

VIRGINIA:

At a regular meeting of the Board of Supervisors of the County of Northampton, Virginia, held at the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 13th day of January, 2015, at 4:00 p.m.

Present:

Larry LeMond, Chairman

Richard L. Hubbard, Vice Chairman

Laurence J. Trala

Granville F. Hogg, Jr.

Oliver H. Bennett

The meeting was called to order by the Chairman.

Closed Session

Motion was made by Mr. Hogg, 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, committees  
New hires/terminations report*

(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 such counsel.

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 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.*

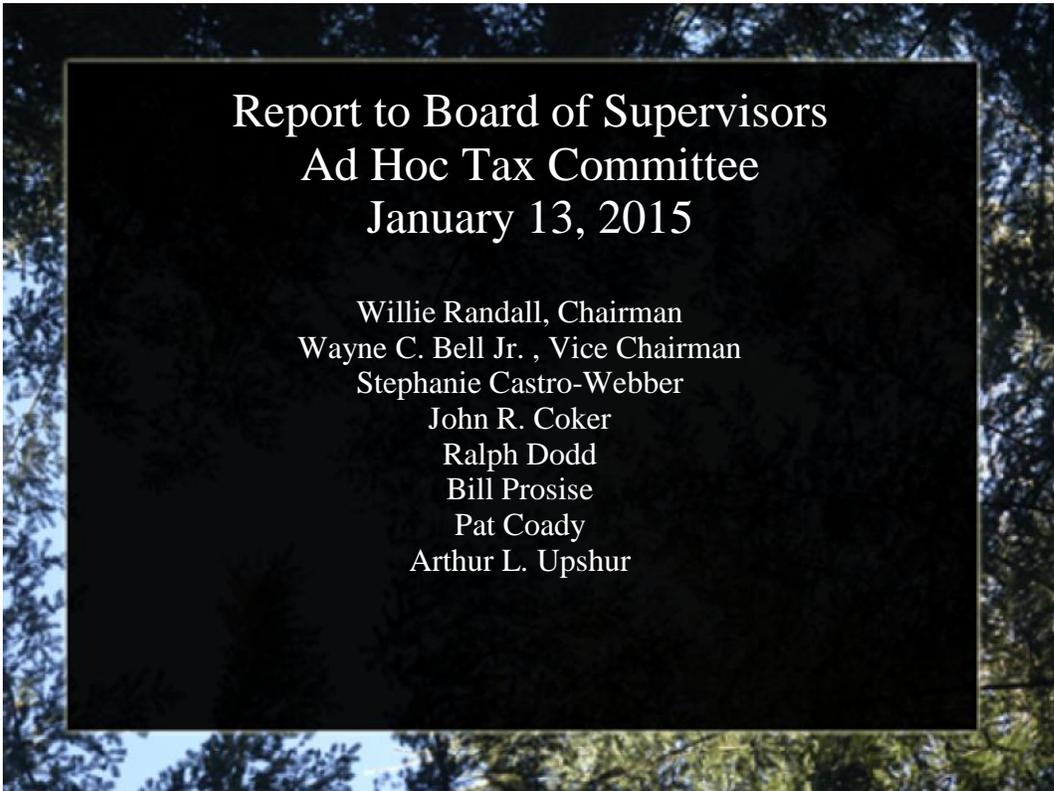
Board and Agency Presentations:

(1) Mr. Terrence Flynn, General Registrar

Mr. Flynn provided an update on voting machines and the Governor's proposed plan to include funding in the state budget to replace all voting machines by November 2015. He asked that the Board consider sending letters to the County's legislative delegation in support of the Governor's plan. Motion was so made by Mr. Trala, seconded by Mr. Bennett. All members were present and voted "yes." The motion was unanimously passed.

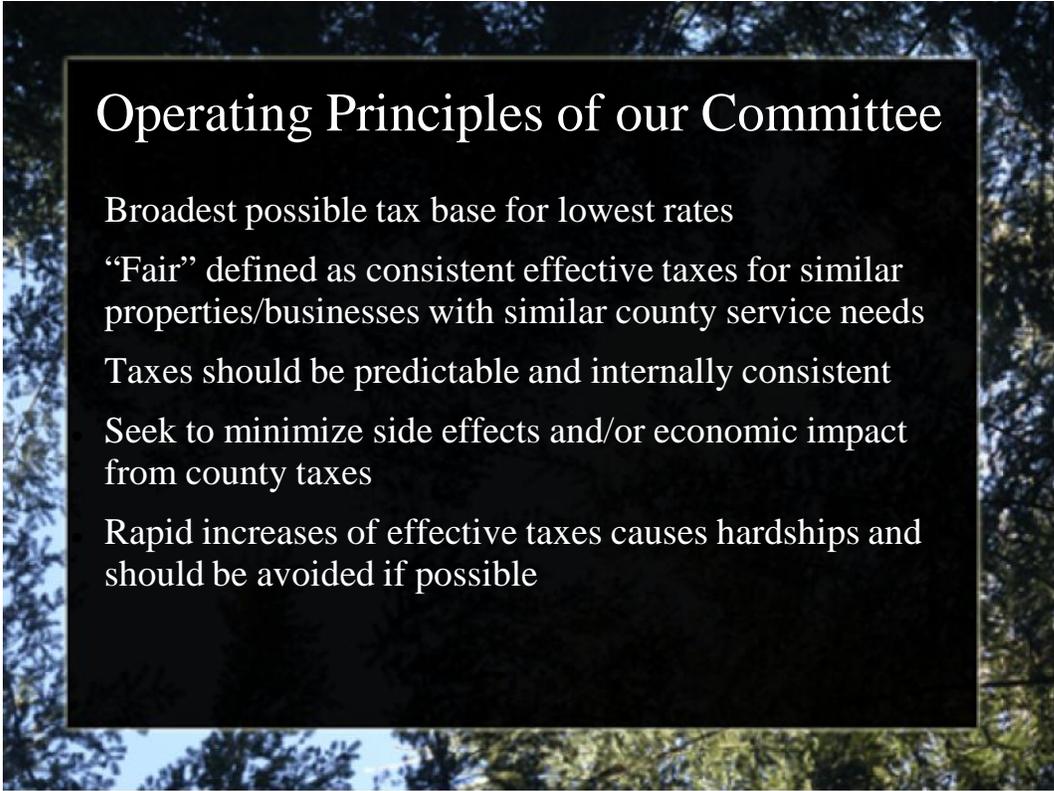
(2) Ad-Hoc Tax Study Committee – Report: Findings & Recommendations

Mr. Arthur Upshur, representing the Ad-Hoc Tax Study Committee, presented the final report as issued by that body in accordance with the charge delivered by the Board:



Report to Board of Supervisors  
Ad Hoc Tax Committee  
January 13, 2015

Willie Randall, Chairman  
Wayne C. Bell Jr. , Vice Chairman  
Stephanie Castro-Webber  
John R. Coker  
Ralph Dodd  
Bill Prosis  
Pat Coady  
Arthur L. Upshur



Operating Principles of our Committee

Broadest possible tax base for lowest rates

“Fair” defined as consistent effective taxes for similar properties/businesses with similar county service needs

Taxes should be predictable and internally consistent

Seek to minimize side effects and/or economic impact from county taxes

Rapid increases of effective taxes causes hardships and should be avoided if possible

## Observations

- County is excessively reliant on residential property taxes (no business clusters to finance county activities)
- Business clusters in Tourism and Agriculture (Land based and water based).

## Key Questions:

- Tourism taxed appropriately?
- Agriculture w/ AFD taxed appropriately?
- Aquaculture taxed appropriately?

## Aquaculture

- Key sector for economic activity and growth – need to be sheltered from any risky county policies including taxes
- Almost all activity exported out of county so pulling money into local economy for local employment and business owners
- Minimal taxes from sector collected (boats, small on-shore assets relative to business size)
- Major resource used is state land below water surface and clean water resources.
- Land bottom fees collected by state with no sharing mechanism with local governments

## Agriculture

- Principle resources -land and equipment- are subject to county taxes (although equipment may be inconsistently taxed)
- Tax rates/acre appear broadly consistent with other jurisdictions (but above average given equipment taxes and higher assessment rates)
- Low county services generally required in sector except possibly in “industrial” farming (e.g. tomato growers vs grain farmers)
- Sector importance to county makes it a strategic decision on how to tax and raises importance that we understand how that tax change will change activity in sector.

## AFD's

- Consistency with comprehensive plan goals for open land use and maintaining water quality for aquaculture
- Assessment based on SLEAC connects assessment to farming returns (very approximately)
- Commitment length (10 year)
- Comparison w/ Land Use
- Flawed application process
  - Unpredictable/ Arbitrary/Expensive
  - Not linked to county goals (off-shore wealthy owners versus owner operator farmers?)
  - Timing of Renewals

## Recommendations on AFD's

- Focus on total acreage protected/set aside for reduced tax (CE's and AFD's) and making limited adjustments to total (+/-1%?)
- Scoring process to prioritize AFD additions/renewals
- Improved application process to incorporate “waitlist” with ranking based on scoring to avoid fees for doomed applications
- Scoring on existing AFD's so applicants can gauge likelihood of renewals prior to renewal date (critical given one year “bulge” of AFD's created after land use taxation was abandoned)

## Other Tax Discussions

- Implement full BPOL based on gross receipts
- Taxes on machinery and tools raised back to \$2.25/100
- Fees vs Taxes

## Efficiency of County Services

- Perceptions of low efficiency in providing services across all departments (County Administration, Constitutional Offices, and School Board)
- History of potential resource misallocation and poor investment return on county spending
- Need similar committees of “outsiders” to review and recommend efficiency gains on county spending across all departments (harder for administration “insiders” to recommend reductions in administrative costs)
- Reducing spending levels will increase support on tax collections, reduce need to adjust taxes, and reduce County reliance on debt financing

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The Board thanked Mr. Upshur and the Committee for its hard work and indicated that the report would certainly be consulted during the upcoming budget deliberations.

Superintendent Eddie Lawson and Director of Operations Chris Truckner shared with the Board multiple photographs of the on-going high school cafeteria wall and gymnasium ceiling projects. They are still awaiting the engineer's report.

Consent Agenda:

(3) Minutes of the meetings of December 9 and 16, 2014.

(4) Consider adoption of a resolution recognizing Community Unity Day on January 19, 2015.

(5) Consider an A-95 Review entitled, "Production and Distribution of Chesapeake Bay Journal"; applicant: Chesapeake Media Service

Motion was made by Mr. Trala, seconded by Mr. Hubbard, that the consent agenda be approved as presented. All members were present and voted "yes." The motion was unanimously passed. Mr. Bennett noted that comments made by a citizen during the December 9<sup>th</sup> Board meeting referenced his comments concerning tourism at the February 22<sup>nd</sup> Strategic Plan work session. He read aloud from a transcript of those comments as follows:

"I guess I'm on the other side of the fence. I hear 'tourism'. I hear 'tourism'. Tourism is good. A lot of the folks that I represent – tourism doesn't help them too much. A lot of the folks I represent – they're not fortunate enough to have bed-and-breakfasts. The jobs that tourism gives to a lot of folks I know are not that high paying and I look at it and I ask the question, 'who does it benefit?'"

County Officials' Reports:

(6) Mrs. Leslie Lewis, Director of Finance, presented the following Budget Amendment and Appropriation Request for the Board's consideration:

## MEMORANDUM

**TO:** Board of Supervisors  
**FROM:** Leslie Lewis, Director of Finance  
**DATE:** January 6, 2015  
**RE:** Budget Amendments and Appropriations – FY 2015

Your approval is respectfully requested for the attached budget amendment and supplemental appropriation:

**\$5,920.03** – This request represents an insurance reimbursement as a result of damages sustained in the Sheriff’s Department. Please transfer these funds to the Sheriff’s Motor Vehicle line item (100-3102-58650).

Thank you for your attention to this matter.

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Motion was made by Mr. Hubbard, seconded by Mr. Bennett, that the budget amendment and supplemental appropriation be approved as presented above. All members were present and voted “yes.” The motion was unanimously passed.

## MEMORANDUM

**TO:** Board of Supervisors  
**FROM:** Katherine H. Nunez  
County Administrator  
**DATE:** January 6, 2015  
**RE:** Budget Amendments and Appropriations – FY 2015

Your approval is respectfully requested for the following budget amendments and supplemental

appropriations as petitioned by the Northampton County Public Schools:

**\$198.61** – This represents an appropriation increase to reflect the final award of Title I, Part C funding from the Virginia Department of Education.

**\$3,000.00** – This represents an appropriation increase to reflect a Dollar General Literacy Foundation Grant for media supplies at Kiptopeke Elementary School.

**\$3,039.78** – This represents an appropriation increase to reflect a supplemental award of Section 611 Special Education funding for Students With Disabilities (SWD).

**\$9,213.00** – This represents an appropriation increase to reflect a General Assembly Grant for Positive Behavioral Interventions and Supports (PBIS) at Northampton High School.

**\$23.55** – This represents an appropriation increase to reflect an amendment received from the Virginia Department of Education for the Title I, Part A allocation under the Elementary and Secondary Education Act.

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Motion was made by Mr. Trala, seconded by Mr. Bennett, that the budget amendments and supplemental appropriations be approved as presented above. All members were present and voted “yes”. The motion was unanimously passed. Chairman Hubbard indicated that he hoped the School Board would be sending a letter of appreciation sent to the Dollar General Literacy Foundation Grant.

The 1st Quarter, FY 2015 Financial Statement Package was discussed by the Board with the following cover memorandum:

TO: Board of Supervisors, Northampton County  
FROM: Leslie M. Lewis, CPA, Director of Finance  
DATE: November 13, 2014  
SUBJECT: September 30, 2014 Financial Statement Package

Enclosed please find the quarterly financial package as of September 30, 2014. In the General Fund, 7% of budgeted revenues and 21% of expenditures have been recorded for the year compared to 5% and 20% last year at the same time. First quarter expenditures exceeded revenues by \$3,407,388, compared to revenues exceeding expenditures by \$3,780,395 at the same time last year. Using the modified accrual basis of accounting, for the first sixty days of FY 15 revenue collected related to FY 14 may be adjusted for some funds to be properly recorded in FY 14. Furthermore on the expenditure side, the first payroll and part of the second payroll of July 2014 and other FY 14 expenditures paid during July and August were charged back to that fiscal year using the modified accrual basis of accounting.

For the current fiscal year, the School Operating Funds reflect revenue collections at 23% of the budget and expenditures at 24% compared to 21% and 16% respectively last year. The Social Services operating fund reflects revenue collections of 19% and expenditures of 19% of the adopted budget compared to 16% and 17% last year. The Eastern Shore Regional Jail Fund shows that 21% of revenues have been collected while 20% of expenditures have been recorded compared to 18% and 20% last year. Information on all capital projects' budget performance for the year and life-to-date is included behind the Capital Projects Performance Report divider.

A chart depicting the County's cash flow pattern is included in the report after the Treasurer's statement of account. At September 30, 2014, operating cash balances were \$7,230,247 compared to \$5,736,806 last year at the same time. The County collected ninety-six percent of the current year tax levies (2013) as compared at 95% current year tax collection rate at the same time last year. At the end of 9/30/2014, we have 98% of Tax Year 2012 tax levy collected and 99% or greater of all other delinquent tax levies have now been collected. For more information on delinquent tax collections, please see the Delinquent Tax Report section of this report.

If you have any questions about the financial reports or need more information, please give me a call at 678-0440.

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The 2nd Quarter, FY 2015 Financial Statement Package was discussed by the Board with the following cover memorandum:

TO: Board of Supervisors, Northampton County  
FROM: Leslie M. Lewis, CPA, Director of Finance  
DATE: January 5, 2015  
SUBJECT: December 31, 2014 Financial Statement Package

Enclosed please find the quarterly financial package as of December 31, 2014. In the General Fund, 75% of budgeted revenues and 41% of expenditures have been recorded for the year compared to 75% and 42% last year at the same time. Fiscal year-to-date revenues exceeded expenditures by \$8,617,080, compared to \$8,586,224 at the same time last year. As of December 31, 2014, 91% of the December 5, 2014 tax levy has been collected and recorded. Last year at the same time, we had collected 87% of December 5, 2013 tax levy.

For the current fiscal year, the School Operating Funds reflect revenue collections at 43% of the budget and expenditures at 47% compared to 44% and 40% respectively last year. The Social Services operating fund reflects revenue collections of 35% and expenditures of 40% of the adopted budget compared to 37% and 35% last year. The Eastern Shore Regional Jail Fund shows that 43% of revenues have been collected while 45% of expenditures have been recorded compared to 44% and 45% last year. Information on all capital projects' budget performance for the year and life-to-date is included behind the Capital Projects Performance Report divider.

A chart depicting the County's cash flow pattern is included in the report after the Treasurer's statement of account. At December 31, 2014, operating cash balances were \$17,731,340 compared to \$17,888,151 last year at the same time. We continue our aggressive efforts to collect delinquent taxes. For the 2013 tax levies, the County has collected 96.63% and for all earlier tax years, the County has collected 98.5% or greater of all other delinquent tax levies. For more information on delinquent tax collections, please see the Collection section of this report.

In summary, at the middle of FY15, it appears County revenues have stabilized and are consistent with budgeted estimates. Again, minimal growth in local revenue is expected to continue for FY15. The level of state and federal funding for FY 16 remains in question as we have already begun the development of the County's next operating budget.

If you have any questions about the financial reports or need more information, please give me a call at 678-0440.

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Mrs. Leslie answered multiple questions from the Board with regard to both quarterly financial packets.

The following memorandum in regards to the new mileage rate was provided:

**MEMORANDUM:**

**TO:** Board of Supervisors  
**FROM:** Leslie Lewis, Director of Finance  
**DATE:** January 6, 2015  
**RE:** Approval of Mileage Rate Increase

As indicated in the attached News Release from the Internal Revenue Service, for 2015, the standard mileage rate has been set at 57.5 cents per mile (up from 56 cents per mile for 2014).

Board action to approve this mileage reimbursement rate, retroactive to January 1, 2015, is respectfully requested.

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Motion was made by Mr. Bennett, seconded by Mr. Hogg, that the Board approve the mileage

rate of 57.5 cents for 2015 in accordance with guidance from the IRS. All members were present and voted “yes.” The motion was unanimously passed.

At approximately 6:30 p.m., the Board recessed for the supper break.

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

The invocation was offered by Mr. Bennett.

The Pledge of Allegiance was recited.

(7) Organizational Matters:

The floor was opened for nominations for the office of Chairman. Mr. Bennett nominated Mr. Hubbard for Chairman. The motion was seconded by Mr. Trala. There being no further nominations, the floor was closed. In the matter of the election of Mr. Hubbard as Chairman, all members were present and voted “yes.” Mr. Hubbard was elected Chairman and assumed the Chair.

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

Motion was made by Mr. LeMond, seconded by Mr. Bennett, 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.

It was the consensus of the Board to make minor wording changes to several sections of the Board Member Manual including a description of the Northampton County School Board, use of electronic devices in the Board Room, and the allowance of one additional 3-minute time donation to speakers during the Citizens Information Period and public hearings. Mr. Hogg stressed his desire that a written legal opinion be sought from the County Attorney relative to review of the Board Member Manual and whether it complies with law. Mr. Hogg also commented that he felt that the County Administrator would be disciplining the Board and that Board members should be able to ask any department head or staff for information being sought. He felt that the policy language which outlines the procedure for Board members to follow the chain-of-command in seeking information from department heads and other staff members was restrictive. Lastly, Mr. Hogg said that there needs to be a separation of the legislative and judicial powers of the Board and that the proposed text of the Board Member Manual gave a significant amount of power to the County Administrator.

Motion was made by Mr. Trala, seconded by Mr. LeMond, that the Board Member Manual be adopted as revised, pending review by legal counsel. All members were present and voted “yes.” The motion was unanimously passed. The Board Member Manual is on file in the office of the County Administrator.

Public Hearings:

Chairman Hubbard called the following public hearing to order:

(8) Consider the possible sale of some or all of the properties known as Tax Map 58A1-A-72, 58A1-A-73, 58A1-A-75, 58A1-A-76, and 58A1-A-77, to Mr. S. Eyre Baldwin. These properties are located at 16415, 16407, 16403, 16399, 16395, 16393, and 16386 Courthouse Road, Eastville, Virginia, respectively.

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

Ms. Katherine H. Nunez, County Administrator, indicated that an expression of interest had been received from Mr. S. Eyre Baldwin for the block of buildings and adjacent parking lot across the street from the existing County office complex. She indicated that it has been a goal of the Board for some time to return these properties to the tax rolls as the County no longer has any need for this space.

Mrs. Price Clarke said that she was in favor of the proposed sale, noting that Mr. Baldwin's projects have been aesthetically pleasing and that the more business that comes to the area, the better for everyone. She commented that sewer capability being brought to that side of Courthouse Road was also a good idea.

Mrs. Eleanor Gordon said that she was excited about the proposed project but disappointed that there was no formal presentation being made tonight. She indicated that the Town of Eastville had re-written its zoning ordinance in order to accommodate commercial development in that area of town. The County Administrator responded that she believed that sewer expansion will be a part of the sales agreement and this fact has been communicated to the Town of Eastville.

Mr. Jeff Walker urged the Board to approve the proposed sale. He also asked the Board members to remember to use their microphones.

A letter received from Mr. Robert C. Richardson of Seaview was read into the record as follows:

TO: Board of Supervisors  
Northampton County

FROM: Robert C. Richardson  
Seaview, VA

SUBJECT: Proposed sale of county property in Eastville

Mr. Chairman and members of the Board:

I, on a frequent basis, have advocated for the sale of surplus property by the county. In this case I respectfully request that the board commit to due diligence prior to agreeing to any action relating to these commercial parcels.

1. Appraisal of these parcels at present day commercial rates
2. Evaluate whether these parcels meet county standards for “surplus”
3. Evaluate the fact that the county in this case may be selling for pennies on the dollar while buying overpriced land or rehabilitating property for millions of dollars

Thank you,

/s/ Robert C. Richardson

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

Motion was made by Mr. LeMond, seconded by Mr. Trala, that action on this matter be tabled, pending receipt of information from Mr. Baldwin relative to the terms and conditions desired concerning a due diligence period. All members were present and voted “yes.” The motion was unanimously passed.

Citizens Information Period:

Mr. David Boyd read the following comments:

It’s time to disband the PSA.

Originally the PSA was tasked with developing a plan to construct a sewer which would serve Riverside Hospital in Nassawadox, in hopes of keeping that facility in Northampton County. When it became obvious we were going the hospital, the PSA had lost its primary purpose. At that point, Northampton County and four towns – Cape Charles, Cheriton, Nassawadox, and Exmore revamped the Public Service Authority (PSA) to handle wastewater issues in those towns and the surrounding County. The PSA would build or take over in-place wastewater treatment facilities and manage the operations and maintenance of them. Of interest in this regard is the fact that Eastville, the County seat of Northampton County, chose not to join the PSA. Then the citizens of Cheriton found out what the monthly fee would be to treat their wastewater and they asked to be removed from the plan. Nassawadox and Exmore are no longer included in the plan in its present format, either. So, this appears to have evolved into a plan to construct a pipeline to help bail Cape Charles out from its boondoggle of an oversized sewer plant, at the expense of Northampton County taxpayers. The perpetrators of the PSA plan, however, claim the purpose is to attract business along Route 13, which contradicts the intent of the County Comprehensive Plan.

Since then, the PSA has spent more than \$130,000 in grants and tax money with nothing to show for it. On September 16, 2013, the PSA held an informational meeting about a proposed tax district to pay for

sewerage for commercial properties. At that meeting, more than 90 per cent of the speakers said that they did not want a sewer pipe from Route 13 to the Cape Charles wastewater plant, or the related tax district. Immediately following those comments, the PSA voted to spend \$70,000 for engineering plans for a pipe to the Cape Charles plant. Someone was not listening.

Cape Charles originally designed its plant for 500,000 gallons/day with Bay Creek to pay for a substantial portion of it. When it became clear Bay Creek was not going to be anywhere near built out, and they refused to pay for any of the plant, the town of Cape Charles nominally scaled back the “official” capacity of the plant to 250,000 gallons, while leaving it readily upgradable back to 500,000 gallons and costing nearly as much as a 500,000 gallon plant. And of course the sewage bills paid by Cape Charles residents have increased greatly due to this over-designed plant. Exmore has had its share of troubles with its sewer plant, as has Onancock.

The population of Northampton County has declined from 18,000 in 1930 to 12,000 at present. Less people mean less sewage load. EPA TMDL studies conducted for local creeks show twice as many fecal coliform bacteria coming from wildlife as from people. The EPA has repeatedly stated that septic systems are very effective in treating sewage in rural areas, and are far more cost effective than central sewers in areas of low population density.

There are a number of much more pressing issues in Northampton County than a sewer system. We could really use an emergency care facility when the hospital leaves in a couple of years. Our school system is badly in need of new or updated physical facilities, as well as better salaries to retain good teachers. Let’s spend our hard earned taxpayer dollars where they are really needed.

On September 23, 2013, the County held a public hearing about the proposed tax district at which the majority of public comments opposed the pipe plan. The Board of Supervisors voted to table the project. But the PSA pressed on with the engineering and plans to pipe commercial sewerage to Cape Charles. Someone is not listening.

The people of Northampton County want clean water. They want livable communities. They want their tax monies spent wisely. They want an economy that does not destroy the rural character of the Shore. They want their elected and appointed officials and public servants to listen to them.

The PSA is not listening to the people. Its goal seems to be to serve the interests of developers. It is time to disband the PSA, which has been hijacked by special interests, and find local ways to meet the water and wastewater needs of Northampton County citizens in a cost effective manner.

David Boyd

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Mr. H. Spencer Murray addressed the Board regarding the Rental Inspection Ordinance, which is a topic of the County Administrator’s Report later in the evening. He asked that the ordinance remain in place.

Mr. William A. Vose commented concerning what he called the “total lack of good high-speed

broadband internet” in the County.

Mrs. Martina Coker read the following comments:

Comments Northampton County Board of Supervisors meeting 1/13/2015

I am here to voice my opposition to the proposed Zoning ordinance. This ordinance was drafted without analysis of impacts, without adequate citizen input and it is not based upon our current Comprehensive Plan as required by Virginia Code.

I am especially concerned about the extensive allowance of by right uses in this zoning ordinance. The discussion of a tabled matter tonight, for a commercial use within a residential area, is an example of the protections currently allowed by the Special Use process for our citizens, your constituents. Under the proposed Rezoning virtually any use would be allowed anywhere due to the latitude the proposed ordinance gives the Zoning Administrator. The impact on property values could be devastating. A new neighbor of mine expressed concerns over this ordinance and described a situation where they had moved from another state, where zoning was weak and allowed a race track to be built next to their property, which did decimate their residential property value. CBES had an article this month regarding placement of medical waste facilities, contrasting the result for two communities, one with no zoning protection for this use, and the other with zoning protection. Despite tremendous public outcry in both communities, the one with Zoning protections did not have a Medical Waste facility placed within their community, while the other did. Note that this is a noxious use that we could be saddled with in our community if this Zoning ordinance is approved. Even if the use is not specified, the Zoning Administrator is allowed such latitude that it could easily arrive in our community without any opportunity for public input. This would be a use that would provide no jobs, and could harm our community. I am providing a copy of the article in case you had not had the opportunity to read it.

When I was on the Planning Commission, and the staff initially presented the proposed Zoning Ordinance to the Commission for review, one of the staff members said, as we walked out of the room at break, “I think that I will buy 50 acres so that I can protect myself from this”. This may have been said in jest, but the fact is that the very wealthy could protect themselves in this manner. Most of your constituents do not fall into this category and are not able to buy fifty acres as protection. The way to protect citizens of this County is to provide clearly defined uses, to separate commercial uses from impacting residential areas, to prevent excess power and latitude being given to one staff member (the Zoning Administrator), and to have a Special Use Permit process for uses that may impact property around them. This would allow more managed growth, less uncertainty for the citizens of this County and would protect residential property values.

I will again say that this entire process is a travesty and that the proposed Zoning Ordinance has been developed behind closed doors, without citizen input. Continuing to build on that faulty document is not serving the citizens and businesses of this County. I continue to recommend withdrawal of this Zoning Ordinance so that this very important guiding document can be developed in the right way.

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Ms. Donna Bozza, Executive Director for Citizens for a Better Eastern Shore, requested that the Board withdraw the zoning ordinance petition.

Mr. Mike Steelman said that he was concerned with the PSA's desire to have the Board move forward with the proposed special tax district. He questioned why a special tax district would benefit lower Northampton County and queried the audience for those who were opposed to same.

Mr. Ken Dufty read the following comments:

Chairman Richard Hubbard  
Northampton County Board of Supervisors  
Katie Nunez, County Administrator  
County Administration Building  
Eastville, Virginia

Re: Proposed County-wide Rezoning Plan

Dear Chairman Hubbard and Members of the Board of Supervisors:

First, let me wish each and every one of you a healthy and happy New Year. Also let me say that the fact that we have divergent opinions on the above-captioned matter should not be construed as anything other than the fact that we must agree to disagree as to what direction would be most beneficial to the future economic and environmental health of Northampton County. Please enter this letter in the record of this proceeding.

The vast majority of the citizens we have spoken with regarding this issue are fully cognizant that you all are dedicated to doing what you think is best for this county's future, and they do not have any personal animosity toward you and indeed respect the fact that the decisions you are faced with now and into the future are not easy.

Over the last 10 months, hundreds of residents throughout the lower Eastern Shore have pleaded with you to withdraw the current county-wide zoning proposal and to involve the citizenry, neighborhood and civic organizations, scientists, and business owners in the process to revise the current zoning ordinance, if needed. The continuing denial of this involvement, the inclusion of which is the core of any land use decisions by local government, is indeed a denial of our constitutional, moral, and legal right to participate in decisions that will affect our quality of life, on all levels. Also, the record in this instant proceeding is replete with offers by scientists and other qualified individuals and organizations to have expert opinion and empirical data play a part in your land use and zoning decisions. As of the date of this letter, there is not one shred of evidence or data in this record that would support many, if not all, of the changes that you propose in your pending and proposed zoning ordinance.

Unfortunately, this proceeding if continued on its current path is on a crash course with the double doors of the Commonwealth of Virginia Supreme Court, where almost all such highly contested land use and local government decisions are heard and decided. It is suspected that you are being advised by your legal staff that your actions in this matter can be defended as there is a fair amount of case law out there in which the Court has ruled that it will not insert its judgment in local land use matters, and considers decisions on zoning and the like "correct", affirming actions by local government as sound. While that is true under circumstances where the "fairly debatable" doctrine is

invoked and the challenged party can produce a factual basis for its contested action, it is not true where a factual basis, supported by empirical data, is lacking. We note here that this is the case in this matter, where the only basis for the massive zoning revisions proposed by the Board is the fact that the Board wants to become “more business friendly.”

On January 8, 2015, in the **Matter of Hyundai Motor Company v. Duncan**, Record No. 140216, the Supreme Court of the Commonwealth of Virginia overturned a jury verdict of \$14 million dollars to the plaintiff Duncan, who represented Zachary Gage Duncan in a personal injury suit against the auto manufacturer. Zachary was severely injured when the vehicle in which he was riding was involved in a side-impact crash. The vehicle was a 2008 Hyundai Tiburon, and the Duncan’s hired an expert witness to testify that the side air bag was installed and designed in the wrong place and was not protective of the passengers head during the crash. This was the core of the dispute. Initially, in the lower circuit court, the jury based the monetary award in favor of Duncan on that testimony, giving full weight to the “expert” testimony. Hyundai appealed, arguing that the expert witness’s testimony was only an opinion, and was not based on evidence, empirical data, or fact.

In overturning the lower court’s award, the Supreme Court gave us a headlong look behind the curtain into their reasoning on how important data and fact are in making any decision that comes before the tribunal. In that decision, the Court admonished the Circuit Court for allowing an award to be based on evidence that was not supported by “a sufficient factual basis and take into account all relevant variables” [page 10, *Ibid*]. The Court cited another case, **Forbes v. Rapp**, 269 Va. 374,381, 611 S.E.2d 592, 596 [2005], in which they ruled that testimony to defend a position may be admitted if it “satisfies certain requirements, including the requirement of an adequate factual foundation.”. The Court also cited Virginia Code 8.01-401.1 and -401.3 to support their position that decisions in all matters pending before the Court have to be supported by fact....regardless of who or what entity presents that position to the judicial test.

In this instant rezoning matter, we have a statement on record from the Economic Development Director, Charles McSwain, in response to questions from several Planning Commissioners during the March 11, 2014 hearing at the Northampton High School, that “no studies” were performed to support the proposals in the draft zoning ordinance now pending before this Board.

If the argument is made by county legal staff that the above case is not relevant because a local government is held to a lesser standard and not required to meet the factual-basis test of the Courts, that position is belied by other rulings of the Supreme Court. One of many such cases is **Board of Supervisors of Fairfax County v. McDonalds Corporation**, record number 001484, decided April 20, 2001. There the Supreme Court delved headfirst into the “fairly debatable doctrine” which basically says that if a zoning decision is challenged, and the decision by the local government can be determined fairly “reasonable” and “fairly debatable” by the Supreme Court or the Circuit Court below it, the action by the local government must be affirmed. However, in the McDonald’s case, which cited numerous other precedent-setting cases which held the same position, the Supreme Court justices of the Commonwealth of Virginia held that in order for a local government to defend an action as “reasonable, the action must be supported by factual evidence and be consistent with contemporaneous decisions by the same body.” Citing **Board of Supervisors v. Snell Const. Corp.**, 202 S.E. 2D 889, 893 (1974), the Court held “*If the evidence of reasonableness is insufficient, the presumption of reasonableness is overcome and the zoning action cannot be sustained.*” *Ibid*.

There can be no argument that in order to overcome a court challenge to the unilateral attempt

by this sitting Board to completely rezone Northampton County into something it is not now, nor was ever intended to be, the Board will have to mount a defense that will prove to the justices that its final and anticipated fateful decision in this matter was supported by fact and tested evidence and was “reasonable”. At this time this appears to be feat that rival’s Houdini’s greatest and last fantastic feat on August 5, 1926 in which he survived 91 minutes inside a coffin that was submerged at the bottom of a swimming pool.

Our County Attorney, who reportedly maintains he can mount a defense to any challenge of the Board’s actions in this rezoning matter, will have to present to the Court evidence and supporting factual data that underlies the Board’s proposal to: increase density in our rural county up to 4,000%; eliminate the protections of the Chesapeake Bay Preservation Act on the Seaside (still officially on the table); reduce Shoreline width from 250’ to 60’; reduce lot limits allowing paving over of our recharge area for our sole source aquifer; eliminate the Planning Commission from many land use proceedings; allow many industrial and commercial uses by right (no hearings, no notices) on agricultural lands; eliminate mobile home parks as an allowable land use in the county; rezone approximately 3,000 acres of ag land to residential and commercial use (note here that the rezoning here is that if there is a house on it, it should be taxed as residential land...that means if a farmer has a farm house on his acreage, it is no longer ag land...it is residential!); eliminating the need for Special Use Permits (this is in partial response to an Oyster developer who apparently does not want to have to consult with the community to get approval to do anything he wants); and many other proposals that stand in stark contrast to the will of the citizenry as reflected in our current Comprehensive Plan.

It is clear, to this writer at least, that the hurdles created by the Board’s past and current actions in moving forward with an unsupportable attempt to rezone the entire county, which will result in irreparable harm to our core industries (tourism agriculture, aquaculture, and small business), are insurmountable. It is also clear that the Board’s failure to halt this process and involve the citizenry in these important matters will result in unnecessary litigation, which will be expense to both the parties to the action.

Therefore, in the spirit of mutual cooperation and in an effort to accomplish both of our laudable goals (economic prosperity and growth in Northampton County), this letter constitutes yet another plea to withdraw this application to rezone this county, meet with the citizenry and their representatives, and move forward in a more sustainable and factually-defensible manner.

Sincerely,

/s/ Kenneth Dufty

Note: The writer is: Former founder and president of Concerned Citizens for the Environment; former Executive Director of the Rensselaer County Environmental Management Council; former President of the Greater Exmore Business and Community Association; and is also a Certified paralegal and legal assistant.

\* \* \* \* \*

The Chairman indicated that he hoped the Board would consider approval of the following

calendar of actions related to review of the proposed zoning ordinance amendments:

- \* The Board will be finishing its review of the zoning ordinance soon;
- \* After the revised document is compiled, it will be available to the public;
- \* Two public informational meetings will be held (at Kiptopeke and Occohannock Elementary Schools);
- \* Following these two informational meetings, staff will make recommendations to the Board based on any new comments heard.

The motion was made by Mr. Hubbard and seconded by Mr. LeMond. All members were present and voted “yes.” The motion was unanimously passed.

Mrs. Katie Nunez, County Administrator (*informational items only*):

Work session/other meeting agendas:

- (i) 1/26/15: Work Session: Proposed Zoning Ordinance Amendments & Presentation of FY 2016 County Budget – Revenues; Auditor’s Presentation; Possible Presentation by Davenport & Co.
- (ii) 2/10/15: Presentation of FY 2016 County Budget - Expenditures
- (iii) 2/23/15: Work Session: Possible joint meetings w/ School Board and Planning Commission

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

**TO:** Board of Supervisors  
**FROM:** Katie H. Nunez, County Administrator  
**DATE:** January 9, 2015  
**RE:** Bi-Monthly Report

**I. Projects:**

A. Public Service Authority:

The next meeting of the PSA is Tuesday, January 20, 2014 @ 7:00 p.m.

B. Rental Inspection Ordinance:

Building Official John Outten has met with staff from ANPDC to obtain information on their housing programs and vacancies/waiting lists for housing units as well as to review our issue and what we are trying to solve and to obtain their perspective and thoughts on the matter. I have spoken with the Regional Housing Authority as well. In terms of ensuring a direct transition of renters within our Rental Inspection Ordinance zone that may be displaced if the owner does not make the necessary repairs to the

property, we cannot guarantee that this will occur. The availability of rental units under the control of the Housing Authority is scarce and there is a waiting list that is reopening – eligibility for any available housing units is based upon income and need; the ranking may be increased if governmental action played a role in the housing situation.

The county may consider applying for a housing rehabilitation grant for the areas identified under our Rental Inspection Ordinance Map. ANPDC Executive Director Elaine Meil has shared the history of consideration of the area of Weirwood for this type of housing improvement grants. She stated that this was looked into three or so years ago and at that time that was the second major consideration of the area. The first time the project did not go forward, a decade or more ago, the landowner was not willing to consider the project. The last time a community meeting was held the residents expressed disapproval and it was clear the community was not united in desiring this project.

ANPDC is willing to assist the County if they would like to pursue a Community Development Block Grant (CDBG) application. The County would need to file a formal request to ANPDC for assistance in developing said application as well as identify the area(s) for a housing rehabilitation program. However, without community support and buy-in from the property owner(s), a housing grant application would not be supported by the state funding agency.

The Board needs to determine if the Rental Housing Ordinance should be retained and enforced by County staff. If not, then staff will schedule a public hearing to repeal the Rental Housing Ordinance. In addition, the Board needs to determine if they would like to pursue a housing rehabilitation grant for one or more areas identified under our Rental Inspection Ordinance Map.

*Mr. Hubbard questioned if the ANPDC could provide assistance to “gently” approach renters prior to enforcement begins. Mr. Trala asked if the Regional Housing Authority has surveyed the numbers of slum-lords. He said that we should not abandon the program if it allows improvements to rental properties. Mr. Hogg questioned why builders/developers are not capitalizing on these opportunities.*

*The Chairman recognized Mr. H. Spencer Murray in the audience who said that if we could attack vacant properties, it would help. He suggested a meeting of all parties to see who might be able to apply and be accepted within the existing housing program vacancies. He urged the board to insert more flexible language into the ordinance to allow improvements to structures which are vacant.*

*Motion was made by Mr. Hubbard, seconded by Mr. LeMond, that a meeting concerning the available housing programs be scheduled to include the County Administrator, the ANPDC, the Building Official and Jane Cabarrus of the NAACP. All members were present and voted “yes.” The motion was unanimously passed.*

*The Chairman recognized Mr. Angelo Manual from the audience who noted that at least one of the Hampton Roads cities has authority to prohibit connection of electrical service to substandard properties, thus preventing them from being rented by slum-lords.*

C. ES Broadband Authority:

The ES Broadband Authority (ESVBA) has been working with ANPDC to develop a Request for Proposals for use by any of the incorporated towns to provide an incentive for the deployment and expansion of broadband services to the residential and business sectors. The focus for this initiative was on concentrated population centers that could easily be identified through a geographic means (i.e. the town boundaries) and to have the town(s) receive, accept and enter into a contract with a company in supplying broadband services to its residents/businesses and to receive a reduced rate from the ESVBA for a period of time to assist with start-up and expansion costs.

The challenge that we are now facing is how to look at a similar offering for non-Town incorporated areas within the County(ies). It is not feasible to offer a blanket County-type RFP since the cost for expanding services through the rural areas of the County would be cost-prohibitive and not reasonable under the time constraints of the reduced fee structure. Therefore, my office has been working through our GIS staff to look at the census blocs and use that as a basis for asking the ESVBA to allow the County to issue RFPs under multiple contracts and time-frames in a piecemeal fashion so that we could have a targeted deployment process by selecting specific areas in the County, based on the population composition of an area. I have enclosed the map as well as the population count for each of the identified areas on the map legend and would like to discuss this further with the Board. Please note that the Towns of Cape Charles and Exmore have issued and awarded contracts under the Town Incentive Plan and would not be part of our proposal. I am unaware if the Towns of Nassawadox, Eastville and Cheriton have discussed issuing an RFP under the Town Incentive Plan. ***If the Board is supportive of this concept, the Board would need to petition the ESVBA to extend the Town Incentive Policy to the County based upon our recommended service area groupings through an RFP Process that the County would issue and award.***

*Motion was made by Mr. LeMond, seconded by Mr. Bennett, that the Board petition the Eastern Shore of Virginia Broadband Authority to extend its Town Incentive Program to the County based upon the County's recommended service area groupings, through an RFP process that the County would issue and award. All members were present and voted "yes." The motion was unanimously passed.*

D. EMT Volunteer Policy:

EMS Director Hollye Carpenter is surveying the three volunteer companies regarding their comments and concerns expressed at the last Board of Supervisors meeting relative to the proposed EMT Volunteer Policy. We will have that information available on Tuesday evening for the Board's consideration.

*The County Administrator read individual comments from Amy Wilcox from*

*Northampton Fire & Rescue and Greg DeYoung from Community Fire & Rescue. Ms. Hollye Carpenter, Director of Emergency Medical Services, was present in the audience and was recognized by the Chairman. She reported that her staff was polled, the results of which indicated that the holding of officer positions was a concern. She further noted that Accomack County's policy also prohibits the holding of leadership roles within the volunteer units by career staff. The County Administrator indicated that staff was agreeable with the majority of Mr. DeYoung's recommendations.*

*This item will be discussed later in the meeting under "Tabled Items".*

E. ANTDC Request:

Enclosed please find a request from the Accomack-Northampton Transportation District Commission seeking support from the Board of Supervisors for a new public transit service to serve the southern portion of the county, both in terms of letters of support and financial support with an increased funding request for STAR Transit. ***Board direction is needed.***

*Motion was made by Mr. Bennett, seconded by Mr. Trala, that the requested letter of support be provided. All members were present and voted "yes." The motion was unanimously passed.*

F. Request from the Parks Department:

As part of my recent budget meeting with the Parks & Recreation Director, I noted that many of the part-time positions associated with our various recreation programs (basketball, volleyball, softball, etc.) did not have a uniform policy of pay rates and fluctuated based on hours of each game and asked for her to research this matter. Based upon that research, I have enclosed a memorandum from the Parks & Recreation Director Laura Jenrette recommending that we move the positions of referees, umpires, clock keeper and scorekeeper to a per game basis instead of an hourly rate. Games traditionally run from 45 minutes up to one hour. Since we require these positions to be familiar with the individual rules of each game and how to referee each sport, the fee proposed is reasonable. ***I am requesting the Board's favorable consideration of this request.***

In addition, the Parks Department would like to charge an admissions fee of \$5 per person for entrance into the basketball games held at the former Northampton Middle School. This fee would assist in deferring the cost of supplying security at the facility during the basketball program. ***I am requesting the Board's favorable consideration of imposing an admissions fee of \$5 per person for the Parks & Recreation Department.***

*Motion was made by Mr. Trala, seconded by Mr. LeMond, that the Board*

*(a) approve the request for a change in how referees, umpires, clock keepers and scorekeepers are compensated, from an hourly rate to a per-game rate, concurring with the recommendation that referees and umpires would receive \$25 per game and clock keepers and scorekeepers would receive \$15 per game;*

*and*

*(b) agree to assess an admissions fee of \$5.00 per person for entrance into basketball games held at the former Northampton Middle School and further authorize the County Administrator and the Director of Parks & Recreation to negotiate and implement an appropriate age-level cut-off for the admissions fee.*

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

**G. Update on Eastern Shore Virginia Inland Passage (VIP) Comprehensive Hydrographic Survey:**

Enclosed is the latest e-mail from Doug Stamper of the Army Corps of Engineers with an update on the VIP Hydrographic Survey. In addition, there will be a meeting on January 22, 2015 of the Navigation Partnership for Virginia’s Eastern Shore which is a follow-up meeting from the last meeting of December 5, 2013 which is spearheading this effort.

\* \* \* \* \*

In a late-arriving item, the County Administrator indicated that correspondence has been received from VDOT in reference to the Cape Charles Harbor Access Road. VDOT needs confirmation that the Board is agreeable with the proposed design as well as not including any golf cart path or other golf cart accommodation, based on concerns with the project budget. Motion was made by Mr. Bennett, seconded by Mr. LeMond, 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**

Northampton County Board of Supervisors  
CAPE CHARLES HARBOR ACCESS ROAD

WHEREAS, the Cape Charles Harbor Access Road Project, identified as priority number one within Northampton County’s Six Year Secondary Road Improvement Plan, will create expanded economic development opportunity for underdeveloped and impoverished Northampton County by providing a much-needed highway access connecting sea-lane and rail-based shipping, deep-water access, and the Route 13 north/south highway corridor serving the Atlantic seacoast; and

WHEREAS, the Cape Charles Harbor Access Road Project will maximize the utility of the Cape Charles Harbor area and its road/rail/water access by enhancing its competitiveness in economic development and jobs creation; and

WHEREAS, the Virginia Department of Transportation held a public hearing on December 11, 2014, to solicit public input on the proposed reconstruction of Route 642 (Old Cape Charles Road).

NOW, THEREFORE, BE IT RESOLVED, that the Northampton County Board of Supervisors does hereby declare its continued support for this project and authorizes the County Administrator to so notify the Virginia Department of Transportation that the Board supports the design of the Cape Charles Harbor Access Road as presented during the December 11, 2014 public hearing; and

BE IT FURTHER RESOLVED, that, while the Board is aware of a request for a golf cart path to be constructed as part of the Cape Charles Harbor Access Road, in consideration of the projected budget, the Board cannot support the inclusion of a golf cart path or other golf cart accommodation within said project.

\* \* \* \* \*

(10) Zoning Ordinance Amendments: Remaining Section to be Reviewed: Signage

The following memorandum was distributed for the Board's review:

**MEMORANDUM**

To: Northampton County Board of Supervisors

From: Development Department Staff

Subject: Additional Items on proposed zoning

Date: January 8, 2015

Additional items from the December 9, 2014 meeting include the following for the Board's consideration:

1. During the review of definitions the *Commercial or commercial use* definition was struck. Staff recommends reinstating the definition below:

***Commercial or commercial use. Any wholesale, retail or service business activity established to carry on trade for profit; a use that is principally offered by its owner for a fee.***

2. Staff was asked to research information provided by Supervisor Hogg from the state of Minnesota related to shoreline widths. These standards were developed in the late 1960s and early 1970s as a result of increased development along Minnesota's lakes and rivers. Through the Shoreland Management Act, the Department of Natural Resources developed standards for shoreland development and localities were required to add these regulations to their local ordinances. It appears some of the reasoning for developing various shorelines widths relates to density per river mile, lake and river classification and whether or not there is public sewer available. The Act specifies minimum shoreline widths for single, duplex, triplex, and quad residential development located within the various lake and river classifications. The lot area and width standards for single, duplex, triplex, and quad residential developments for the lake classes are:

A. Natural Environment, no sewer:  
 Riparian lots      Nonriparian lots

Lot width (feet)	Riparian lots	Nonriparian lots
Single	200	200
Duplex	300	400
Triplex	400	600
Quad	500	800

F. General Development, sewer:  
 Riparian lots      Nonriparian lots

	Lot width (feet)	
	Riparian lots	Nonriparian lots
Single	75	75
Duplex	135	135
Triplex	195	190
Quad	255	245

B. Recreational Development, no sewer:  
 Riparian lots      Nonriparian lots

Lot width (feet)	Riparian lots	Nonriparian lots
Single	150	150
Duplex	225	265
Triplex	300	375
Quad	375	490

C. General Development, no sewer:  
 Riparian lots      Nonriparian lots

Lot width (feet)	Riparian lots	Nonriparian lots
Single	100	150
Duplex	180	265
Triplex	260	375
Quad	340	490

D. Natural Environment, sewer:  
 Riparian lots      Nonriparian lots

Lot width (feet)	Riparian lots	Nonriparian lots
Single	125	125
Duplex	225	220
Triplex	325	315
Quad	425	410

E. Recreational Development, sewer:  
 Riparian lots      Nonriparian lots

Lot width (feet)	Riparian lots	Nonriparian lots
Single	75	75
Duplex	135	135
Triplex	195	190
Quad	255	245

Lot width standards for single, duplex, triplex, and quad residential development; river classes.

Lot width (feet)	Remote Forested Transitional Agricultural Urban & Tributary				Sewered Nonsewered	
	Single	300	200	250	150	100
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

Additionally staff looked at other Bay localities to see if any had shoreline width requirements. The counties of Accomack, Gloucester, York and Northumberland do not have shoreline width requirements.

Mathews County does not have a shoreline width requirement but the definition of lot width is “*the shortest horizontal distance between side lot lines at the front lot line, building line or shoreline.*”

Lancaster County has a Waterfront Residential Overlay for parcels within 800 feet of tidal waters or wetlands where the minimum water frontage shall average 200 feet but in no event be less than 180 feet.

Middlesex County has a minimum water frontage of 150 feet and a minimum depth of 250 feet for all waterfront lots. The water frontage measurement is measured in a straight line between points of intersection of side lot lines with the mean low water mark.

The image below is from the October 8, 2014 memo that shows various shoreline widths on parcels where the minimum lot size is half an acre. This image shows that a 250 foot shoreline width will leave no buildable area. Although the lot with the 60 foot shoreline width yields the largest building envelope, the lot with the 125 foot width would be more appropriate.



**3. Staff has provided an alternate definition of shoreline width for the Board’s consideration:**

*Shoreline Width.* The shoreline width as measured in feet as the straight line distance between the points of intersection of the side lot lines with the shoreline.

4. The revised sign section is attached for your review. There are some changes to the document from the original Public Hearing version, but only changes that represented organization of sections for clarity, omission of irrelevant statements, typographic errors and the like. There are no changes to the meaning of the document from the original Public Hearing draft to the current draft attached.

\* \* \* \* \*

It was the consensus of the Board to approve the proposed definition of “Commercial or commercial use” as recommended by staff.

Staff was directed to develop maps illustrating both 125 ft. and 150 ft. shoreline width dimensions as well as developing a lesser standard for application in working waterfront areas. It is anticipated that these items will be provided to the Board for its review and action at the January 26<sup>th</sup> work session.

It was the consensus of the Board to approve an alternate definition of “shoreline width” as set out below:

*Shoreline Width:* The shoreline width as measured in feet in a straight line between points of intersection of side lot lines with the mean high water mark.

*Sign Section:* The Board reviewed the proposed Section 154.1-701 – 709 of the Northampton County Code [Article VII Signs] and made the following amendments:

Under Section 154.1-704 (B) (2) (b) 4., the words “or other suitable materials” shall be added to the description of the sign’s components. This language will also be added to Section 154.1-704 (B) 92) (c) 2.

Under Section 154.1-703, the sentence “Portable signs containing public service messages shall be allowed.” will be added to item (F).

Mr. Hogg stated that perhaps the Board could encourage business owners who display “cigarette” sales signs to do something else, cautioning the Board “let’s get out of the enforcement business.” Mr. Peter Stith, Long-Range Planner, commented that as per one of the vendors, “cigarette” sales signs are required as part of their contract. Mr. Hogg concurred but noted that the vendors may not have to post the signs alongside the roadway. Mr. LeMond stated that he thought that we needed to have some kind of local control over signage and he was happy with what is proposed.

The Chairman recognized Ms. Elizabeth Dodd of the Northampton County Chamber of Commerce who indicated that a survey of chamber members resulted in only two comments being received.

No further amendments were made by the Board.

\* \* \* \* \*

Tabled Items:

(11) **Special Use Permit 2014-09:** Kiptopeke Villas, LLC has applied to construct and operate a principal multi-family attached dwelling Unit – apartments. The property containing 1.52 acres of land, is described as Tax Map 112, double circle A, parcel 69, is zoned H, Hamlet, and located in Kiptopeke.

(12) **Special Use Permit 2014-08:** Kiptopeke Villas, LLC has applied to construct a mass drainfield to serve the proposed principal multi-family attached dwelling unit - apartments to be located on parcel 69 of tax map 112, double circle 6. The drainfield will use two parcels containing 1.5 acres of land and is identified as Tax Map 112, double circle 6, parcel 4 and Tax Map 112, double circle 6, parcel 3 and are zoned H, Hamlet, and located in Kiptopeke.

Motion was made by Mr. LeMond, seconded by Mr. Bennett, that agenda items (11) and (12) be taken off the table. All members were present and voted “yes.” The motion was unanimously passed.

Mr. Peter Stith noted that amended materials were received and included in the Board’s

agenda packets. He said that a mass drainfield was required for anything in excess of 1200 gallons per day and that the three proposed apartments will require 1800 gallons per day.

Mr. Hogg questioned why the mass drainfield was proposed to be located on a separate, remote parcel when he believed that there was sufficient land on the apartment-parcel to accommodate this.

The applicant, Mr. Parr, indicated that a mass drainfield was required and was included in the conceptual plan. Expensive engineering reports have not been made pending the project's approval.

Mr. Hogg suggested that another VDOT review may be needed based on future plans for a re-structured entrance into the state park. Mr. Parr replied that as VDOT did not have any comments for the 12-unit motel {the original application}, he suspected that there would not be any negative comments for the three condo-units. Additionally, VDOT, as well as the Health Department, will review the formal site plan. Mr. Parr indicated that future zoning may accommodate additional buildings on the existing lot which could use the mass drainfield.

Motion was made by Mr. Hogg, seconded by Mr. Hubbard, that Special Use Permits 2014-09 and 2014-08 be denied. Mr. Hogg and Mr. Hubbard voted "yes"; Mr. LeMond, Mr. Bennett and Mr. Trala voted "no." The motion failed.

Motion was made by Mr. LeMond, seconded by Mr. Trala, that Special Use Permit 2014-09 and 2014-08 be approved, up to the three units as amended. Mr. Hogg commented that it was obvious that the applicant is awaiting a change in zoning and questioned how true is the desire to develop what is there? He said that there is something else on the agenda and wanted the Board to think about possible conditions to place on the special use permit. There were no amendments to the motion. Mr. LeMond, Mr. Bennett and Mr. Trala voted "yes"; Mr. Hogg

and Mr. Hubbard voted “no.” The motion was passed.

(13) Consider action on proposed listing of median crossings as recommended by VDOT.

It was noted that VDOT is hiring another contractor to review Rt. 13 and will provide the Board with a recommendation in approximately six months’ time. Motion was made by Mr. Bennett, seconded by Mr. Trala, that this item remain on the table. All members were present and voted “yes.” The motion was unanimously passed.

(14) Consider action on policy relative to EMTs volunteering in other units

Motion was made by Mr. LeMond, seconded by Mr. Trala, that this item be taken off the table. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hogg, seconded by Mr. LeMond, that the following policy be approved as amended. All members were present and voted “yes.” The motion was unanimously passed. Said policy as adopted is set forth below:

**POLICY FOR FULL-TIME or PART-TIME EMERGENCY MEDICAL TECHNICIANS  
SERVING AS VOLUNTEERS IN THE SAME CAPACITY FOR VOLUNTEER FIRE  
and/or EMERGENCY MEDICAL SERVICES AGENCIES**

**Reviewed: November 12, 2014**

**Adopted: January 13, 2015**

**Purpose:** The purpose of this policy is to provide a means by which County Emergency Medical Service Department (“the County”) employees may serve as volunteers with volunteer Fire and/or Emergency Medical Services agencies (“volunteer companies”). The intention is to clarify what is expected of these employees and to minimize the potential for any conflicts that may affect the relationship between the County and the volunteer companies.

**Scope:** This policy applies to all full-time and part-time employees employed by the Northampton County Department of Emergency Medical Services.

**Policies and Conditions:**

1. Full-time employees are permitted to volunteer within the County with the following restrictions:
  - a. An employee may not serve as an administrative or operational officer for a volunteer, licensed EMS agency within Northampton County.

- b. An employee may not serve as a member of the Board of Directors for a volunteer, licensed EMS agency within Northampton County.
  - c. An employee may not serve as a representative to the Northampton Fire & Rescue Commission on behalf of any of the volunteer, licensed EMS companies.
2. Full-time employees are permitted to volunteer outside Northampton County without any of the foregoing restrictions.
3. Full-time and part-time employees may not wear the Northampton County Emergency Medical Services issued uniform while on their volunteer duty.
4. Full-time and part-time employees are expected to report for all scheduled shifts with the County prepared to perform in a satisfactory manner. Responding to calls during off-hours as a volunteer shall not be justification to cancel or fail to report to a scheduled work-shift with the County. It is the responsibility of the employee to schedule volunteer activities in such a way that they do not degrade the readiness and capacity of the employee to safely and competently discharge the employee's responsibilities as a full-time or part-time employee of Northampton County.
5. Employees choosing to volunteer with one or more of the volunteer agencies must sign the County disclaimer form prior to providing volunteer service to the volunteer agencies.
6. Volunteer hours logged with any volunteer company will not be considered "hours worked" for the purpose of determining overtime or calculating leave time for the County.
7. Any employee sustaining an injury while volunteering will not be covered under the County's Workers Compensation program.

**NORTHAMPTON COUNTY DISCLAIMER FORM**

***FOR FULL OR PART TIME EMERGENCY MEDICAL TECHNICIANS SERVING AS  
VOLUNTEERS IN THE SAME CAPACITY FOR VOLUNTEER FIRE and/or  
EMERGENCY MEDICAL SERVICES AGENCIES***

I, \_\_\_\_\_, hereby acknowledge and agree that I have not been asked, induced, coerced, intimidated or required by any employee or agent of Northampton County to volunteer my services to any non-profit fire or emergency medical services agency. I understand and acknowledge that any services I may render to any non-profit fire or emergency medical services agency is of my own free will and that I will not receive compensation of any kind from Northampton County for such volunteer services.

I further understand and agree to abide by the policy of Northampton County pertaining to paid staff of the Department of Emergency Medical Services volunteering their services at non-profit fire or emergency medical services agencies.

I further understand and agree that any bodily or mental injury or illness sustained by me resulting from or in the course of providing volunteers to any non-profit fire or emergency medical services agency will not be covered by the County's workers compensation insurance program at this time or any time in the future; and

I hereby waive and release any claims, including claims under the Fair Labor Standards Act that I now have or may have in the future against Northampton County, its officers, employees and agents, resulting from or related to my volunteer activities with any non-profit fire or emergency medical services organization.

\_\_\_\_\_  
Employee Name

\_\_\_\_\_  
Name of Volunteer Fire &/or Rescue Squad

\_\_\_\_\_  
Signature of Employee Volunteer

\_\_\_\_\_  
Date

I, \_\_\_\_\_, the County Administrator for Northampton County, do hereby acknowledge that the above-named employee has not been, nor will ever be asked, induced, coerced, intimidated or required to volunteer their services to any volunteer fire or emergency medical services agency.

\_\_\_\_\_  
Signature of County Administrator

\_\_\_\_\_  
Date

\* \* \* \* \*

Action Items:

(15) Consider accepting all bids received as a result of the delinquent tax auction event of November 19, 2014.

Motion was made by Mr. LeMond, seconded by Mr. Trala, that the Board accept all bids received at the delinquent tax auction event of November 19, 2014. All members were present and voted "yes." The motion was unanimously passed.

(16) Consider approval of an amendment to the Memorandum of Understanding between the Northampton County School Board and the Northampton County Board of Supervisors Regarding Transfer and Use of Former Northampton County Middle School Facility and School

Administration Facility.

Motion was made by Mr. Trala, seconded by Mr. Hogg, that the Board approve the amendment to the Memorandum of Understanding Between the Northampton County School Board and the Northampton County Board of Supervisors Regarding Transfer and Use of Former Northampton County Middle School Facility and School Administration Building and forward same to the School Board for its review and execution. All members were present and voted “yes.” The motion was unanimously passed. Said Memorandum is set out below:

**Amendment to**

**MEMORANDUM OF UNDERSTANDING**

Between

Northampton County School Board

And

Northampton County Board of Supervisors

Regarding

Transfer and Use of Former Northampton County Middle School Facility and  
School Administration Building

WHEREAS, the Northampton County School Board and the Northampton County Board of Supervisors executed a Memorandum of Understanding dated December 16, 2009 with regard to the Transfer and Use of the Former Northampton County Middle School Facility and School Administration Building; and

WHEREAS, a three-year expiration term exists for certain of the terms and conditions contained within the Memorandum of Understanding unless extended by written agreement of the parties.

NOW, THEREFORE, BE IT RESOLVED, by the Northampton County School Board and the Northampton County Board of Supervisors that all of the provisions of the aforesaid Memorandum of Understanding shall continue in full force and effect with the following amendments:

Paragraph 8: This paragraph is deleted in its entirety. The School Administration has indicated that they need no classroom space within the former Northampton County Middle School Facility building.

Paragraphs 9 and 10: School Administration and County Administration will annually agree upon the usage schedule of the gymnasium and associated athletic fields on the property.

Paragraph 11: This Amended Memorandum of Understanding shall remain in effect until written notice is provided by either party cancelling such agreement.

\* \* \* \* \*

Matters Presented by the Board Including Committee Reports & Appointments

(17) Mr. Hogg – PSA.

Mr. Hogg read the following comments:

Public Service Authority

Mr. Chairman and Fellow Supervisors:

I wish to speak to the current actions of the PSA with respect to the Southern Node project, after which I will have a motion for the Board of Supervisors (BOS) to consider.

**BACKGROUND:**

Since late 2011 the Public Service Authority (PSA) has been focused on the single objective to run a sewer line from the Cape Charles Sewage Treatment Plant to Route 13, a project known as the Southern Node initiative. Initially the area included Fairview, Cheriton, and the commercial area near the Cape Charles Stoplight. The scope of the project has been reduced to an area designated by PSA as “commercial area”. According to the PSA, this proposed sewage pipe is to serve a few existing businesses but is mostly being constructed to serve businesses that have yet to be conceived and ostensibly would add much needed REVENUE to the Cape Charles treatment plant.

Numerous surveys of the property owners and existing businesses have shown very limited support for the project and the project cost estimate has now reached \$2.4 million and rising. Minutes of the BOS meetings demonstrate concerns about this project from this supervisor, the public, as well as Chairman LeMond and Vice Chairman Hubbard. Despite this feedback from the public and the BOS, the PSA has continued to spend taxpayer dollars and has not explored other wastewater treatment alternatives until forced by the BOS.

At the PSA meeting held on December 15, 2014 which I attended, Chairman John Reiter opened the meeting with a statement affirming that the PSA is acting fully within the charge given to them by the BOS and that contrary to some reports and allegations, there is no effort to expand beyond the scope of the charge given to them, namely to provide sewer infrastructure to the Southern Node Commercial District **as established by the PSA**. It was stated later that **the PROPOSED** infrastructure is not being designed to service the existing businesses, but also for future commercial entities that **may locate** on one of the properties **in the defined area**.

Once again, under the current PSA proposal, the county would be Creating millions of dollars of

DEBT “on the hope”, let me repeat, **“ON THE HOPE”** that **someday** this project would attract some type of commercial enterprise. **Until then**, the property owners and all Northampton taxpayers will be forced to pay the cost of an over designed, under utilized sewer system, no different than Cape Charles and Onancock. The attitude of ‘**BUILD AND THEY WILL COME**’ has **“BANKRUPT”** other communities. Northampton County does not need to be added to the list!

Later in the December 15<sup>th</sup> meeting a PSA member stated there is “public perception” that the PSA is not in sync with the BOS. He made a motion that no additional money be expended beyond the recently authorized \$10,000 for Hurt and Proffitt to examine the feasibility of using the existing Bayview sewer facility as opposed to the pipe from Cape Charles and that another joint public hearing with the BOS and PSA be held prior to authorizing any work to be begun. The motion received no second as another member stated that this is already the position of the PSA. The next steps must be the establishment of a special tax district and mandatory connections for the property owners by the BOS.

Mr. Chairman, I agree there is a “public perception” that this project is being advanced by PSA Leadership without the **full understanding of the BOS and public regarding the cost and any potential benefit**. Also I believe that **it has not been established that the owners** of the 59 identified properties, some of which are open land, **desire to be in SPECIAL TAX DISTRICT** as designated by PSA. Those Property owners will be forced to pay increased taxes and connection fees **even though no commercial activity is ongoing nor is any anticipated in the foreseeable future**. Since the re-constitution of the PSA I have monitored the activities, as the emphasis and Scope of the Project has changed over time, the direction by PSA and solution to providing centralized sewer has not. Over the past two months THE BOS has been provided with technical information for review and the need to review other solutions to the centralized sewer issue.

**MOTION:**

Therefore I move that this BOS direct the PSA to cease all further activity on the Southern Node Phase I Wastewater – Commercial Area Project except the previously authorized study to examine the feasibility of utilizing the Bayview Citizens for Social Justice Wastewater Facilities and to turn over all financials, surveys, and engineering, to this BOS and await further guidance.

Thank you, Mr. Chairman.

\* \* \* \* \*

The aforesaid motion was seconded by Mr. Hubbard. Mr. Hogg and Mr. Hubbard voted “yes”; Mr. LeMond, Mr. Trala and Mr. Bennett voted “no.” The motion failed.

Mr. Hogg asked if Mr. LeMond would like to put forth a similar motion relative to the

PSA. Mr. LeMond responded that he has not given up on the Southern Node Commercial Project. The County Administrator confirmed that there will always be a relationship between the PSA and the Board as the Board is the entity that approves a special tax district – not the PSA.

At this time, Chairman Hubbard presented an engraved plaque to Supervisor LeMond, in recognition of his service as Chairman in 2014.

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the following individuals be appointed to the Community Policy & Management Team: Ms. Erica Lawson (representing the 2A Court Services Unit); Mr. Richard Sterrett (representing the Department of Social Services); Ms. Lisa Sedjat (representing the Eastern Shore Community Services Board); Dr. David Matson (representing the Eastern Shore Health District); and Ms. Karen Plowan (Director of Special Education – representing Northampton County Public Schools). All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hogg, seconded by Mr. LeMond, that Mr. David Charlton be reappointed to the Board of Appeals for the Building Inspector for a new term of office commencing January 1, 2015. All members were present and voted “yes.” The motion was unanimously passed.

Mr. Bennett urged the Supervisors to review the third and seventh paragraphs of Section H on page 14 of the recently-adopted Board Member Manual. He asked the Supervisors to look at how events transpired this evening with the idea of having smoother meetings in the future.

These paragraphs are set out below:

At his or her discretion, a member may recognize any person in attendance at the meeting to speak for up to three minutes on any matter which is not the subject of a public hearing during the time that the member has the floor. The speaker’s time will be deducted from the five minutes that such member is allowed to hold the floor. If requested by the

Chair, the speaker must yield the floor after the time granted to him has expired.

Members of the Board of Supervisors may respond at the conclusion of Citizens' Time to comments or questions offered by citizens and information that is readily available in response to citizen comments may be provided at this time.

Recess

Motion was made by Mr. Bennett, seconded by Mr. LeMond, that the meeting be recessed until 5:00 p.m., Monday, January 26, 2014, in the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, in order to conduct the County Administrator's evaluation. All members were present and voted "yes." The motion was unanimously passed.

The meeting was recessed.

\_\_\_\_\_CHAIRMAN

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