

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 12th day of May, 2015, at 4:00 p.m.

Present:

Richard L. Hubbard, Chairman

Oliver H. Bennett, Vice Chairman

Laurence J. Trala

Granville F. Hogg, Jr.

Larry LeMond

The meeting was called to order by the Chairman.

Closed Session

Motion was made by Mr. Bennett, seconded by Mr. Trala, 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:

(ANPDC, Community College Board, Groundwater Committee, Public Library Board, Planning Commission, Public Service Authority, PDR Committee, Social Services Board, Wetlands Board)

(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.

Review of Eastville Inn Proposals

Status of Old Jails Lease

(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 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) Charles McSwain – National Flood Insurance Program’s Community Rating System

Mr. McSwain briefed the Board regarding the National Flood Insurance Program’s Community Rating System, which provides a guide for communities to minimize flood damage potential through an array of 19 creditable activities, organized under four categories, each of which have assigned formula for credit potential for each community applicant. In Northampton, there are 422 policy holders of which 121 would get no discount because they are not in a flood zone. Most policy holders (285) are in the Special Flood Hazard Area and could get a \$37 per year discount if the County obtains a Class 9 rating (achieving 500-999 points on the rating system). However, it would cost the County approximately \$25,000 per year to participate in the program. It was Mr. McSwain’s conclusion that it is likely to cost the entire County population more to participate in this program than the savings received for a few hundred property owners. Should the Board wish to proceed with the program, it is expected to

take over a year to qualify.

Following brief comments, it was the consensus of the Board not to participate in the program at this time.

Consent Agenda:

(2) Minutes of the meetings of April 6, 14, 27, 2015.

(3) Letters of congratulations to Rayfield's Pharmacy, Northampton Robotics Team, Jane Batten, Access College Foundation

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the consent agenda be approved as presented. All members were present and voted "yes." The motion was unanimously passed

County Officials' Reports:

(4) The following Budget Amendment and Appropriation Request was presented for the Board's consideration:

MEMORANDUM

TO: Board of Supervisors
FROM: Katherine H. Nunez, Interim Director of Finance
DATE: May 1, 2015
RE: Budget Amendments and Appropriations – FY 2015

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

\$7,340.00 – This represents a transfer from the General Fund Contingency line item to the Regional Jail's Office Supplies account (225.3302.55350) to cover the cost of a replacement fingerprint scanner for the Regional Jail. This equipment was acquired in FY 2014 and funds were moved from Contingency to cover these costs. The invoice, however, was not received until FY 2015.

\$10,000.00 - This represents Compensation Board vacancy savings from the Eastern Shore Regional Jail and Sheriff's Office Salary line items. Please transfer these funds to the Sheriff's Office Police Supplies line item (100.3102.55950)

\$35.00 – This represents a private donation to the Sheriff's Office DARE Program. Please transfer these funds to the Sheriff's Education line item (100.3102.55300).

* * * *

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

The following Budget Amendment and Appropriation Request was presented for the Board's review relative to grant funds:

MEMORANDUM

TO: Board of Supervisors
FROM: Katie Nunez, Interim Director of Finance
DATE: May 4, 2015
RE: Budget Amendments and Appropriations – FY 2015

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

\$2,175.00 – This represents a Bryne Grant award to the Sheriff's office. Please transfer these funds to the Sheriff's Police Supplies line item (100-3102-559500) for the purchase of tasers.

* * * * *

Motion was made by Mr. LeMond, 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.

The following Budget Amendment and Appropriation Request was presented for the Board's review from the Public School System:

MEMORANDUM:

TO: Board of Supervisors
FROM: Katherine H. Nunez, Interim Director of Finance
DATE: May 6, 2015
RE: Budget Amendments and Appropriations – FY 2015

Your approval is respectfully requested for the following budget amendment and supplemental appropriation as requested by the Northampton County Public Schools:

(-\$20,000) – This represents a budget appropriation reduction. The Eastern Shore Community College was awarded a PluggedIn VA grant to provide a cohort of ESCC students with industry-specific technical training, and essential workplace skills for entry-level jobs in building trades and industrial technology. Unfortunately, enrollment in their program was not as high as expected so the Department of Education has reduced the grant allocation accordingly. Northampton County Public Schools is the fiscal agent for the grant.

* * * * *

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

At approximately 5:30 p.m., the Board recessed for the supper break.

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

Mr. Bennett provided the Invocation.

The Board recited the Pledge of Allegiance.

Citizens' Information Period (only matters pertaining to County business or items on Board agenda for which a public hearing has not already been scheduled).

(5) Mr. Andrew Teeling will present an Education Proclamation for the Board's consideration.

Mr. Teeling read the following comments:

Suggested Path to Economic Recovery in Northampton County

This path to economic recovery is simple and beneficial. Improving our schools will improve our economy. It doesn't ask for any additional money to get started. It calls for the entire community to ask: "what can we do for our schools?" Our Board of Supervisors are eagerly anticipating the collective focus of all stake holders in the county to help our schools reach their potential and return dividends to our economy. Here are some future news headlines we can write:

- * Small rural Virginia waterfront county adopts education initiative to drive region's economy.
- * Small rural Virginia waterfront county launches school mentoring program to involve retirees with trade and professional backgrounds.
- * Small rural Virginia waterfront county schools experience surge of parent involvement.
- * New businesses and services relate to Virginia's Eastern Shore, attracted by education commitment by region.
- * Small rural Virginia waterfront regional economy revives after renewed commitment to education of work force.

We have an opportunity to write these headlines by recommitting our attention to schooling our future citizens. Good schools are good for business. I recommend you adopt the proposed resolution to make education the engine of our economy.

Thank you for your support.

* * * * *

**RESOLUTION DECLARING EDUCATION AS
THE CORNERSTONE FOR NORTHAMPTON
COUNTY'S ECONOMIC FUTURE**

WHEREAS, it is well established and recognized that the future of our local, regional and even global society hinges on an engaged, informed, and educated youth; and

WHEREAS, it is also recognized that a well-educated and inspired student body is the engine that drives, and will continue to drive our local and regional economy; and

WHEREAS, Northampton County is fortunate to enjoy world-class teachers who have dedicated themselves to ensuring that their students are equipped and prepared to become productive and beneficial members of society in business, academic and leadership roles; and

WHEREAS, the Northampton County Board of Supervisors gives great weight to the needs and desires of the school system as they arise throughout the year; and

WHEREAS, the Northampton County Board of Supervisors realizes that teachers and instructors in the school system need more than financial support to ensure that our students benefit from a fulfilling and rewarding academic experience; and

WHEREAS, there has been a renewed interest by community members, civic organizations, churches, business leaders, and others to become more involved in assisting teachers in their important roles as educators; and

WHEREAS, this involvement can and should include mentoring, tutoring, job shadowing, workforce training programs, and the overall establishment of a working relationship between the community, the school system, and the students.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Board of Supervisors declares on this date, May 12, 2015, that education is now and should remain into the future the engine that drives our local and regional economy; and

BE IT RESOLVED, that the Northampton County Board of Supervisors supports local initiatives that ensure that our students will benefit from community support programs aimed at ensuring that Northampton County students enjoy a rich and fulfilling educational experience.

* * * * *

Motion was made by Mr. Trala, seconded by Mr. LeMond, that the foregoing resolution be adopted. All members were present and voted “yes.” The motion was unanimously passed.

The following letter was read into the record:

To the Northampton County Supervisors:

As I am unable to attend your May 12th meeting, I ask that this letter be read into the record.

The “Northampton County Competitive Assessment” report, which you commissioned from Investment Consulting Associates and received ten months ago, states, “The county should concentrate on workforce development starting with K-12 education focus through advanced adult education,” and “Having a qualified workforce to fill available jobs is key since the labor force pool in Northampton County is small.”

A major theme running through the report is the fact that the availability of workers who have acquired the necessary skills, knowledge and work ethic to meet employers' requirements will be essential to raise the community's economic status. The report makes numerous recommendations of initiatives and investments that would be beneficial to Northampton County, but none is more important than education. I encourage you to re-read the "Northampton County Competitive Assessment." You commissioned it, we paid for it, and you should use its findings and recommendations as the basis for planning and tax revenue allocation. Although the report makes no recommendations about changes in zoning regulation, it makes several about education programs, and the consultants you hired to advise you have told you that you should concentrate on workforce development – education for good jobs. It's sound advice. I urge you to take it and act upon it.

John Ordeman, a resident of Nassawadox

* * * * *

The following letter was read into the record:

Would you please read the following statement for the record at the board of supervisors meeting tonight:

It has come to my attention that the high school will no longer have the junior ROTC program next year and that one of the classes from the universal pre-k program will be eliminated. While I can appreciate the board of supervisors effort to save funds, cutting funding for these programs is not the solution. The junior ROTC program only requires under \$200,000 a year to maintain and the universal pre-k program cost under \$150,000 a year. These two programs are a very small investment in our students to insure that they are given the best education our county can offer.

In an effort to improve the quality of Northampton Schools, these two programs were designed to help our students prepare for the workforce and to improve their quality of live. We cannot afford to go backwards. Good educational programs such as these are economic development for the county.

I would recommend that the county use some of the extra funds that are being saved as a result of the paid off debts services from the two elementary schools to fund these two programs. This would give the school board more time determine how these two programs can be paid for permanently.

The old middle school is a former historically black high school. While there are structures problems with the building, they are problems that can be fixed with the right innovative thinking. I trust that the board will do the right thing and find a way to address the old middle school. Demolishing the structure would destroy a piece of Northampton County's Black History.

I am sorry that I could not be at the meeting tonight. I am in Saint Louis on company business.

Sincerely,

Willie C. Randall
Former Chairman and Member
Northampton County Board of Supervisors

* * * * *

The following letter was read into the record:

Dear Sirs,

Presented to you tonight is the request to adopt an economic development initiative that places primary emphasis on our county schools and educational system. I can support just such an initiative and recommend that you make this a high priority for our county economic development efforts.

How can our schools and educational system benefit Northampton's economic development? Education is a major economic engine for our county already, so it makes sense to support it in every way possible. It provides many jobs and careers for our residents. Schools are a major part of our annual budget, and the tax payer dollars are recirculated throughout our community. This is not to mention, of course, the long term benefits from sending our youth off into the world well prepared for life's challenges and attracting them back to settle in the community where they were raised.

A focus of our economic development efforts on education will include the maintenance and improvement of our public infrastructure which appears to have been neglected. New partnerships may be formed between businesses, healthcare, and industry with our schools, bringing into play greater, more productive community involvement. Our community's standing and rating among other Virginia localities will be much improved, making our community more attractive for outside investment.

I cannot imagine higher goals for our economic development than the support, stimulation and improvement of our educational system. Thank you for your attention to this worthy objective.

Sincerely,

David Kabler
10352 Church Neck Rd.
Machipongo, VA 23405

* * * * *

The following individuals spoke in support on the education resolution presented earlier by Mr. Teeling:

Mr. Steve Sturgis, President of Northampton County Farm Bureau

Mr. William "Skip" Oakley, Chairman of the Northampton School Board

Mr. Bill Parr, Chairman of the Joint Industrial Development Authority

Mr. Wayne Bell, owner of Therapeutic Interventions of Belle Haven

Superintendent Eddie Lawrence of Northampton Public Schools

Mr. Luke Kellam, building contractor

Mr. Josh Lattimore, President of the Northampton Chamber of Commerce

Mr. Chris Hardwick, NHS student

Dr. S. Dawn Goldstine, former Superintendent for Northampton Public Schools

Mr. Justin Wheeler, President of the Northampton County Education Association.

Mr. Sean Ingram, building contractor

Mr. David Kabler, real estate agent

Ms. Donna Bozza, Executive Director for Citizens for a Better Eastern Shore

As well as the following letter which was read into the record:

Gentlemen:

This letter is written to endorse the concept that Andy Teeling and others are espousing that education is an important driver of economic activity in the area. We understand that there are many ways to improve economic activity, but we would think that excellence in our education structure would be a major catalyst to help businesses and professionals locate here.

When we moved here in 1975 the Northampton School system was felt to be top notch. We understand that some students from Accomack came to Northampton for high school. Excellence in education was not the prime reason that we moved here but it helped confirm that our decision was a rational one. All four of our Northampton public school educated children have graduated from college, three from UVa and one from Randolph-Macon in Ashland, Va.

Medical professional mostly have higher education, usually at the post-graduate level. Most

would be very aware of the educational opportunities in the area they were looking at. We feel that if persons considering moving here knew that education was of the highest priority of our governing body that this might well tip the scales towards them moving to our county.

We realize that there are many demands on funds available to our county. However, we would suggest that the board in its mission statement and hopefully in its actions, would emphasize education, with a goal of excellence, as one driver of economic activity.

We will not be able to be to the Board meeting on May 12, but enthusiastically support the proposals of Andy and our fellow citizens.

Sincerely,

Patricia S. Stith, Physical Therapist (Ret)
Drury M. Stith, MD, still working

* * * * *

The following letter was read into the record:

4012 Bunch Walnuts Road
Chesapeake, VA 23322-2872
May 5, 2015

Ms. Katherine H. Nunez
Northampton County Administrator
BY EMAIL

RE: SPECIAL USE PERMIT 2015-02 FOR KIPTOPEKE VILLAS LLC

Dear Ms. Nunez:

Please provide a copy of this letter to each of the Board of Supervisors (Board) members, the County Attorney, and place a copy in the record of the Board. I own a residence at 29315 Stuarts Way, Kiptopeke, VA 23310.

I believe the attached Special Use Permit 2015-02 (Permit) was issued in error and lacks sufficient clarification as to “perform appropriate soils testing adequate to reveal the presence of underground storage tanks and/or petroleum products, and if such is found, remediate thereof according to federal and state regulations.”

The motion concerning this Special Use Permit 2015-02 was made by Supervisor G. F. Hogg and he clearly articulated that the applicant was to comply with a nationally recognized environmental survey known as the Phase I, Phase II Environmental Assessments established by the American Society for Testing and Materials (ASTM), to address the “All-Appropriate-Inquiry” (AAI) aspect to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

The Permit only states: “perform appropriate soils testing adequate to reveal the presence of underground storage tanks and/or petroleum products, and if such is found, remediate thereof according to federal and state regulations.”

I am not saying that the applicant will not attempt to perform appropriate soils testing, rather it should be clarified to the applicant what specific phases of testing should be accomplished and to what standard.

I suggest the following amended wording:

“(1) That the applicant, prior to issuance of a building permit, perform a Phase I, Phase II Environmental Assessment established by the American Society for Testing and Materials (ASTM) to address the “All-Appropriate-Inquiry” (AAI) aspect to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to reveal the presence of underground storage tanks and/or contamination from any petroleum products, and if such is found, remediate thereof in accordance with the Virginia Department of Environmental Quality (DEQ) and federal regulations.

Your attention to the detail of this matter is appreciated.

Regards,

Charles J. Bruckner Jr.

* * * * *

Mr. Robert C. Richardson suggested several items that the Board should consider in order to address the decline in population including getting jobs here, solar & wind technology, apprenticeships with the bridge-tunnel and the need for students to work in the trades industries.

Mr. Wesley Travis said that there were a lot of people in the County who did not have jobs and that we need to bring industry here to provide livelihoods for the families in the County.

Mr. Charles McSwain, Development Director, said that he had received a call today from an industry looking for three technical jobs.

Mrs. Martina Coker read the following comments:

I would like to express my continued concern regarding the proposed rezoning. The need for

this rezoning is not supported by data. This proposed rezoning will likely lead to a degradation of property values, water quality and quality of life for citizens in the County.

Many new businesses have been started and are surviving and thriving in the County since the last revision of the Comprehensive Plan and Zoning Ordinance. The (VEC) Virginia Employment Commission Community Profile showed 103 new businesses in the County in 2012 through the third quarter of 2014.

Most of these businesses can be found in and around the Towns, demonstrating the success of encouraging this growth pattern, as our current Comprehensive Plan does. Exmore struggled after the shopping center opened on the highway and it has taken quite some time to recover. Cape Charles businesses have expressed a concern that the same might happen to Cape Charles, which has shown tremendous growth and now has established businesses that are successful and help to support the tourism industry within and outside the town. The Cape Charles Business Association has officially objected to the rezoning due to those concerns. Most towns have also officially objected to the removal of the town Edge, which is part of the current Comprehensive Plan because they want to participate in the planning for the development of the areas near the towns.

At your last meeting builders reported increased activity and Melissa Kellam has stated that the value of building permits is increasing, showing a shift from renovation to the building of new homes. We have over 5,000 approved lots in the County currently available. Bay Creek has reported \$12 million in home construction under contract for this year.

The reality is that the entire country experienced a recession since the last revision of the Comprehensive Plan and Zoning Ordinance, which hit rural areas particularly hard. Despite this widespread economic reality, our County did have businesses opening and surviving and building has picked up significantly.

While it is beneficial to evaluate ways to make starting businesses in the County easier, it is clear that business are starting and thriving in the County.

The proposed changes have the very real potential of damaging the County and adversely affecting these positive trends.

Changes to a Zoning Ordinance can be made via Zoning Text Amendments and such text amendments have been made within the past several years, including the Solar Energy and Wind Energy Ordinances. Commissioner Kellam and I also volunteered, over two years ago, to draft a Zoning Text Amendment to address a request by a citizen for an ordinance allowing ancillary dwelling units. We were told by staff not to proceed as they would address this issue as part of a mass overhaul of the Zoning Ordinance. Had we been allowed to proceed, it is likely that this individual and others would be up and running as income and tax producing businesses.

Ill thought out changes can harm the progress that we are making. A Northampton developer recently provided you with extensive documentation of the devaluation in property values that occurs with the placement of chicken houses near residential properties. An article in the Eastern

Shore Post quoted an Accomack County Supervisor as saying “Ms. Kirkwood was aware it was agricultural land, Buyer Beware.” Is this really the message that you want to give to the many people moving here?

Please rescind your proposed Rezoning as the revisions are not supported and will likely harm the County and its citizens. Changes are warranted, but a wholesale revision of our guiding documents is not warranted. I again request that you work with the citizens of this County to make changes that are supported by data and by the citizenry.

(Attached to these comments was a listing of New Businesses and Building Activity by industry type excerpted from the Virginia Employment Commission’s Community Profile of April 2015)

* * * * *

Mr. Felton Sessoms read the following comments:

NCHS History

Tidewater’s Institute doors closed in 1935, and as result local school officials became concerned about educational opportunities for African American youth. Conferences were called to discuss the future educational options with parents of the current students and interested citizens.

Of course concern to all was the transportation of children to the school site. Mrs. Margaret McCune, a Jeanes Teacher’s supervisor made the following vow to school officials: “if you open the doors of the Northampton County High, we’ll see that the children get there!” In 1935 the Northampton County School Board began its financial support of Northampton County High School.

Consequently, public secondary education began for the African American youth in the fall of 1935 in the Old Tidewater building at Chesapeake, formerly referred to as Cobbs Station, was condemned for use as a school building in 1940. It then became necessary to find a new location for them.

Then the School Board decided to house the school in its building located in Machipongo, Va. That building, which had previously been used by European American students, stood vacant for several years because of declining enrollment.

Therefore in the fall of 1940, Northampton County High School, comprised of African American faculty and students, moved into the building. Classes were taught at the site until the spring of 1953.

In 1952, a grant was approved by the Council to build a high school for African American students. NCHS was constructed in 1953 as the county’s first purpose-built African American high school. The construction of Northampton County High School reflected the desires of

local African Americans to obtain modern educational facilities. The students moved in the building in September 1953 and the first graduation class was the Class of 1954, Mr. William H. Smith was the Principal.

The building contained classrooms, a library, a gymnasium, and a 500-seat auditorium. Northampton County High School remained a high school until the spring of 1970. In the fall of 1970, the school became a Junior High School and in the fall of 1979 became a Middle School and subsequently was closed in 2008.

To commemorate and cherish the rich history of NCHS an Alumni Chapter has been organized and is comprised of classes from 1936-1970 and guests.

NCHS has significant history in the African American community and is emblematic of laudable achievements of literally thousands of graduates.

The African American community would celebrate and embrace any and all efforts of the Northampton County BOS to promote the preservation, restoration and revitalization of the historic schools and architecture of African American origin.

Please consider viable alternatives for the preservation and restoration of Northampton County High School.

* * * * *

Mrs. Roberta Kellam referenced a book entitled, "Hope is here", which tells the story of Wimbrel migration, and noted that Ms. Jane Batten has purchased these books for distribution to Eastern Shore students. She also presented a copy of the book to Mr. Andy Teeling. Mrs. Kellam also referenced an e-mail sent to the Board of Supervisors and staff regarding funds needed for clean, modern bathroom facilities at Oyster Harbor.

Mr. Bob Meyers said that the proposed rezoning was inconsistent with the Comprehensive Plan and requested rezoning of acreage on Prettyman Circle back to the earlier residential zoning district rather than the proposed agricultural zoning. He read aloud the following letter from Mr. Tim Prettyman:

Re: Prettyman Circle Planned Zoning Designation

Please read this letter into the record at your May meeting.

I wish to call to your attention to my brother's previous request to have the area within Prettyman Circle, also known as the Horseshoe at Silver Beach, re-designated from Agricultural to Residential with your proposed new zoning. That request was most recently given to you again in your March Board packets. It was the intent of our grandfather to have this area residential with a part being recreational with open space and was in his plans as such, as early as 1950's.

In the 1970's and 1980's the zoning for this property was 20,000 sqft to 30,000 sqft parcels. A majority of the lots in the area are now 1/3 acre to 2 acre lots and most of the lots surrounding the circle have been built on with the zoning in that area being residential R-3 in your proposed zoning. I am requesting that you complete that designation on the inside of the circle to match the entire surrounding community. I am also aware that many residents around the circle have expressed their desire, some by letter to you, to do that. I would ask that you pay attention to the residents of this community and honor their wishes. My brothers, Robert and William, my cousin, Jimmy, and myself own most the inside of the circle, I am requesting the same zoning as our neighbors. The same neighbors that we go to church with, work with, shop with, and pay taxes with. Please remove the Ag designation from the inside of Prettyman Circle and change it to Residential 3 to match the community surrounding it.

Thank you.

Timothy Prettyman
7694 Prettyman Circle
Exmore, VA

* * * * *

Mr. Tivo Romero said that he was a resident of Doggett Lane and referenced an e-mail provided to Mr. Hogg in regards to a portion of Doggett Lane, currently not within the State Secondary System, being included therein.

Ms. Wendy Martin addressed the Board with regard to the importance of using Tourism Infrastructure grant funding for bathroom improvements at Oyster Harbor.

Mr. Roland Bailey said that the former middle school has historic values and that perhaps a committee could be appointed to develop the property for other county uses.

Mr. Art Schwarzschild said that he was still concerned with the proposed zoning ordinance amendments and that the Board should start over in the development of that document.

Mr. Andy Teeling thanked everyone for their support and indicated that there were tables in the hallways where citizens could sign up to help with tutoring, mentoring, job shadowing etc.

Mr. Eyre Baldwin spoke about the importance of clean bathrooms at Oyster Harbor and suggested that a portion of the \$599,000 owed to USDA could be used for this purpose. He said that there was also grant funding available through the Clean Water Act.

Mr. Bill Parr was allowed to address the Board again and noted that he believed that a new zoning ordinance is needed. Three different ordinances in excess of 700 pages are currently utilized and this is very confusing.

Mrs. Roberta Kellam was allowed to address the Board again and said that she disagreed with everything that Mr. Parr just said and that the proposed Planned Unit Development ordinance was the worst that she had ever seen.

Public Hearings:

Chairman Hubbard called the following public hearing to order:

(6) Conduct a joint public hearing with the Town Council of Cheriton on an amended boundary adjustment to incorporate additional properties within the corporate limits of Cheriton as follows:

Tax Map 84C3-A-31, currently owned by Canonie Atlantic Co. and consisting of 0.17 acre, more or less;
66 ft. railroad right-of-way, consisting of 5.00 acres, more or less.

The Cheriton Town Council was also present and in session.

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

It was noted that while the Board had approved a Boundary Line Adjustment with the Town of Cheriton last year, the railroad siding parcel and the 66 ft. right-of-way parcels had inadvertently been omitted. The purpose of this public hearing was to include these areas in the Boundary Line Adjustment.

Mayor Joseph Habel spoke about the inadvertent omission of the above-referenced parcels.

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

Motion was made by Mr. Hogg, seconded by Mr. Trala, that the Board approve the amended Boundary Line Adjustment Agreement with the Town of Cheriton as presented. All members were present and voted "yes." The motion was unanimously passed. Said Agreement as approved is on file in the Office of the County Administrator.

Chairman Hubbard called to order the following public hearing:

(7) Conduct a joint public hearing with the Virginia Department of Transportation on the Proposed Secondary Road Six Year Plan: 2016-2017 to 2020-2021 and Improvement Priorities for Fiscal Year 2015-2016.

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

Mr. Chris Isdell, Residency Administrator, indicated that the estimated allocations to the County under the Secondary System Construction Program were originally estimated to be \$36,772 annually over the next six years, but final figures have resulted in an additional \$1,688 for each of the six years for a total of \$38,460 annually. He referenced House Bill 2 which will require that Northampton apply for funding which had historically been provided through the Secondary Roads System. He noted that the County's #1 priority was Route 642 – the Old Cape Charles Road – also known as the Harbor Access Road.

Chairman Hubbard requested that Mr. Isdell respond to Mr. Romero request from earlier in the evening relative to Doggett Lane.

Mrs. Roberta Kellam referenced comments she had made in the past concerning substandard road conditions in parts of the County. She was also concerned with recent media coverage relative to construction of a clover-leaf overpass at the Cape Charles traffic signal.

Mr. Isdell responded that the Food Lion overpass was merely a conceptual plan from the 13-year old Route 13/Wallops Island Corridor Study {which is being updated}; it was not a VDOT project.

Mr. Robert Richardson said that VDOT's lack of ditch maintenance is resulting in flooding in the Seaview and Capeville areas. Mr. Isdell responded that VDOT feels the impact of flooding on its properties as well but that DEQ will not issue permits for properties not owned by VDOT.

Mr. Bob Meyers said that nothing has happened in spite of years of concerns being expressed by the citizens with regard to the Food Lion intersection. He questioned the wisdom of spending money to re-do the Route 13 Corridor Study when the simple installation of a traffic light would solve the problem. Mr. Isdell responded that VDOT has listened to the citizen comments for years and has studied the issue, but the crash data does not warrant installation of a traffic signal.

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

Mr. Hogg said that we need an "Eastern Shore" fix and asked what does VDOT need to get that done. He referenced other ideas which have been suggested in the past including a reduced speed limit of 45 mph; a new connector route from the Dollar General Store to South Bayside Road; and a traffic light installed just south at the Corner Mart/Rittenhouse Lodge intersection. These ideas were illustrated on an aerial map developed by the Planning & Zoning Office and contained within the Board's agenda packet identified as item #14.

Mr. Isdell replied that options can be explored with VDOT planners and that the Board could request VDOT to perform a feasibility study for an access road to the shopping plaza.

Motion was made by Mr. Trala, seconded by Mr. LeMond, that the following Resolution be adopted, approving the Secondary Road Six Year Plan: 2016-2017 to 2020-2021 and Improvement Priorities for Fiscal Year 2015-2016 for Northampton County. All members were present and voted “yes.” The motion was unanimously passed. Said Resolution as adopted is set forth below:

RESOLUTION

WHEREAS, the Virginia Department of Transportation and the Northampton County Board of Supervisors have jointly established the Six Year Plan for Fiscal Years 2016-2017 to 2020-2021 and Improvement Priorities List for the Fiscal Year 2015-2016; and

WHEREAS, the Virginia Department of Transportation and the Northampton County Board of Supervisors have jointly held a Public Hearing on the Six Year Plan for Fiscal Years 2016-2017 to 2020-2021 and Improvement Priorities List for Fiscal Year 2015-2016.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Board of Supervisors hereby approves the Six Year Plan for Fiscal Years 2016-2017 to 2020-2021 and Improvement Priorities List for Fiscal Year 2015-2016.

* * * * *

Chairman Hubbard called to order the next public hearing:

(8) Conduct a joint public hearing with the Northampton Planning Commission and the Town Council of Nassawadox on a revision to Section 159: Floodplain Management of the Northampton County Code of Ordinances.

NORTHAMPTON COUNTY CODE OF ORDINANCES TITLE XV: LAND USAGE CHAPTER 159: FLOODPLAIN MANAGEMENT

Draft for Public Hearing: May 12, 2015

§ 159.101 PURPOSE AND INTENT.

This district is established pursuant to the authority of VA Code §§ 10.1-600 et. seq., for the purpose of preventing the loss of life and property, the creation of health and safety hazards, the

disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (A) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (B) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (C) Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and / or flood-proofed against flooding and flood damage; and
- (D) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

§ 159.102 INTERPRETATION AND APPLICATION OF FLOODPLAIN.

These provisions shall apply to all lands within the jurisdiction of Northampton County and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the County by the Federal Emergency Management Agency (FEMA).

§ 159.103 COMPLIANCE AND LIABILITY.

- (A) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Chapter.
- (B) The degree of flood protection sought by the provisions of this Chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.
- (C) Records of actions associated with administering this Chapter will be kept on file and maintained by the Zoning Administrator.
- (D) This Chapter shall not create liability on the part of Northampton County or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

§ 159.104 ABROGATION AND GREATER RESTRICTIONS.

This Chapter supplements any regulations currently in effect in flood-prone districts. However, any underlying regulations shall remain in full force and effect to the extent that such regulations are more restrictive than this Chapter.

Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

§ 159.105 DEFINITIONS.

The following definitions are specifically applicable to floodplain management and supplement those set forth in § 154.1-1201 Definitions of Chapter 154.1: Zoning Code.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

BASEMENT. Any area of the building having its floor sub-grade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL A ZONE. Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet. The LiMWA designated the 1.5 foot wave.

COASTAL HIGH HAZARD AREA. That part of the coastal floodplain extending from offshore to the inland limit of the primary coastal dune along an open coast and any other area subject to high velocity wave action from storms and seismic sources. Wave heights during the base flood will generally be three feet or more in height above the still water elevation.

CONDITIONAL LETTER OF MAP REVISION (CLOMR). A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

ENCROACHMENT. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING CONSTRUCTION. Structures for which the “start of construction” commenced before **August 11, 1976**. “Existing construction” may also be referred to as “existing structures” and “**pre-FIRM.**”

FLOOD or FLOODING.

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above of this definition.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

FLOODPLAIN or FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FREEBOARD. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS. Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the *base flood*, other frequency floods, *flood elevations*, *floodway* information and boundaries, and *flood profiles*.

LETTER OF MAP AMENDMENT (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.

LETTER OF MAP CHANGE (LOMC). A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include.

LETTER OF MAP REVISION (LOMR). A revision based on technical data that may show changes to *flood zones*, *flood elevations*, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with Northampton County's floodplain management regulations.

LOWEST ADJACENT GRADE. The lowest natural elevation of the ground surface next to the walls of a structure.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes MANUFACTURED HOME also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the start of construction commenced on or after **August 11, 1976**, and includes any subsequent improvements to such structures. For floodplain management purposes, NEW CONSTRUCTION means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

POST FIRM STRUCTURE. A structure for which construction or substantial improvement occurred after **August 11, 1976**.

PRE-FIRM STRUCTURES. A structure for which construction or substantial improvement occurred on or before **August 11, 1976**.

PRIMARY FRONTAL DUNE. A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms.

The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

RECREATIONAL VEHICLE. A vehicle which is : (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and, (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

REPETITIVE LOSS STRUCTURE. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a ten-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

SHALLOW FLOODING AREA. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

SPECIAL FLOOD HAZARD AREA. The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in **Section 159.107** of this ordinance.

START OF CONSTRUCTION. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the

structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

§ 159.106 ADMINISTRATION.

(A) Designation of the Floodplain Administrator [44 CFR 59.22(b)]. The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (1) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by Northampton County chief executive officer.
- (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve Northampton County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

(B) Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Review applications for permits to determine whether proposed activities will be

located in the Special Flood Hazard Area (SFHA).

- (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (4) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
- (6) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
- (7) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (8) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (9) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- (10) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Northampton County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

- (11) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (a) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (b) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (12) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (13) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (14) Administer the requirements related to proposed work on existing buildings:
 - (a) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - (b) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (15) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (16) Notify the Federal Emergency Management Agency when the corporate boundaries of the Northampton County have been modified and:

- (a) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (b) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- (17) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (18) It is the duty of the Northampton County Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of Northampton County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
- (C) Use and Interpretation of FIRMs [44 CFR 60.3]. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
- (1) Where field surveyed topography indicates that adjacent ground elevations:
 - (a) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - (b) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
 - (2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or

other source shall be reviewed and reasonably used.

- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
 - (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
 - (5) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - (a) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (b) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - (c) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
- (D) Jurisdictional Boundary Changes [44 CFR 59.22, 65.3].
- (1) The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy

of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

- (2) In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.
- (3) In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

(E) District Boundary Changes.

The delineation of any of the Floodplain Districts may be revised by Northampton County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

(F) Interpretation of District Boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

(G) Submitting Technical Data [44 CFR 65.3].

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

(H) Letters of Map Revision.

- (1) When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by

applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Example cases: (1) Any development that causes a rise in the base flood elevations within the floodway, (2) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation, and (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a) (12)*.

(I) Penalty for Violations [44 CFR 60.2(e)].

- (1) Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of **development** or any authorized employee of Northampton County shall be guilty of the appropriate violation and subject to the penalties therefore.
- (2) The VA USBC addresses building code violations and the associated penalties in Chapter 150: Building Regulations. Violations and associated penalties of the Northampton County Zoning Code **are addressed in both sections of the Zoning Code**.
- (3) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the Northampton County to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

§ 159.107 ESTABLISHMENT OF FLOODPLAIN OVERLAY DISTRICTS (FODs).

(A) Description of types of FODs. Basis of FODs: FODs shall include areas subject to inundation by waters of the one percent chance flood. The basis or the delineation of these districts shall be the Flood Insurance Study (FIS) for Northampton County prepared by the FEMA, Federal Insurance Administration, dated March 2, 2015, and as may be amended. The FIS and associated Flood Insurance Rate Maps (FIRMs) are on file with Northampton County.

(B) Northampton County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

(C) According to the FIRM, **dated March 2, 2015**, Northampton County does not contain any Floodways, A Zone, or AO/AH Zones.

- (1) The Coastal Floodplain District shall be those areas identified as AE Zones on the FIRM and the accompanying Flood Insurance Study. Flood elevations are provided in these tidal floodplains. Tidal AE zones are exempt from 44CFR60.3(c)(10)'s requirement to demonstrate that the development will not have a cumulative effect on the BFE of more than one foot.
 - (2) The **Coastal A Zone** shall be those areas, as defined by the VA USBC that are subject to wave heights between 1.5 feet and 3 feet, and identified on the FIRM by the **Limit of Moderate Wave Action (LiMWA)** line.
 - (2) The coastal high hazard district shall be those areas identified as VE Zones on the FIRM and the accompanying Flood Insurance Study.
- (D) Overlay concept.
- (1) The FODs described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the FODs shall serve as a supplement to the underlying district provisions.
 - (2) If there is any conflict between the provisions or requirements of the FODs and those of any underlying district, the more restrictive provisions shall apply.
 - (3) In the event any provision concerning an FOD is declared inapplicable or invalid as a result of any legislative or administrative actions or judicial decision, the remaining provisions shall remain applicable.
- (E) Official map. The boundaries of the FODs shall be as shown on the Flood Insurance Rate Map which is declared to be a part of this Chapter and which shall be kept on file with Northampton County.
- (F) District boundary changes. The delineation of any of the FODs may be revised by the county where natural or man-made changes have occurred and / or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.
- (G) Interpretation of FOD boundaries. Initial interpretations of the boundaries of the FODs shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any FOD, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the FOD boundary shall be given a reasonable opportunity to present his / her case to the Board of Zoning Appeals and to submit his / her own technical evidence if he / she so desires.

§ 159.108 FOD PROVISIONS

(A) Permit and application requirements.

- (1) Permit requirement. All uses, activities, and development occurring within any FOD shall be undertaken only after the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Chapter and with all other applicable codes and ordinances, as amended, and Chapter 156: Subdivision Code. Prior to the issuance of any permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (2) Site plans and permit applications. All applications for development within any FOD and all building permits issued for the floodplain shall incorporate the following information:
 - (a) The elevation of the Base Flood at the site.
 - (b) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
 - (c) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
 - (d) Topographic information showing existing and proposed ground elevations.
 - (e) **Subdivision proposals**
 - i. Base flood elevation data shall be provided for development proposals (including manufactured home parks and subdivisions) that exceed ten lots or five acres, whichever is the lesser, unless otherwise provided required by Chapter 156: Subdivision Code.
 - ii. All subdivision proposals shall be consistent with the need to minimize flood damage.
 - iii. All subdivision proposals shall have any public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - iv. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(B) General standards. In all FODs the following provisions shall apply:

- (1) New construction and substantial improvements shall be anchored according to the VA USBC and of Northampton County Code Chapter 159 to prevent flotation, collapse, or lateral movement of the structure.

- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (a) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (b) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (c) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (e) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - (f) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (g) Any alteration, repair, reconstruction, or improvements to a building that is in compliance with the provisions of this Chapter shall meet the requirements of new construction as contained in this Chapter.
 - (h) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this Chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
 - (i) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations).
 - (j) In riverine situations, adjacent communities and the Department of Conservation and Recreation (DCR) Department of Floodplain Management shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA.
 - (k) **The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.**

(C) Specific standards. In all FODs where base flood elevations have been provided in the Flood Insurance Study the following provisions shall apply:

- (1) Residential construction. New construction or substantial improvement of any residential structure (including manufactured homes) in an AE Zone shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
- (2) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Buildings located in all AE Zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two feet are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this section are satisfied.
- (3) Elevated buildings. In AE Zones, Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - (a) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
 - (b) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
 - (c) In the Coastal High Hazard FOD, follow the standards for elevation outlined in § 159.109 Standards for the Coastal High Hazard FOD below;
 - (d) Include in AE Zones measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

2. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.
3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
4. The bottom of all required openings shall be no higher than one foot above the adjacent grade.
5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(D) Standards for manufactured homes and recreational vehicles.

- (1) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.
- (2) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision where no manufactured home has sustained substantial damage from flooding must be elevated so that:
 - (a) The lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation.
 - (b) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (3) All recreational vehicles placed on sites must either:
 - (a) Be on the site for fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and

has no permanently attached additions); or

- (c) Meet all the requirements for new construction, including anchoring and elevation requirements.

§ 159.109 STANDARDS FOR THE COASTAL HIGH HAZARD FOD.

The following provisions shall apply within the Coastal High Hazard FOD:

(A) All new construction and substantial improvements in Zones VE shall be elevated on pilings or columns so that:

- (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation; and
- (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a 1% chance of being equaled or exceeded in any given year (1% annual chance).

(B) A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Chapter.

(C) The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones VE. The Floodplain Management Administrator shall maintain a record of all such information.

(D) All new construction shall be located landward of the reach of mean high tide.

(E) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this Chapter, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- (1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.

(F) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

(G) The use of fill for structural support of buildings is prohibited. When fill is proposed in a coastal high hazard area for a purpose other than support of a structure, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit. If such fill is permitted and results in a change in the boundary of the floodplain, a letter of map revision must be filed in accordance with FEMA / National Flood Insurance Program procedures.

(H) The man-made alteration of sand dunes which would increase potential flood damage is prohibited.

(I) All manufactured homes to be placed or substantially improved on sites within Zones VE on the Northampton County Flood Insurance Rate Map must meet the standards of subsection § 159.109.

§ 159.110 EXISTING STRUCTURES IN FLOODPLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

(A) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.

(B) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC and the appropriate provisions of this ordinance.

§ 159.111 VARIANCES.

(A) Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

(B) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

(C) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(D) In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation.
- (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.

- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (13) Such other factors which are relevant to the purposes of this ordinance.

(E) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

(F) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

(G) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

(H) The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

(I) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be

noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(H) Variances to the provisions of the FOD may be applied for and considered in accordance with the procedures set forth in the Northampton County Zoning Code.

(J) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters. Any costs associated with such referral shall be borne by the applicant.

(K) In addition to the criteria set forth in the Northampton County Zoning Code, the Board of Zoning Appeals must also find that any variance from the requirements of this district is the minimum necessary to afford relief and that the granting of such variance will not result in:

- (1) Unacceptable or prohibited increases in flood heights;
- (2) Additional threats to public safety;
- (3) Extraordinary public expense; and will not:
 - (a) Create nuisances;
 - (b) Cause fraud or victimization of the public; or
 - (c) Conflict with other local laws or ordinances.

(L) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:

- (1) Increases the risks to life and property; and
- (2) Will result in increased premium rates for flood insurance.

(M) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

* * * * *

The Northampton County Planning Commission and the Town Council of the Town of Nassawadox were present and in session.

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

Mr. Charles McSwain, Development Director, introduced Mr. Charley Banks of the Virginia Department of Conservation & Recreation, who indicated that while the Board had recently adopted the Flood Plain Management Ordinance, additional amendments had been needed by the Department of Conservation and Recreation. He also encouraged the Board to consider participating in the Community Rating System.

Mr. Art Schwarzschild said that he did not understand the amendment of the Floodplain Ordinance and how it related to the proposed zoning ordinance.

Mr. Hogg questioned Mr. Banks as to his familiarity with the Hazard Mitigation Grant Program and asked if Northampton County should be looking at propagating development in low-lying areas. He said that it may be better to purchase the affected properties, relocate the owners elsewhere, and convert the area to green space. Mr. Banks replied that there are issues with green space as well as the loss of infrastructure to the County.

* * * * *

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

At this time, the Planning Commission commenced its deliberations relative to the amended ordinance. Following some discussion, the Planning Commission recommended adoption of the amended ordinance.

Following receipt of the Planning Commission recommendation, motion was made by Mr. Trala, seconded by Mr. LeMond, that the Board adopt the amended Section 159: Floodplain Management of the Northampton County Code as presented. All members were present and voted "yes", with the exception of Mr. Hogg who abstained. The motion was passed.

Chairman Hubbard called to order the following public hearing:

(9) Conduct a joint public hearing with the Northampton Planning Commission regarding Special Use Permit 2015-06: Cherrystone I, LLC has applied to operate a Guide/outfitter

services, waterfront service with accessory goods/services (Category 3 Commercial Uses, #47) on property located at 6499 Sunnyside Road in Oyster. The property, described as Tax Map 85A, double circle 3, parcel 6 and Tax Map 85A, double circle 3, parcel R, and is zoned WV-WC, Waterfront Village Waterfront Commercial.

The Northampton County Planning Commission was present and in session.

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

Mr. Peter Stith indicated that the proposed use of a Guide/outfitter service appears to conform to the goals of the Comprehensive Plan and would require a minor special use permit. A change of use will be required if the special use permit is granted. Health Department and VDOT approval and compliance with prior zoning clearances were conditions of the SUP 2015-04 approval on April 14, 2015. Although not part of this specific application, the site plan submitted in conjunction with SUP 2015-07 indicates other exceptions or variances may be required.

The applicant, Mr. Eyre Baldwin, said that six individuals will be employed as guides. Additionally, he proposes the installation of a floating dock.

Mr. Robert C. Richardson, while noting that Oyster Harbor has been condemned for the harvesting of shellfish, said that the County really needed new businesses. He also said that the Board should consider wastewater treatment and disposal in the area due to possible flooding.

Mrs. Roberta Kellam asked why staff could not have provided other options such as a zoning text amendment as a possible solution for this petition.

Mr. Art Schwarzschild, who works in Oyster, said that it was important to remember the Oyster Vision Statement. He said that he supports the proposed use which is consistent with that Vision.

Mr. Hogg questioned the applicant relative to any limits on the accessory goods and

services to be provided. Mr. Baldwin replied that fuel is already allowed by right and that charter boat and guide services as well as kayaks and canoes use from the waterfront.

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

At this time, the Planning Commission commenced its deliberations on this petition. Following discussion, it was the recommendation of the Planning Commission to approve said petition.

Following receipt of the Planning Commission recommendation, motion was made by Mr. LeMond, seconded by Mr. Bennett, that Special Use Permit 2015-06 be approved. All members were present and voted “yes.” The motion was unanimously passed.

Chairman Hubbard called to order the following public hearing:

(10) Conduct a joint public hearing with the Northampton Planning Commission regarding Special Use Permit 2015-07: Cherrystone I, LLC has applied to operate an Inn, historic – pre 1950 structure with accessory goods, goods/services (Category 3 Commercial Uses, #51) on property located at 6499 Sunnyside Road in Oyster. The property, described as Tax Map 85A, double circle 3, parcel 6 and Tax Map 85A, double circle 3, parcel R, and is zoned WV-WC, Waterfront Village Waterfront Commercial.

The Northampton County Planning Commission was also present and in session.

Mr. Peter Stith said that the proposed use of an Inn, historic – pre-1950 structure with accessory goods, goods/services, appears to conform to the goals of the Comprehensive Plan. A change of use will be required if the special use permit is granted. Health Department and VDOT approval and compliance with prior zoning clearances were conditions of the SUP 2015-04 on April 14, 2015. Other exceptions or variances may be required as noted on the site plan.

Mr. Eyre Baldwin said that the historic inn, which was built in 1906, will contain one room for rent. He noted that the sewage needs will require pre-treatment and this system is still being worked on.

Mr. Art Schwarzschild spoke in support of the special use permit.

A letter from Ms. Sarah Morgan was read into the record:

Please read this letter into the official record of the Northampton Board of Supervisors meeting on May 12, 2015.

Dear Supervisors and Commissioners:

I am a longtime resident (17+ years) of Oyster, Virginia. I am writing to express my thoughts regarding the proposed Special Use Permit by Cherrystone, LLC to operate an Inn in the Waterfront Village/Waterfront Commercial zone in Oyster. The salient points are these: when Eyre Baldwin was applying for permits to move the building in question, he assured me and others that his desire was to use it for an appropriate water-dependent use, such as an office for the clam operation that was already on the property plus other offices. I came before this body a couple of years ago to support Mr. Baldwin when he applied to have a sort of convenience store and gas pump to serve the harbor.

I maintain, however, that the current attempt to gain a SUP for a "historic inn" crosses the line that I and other residents of Oyster drew in drafting the Oyster Vision, which is a part of the current Northampton County Comprehensive Plan. The idea that any sort of residence is water-dependent (one of the main intents of the zoning district) is ludicrous. Also, the building was used as a residence, but only in the residential area of the village. To argue that the building should somehow be granted special dispensation in the commercial waterfront district is disingenuous and misleading.

Please reject this misuse of the county's current Zoning Ordinance and reject this application for what amounts to a residential use in the commercial waterfront area of Oyster.

Sincerely,

Sarah Morgan
6553 Broadwater Circle
Cape Charles, VA 23310

* * * * *

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

In response to a question from Mr. Hogg, Mr. Baldwin indicated that the Inn would have short-term rentals, not long-term. Mr. Hogg then asked if a list had been created of things that Mr. Baldwin needs to address and has a plan been developed for this? Mr. Baldwin responded that dependent upon the Board's vote tonight, a preliminary engineering conference will be held

with VDOT and the Health Department where sewage, parking and other questions can be addressed.

At this time, the Planning Commission commenced its deliberations on this petition. Following discussion, it was the recommendation of the Planning Commission to approve said petition.

Following receipt of the Planning Commission recommendation, motion was made by Mr. LeMond, seconded by Mr. Trala, that Special Use Permit 2015-07 for a one-room Historic Inn be approved. Mr. Hogg asked if Mr. LeMond would amend his motion to limit the room rental to 29 days. Mr. LeMond declined to amend his motion. Mr. Hogg then asked if Mr. LeMond would amend his motion to specify that the use be completed within an 18-month window. Mr. LeMond agreed to accept this amendment. On the question of the amended motion, all members were present and voted “yes”, with the exception of Mr. Hogg who voted “no”. The motion was passed.

At this time, the Planning Commission recessed its meeting to be continued in the conference room.

Chairman Hubbard called to order the final public hearing, to-wit:

(11) AN ORDINANCE TO VACATE PORTIONS OF THAT PLAT ENTITLED, “BROCKENBERRY BAY ESTATES” MADE BY WALLACE A. COOLEY, LAND SURVEYOR, OF SHORE ENGINEERING CO. , DATED NOVEMBER 19, 2008, WHICH PLAT IS RECORDED IN THE NORTHAMPTON COUNTY CLERK’S OFFICE AS INSTRUMENT #090000280, BY ELIMINATING THE LOT LINES FOR PARCEL 77-13-1, 77-13-2, 77-13-3, 77-13-4, 77-13-5A, AND 77-13-RW, AS SHOWN THEREON

AN ORDINANCE TO VACATE PORTIONS OF THAT PLAT ENTITLED, “BROCKENBERRY BAY ESTATES” MADE BY WALLACE A. COOLEY, LAND SURVEYOR, OF SHORE ENGINEERING CO., DATED NOVEMBER 19, 2008, WHICH PLAT IS RECORDED IN THE NORTHAMPTON COUNTY CLERK’S OFFICE AS INSTRUMENT #090000280, BY ELIMINATING THE LOT LINES FOR PARCEL 77-13-1, 77-13-2, 77-13-3, 77-13-4, 77-13-5A, AND 77-13-RW, AS SHOWN THEREON

WHEREAS, a certain subdivision was created by plat dated November 19, 2008, a copy of which is attached hereto; and

WHEREAS, all of the tracts within the aforesaid subdivision are owned by Red Drum, LLC and Eastern Shore Propane & Appliance, Inc., c/o Red Drum, LLC; and

WHEREAS, the said Red Drum, LLC, and Eastern Shore Propane & Appliance, Inc., c/o Red Drum, LLC, wish to vacate the plat by which the subject subdivision was created.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Northampton County, Virginia:

Section 1. This Ordinance is adopted pursuant to Section 15.2-2272 of the Code of Virginia, as amended.

Section 2. The following described portion of that plat of survey entitled:

BROCKENBERRY BAY ESTATES PLAT OF SURVEY is vacated by eliminating the lot lines for parcel 77-13-1, 77-13-2, 77-13-3, 77-13-4, 77-13-5A, AND 77-13-RW, as shown thereon, thereby resulting in a plat of one lot.

Section 3. This Ordinance is enacted pursuant to application dated April 16, 2015, by Mr. Hyler A. Stanavage of Red Drum, LLC.

Section 4. The County Administrator shall cause a certified copy of this Ordinance to be recorded in the aforesaid Clerk's Office following the expiration of appeals or the right to appeal this matter. Upon such filing, the Clerk shall cause this vacation to be so noted on the plat of survey affected.

* * * * *

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

The purpose of this ordinance is to vacate the property lines as identified in the text at the request of the property owner.

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

Motion was made by Mr. LeMond, seconded by Mr. Bennett, that AN ORDINANCE TO VACATE PORTIONS OF THAT PLAT ENTITLED, "BROCKENBERRY BAY ESTATES" MADE BY WALLACE A. COOLEY, LAND SURVEYOR, OF SHORE ENGINEERING CO. ,

DATED NOVEMBER 19, 2008, WHICH PLAT IS RECORDED IN THE NORTHAMPTON COUNTY CLERK'S OFFICE AS INSTRUMENT #090000280, BY ELIMINATING THE LOT LINES FOR PARCEL 77-13-1, 77-13-2, 77-13-3, 77-13-4, 77-13-5A, AND 77-13-RW, AS SHOWN THEREON be adopted. 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) 5/26/15 (Tuesday): Work Session: School Capital Projects; Calendar; School Analysis & Recommendation on Wall Repair
- (ii) 6/22/15: Work Session: Joint Meeting with E. S. Public Service Authority
- (iii) 6/29/15: Work Session: Continued Zoning Discussions

(12) The County Administrator's bi-monthly report was presented as follows:

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: May 7, 2015
RE: Bi-Monthly Report

I. Projects:

A. Public Service Authority:

The next meeting of the PSA is Monday, May 18, 2015 @ 7:00 p.m. The subcommittee tasked with working on drafting an agreement with the Town of Cape Charles for treating of wastewater is meeting on May 13, 2015 at 3 p.m. to finalize the agreement for recommendation to the PSA and the Cape Charles Town Council. The PSA is scheduled to meet jointly with the Board of Supervisors at the June 22, 2015 work session to provide an update on the Cape Charles Agreement, the consideration of the Bayview System as an alternative to the Cape Charles Wastewater System (engineer's report is enclosed in your FYIs).

B. Status on School Administration Items:

The May 26, 2015 work session will be dedicated to items from the School Administration. The Invitation for Bid for Construction Services for the High School Wall Repair is out to bid now - bids are due in two weeks and school personnel will be prepared to discuss with the Board this project. In addition, the school personnel will be coming forward with their final Capital Budget for the

Board's consideration for the upcoming Fiscal Year 2016. Lastly, the School Board has been working on the reductions to their Fiscal Year 2016 budget, either as a result of the finalization of State Aid or from the County's adopted contribution which was greater than the current year but less than what the School initially requested, and may be preparing some adjustments to the adopted FY2016 School Budget by category for the Board's consideration.

C. Building Fees Ordinance:

Building Official John Outten has been reviewing our current fee schedule for the Building Department and is recommending to correct language in the current ordinance that is conflicting relative to the refunding of building permit fees and to add three new items relative to "re-inspection" fees. ***I am requesting the Board's approval to schedule this for public hearing at the June 9, 2015 meeting.***

Motion was made by Mr. LeMond, seconded by Mr. Trala, that the subject amendments be advertised for public hearing in June. All members were present and voted "yes." The motion was unanimously passed.

* * * * *

Action Items:

- (13) Consider approving Fireworks Permits for Cherrystone Campground for May 24, 2015, July 4, 2015 and September 6, 2015.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that Fireworks Permits be approved for Cherrystone Campground for May 24, 2015, July 4, 2015, and September 6, 2015.

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

Matters Presented by the Board Including Committee Reports & Appointments

- (14) Mr. Hogg; Cape Charles Food Lion & Traffic Light Area

This information was shared earlier in the evening during the Secondary Road Six Year Plan public hearing.

Motion was made by Mr. LeMond, seconded by Mr. Bennett, that Rev. Charles Kellam be reappointed to the Accomack-Northampton Planning District Commission, for another term

of office commencing July 1, 2015. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. LeMond, seconded by Mr. Trala, that Mr. Jeff Holland be reappointed to the Eastern Shore Community College Board of Directors for a new term of office commencing July 1, 2015. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. LeMond, seconded by Mr. Trala, that Mr. Wilbur “Bill” Payne be reappointed to the Eastern Shore Community College Board of Directors for a new term of office commencing July 1, 2015. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hogg, seconded by Mr. LeMond, that Mr. John W. Salm, III, be appointed to the Eastern Shore Groundwater Committee, succeeding Mr. Peter Henderson, for a term of office commencing January 2015. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hogg, seconded by Mr. Bennett, that Mr. Bowdie Lusk be reappointed to the Northampton County Wetlands Board for a new term of office commencing July 1, 2015. All members were present and voted “yes.” The motion was unanimously passed.

Recess

It was the consensus of the Board to meet earlier than normal on Tuesday, May 26th for the work session in order to walk through the Eastville Inn at 3:00 p.m. and then conduct interviews of prospective Planning Commission members between 3:30 p.m. and 5:00 p.m.

Motion was made by Mr. LeMond, seconded by Mr. Trala, that the meeting be recessed until

3:00 p.m., Tuesday, May 26, 2015, in the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, in order to conduct the regular work session. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was recessed.

_____ CHAIRMAN

_____ COUNTY ADMINISTRATOR

DRAFT