage; **§154.209 Parking Area Design**, to refer to controlling sections of illumination and landscaping requirements; **§154.246 Nonconforming Uses, Lots or Buildings**, to reformat; **Appendix A-Use Regulations**, to eliminate references to the county Wetlands Ordinance and to eliminate in Category 4, Community Service Uses, as a county-regulated use item 13 *Mass/community subsurface drainfield, on site*; and by deleting



**§154.067 Minimum Separation Distances: Subsurface Absorption Systems and Wells.**

The Chairman asked if there were any present desiring to speak.

Ms. Benson indicated that the Planning Commission was recommending approval of most of the zoning text amendments with some modifications. Two of the proposed amendments (concerning Section 154-067 and Appendix A) were tabled by the Planning Commission. The specific Planning Commission recommendations are as set out below:

TO: Northampton County Board of Supervisors  
FROM: Sandra G. Benson, AICP  
Director of Planning & Zoning  
DATE: January 5, 2012  
SUBJECT: Planning Commission Recommendations – ZTA 2012-01

The Northampton County Planning County Planning Commission met in regular session on January 3, 2012, with Commissioners Carpenter, Coker, Kellam, Miller, Ward, and Wescoat in attendance. A public hearing was conducted on the matter referenced above, and the Commission forwards its recommendations herewith.

***Zoning Text Amendment 2012-01:** The Northampton County Board of Supervisors intends to amend the Northampton County Code, Chapter 154 Zoning Code, by revising the following sections: §154.003 Definitions, revisions to the definitions of Coastal Primary Sand Dune and Construction Footprint; §154.040 Zoning Clearance, to delete (B) (1) Zoning clearance required; §154.043 Amendments, to delete (2) (c) providing for a quarterly application schedule; §154.126 General Regulations for Residential Districts, revision to correct conflict with height restrictions in Appendix B; §154.141 General Modifications to Yard Regulations, addition of structures and installations for which setbacks may be modified; §154.142 Front Setback/Yard Regulations, addition of language to clarify an abbreviation; §154.145 Height and Bulk Regulations, revision to correct conflict with height restrictions in Appendix B and to eliminate the maximum area for a widow's walk; §154.146 Accessory Buildings and Fences, clarification of fence placement; §154.164 Chesapeake/Atlantic Preservation District (CAP), addition of language in General performance standards for development and redevelopment to allow for yard area; §154.191 District Sign Regulations, to allow business signage in the Agriculture/Rural Business District; §154.207 Cooperative Parking, to allow administrative approval of reduction of spaces for combined usage; §154.209 Parking Area Design, to refer to controlling sections of illumination and landscaping requirements; §154.246 Nonconforming Uses, Lots or Buildings, to reformat; Appendix A-Use Regulations, to eliminate references to*

*the county Wetlands Ordinance and to eliminate in Category 4, Community Service Uses, as a county-regulated use item 13 Mass/community subsurface drainfield, on site; and by deleting §154.067 Minimum Separation Distances: Subsurface Absorption Systems and Wells.*

Emailed comments from Price Clarke of Eastville and Robert Meyers of Exmore were read for the record; there was no other public comment offered. Both sets of comments pertained to the proposed amendments relative to mass drainfields in Appendix A. The Commission took up each proposed amendment separately, and based on their discussion and appropriate motions, forward the following recommendations:

- 1) **§154.003** – unanimously voted to recommend approval of revision to definition of *Coastal Primary Sand Dune* in accordance with the Code of Virginia.
- 2) **§154.003** - unanimously voted to recommend approval of revision to definition of *Construction Footprint* to clarify yard allowance under the Chesapeake/Atlantic Preservation District regulations.
- 3) **§154.040** - unanimously voted to recommend approval of the proposed deletion since the existing language appears to be unlawful.
- 4) **§154.043** - unanimously voted to recommend approval of the proposed deletion of the quarterly application schedule.
- 5) **§154.067** – upon motion by Commissioner Kellam and second from Commissioner Miller, voted 4-2, with Commissioners Carpenter and Ward voting “no,” to table this item for further discussion on February 7, 2012. The Commission requested additional background information regarding the history of the regulations, as well as the Health Department’s experience with administration, inspections, and enforcement of the regulations since their adoption.
- 6) **§154.126** - unanimously voted to recommend approval of the proposed revision to correct the conflict with Appendix B.
- 7) **§154.141** - unanimously voted to recommend approval of the proposed revisions with the following amendments: (A) (5) – insert the word “stabilization” after shoreline structure; (A) (7) - delete “monuments” since that term is not defined and could be a very large structure or a building; (A) (8) and (A) (9) – delete “front” so that the appurtenant structures are not located in front yards.
- 8) **§154.142** - unanimously voted to recommend approval of the proposed clarifying revision.
- 9) **§154.145** - noting that an apostrophe is required for “Widows,” unanimously voted to recommend approval of the proposed revision to correct the conflict with Appendix B and to eliminate the restriction on area of Widow’s walks.
- 10) **§154.146** - unanimously voted to recommend approval of the proposed clarifying revisions. Northampton County Board of Supervisors

- 11) §**154.164** – unanimously voted to recommend approval of the proposed revision to clarify yard allowance under the Chesapeake/Atlantic Preservation District regulations.
- 12) §**154.191** - unanimously voted to recommend approval of the proposed revision to allow for business signage in the A/RB District.
- 13) §**154.207** - unanimously voted to recommend approval of the proposed revision to allow for administrative review and approval of shared parking arrangements. Commissioner Miller noted prior discussions about excessive parking requirements in the county regulations.
- 14) §**154.209** - unanimously voted to recommend approval of the proposed revisions, with the insertion of “105” to complete the reference following “See section 154.” in (D).
- 15) §**154.246** - unanimously voted to recommend approval of the proposed formatting revisions.
- 16) **Appendix A** – Upon motion by Commissioner Kellam with second from Commissioner Miller, voted unanimously to table discussion on this matter until February 7, 2012, to allow for consideration of additional information from the Virginia Department of Health (VDH) concerning their responsibilities with respect to monitoring and maintenance issues; clarification of definitions since the county definition is different from the VDH definition; and research to determine whether the proposed ordinance revision would be expected have any impact on the county’s Chesapeake Bay TMDL nitrogen reduction requirements, as well as research on VDH authority to require denitrification measures for mass drainfields.

\* \* \* \* \*

Mr. Robert Richardson said that this petition was another example of how the County’s ordinances are impeding the development of the County. He suggested that 75% of the ordinances be eliminated.

Mr. Bill Parr distributed comments in regard to height restrictions and asked that the Board consider increasing the height requirements from 35 to 40 feet.

In response, Ms. Benson indicated that the Planning Commission did not consider any increase in building height requirements and such consideration would require another public hearing. The intent of the proposed zoning text amendments was to eliminate conflicting sections and to contain all height requirement criteria in the same section, Appendix B.

There being no further speakers, the public hearing was closed.

Motion was made by Mr. Randall, seconded by Mr. Trala, that the Board approve certain of the zoning text amendments as proposed under ZTA 2012-01 and as identified in the foregoing recommendations document; and that the Board table action on two specific zoning text amendments (Section 154-067 and Appendix A) as also detailed in the foregoing recommendations document, with action to occur within the previously established 60-day window. All members were present and voted “yes.” The motion was unanimously passed.

Chairman Bennett called to order the next public hearing:

**(12) Zoning Text Amendment 2012-02:** The Northampton County Planning Commission intends to amend the Northampton County Code, Chapter 154 Zoning Code, by adding to **§154.190 Signs**, in **Section (C) (2)** a new item to be known as **(q) Off-site Business Way Finding Signs** and by adding to **§154.191 (A)** a new item **(11)** and to **§154.191 (B)** a new item **(13)**, both to be known as **Off-site Town Business Directory Sign**.

The Chairman asked if there were any present desiring to speak.

Ms. Benson indicated that the Planning Commission was recommending approval.

Mr. Robert Richardson echoed his previous comments, noting that standards are required so that ordinances can benefit the citizenry.

There being no further speakers, the public hearing was closed.

Motion was made by Mr. Randall, seconded by Mr. Long, that Zoning Text Amendment 2012-02 be adopted as presented. All members were present and voted “yes.” The motion was unanimously passed.

Chairman Bennett called to order the next public hearing as follows:

**(13) AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED, “AN ORDINANCE TO LEVY AND COLLECT A TRANSIENT OCCUPANCY TAX”.** The purpose of the amendment is to clarify funding allocations for Transient Occupancy Tax revenues.

**AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,  
“AN ORDINANCE TO LEVY AND COLLECT A TRANSIENT  
OCCUPANCY TAX”**

BE IT ORDAINED, by the Board of Supervisors of Northampton County, Virginia, that that certain ordinance entitled “An Ordinance To Levy and Collect a Transient Occupancy Tax” be amended to read in full as follows:

WHEREAS, Section 58.1-3819 of the Code of Virginia, as amended, authorizes the governing bodies of certain counties of the Commonwealth to levy a transient occupancy tax on hotels, motels, boarding houses and travel campgrounds not to exceed five (5) percent of the amount of charge for the occupancy of any lodging or space occupied, and that any excess over two (2) percent shall be designated and spent solely for tourism, marketing of tourism or initiatives that, as determined in consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality; and

WHEREAS, the Board of Supervisors deems such transient occupancy to be reasonable and necessary to provide revenue for the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF NORTHAMPTON COUNTY, VIRGINIA:

SECTION 1. DEFINITIONS.

The following words and phrases when used in this article shall, for the purposes of this ordinance, have the following respective meanings, except where the context clearly indicates a different meaning:

(a) Commissioner. The Commissioner of the Revenue of the County of Northampton, Virginia.

(b) Hotel. Includes but is not limited to any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, rooming house or other lodging place within the County of Northampton, offering lodging for compensation to any

transient as hereinafter defined.

(c) Lodging. Includes but is not limited to any space or room furnished any transient.

(d) Lodging Rental. Shall mean the total charge, exclusive of any tax imposed on such charge, made by any hotel for lodging furnished any transient. If the charge made by any hotel to a transient includes any charge for services or accommodations in addition to that of lodging, and/or use of space, then such portion of the total charge as represents only lodging and/or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

(e) Person. Includes but is not limited to any individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

(f) Transient. Shall mean the same individual or same group of individuals who, for a period of not more than twenty-nine (29) consecutive days, either at his own expense or at the expense of another, obtains lodging or use of space in any hotel, or travel campground, as hereinabove defined, for which lodging or use of space a charge is made.

(g) Travel Campground. Shall mean any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes, or temporary dwelling during travel, recreational or vacation use.

(h) Pre-Payment. Shall mean the payment of the full cost of the rental of lodging subject to this ordinance, including all taxes and fees of every kind imposed by laws on each and every transient.

## SECTION 2. TAX LEVY AND RATE.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind imposed by laws on each and every transient a tax equivalent to five percent (5%) of the total amount paid for lodging rental by or for any such transient to any hotel or travel campground; provided, that any full pre-payments made and received prior to July 1, 2007 for lodging rentals subject to this ordinance between July 1, 2007 and December 31, 2007 shall be levied a tax equivalent to two percent (2%) of the total amount paid for the lodging rental.

SECTION 3. USE OF FUNDS.

Transient Occupancy Tax revenues received pursuant to the Annexation Agreement between the County of Northampton and the Town of Cape Charles shall be included in the County's General Fund. All other revenues received pursuant to this ordinance shall be divided according to the following formula:

(a) Forty percent (40%) of the funds collected shall be allocated to the County's General Fund;

(b) Forty-five percent (45%) of the funds collected shall be allocated as the annual contribution to the Eastern Shore Tourism Commission from the Northampton County Board of Supervisors; and

(c) Fifteen percent (15%) of the funds collected shall be allocated as the County's allocation towards a Tourism Infrastructure Grant Program as established by the Board.

SECTION 4. EXCEPTIONS.

No tax shall be payable under this chapter on lodging rental paid to any hospital, medical clinic, convalescent home or home for the aged.

SECTION 5. COLLECTION PROCEDURE.

Every person receiving any payment for lodging rental with respect to which a tax

is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this ordinance.

#### SECTION 6. REPORTS AND REMITTANCE OF TAX.

The person collecting the tax levied under this ordinance shall make a report upon such forms and setting forth such information as the Commissioner may prescribe and require. Such report shall show the amount of lodging rental charges collected, including the collection of full pre-payments which shall be listed separately, and the tax required to be collected and shall be signed and delivered to the Commissioner with a remittance of such tax. Such reports and remittances shall be made quarterly on or before the last day of October, January, April and July in each year, and shall cover the amount of tax collected during the three months immediately preceding the months in which such reports and remittances are required. If the remittance is by check or money order, the same shall be payable to the Treasurer of Northampton County.

No later than July 15, 2007, any person who has collected full pre-payments through June 30, 2007 for lodging rentals between July 1, 2007 and December 31, 2007 shall file a report upon such forms and setting forth such information as the Commissioner may prescribe and require. Such report will show the name of the renter, the date funds pre-paid, the actual or projected dates of stay of the renter, and the amounts collected.

#### SECTION 7. INTEREST AND PENALTIES.

If any person shall fail or refuse to remit to the County Treasurer the tax required



to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the County Treasurer a penalty in the amount of ten (10) percent for the first month the taxes are past due, and five (5) percent for each month thereafter, up to a maximum of twenty-five (25) percent of the taxes collected but not remitted, and interest thereon at the rate of ten (10) percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

**SECTION 8. FAILURE OR REFUSAL TO COLLECT AND REPORT TAX.**

If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances required in this article, the Commissioner shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Commissioner shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person such tax, penalty and interest as provided for in this article, and shall notify such person, by registered mail sent to his last known place of address, of the amount of such tax, interest and penalty, and the total amount thereof shall be payable within ten (10) days from the date of the mailing of such notice.

**SECTION 9. RECORDS TO BE KEPT BY PERSON LIABLE FOR COLLECTION AND PAYABLE OF TAX.**

It shall be the duty of every person liable for the collection and payment to the county of any tax imposed by this article to keep and to preserve for a period of four (4) years such suitable records as may be necessary to determine and show accurately the

amount of such tax as he may have been responsible for collecting and paying to the County. Such records shall be available for inspection by the Commissioner at all reasonable times.

**SECTION 10. TAX IMMEDIATELY DUE AND PAYABLE UPON CESSATION OF BUSINESS.**

Whenever any person required to collect and remit the tax imposed and levied by this article shall go out of business, dispose of his business or otherwise cease to operate his business, all taxes due from such person shall thereupon be reported and remitted to the Commissioner.

**SECTION 11. PENALTY FOR VIOLATION OF ORDINANCE.**

Any corporate or partnership officer as defined in Section 58.1-3906 of the Code of Virginia or any other person required to collect, account for, and pay over any transient occupancy tax who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall, in addition to any other penalties provided by law, be guilty of a Class I misdemeanor. Each violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

**SECTION 12. SEVERABILITY.**

If any provision of this ordinance, or the application of such provision to any person or under any circumstances, shall be invalid, the remainder of this ordinance or the application of such provisions to persons or under circumstances other than those to which it shall have been held invalid, shall not be affected thereby.

**SECTION 13. EFFECTIVE DATE OF ORDINANCE.**

This Ordinance shall be effective upon its adoption.

\* \* \* \* \*

The Chairman asked if there were any present desiring to speak.

The County Administrator provided background information on the purpose of the ordinance amendment – to clarify the allocation of funding received through the Transient Occupancy Tax.

Mr. Jonathan Bess, Vice President of the Northampton County Chamber of Commerce and small business owner, spoke in support of the proposed ordinance amendment.

Mrs. Karen Jolly Davis, a small business owner and member of the Artisans Guild of the Eastern Shore, said that local businesses rely heavily on tourist spending and asked for the Board's support.

Mr. Oral Lambert, staff member of the Baycreek Resort, said that the County needs a strong marketing effort and asked the Board for its support of this amendment in order to provide a predicable funding source for the Tourism Commission.

Mr. Chris Bannon, owner of the Seagate Bed and Breakfast in Cape Charles, spoke in support, indicating that two new bed-and-breakfast facilities will soon be opening in Cape Charles.

Mr. Ronald Van Geijn, owner of a spa, retail outlet and internet service provider in Cape Charles, spoke in support of the amendment.

Ms. Pam Spell, general manager of the Sunset Grill and representing Harmony Investments, indicated that she supported the Tourism Commission and its continued funding.

Ms. Donna Kohler, owner of the Fig Street Inn and member of the Eastern Shore B&B Association, spoke in support of the continued funding for the Tourism Commission.

Ms. Lynn Lochen of the Virginia Tourism Corp., said that she provides guidance and

support to the Tourism Commission, noting that tourism is economic development through the \$63 million that represents tourism spending in Northampton County.

There being no further speakers, the public hearing was closed.

Motion was made by Mr. Hubbard, seconded by Mr. Randall, that “An Ordinance to Amend an Ordinance Entitled, ‘An Ordinance to Levy and Collect a Transient Occupancy Tax’ be adopted as presented. All members were present and voted “yes.” The motion was unanimously passed.

The Chairman called to order the final public hearing as follows:

(14) Receive the views within the Northampton County School District regarding the appointment of one District Four member of the Northampton County School Board. Applications have been received from: Mickey Merritt and Shavonne Ruffin.

Mr. Bennett asked if there were any present desiring to speak.

There being no speakers, the public hearing was closed.

Action Items:

15) Consider an amendment to the Board’s “Term Limits for Boards, Commissions” policy.

Motion was made by Mr. Randall, seconded by Mr. Trala, that the following policy amendment be adopted, which clarifies the terms of board, commission and committee members. All members were present and voted “yes.” The motion was unanimously passed. Said policy amendment is set forth below:

**TERM LIMITS FOR BOARDS, COMMISSIONS**

All volunteers to these boards, commissions, and committees must be residents of the County and are limited to two consecutive full terms of service when the term of service is a four-year or five-year term of service. Volunteers with three-year terms are limited to three consecutive full terms of service.

Amendment added to Board Member Manual on January 12, 2009:

For those boards, committees and commissions that meet annually or less, there are no term limits.

Amendment added to Board Member Manual on January 10, 2012

At the conclusion of the term, the appointee's service and attendance to the board, commission or committee shall cease.

\* \* \* \* \*

At Mr. Randall's suggestion, the Board agreed to bring the revised policy back for consideration at the February meeting, for discussion relative to the elimination of the term limit provision in its entirety.

(16) Consider a resolution to adopt the updated Emergency Operations Plan, Dec. 2011

Motion was made by Mr. Randall, seconded by Mr. Long, that the following resolution be adopted. All members were present and voted "yes." The motion was unanimously passed.

Said resolution as adopted is set forth below:

**RESOLUTION**

**For Emergency Operations Plan**

WHEREAS, the Board of Supervisors of Northampton County, Virginia, recognizes the need to prepare for, respond to, and recover from natural and manmade disasters; and

WHEREAS, Northampton County, Virginia, has a responsibility to provide for the safety and well-being of its citizens and visitors; and

WHEREAS, Northampton County, Virginia, has established and appointed a Director and Coordinator of Emergency Management.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Northampton County, Virginia, that this Emergency Operations Plan as revised is officially adopted; and

BE IT FURTHER RESOLVED AND ORDERED that the Director of Emergency Management, or his/her designee, is tasked and authorized to maintain and revise as necessary this document during the next four (4) year period or until such time it be ordered to come before this Board.

\* \* \* \* \*

Motion was made by Mr. Randall, seconded by Mr. Long, that the following resolution relative to the transfer of the Bayview Water and Wastewater Systems be adopted. All members were present and voted “yes.” The motion was unanimously passed. Said resolution as adopted is set forth below:

**RESOLUTION OF GOVERNING BODY OF  
NORTHAMPTON COUNTY**

The Board of Supervisors, governing Northampton County, consisting of five (5) members, in a duly called meeting held on the 10<sup>th</sup> day of January, 2012, at which a quorum was present, RESOLVED as follows:

**BE IT HEREBY RESOLVED** that, in order to facilitate the transfer and assumption of the water and sewer systems constructed with grants from Rural Development, from Bayview Citizens for Social Justice, Inc., the Board of Supervisors does hereby adopt and abide by the covenants contained in the following agreements:

1. Form RD 400-4, Assurance Agreement
2. Form RD 442-2, Statement of Budget, Income and Equity
3. Form RD 442-3, Balance Sheet
4. Form RD 1910-11, Applicant Certification

**BE IT FURTHER RESOLVED** that Katherine H. Nunez, County Administrator of Northampton County be authorized to execute, on behalf of the County, the above agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required.

This Resolution, along with a copy of the above-named documents, is hereby entered into the permanent minutes of the meetings of the Board of Supervisors.

\* \* \* \*

(17) Matters Presented by the Board Including Committee Reports & Appointments

Motion was made by Mr. Randall, seconded by Mr. Trala, that the County Administrator be authorized to proceed with the acquisition of property at 5181 Stumptown Drive under the terms and conditions as discussed in closed session. All members were present and voted “yes.” The motion was unanimously passed. Said resolution as adopted is hereby set out:

**RESOLUTION OF THE  
NORTHAMPTON COUNTY BOARD OF SUPERVISORS**

BE IT RESOLVED, that the Board of Supervisors of Northampton County does hereby resolve to purchase property identified as 5181 Stumptown Drive (Tax Map 68-A-43), for the sum of Ninety Thousand Dollars; that the Board appropriate the funding for same; and that the County Administrator, County Attorney and Chairman of the Board of Supervisors be authorized to execute such documentation as may be required, contingent upon due diligence of both title and environmental/physical conditions of the property and premises.

The undersigned Clerk of the Northampton County Board of Supervisors hereby certifies that the above is a true copy of a resolution adopted by the Northampton County Board of Supervisors on January 10, 2012.

\* \* \* \* \*

Motion was made by Mr. Randall, seconded by Mr. Hubbard, that the Board request VDOT to perform a speed study on Townsend Drive and to request that Children at Play signs be installed on that route as well. All members were present and voted “yes.” The motion as unanimously passed. {It is noted for the record that this request has previously been sent to VDOT and was subsequently denied.}

Mr. Bennett asked for information on the County’s hiring practices and current staffing.

Closed Session

Motion was made by Mr. Long, seconded by Mr. Hubbard, that the Board enter Closed Session in accordance with Section 2.2-3711 of the Code of Virginia of 1950, as amended:

Paragraph 1: Discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees or employees of any public body.

*Appointments to boards & committees*

All members were present and voted “yes.” The motion was unanimously passed.

After Closed Session, the Chairman reconvened the meeting and said that the Board had entered the closed session for that purpose as set out in paragraph 1 of Section 2.1-3711 of the Code of Virginia of 1950, as amended. Upon being polled individually, each Board member confirmed that this was the only matter of discussion during the closed session.

Motion was made by Mr. Randall, seconded by Mr. Long, that Mr. Richard Hubbard be appointed to the AFD Advisory Committee, replacing Mr. Tankard. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Randall, that Mr. Richard Hubbard and Mr. Larry Trala be appointed to the A-N Planning District Commission, replacing Mr. Murray and Mr. Tankard. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Randall, that Mr. John Reiter be appointed to the Board of Appeals for the Building Inspector, replacing Mr. Jim Bailey. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Randall, seconded by Mr. Long, that Mr. Oliver Bennett and Mrs. Mary Carey be reappointed to the Eastern Shore Area Agency on Aging/Community Action Agency for new terms of office commencing January 1, 2012. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Trala, seconded by Mr. Long, that the Board accept the resignation of Mr. Richard Hubbard from the Comprehensive Plan Advisory Committee. All members were present and voted “yes.” The motion was unanimously passed.



Motion was made by Mr. Long, seconded by Mr. Randall, that Mr. Richard Hubbard and Mr. Peter Henderson be appointed to the Eastern Shore Groundwater Committee, replacing Mr. Sam Long and Mr. Robert Meyers. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Randall, that Mr. Bill Parr be appointed to the Joint Industrial Development Authority of Northampton County and Towns, replacing Mrs. Sharon Bailey. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Randall, that Mr. Richard Hubbard be recommended for appointment to the Local Emergency Planning Committee, replacing Mr. Murray. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Randall, that Dr. John Ogram be reappointed to the Eastern Shore Community Services Board for a new term of office commencing January 1, 2012. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Randall, seconded by Mr. Trala, that the Board accept the resignation of Mr. Samuel J. Long, Jr., on the Purchase of Development Rights Committee and that Mr. Richard Hubbard be appointed to replace him. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Randall, seconded by Mr. Trala, that Mr. Rob Stubbs and Mr. Roy Ballard be reappointed to the Recreation Board. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Randall, seconded by Mr. Trala, that the Board accept the

resignation of Mr. Samuel J. Long, Jr. from the Eastern Shore Regional Jail Board and that Mr. Mr. Richard Hubbard be appointed thereto. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Long, seconded by Mr. Randall, that Mr. William B. Brown, II be appointed to the Northampton County Wetlands Board, replacing Mr. Robert Meyers. All members were present and voted “yes.” The motion was unanimously passed.

The Board selected Saturday, January 28, 2012 as the date of its strategic retreat.

Recess:

Motion was made by Mr. Hubbard, seconded by Mr. Long, that the meeting be recessed until 5:00 p.m., Monday, January 23, 2012 in the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was recessed.

\_\_\_\_\_ CHAIRMAN

\_\_\_\_\_ COUNTY ADMINISTRATOR