VIRGINIA:

At a regular meeting of the Board of Supervisors of the County of Northampton, Virginia, held in the Board Chambers of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 10th day of June, 2014, at 4:00 p.m.

Present:

| | |
|---|---|
| Larry LeMond, Chairman | Richard L. Hubbard, Vice Chairman |
| Laurence J. Trala | Granville F. Hogg, Jr. |
| Oliver H. Bennett | |

The meeting was called to order by the Chairman.

Closed Session

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

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

*Appointments to boards, committees*
*Status report – disciplinary actions of employees*
*New hires/terminations report*

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

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

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

*Offer to sell – former Exmore-Willis Wharf Elementary School*

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) Planning Department: resolution from Cape Charles

Mr. Peter Stith, Long Range Planner, shared with the Board a resolution as adopted by the Town Council of Cape Charles supporting the inclusion of the historic town entrance overlay corridor in the proposed 2014 zoning amendments under consideration by the County. Staff also provided additional background information including an initial map of the proposed overlay district. Based on current work load considerations, motion was made by Mr. Hogg, seconded by Mr. Bennett, that consideration of this request be tabled. All members were present and voted "yes." The motion was unanimously passed.

(2) Request from Schools: Change in bus lease

The County Administrator distributed a request from School Director of Finance Brook Thomas relative to the School System's desire to purchase 77-passenger buses instead of 65-passenger buses, as was contained the budget request. Ms. Thomas' memorandum cited the

School System's desire to provide additional flexibility with regard to bus routing, particularly in areas with a high concentration of students. In addition, the larger buses will be helpful in reducing the number of buses required for some extracurricular and athletic trips. Purchase of the larger buses would require an annual increase in funding of $2,213. Ms. Thomas indicated that they would be able to adjust their Transportation Budget to absorb the additional lease cost for FY 15 until the actual amount is worked into the County's funding figure for FY 16 forward.

Chris Truckner, Director of Operations, shared with the Board the following powerpoint presentation:

# SUMMARY OF REQUEST

- The buses we will be replacing next year are 65-passenger. We budgeted to replace them with 65-passenger buses.
- After further consideration and discussion with colleagues in our Region, we feel that it would be in the Schools' best interest to replace them with three 77-passenger buses in order to provide additional flexibility with bus routing and scheduling.

# SPECIFICATIONS

## 65 PASSENGER

- 22 ROWS OF SEATS
- SEATS 65 ELEMENTARY AGED STUDENTS – 3 PER SEAT
- SEATS 44 HIGH SCHOOL/MIDDLE SCHOOL AGED STUDENTS – 2 PER SEAT
- Cost: $94,567 each, 3 buses would cost $283,701
- 5 year lease at 5% with semi-annual payments = $64,830.66 per year ($175 less than budgeted)

## 77 PASSENGER

- 24 ROWS OF SEATS
- SEATS 77 ELEMENTARY AGED STUDENTS – 3 PER SEAT
- SEATS 52 HIGH SCHOOL/MIDDLE SCHOOL AGED STUDENTS – 2 PER SEAT
- Cost: $98,050 each, 3 buses would cost $294,150
- 5 year lease at 5% with semi-annual payments = $67,218.44 per year ( $2,213 more than budgeted)

# OPERATIONAL EFFICIENCY

- The bus fleet currently consists of:
  - 38 – 65 passenger,
  - 4 – 71 passenger
  - 2 – 77 passenger
  - 5 – Handicapped accessible
- The 71 and 77 passenger buses are being used in our daily, regular bus runs. Having these buses was critical in allowing us to condense bus routes which resulted in the elimination of two routes during the current school year (saving driver salaries, fuel, maintenance, and future bus replacement).
- Condensing bus routes reduces the per-pupil cost of transportation.
- It is not our intention to have a full fleet of 77 passenger buses. We will evaluate our needs each year based on student enrollment and the location of their residence.

# IN A PINCH

- Between September and November and again in late March/early April, our schools begin to get an influx of migrant students who live in migrant camps.
- During these times, we need to send out a second 65 passenger bus to pick up the 10-15 extra students along each of the runs that include migrant camps.
- Using a 77 passenger bus on these routes during these months would eliminate the need for an additional 65 passenger bus and driver.

# DECLINING ENROLLMENT

- Declining enrollment is another reason why we have been able to combine several bus routes. With 77 passenger buses we are able to cover a larger area with one bus, instead of running two 65 passenger buses that are only partially full.

# FIELD TRIPS/SPORTS

- On several occasions, when neither of our two 77 passenger buses were available, we needed to run 2 partially full 65-passenger buses on field trips and sporting events because one bus was not large enough to fit all of the students, chaperones, and equipment.
- Adding additional 77 passenger buses to the fleet would allow us to accommodate many of these requests using one bus, and avoid having to secure additional drivers and buses in these situations.

# CONCLUSION

- In order to ensure delivery by the beginning of the school year, we need to file a letter of intent (including a non-appropriation clause) with Sonny Merryman so that they can place the order with their manufacturer.
- We are respectfully requesting that the Board of Supervisors agree to provide the $2,213 of additional funding per year to lease 77 passenger buses.
- Thank you for your consideration of this request.

Mr. Hogg asked to receive ridership numbers, by month if possible, as well as mileage incurred on the various bus routes.

Mr. Hubbard said that it was a shame that this request came forward just two weeks after the budget adoption and questioned why we didn't know this six weeks ago. Mr. Truckner replied that cost figures have just recently been obtained from the vendor.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board approve the increased bus lease contribution for FY 15 as petitioned. All members were present and voted "yes" with the exception of Mr. Hogg who voted "no." The motion was passed.

Consent Agenda:

(3) Minutes of the meetings of May 13, 27 and 28, 2014.

Following one correction by Mr. Bennett and multiple corrections submitted by Mr. Hogg, some of which were denied by the Board, motion was made by Mr. Trala, seconded by Mr. Hubbard, that the minutes of the meeting of May 13, 2014 be approved as corrected. All members were present and voted "yes" with the exception of Mr. Hogg who voted "no". The motion was passed. Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the minutes of May 27, 2014 and May 28, 2014 be approved as presented. All members were present and voted "yes." The motion was unanimously passed.

(4) Consider adoption of a resolution endorsing the Eastern Shore Juneteenth Festival, to be held on June 10, 2014.

Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the following resolution be adopted. All members were present and voted "yes." The motion was unanimously passed. Said resolution as adopted is set forth below:

## RESOLUTION

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

WHEREAS, for fifteen years, the Juneteenth Festival has been an arena to educate and promote cultural enlightenment and diversity to the residents of the Eastern Shore of Virginia; and

WHEREAS, Juneteenth, also known as "Freedom Day" or "Emancipation Day" is the oldest known festival to celebrate the end of slavery and celebrates African-American freedom, encourages strong family structure, and emphasizes the importance of the church in the African-American community; and

WHEREAS, this year's festival will be held on Saturday, June 21, 2014 at the Eastern Shore Community College and will be in combined with a health fair to encourage and educate Eastern Shore residents on healthy living practices.

NOW, THEREFORE, the Northampton County Board of Supervisors does hereby endorse the EASTERN SHORE JUNETEENTH FESTIVAL to be held June 21, 2014.

* * * * *

(5) Consider approval of an A-95 Review entitled, "Composting for Community: A program to expand small-scale, community-based composting in the Mid-Atlantic"; applicant: Institute for Self-Reliance (ILSR)

Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the A-95 Review be approved as presented. All members were present and voted "yes." The motion was unanimously passed.

County Officials' Reports:

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

## MEMORANDUM

**TO:** Board of Supervisors

**FROM:** Leslie Lewis, Director of Finance

**DATE:** June 2, 2014

**RE:** Budget Amendments and Appropriations – FY 2014

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

**$1,444.88** – This represents an insurance claim reimbursement as a result of damage sustained to a Sheriff's vehicle. Please transfer these funds to the Sheriff's Vehicle Equipment & Supplies line item (100-3102-55600).

* * * * *

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

Given the numerous budget amendments as a result of accidents within the Sheriff's Office recently, the Board suggested that it might be in our best interest to offer some refresher courses in driver education skills for that staff. In response to a question from Mr. Bennett, the County Administrator agreed to provide a copy of the annual report from the County's insurance carrier once received.

## MEMORANDUM

**TO:** Board of Supervisors

**FROM:** Katherine H. Nunez, County Administrator

**DATE:** June 6, 2014

**RE:** Budget Amendments and Appropriations – FY 2014/2015

Your approval is respectfully requested for the following budget amendments and supplemental appropriations as petitioned by the Northampton County Public Schools:

**$177,522** – This represents a supplemental appropriation from the capital reserve account created with the funds formerly allocated to debt service on the elementary schools. These funds are requested in order to give a one-step increase to all teachers and classified employees for the 2014-2015 school year.

**$98,878.29** – This represents a supplemental appropriation from the capital reserve account created with the funds formerly allocated to debt service on the elementary schools. These funds will complete the Capital Projects Outlined below for FY 2015.

Existing Unappropriated CIP Fund Balance: $456,274.00

Completed Projects (available for re-appropriation):

ADA Compliance $13,617.00
KES Boiler Replacement $ 3,179.00
Vehicle Replacement $ 929.00
Middle School Wing Renovation $ 6,604.00
Grounds Equipment $ 43.71
Total of Projects to Close Out $ 24,372.71

Updated Available Balance of CIP Funds: $480,646.71

FY 2015 Capital Project Listing:

Roofing – KES – Replace asphalt shingles & plywood $203,300.00
Roofing – OES – Replace asphalt shingles & plywood $203,300.00
OES asphalt parking lot overlay $122,025.00
Bobcat lease payment (3rd year of 5 years) $ 7,000.00
Relocate electricity supply at old school $ 27,100.00
Boarding up windows & code-related site cleanup $ 16,800.00
Total FY 15 Capital Projects $579,525.00

**Deficit of Fund Balance Requested as Supplemental Appropriation: $98,878.29**

**$28,401** – This represents a reclassification of two capital projects listed below to be used for Parking Lot Repair & Maintenance, in order to phase-in the Parking Lot Maintenance Plan:

Existing Capital Improvement Fund Projects:

| | |
|---|---|
| KES Seal Parking Lot | $16,200 |
| OES Seal Parking Lot | $12,201 |
| | $28,401 |

Reclassify as:
School Operating Fund, Operations Category $28,401

* * * * *

With regard to the first request shown above, Mr. Hogg said that he had issued a "straw poll" amongst his constituents, a majority of whom were not in favor of a salary adjustment for teachers, given the source of funding for same.

Superintendent Clemons was recognized and urged the Board to take a look at three sectors of needs: (1) capital improvements, (2) planning for the future, and (3) staff. He thanked the Board for the salary adjustments approved last year, but noted that the last step increase was in 2008-2009. He strongly encouraged the Board to consider this step to continue to provide the necessary resources for the teachers and staff.

Supervisor Hubbard reminded the Board that the state has not approved its budget yet and there may be a step increase included there. He also said that he appreciated the public presence but indicated that the time for that presence was during the public hearing, noting that the proposed step-increase equates to a one-cent tax increase for next year. He asked that the Board consider waiting until the state budget is adopted prior to making a decision.

The Superintendent reminded the Board that this was not a new request; it was originally included in the budget submission.

The County Administrator shared with the Board the following spreadsheet, illustrating the capital reserve fund:

| DESCRIPTION | AMOUNT | RUNNING FUND TOTAL |
|---|---|---|
| Creation and first contribution into the Fund - close of Fiscal Year 2013 | $252,229.00 | $252,229.00 |
| Scheduled contribution at close of Fiscal Year 2014 | $777,640.00 | $1,029,869.00 |

| | | |
|---|---|---|
| *If Board of Supervisors approves School Board request to supplement capital funds for capital projects at the June 10, 2014 Meeting, then* | ***$ (98,878.29)*** | **$ 930,990.71** |
| *If Board of Supervisors approves School Board request to use capital reserve funds for one-step increase to all teachers and classified employees for the FY15 budget year, then* | | |
| | ***$ (177,522.00)*** | **$ 753,468.71** |
| Scheduled contribution at close of ***Fiscal Year 2015*** | $ 777,640.00 | $1,531,108.71 |

* * * * * *

Motion was made by Mr. Hogg, seconded by Mr. Trala, that this request be tabled until the June work session. All members were present and voted "yes", with the exception of Mr. Bennett who voted "no." The motion was passed.

Chairman LeMond recognized School Board Member Mickey Merritt who questioned that if the state budget is approved and provides for a three-percent raise, will the Board provide same to the teachers.

With regard to the second item shown in the request, motion was made by Mr. Bennett, seconded by Mr. Hogg, that the Board approve funding the deficit in the amount of $98,878.29 from the capital reserve account and that the Board establish and approve the capital projects listing as shown and provide funding through the reappropriation of the closed-out projects' funding. All members were present and voted "yes." The motion was unanimously passed.

With regard to the third item shown in the request, motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board approve the reclassification of projects in the amount of $28,401, to be effective July 1, 2014. All members were present and voted "yes." The motion

was unanimously passed.

At 6:20 p.m., the Board recessed for supper.

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

The invocation was offered by Mr. Trala.

The Pledge of Allegiance was recited.

Public Hearings:

Chairman LeMond called the following public hearing to order:

(7) **Addition to Church Neck AFD** filed by Mary Hamilton Stuart for 35 acres located near Birdsnest area with frontage on Church Neck Road and Chelsea Farm Lane, Tax Map 28-A-13C

AN ORDINANCE AMENDING
AN ORDINANCE KNOWN AS
CHURCH NECK
AGRICULTURAL FORESTAL DISTRICT
AFD-94-06
AND IMPOSING CERTAIN CONDITIONS THEREON

WHEREAS, applications to amend an Agricultural and Forestal District near the terminus of Church Neck were filed with the Northampton County Board of Supervisors on June 10, 2014 and

WHEREAS, in accordance with Sections 15.2-4307, -4308, and -4309 of the Code of Virginia, 1950, amended, public notices have been filed and posted, public hearings have been advertised, and public hearings have been held on amending such application; and

WHEREAS, the Agricultural and Forestal District Advisory Committee presented a report recommending approval of amending the application at the meeting held on April 21, 2014, and,

WHEREAS, the Planning Commission on June 3, 2014, considered amending the application at a duly conducted public hearing.

NOW, THEREFORE, BE IT ORDAINED:

1. This ordinance is adopted pursuant to the provision of Title 15.2 Chapter 43 of the Code of Virginia, as amended, the "Agricultural and Forestal Districts Act" (the Act).

2. There is hereby amended the "Church Neck Agricultural and Forestal District," hereinafter "the District".

3. This amendment adds the following parcels to the previously approved District, for which the ordinance known as Church Neck remains in full force and effect.

| Property Owner | Tax Map & Parcel | Parcel Record No. | Acreage |
|---|---|---|---|
| Robert & Kathleen Bredimus | 29-A-53 | 10679 | 136.00 |
| The Floyd Family Homestead Trust | 38-A-25A | 11209 | 63.88 |
| | 38-15-2 | 15821 | 3.75 |
| William & Brenda Floyd | 35-15-1A | 16042 | 2.37 |
| Dunton Family Ltd. Partnership | 38-A-25B | 12490 | 53.12 |
| | 28-A-7A | 11022 | 5.3 |
| Jane Turner | 38-A-24 | 11208 | 3.00 |
| Elizabeth Nottingham | 38-9-B2 | 12732 | 44.00 |
| Mary Ann Resky | 38-9-B1 | 3918 | 48.00 |
| Lee F. Nottingham, Jr. | 28-A-7 | 12311 | 108.00 |
| Elizabeth Nottingham Whitehead etals | 28-A-5 | 4266 | 25.00 |
| G. Fred Floyd, Jr. | 28-4-B1 | 2252 | 81.27 |
| Helen Mapp Sloan, Richard Andrews etals | 28-A-6 | 8633 | 62.50 |
| Mary Hamilton Stuart | 28-A-13C | 12031 | 35.00 |
| Sallie Stuart & Carl Stiegelbauer | 28A-13D | 12032 | 35.00 |
| | **Total ----------** | | **706.19** |

Provided, however:

A. That all lands lying within fifteen (15) feet of the rights-of-way from any state road shall be excluded from the district.

B. No portion of a parcel within the District shall be authorized for withdrawal except as provided for under Section # I. herein.

C. Land use values of property within the District shall be established by the County Commissioner of Revenue. Such land use values shall remain in effect until the next general reassessment of real estate.

D. It shall be the obligation of each owner of land within the District to notify a prospective purchaser that such land is part of the District prior to entering into any contract or other agreement or sale.

E. The District shall be created for a period of ten (10) years. Prior to the termination of the 10 year period the Board shall review the District to consider an additional 10 year period.

F. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in §58.1-3237 Rollback Taxes of the Code of Virginia. Sale or gift of a portion of land in a district to a member of the immediate family as defined in §15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

G. No parcel of land with the District shall be rezoned to any Hamlet, Waterfront Hamlet, residential, commercial or industrial classification during the period which said parcel remains within the District.

H. No parcel of land within the District shall, without the prior approval of the Board, be developed to any more intensive use, including the placement of buildings and dwellings thereon, other than uses resulting in more intensive agricultural or forestal production, during the period which said parcel remains within the District. The underlying zoning for each parcel shall apply for parcels zoned Agriculture/Rural Business, Village-1, and Waterfront Village-1; for parcels within the District that are subject to other zoning classifications, any use of land, other than agricultural or forestal activities, shall require a minor special use permit except as provided for in Section 3.F. above. No special use permit shall be approved for any use within the District that is in conflict with the policies and purposes of the Act.

I. At any time after the creation of the District, any owner of land lying in this District may file with the Board a written request to withdraw all or part of such land from this District for good and reasonable cause, defined as the death of the owner or demonstration of a substantial hardship other than the loss of potential income. The Board shall process the written request in keeping with §15.2-4314 of the Code of Virginia and §58.1-3237 Rollback Taxes of the Virginia State Code as amended.

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* * * * * *

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

Mr. Peter Stith indicated that the AFD Committee and the Planning Commission were recommending approval of this petition. In response to a question from the Chairman, Mr. Stith noted that the parcels in question are currently located within the Glebe AFD, which will be expiring this year. The Church Neck AFD will be expiring in 2015.

Mr. Hogg and Mr. Hubbard notified the Board of their potential conflicts of interest because they own property within agricultural-forestal districts.

Mr. Herman Walker noted that his sister and her daughter own the subject properties in

this petition as well as the next item on the agenda. They wish to remain in an AFD.

Mr. Dave Kabler provided the following letter:

Dear Chairman Lemond and the Board of Supervisors,

Thank you for the opportunity to comment on the Ag-Forest tax designations applied for and now under consideration at your hearing tonight. I am a real estate broker in charge of Blue Heron Realty's Cape Charles office and my dealings in the land use industry span over 41 years.

I use our present zoning ordinance and comprehensive plan in all of my dealings with customers and clients. Our comprehensive plan calls for preserving and enhancing our agricultural industry. Our program for tax abatement through the ag-forest program, wherein an owner of agricultural and/or forested lands commits to preserving such uses for ten years, clearly supports the mission of our comprehensive plan. It is a quid pro quo arrangement for the county and our citizens when farmers submit to this program. Public services for such lands is minimal, the rural landscape of our county is preserved adding value to our community for attracting investment, our environment, land and waters are enhanced and protected from pollution from upland run-off, and the agricultural industry benefits from the tax subsidy.

I urge you to approve these applications

David Kabler

10352 Church Neck Rd.

Machipongo, VA 23405

* * * * *

A letter from Mr. Robert C. Richardson was read into the record:

TO: Board of Supervisors
Northampton County, VA

RE: Agriculture Forrestal Districts

Mr. Chairman and Members of the Board:

The 2015 budget decisions have been painful for many in the county. We have no funds to donate to extravagant programs. Please deny these AFD's.

Robert C. Richardson
6365 Riverside Farm Lane
Seaview, VA 22310

* * * *

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

Motion was made by Mr. Trala, seconded by Mr. Hogg, that the AN ORDINANCE AMENDING AN ORDINANCE KNOWN AS "CHURCH NECK AGRICULTURAL FORESTAL DISTRICT AFD 94-06" AND IMPOSING CERTAIN CONDITIONS THEREON be approved. All members were present and voted "yes," with the exception of Mr. Bennett who abstained. The motion was passed.

The Chairman called to order the following public hearing:

(8) **Addition to Church Neck AFD** filed by Sallie C. Stuart & Carl Stiegelbauer, for 35 acres located near Birdsnest area with frontage on Church Neck Road near Chelsea Farm Lane, Tax Map 28-A-13D

AN ORDINANCE AMENDING
AN ORDINANCE KNOWN AS
CHURCH NECK
AGRICULTURAL FORESTAL DISTRICT
AFD-94-06
AND IMPOSING CERTAIN CONDITIONS THEREON

WHEREAS, applications to amend an Agricultural and Forestal District near the terminus of Church Neck were filed with the Northampton County Board of Supervisors on June 10, 2014 and

WHEREAS, in accordance with Sections 15.2-4307, -4308, and -4309 of the Code of Virginia, 1950, amended, public notices have been filed and posted, public hearings have been advertised, and public hearings have been held on amending such application; and

WHEREAS, the Agricultural and Forestal District Advisory Committee presented a report recommending approval of amending the application at the meeting held on April 21, 2014, and,

WHEREAS, the Planning Commission on June 3, 2014, considered amending the application at a duly conducted public hearing.

NOW, THEREFORE, BE IT ORDAINED:

4. This ordinance is adopted pursuant to the provision of Title 15.2 Chapter 43 of the Code of Virginia, as amended, the "Agricultural and Forestal Districts Act" (the Act).

5. There is hereby amended the "Church Neck Agricultural and Forestal District," hereinafter "the District".

6. This amendment adds the following parcels to the previously approved District, for which the ordinance known as Church Neck remains in full force and effect.

| Property Owner | Tax Map & Parcel | Parcel Record No. | Acreage |
|---|---|---|---|
| Robert & Kathleen Bredimus | 29-A-53 | 10679 | 136.00 |
| The Floyd Family Homestead Trust | 38-A-25A | 11209 | 63.88 |
| | 38-15-2 | 15821 | 3.75 |
| William & Brenda Floyd | 35-15-1A | 16042 | 2.37 |
| Dunton Family Ltd. Partnership | 38-A-25B | 12490 | 53.12 |
| | 28-A-7A | 11022 | 5.3 |
| Jane Turner | 38-A-24 | 11208 | 3.00 |
| Elizabeth Nottingham | 38-9-B2 | 12732 | 44.00 |
| Mary Ann Resky | 38-9-B1 | 3918 | 48.00 |
| Lee F. Nottingham, Jr. | 28-A-7 | 12311 | 108.00 |
| Elizabeth Nottingham Whitehead etals | 28-A-5 | 4266 | 25.00 |
| G. Fred Floyd, Jr. | 28-4-B1 | 2252 | 81.27 |
| Helen Mapp Sloan, Richard Andrews etals | 28-A-6 | 8633 | 62.50 |
| Mary Hamilton Stuart | 28-A-13C | 12031 | 35.00 |
| Sallie Stuart & Carl Stiegelbauer | 28A-13D | 12032 | 35.00 |
| | **Total ----------** | | **706.19** |

Provided, however:

J. That all lands lying within fifteen (15) feet of the rights-of-way from any state road shall be excluded from the district.

K. No portion of a parcel within the District shall be authorized for withdrawal except as provided for under Section # I. herein.

L. Land use values of property within the District shall be established by the County Commissioner of Revenue. Such land use values shall remain in effect until the next general reassessment of real estate.

M. It shall be the obligation of each owner of land within the District to notify a prospective purchaser that such land is part of the District prior to entering into any contract or other agreement or sale.

N. The District shall be created for a period of ten (10) years. Prior to the termination of the 10 year period the Board shall review the District to consider an additional 10 year period.

O. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in §58.1-3237 Rollback Taxes of the Code of Virginia. Sale or gift of a portion of land in a district to a member of the immediate family as defined in §15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

P. No parcel of land with the District shall be rezoned to any Hamlet, Waterfront Hamlet, residential, commercial or industrial classification during the period which said parcel remains within the District.

Q. No parcel of land within the District shall, without the prior approval of the Board, be developed to any more intensive use, including the placement of buildings and dwellings thereon, other than uses resulting in more intensive agricultural or forestal production, during the period which said parcel remains within the District. The underlying zoning for each parcel shall apply for parcels zoned Agriculture/Rural Business, Village-1, and Waterfront Village-1; for parcels within the District that are subject to other zoning classifications, any use of land, other than agricultural or forestal activities, shall require a minor special use permit except as provided for in Section 3.F. above. No special use permit shall be approved for any use within the District that is in conflict with the policies and purposes of the Act.

R. At any time after the creation of the District, any owner of land lying in this District may file with the Board a written request to withdraw all or part of such land from this District for good and reasonable cause, defined as the death of the owner or demonstration of a substantial hardship other than the loss of potential income. The Board shall process the written request in keeping with §15.2-4314 of the Code of Virginia and §58.1-3237 Rollback Taxes of the Virginia State Code as amended.

* * * * *

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

Mr. Peter Stith, Long Range Planner, indicated that the AFD Committee and the Planning Commission were recommending approval of the petition. He also confirmed that the subject parcel is currently located within the Glebe AFD will expires this year and that the Church Neck AFD will expire in 2015.

Mr. Herman Walker reiterated his earlier comments.

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

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the AN ORDINANCE AMENDING AN ORDINANCE KNOWN AS "CHURCH NECK AGRICULTURAL FORESTAL DISTRICT, AFD 94-06", AND IMPOSING CERTAIN CONDITIONS THEREON be approved. All members were present and voted "yes," with the exception of Mr. Bennett who abstained. The motion was passed.

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

(9) **Addition to Jacobus Point AFD** filed by Carolyn Outten Gruber for 72 acres located near Birdsnest area with frontage on Church Neck Road, Tax Map 29-A-50

AN ORDINANCE AMENDING
AN ORDINANCE KNOWN AS
JACOBUS POINT
AGRICULTURAL FORESTAL DISTRICT
AFD-05-02
AND IMPOSING CERTAIN CONDITIONS THEREON

WHEREAS, an application to amend an Agricultural and Forestal District near Johnsontown was filed with the Northampton County Board of Supervisors on June 10, 2014 and

WHEREAS, in accordance with Sections 15.2-4307, -4308, and -4309 of the Code of Virginia, 1950, amended, public notices have been filed and posted, public hearings have been advertised, and public hearings have been held on amending such application; and

WHEREAS, the Agricultural and Forestal District Advisory Committee presented a report recommending approval of amending the application at the meeting held on April 21, 2014, and,

WHEREAS, the Planning Commission on June 3, 2014, considered amending the application at a duly conducted public hearing.

NOW, THEREFORE, BE IT ORDAINED:

7. This ordinance is adopted pursuant to the provision of Title 15.2 Chapter 43 of the Code of Virginia, as amended, the "Agricultural and Forestal Districts Act" (the Act).

8. There is hereby amended the "Jacobus Point Agricultural and Forestal District," hereinafter "the District".

9. This amendment adds the following parcels to the previously approved District, for which the ordinance known as Jacobus Point remains in full force and effect.

| Property Owner | Tax Map & Parcel | Parcel Record No. | Acreage |
|---|---|---|---|
| Waterford Farm, LLC | 39-A-1 | 3952 | 293.00 |
| David & Cathy Riopel | 39-1-2 | 11151 | 57.81 |
| Mark Raymond & Lynne Covington | 39-1-1 | 4457 | 74.10 |
| | 29-9-A | 7632 | 67.589 |
| Hampton Family Joint Declaration | 39-A-9 | 8094 | 48.00 |
| Williams Hudgins Revocable Living Trust | 39-A-10 | 8363 | 102.00 |
| Donald Brennan | 39-3-A | 6038 | 173.00 |
| | 39-3-B | 14950 | 238.05 |
| Madelle Hastings | 40-A-1 | 2754 | 74.00 |
| Mary Ann Floyd Davis | 40-A-4A | 9645 | 2.00 |
| | 40-A-4 | 9607 | 16.00 |
| Allen Floyd, III & Elizabeth Spencer | 40-A-15A | 9073 | 13.25 |
| | 40-A-15 | 2594 | 119.03 |
| Charles Dickinson IV | 39-3-D2 | 9499 | 25.00 |
| | 39-3-D1 | 9500 | 8.00 |
| | 40-a-17 | 1690 | 163.42 |
| | 40-A-17A | 9075 | 113.45 |
| | 40-A-15 | 9776 | 1.26 |
| | 40-A-36 | 9074 | 15.82 |
| Nancy Gibb (dec'd) Clyde Ernest Gibb Edward Houston Gibb | 40-1-B | 2157 | 68.45 |
| Batista Madonia Jr. & Evelyn Madonia | 40-1-C | 4467 | 69.66 |
| | 40-A-30 | 14121 | 4.00 |
| Carolyn Outten-Gruber | 29-A-50 | 4454 | 72.00 |
| | **Total ----------** | | **1818.889** |

Provided, however:

S. That all lands lying within fifteen (15) feet of the rights-of-way from any state road shall be excluded from the district.

T. No portion of a parcel within the District shall be authorized for withdrawal except as provided for under Section # I. herein.

U. Land use values of property within the District shall be established by the County Commissioner of Revenue. Such land use values shall remain in effect until the next general reassessment of real estate.

V. It shall be the obligation of each owner of land within the District to notify a prospective purchaser that such land is part of the District prior to entering into any contract or other agreement or sale.

W. The District shall be created for a period of ten (10) years. Prior to the termination of the 10 year period the Board shall review the District to consider an additional 10 year period.

X. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in §58.1-3237 Rollback Taxes of the Code of Virginia. Sale or gift of a portion of land in a district to a member of the immediate family as defined in §15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

Y. No parcel of land with the District shall be rezoned to any Hamlet, Waterfront Hamlet, residential, commercial or industrial classification during the period which said parcel remains within the District.

Z. No parcel of land within the District shall, without the prior approval of the Board, be developed to any more intensive use, including the placement of buildings and dwellings thereon, other than uses resulting in more intensive agricultural or forestal production, during the period which said parcel remains within the District. The underlying zoning for each parcel shall apply for parcels zoned Agriculture/Rural Business, Village-1, and Waterfront Village-1; for parcels within the District that are subject to other zoning classifications, any use of land, other than agricultural or forestal activities, shall require a minor special use permit except as provided for in Section 3.F. above. No special use permit shall be approved for any use within the District that is in conflict with the policies and purposes of the Act.

AA. At any time after the creation of the District, any owner of land lying in this District may file with the Board a written request to withdraw all or part of such land from this District for good and reasonable cause, defined as the death of the owner or demonstration of a substantial hardship other than the loss of potential income. The Board shall process the written request in keeping with §15.2-4314 of the Code of Virginia and §58.1-3237 Rollback Taxes of the Virginia State Code as amended.

* * * * *

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

Mr. Peter Stith indicated that the AFD Committee and the Planning Commission were recommending approval of this petition. He confirmed that this parcel was part of the Glebe AFD which expires this year and that Jacobus Point AFD will expire in 2016.

The applicant, Ms. Carolyn Outten-Gruber, asked for the Board's favorable consideration.

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

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the AN ORDINANCE AMENDING AN ORDINANCE KNOWN AS "JACOBUS POINT AGRICULTURAL FORESTAL DISTRICT, AFD 05-02" AND IMPOSING CERTAIN CONDITIONS THEREON ordinance be approved. All members were present and voted "yes," with the exception of Mr. Bennett who abstained. The motion was passed.

Chairman LeMond called to order the following public hearing:

(10) **Addition to Happy Union AFD** filed by John K. Cleveland for 63.96 acres located at 6171 Waterview Way, off of Wellington Neck Road, Tax Map 14-5-A

AN ORDINANCE AMENDING
AN ORDINANCE KNOWN AS
HAPPY UNION
AGRICULTURAL FORESTAL DISTRICT
AFD-90-01
AND IMPOSING CERTAIN CONDITIONS THEREON

WHEREAS, an application to amend an Agricultural and Forestal District near Bridgetown was filed with the Northampton County Board of Supervisors on June 10, 2014 and

WHEREAS, in accordance with Sections 15.2-4307, -4308, and -4309 of the Code of Virginia, 1950, amended, public notices have been filed and posted, public hearings have been advertised, and public hearings have been held on amending such application; and

WHEREAS, the Agricultural and Forestal District Advisory Committee presented a report recommending denial of amending the application at the meeting held on April 21, 2014, and,

WHEREAS, the Planning Commission on June 3, 2014, considered amending the application at a duly conducted public hearing.

NOW, THEREFORE, BE IT ORDAINED:

10. This ordinance is adopted pursuant to the provision of Title 15.2 Chapter 43 of the Code of Virginia, as amended, the "Agricultural and Forestal Districts Act" (the Act).

11. There is hereby amended the "Happy Union Agricultural and Forestal District," hereinafter "the District".

12. This amendment adds the following parcels to the previously approved District, for which the ordinance known as Happy Union remains in full force and effect.

| Property Owner | Tax Map & Parcel | Parcel Record No. | Acreage |
|---|---|---|---|
| Francis A. Shelton | 14-A-22 | 5634 | 236.6 |
| Stephen A. Boyer | 14-13-A | 1152 | 74.00 |
| John K. Cleaveland | 14-5-A | 9351 | 63.96 |
| | **Total ----------** | | **374.56** |

Provided, however:

BB. That all lands lying within fifteen (15) feet of the rights-of-way from any state road shall be excluded from the district.

CC. No portion of a parcel within the District shall be authorized for withdrawal except as provided for under Section # I. herein.

DD. Land use values of property within the District shall be established by the County Commissioner of Revenue. Such land use values shall remain in effect until the next general reassessment of real estate.

EE. It shall be the obligation of each owner of land within the District to notify a prospective purchaser that such land is part of the District prior to entering into any contract or other agreement or sale.

FF. The District shall be created for a period of ten (10) years. Prior to the termination of the 10 year period the Board shall review the District to consider an additional 10 year period.

GG. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as

are provided in §58.1-3237 Rollback Taxes of the Code of Virginia. Sale or gift of a portion of land in a district to a member of the immediate family as defined in §15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

HH. No parcel of land with the District shall be rezoned to any Hamlet, Waterfront Hamlet, residential, commercial or industrial classification during the period which said parcel remains within the District.

II. No parcel of land within the District shall, without the prior approval of the Board, be developed to any more intensive use, including the placement of buildings and dwellings thereon, other than uses resulting in more intensive agricultural or forestal production, during the period which said parcel remains within the District. The underlying zoning for each parcel shall apply for parcels zoned Agriculture/Rural Business, Village-1, and Waterfront Village-1; for parcels within the District that are subject to other zoning classifications, any use of land, other than agricultural or forestal activities, shall require a minor special use permit except as provided for in Section 3.F. above. No special use permit shall be approved for any use within the District that is in conflict with the policies and purposes of the Act.

JJ. At any time after the creation of the District, any owner of land lying in this District may file with the Board a written request to withdraw all or part of such land from this District for good and reasonable cause, defined as the death of the owner or demonstration of a substantial hardship other than the loss of potential income. The Board shall process the written request in keeping with §15.2-4314 of the Code of Virginia and §58.1-3237 Rollback Taxes of the Virginia State Code as amended.

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

Mr. Peter Stith indicated that the AFD Committee was recommending denial of this application. The Planning Commission was recommending approval. He confirmed that the subject property was not included in any agricultural-forestal district at this time. The Happy Union AFD will expire in 2021.

The applicant, Mr. John K. Cleaveland, referred to correspondence in the Board's agenda packet from the Department of Forestry, which provided the results of a forest-stand exam. The Department recommended that Mr. Cleaveland allow the forest stands to grow and to continue to practice the forest management objectives as outlined. Mr. Cleaveland noted that he intended to maintain the property as agricultural which helps to preserve the nearby aquaculture industry.

Mrs. Roberta Kellam presented a map of shellfish aquaculture areas adjacent to the Cleaveland property, noting that this property has been very important in maintaining the aquaculture industry in the area.

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

Mr. Hogg questioned the ownership of the nearby oyster grounds and asked what kind of buffer did Mr. Cleaveland have. He also asked if Mr. Cleaveland has an interest in aquaculture and further, did he have an idea of the value of the timber from the Forestry Department. Mr. Cleaveland responded that he had received no information from the Forestry Department relative to the timber value.

Motion was made by Mr. Hubbard, seconded by Mr. Hogg, that AN ORDINANCE AMENDING AN ORDINANCE KNOWN AS "HAPPY UNION AGRICULTURAL FORESTAL DISTRICT, AFD 90-01" AND IMPOSING CERTAIN CONDITIONS THEREON be approved. Mr. Hubbard and Mr. Hogg voted "yes"; Mr. Trala and Mr. LeMond voted "no"; Mr. Bennett abstained. The motion failed.

Citizens Information Period:

Ms. Elaine Beall read the following comments:

(1)

My name is Elaine Beall. I've been a resident of Northampton Co. for the past 10 yrs. I own 5 acres and love the beauty of this area. Since my teen-age years this was the place to visit because my brother farmed here as well as my other brothers. My family background is farming —

As a taxpayer, I've researched the following programs.

Nature Conervancy

They were granted property tax exemption by the Commonwealth of Va, and Preservation and Conservation Easements are granted by the Commonwealth, therefore local governments have no control over this program.

(2)

To our benefit, we can enjoy these untouched landscapes —

The following demonstrates their 2013 taxes —

Total assessed value of taxable property is — $10,357,300.
Actual taxes paid $67,683.

Total assessed value of non-taxable property is — $17,515,900.
revenue loss $117,846.

Adding taxable & nontaxable property values together are $27,000,000.

This is protected land in the County Cannot Be Developed

(3)

Preservation Easements

This is property given in perpetuity

Cannot Be Developed

139 Pacels in PE program

Revenue loss $332,377.

Rehabilitated Structure Program

(county controlled)

For 2013 we had 35 active accounts

Revenue loss $56,128.

Elderly and/or Handicapped Program

(county controlled)

For 2013 we had 50 accounts

that qualified.

Revenue loss $18,593.

(4)

Agricultural Forest Districts AFD

(county controlled)

613 parcels in this program

Revenue loss $976,330.

These parcels are located thruout the county —

This is land owned which is productive woodland and farmland —

The program was initated in 1984.

Total Tax Revenues Paid By All Taxpayers in 2013 is $15,423,062.

The AFD Rehabilited Structure [redacted]

Elderly and/or Handicapped Programs are tax relief programs granted by the local Brd. of Sup.

(5)

Total acreage in Northampton Co.

Information is from the Chamber of Commerce.

There are 359 square miles in the county —

209 square miles of land which includes 35,000 acres of saltwater marsh

1 square mile equals 640 acres —
so 209 x 640 = 133,760 total acres of which 35,000 is saltwater marshes.

66% of total land area is now under the programs I mentioned tonight —

That leaves 1/3 of the land to support business, residential, commercial, industrial, public services, & recreational uses —

In fact it's more than even you the

* * * * *

Mr. Steve Sturgis, President of Northampton County Farm Bureau, presented information from the 2012 Census of Agriculture, detailing Northampton County, Virginia statistics. He questioned why agriculture and aquaculture were not part of the County's Strategic Plan for economic development. He requested a written response from the Board.

Mr. Dave Kabler read the following comments:

To the Northampton County Board of Supervisors

From David Kabler

Tuesday June 10, 2014

At your meeting last month I wanted to convey to you the importance of our present zoning ordinance to my real estate business in attracting investment to this County. Our zoning laws demonstrate the level of careful planning we exercise in protecting those investments. Over the last 30 months, my office has closed 80 land transactions totaling more than $14mm. Real estate settlements drive our economy with legal services, home inspections, termite, well and septic inspections, insurance, repairs by tradesmen and home improvements, land surveys, Mr. Hogg, appliance sales and repair, Mr. Hubbard, and supply housing for new school teachers, Mr. Bennett. Huge expenditures by real estate companies promote our county to drive these sales. We are on the front lines of economic development and we ask for no salary from the taxpayers to do our job. We even work nights and weekends!

First of all, I make it clear to sales prospects that our present comp plan and zoning ordinances protect and preserve these investments. I say that your proposal for a major revision of these ordinances will upset this valuable industry. Since last March, the record shows overwhelming public support of our present zoning and broad disagreement with your proposal to revise it. You suffer under calls for legal action and public recall. Already your proposal has cost tens of thousands of dollars of public funds in staff work, public notice and meetings. And now, our Planning Commission asks for more time to complete their study of the

proposal while they submit a long list of recommendations for corrections. Now is the time to reflect most carefully before taking any actions.

Let me summarize:

Current county zoning complies with the State Code and the county's adopted Comprehensive Plan.

The proposed zoning ordinance amendments do not comply with the County's Plan or with the State Code. I ask that this document (see attachment) that was presented to the Planning Commission on May 28, and which illustrates the points of non-compliance, be included in the public record of tonight's meeting.

The zoning proposal has thrown the whole county into a state of uncertainty—of worry about threats to their homes, their neighborhoods, their industry and their community

You have a whole year before your application expires, to think about what the people have been telling you about changing the zoning, a year before you have to make a decision—a whole year to work with your taxpayers, with your business owners, your working families, your retired people—a whole year to fix the things that people want fixed and to assure the community that you are listening to them and will not change zoning that will cause harm to their homes or their futures in the county. Let us know that you are tabling this proposal for further study.

**MEMORANDUM**

**TO:** **Planning Commission**

**FROM:** **Roberta Kellam and Martina Coker, Members**

**DATE:** **5/28/2014**

**RE:** **Proposed Motion/Review of the Proposed Zoning Code**

## PART I: MOTION

**Motion**: *The Planning Commission recommends that the Board withdraw all applications related to Zoning, Floodplain Management and the Chesapeake Bay Preservation Act, and work with the Planning Commission to amend the Zoning Code in a manner that (1) is consistent with the Comprehensive Plan, (2) considers impacts to agriculture, aquaculture, tourism, economic development, affordable housing, sewer and water infrastructure, schools, transportation, groundwater, surface waters and natural resources, and (3) utilizes the Planning Commission's review and recommendations on specific Zoning Code provisions that have been completed between March 11 and May 28, 2014.*

**Background:**

The Planning Commission's review of the Zoning Code and other land use ordinance amendments proposed by the Board of Supervisors has not been completed within the statutory time frame. The Planning Commission has made a number of recommendations related to definitions and land uses that provide much needed clarification to the Board of Supervisor's proposed Zoning Code. Although these recommendations have been reviewed and voted upon by the Planning Commission, the Zoning Code and other amendments have not been reviewed for consistency with the Comprehensive Plan, nor have any studies or data been utilized to justify the proposed amendments that are inconsistent with the Comprehensive Plan. Economic, environmental, and community impacts of the proposed land uses, zoning districts, performance standards, and changes in procedures have not been evaluated by the Planning Commission, nor have they been evaluated by the Board of Supervisors. In addition, the proposed Zoning Map has not been reviewed for consistency with the adopted Future Land Use Map (FLUM), and no data were provided by the Board of Supervisors to support a constitutionally valid justification for rezoning each parcel and to confirm the consistency of such rezoning with the FLUM.

**Summary of Factors in Support of Motion:**

1. The proposed Zoning Code and the removal of the Chesapeake Bay Preservation Act from the seaside are not consistent with the adopted 2008/2009 Comprehensive Plan and FLUM for Northampton County. (See, Part II, Comprehensive Plan, below, for complete enumeration.)

2. The proposed Zoning Map is not consistent with the adopted 2008/2009 Comprehensive Plan and FLUM for Northampton County. Numerous upzonings from Agriculture to higher intensity uses have been proposed in direct conflict with the FLUM and without data to support such upzonings. (See also, Part II, Comprehensive Plan, below.)
3. The proposed Zoning Code and removal of the Chesapeake Bay Preservation Act from the seaside are not consistent with the Community Vision Plans for the Villages of Willis Wharf and Oyster, as supported by the adopted Comprehensive Plan.
4. The proposed Zoning Code, by arbitrarily and capriciously deleting provisions of the current Zoning Code such as the Affordable Housing Density Bonus, single-wide manufactured homes in all settlement areas, and the Mobile Home Park zoning district, would have a negative impact on the availability of affordable housing in the County in a manner that is in direct conflict with the Housing Section of the Comprehensive Plan. Furthermore, the addition of new Large Lot Subdivision Districts – R-3 and R-5 and high-end PUD developments – would increase the cost of lots and lead to disparate impacts and housing segregation. The addition of high density Residential Districts without any direction for location and intent would undoubtedly result in new development in the higher cost waterfront areas without alleviating, and in fact, exacerbating, the affordable housing shortage.
5. The proposed Zoning Code does not have adequate and legally-sufficient Planned Unit Development (PUD) criteria. The upzoning of parcels to PUD by the County without consent of the landowners is also questionable.
6. The proposed Zoning Code, by deleting the Town Edge Zoning District and the Existing Subdivision District, and adding the R, R-1, R-3, R-5 and RM Zoning Districts, would promote widely-dispersed residential and sprawl development without a means to provide for infrastructure and government services in a cost-effective manner. This is in direct conflict with the Comprehensive Plan and is opposed by at least one Town government.
7. Major new land use Districts – R, R-1, R-3, R-5 and RM – are in direct conflict with the Comprehensive Plan because they do not exist as approved Zoning Districts. The creation of these new districts is arbitrary and capricious, and not supported by data, study or planning. Furthermore, the new high density Residential Districts of R, R-1 and RM are a high intensity land use that would have a negative impact on groundwater resources, surface waters, community character, affordable housing, agriculture, aquaculture, and ecological resources if not appropriately sited. The upzoning of thousands of acres of land within the County from Agriculture to new Residential Zoning Districts lack a constitutionally valid justification. No documentation was provided by the Board to support creation of the new districts, nor was any documentation provided that would indicate the justification for upzoning on a per parcel basis. The staff provided a list of criteria without indicating how the

criteria were developed and how they were applied. Some parcels fit no criteria; while some criteria provide no constitutional basis for upzoning. Most egregious is the lack of documentation; an individual landowner would not know why their property was upzoned as the staff did not seem to keep any record of their decision-making process.

8. The proposed removal of the Bay Act from the seaside is in direct conflict with the Comprehensive Plan, is arbitrary and capricious, and would potentially impact the aquaculture industry. No studies of this issue were completed by the Board of Supervisors in making this proposal, despite the availability of experts from the University of Virginia and the Virginia Institute of Marine Science.
9. Major portions of the proposed Zoning Code, such as the removal of the Planning Commission from the Special Use Permit review process, performance standards that replace Special Use Permit review, standards for new roads, elimination of the Route 13 Corridor Overlay, Site Plan standards, and other provisions that might have unintended impacts, have not been reviewed by the Planning Commission.
10. The initiation of the Zoning Code amendments continues to be unclear; no resolution identifying the Board's actions of January 14, 2014 was provided to the Planning Commission. It is not clear whether or not the existing Zoning Code is proposed to be repealed, among other things. Public statements from certain members of the Board of Supervisors indicate that they don't believe a decision on the Zoning Code proposal was made at the January 14, 2014 meeting.
11. The public notice sent to property owners is misleading and creates doubt as to whether a legally sufficient notice has been provided by the County, most particularly with regard to the following statement: "The proposed zoning code is consistent with the County's adopted Comprehensive Plan." (See, January 21, 2014 letter from Charles McSwain to Northampton County Property Owners, Paragraph 5.) The Board of Supervisors provided no documentation to indicate that a review of the Zoning Code's consistency with the Comprehensive Plan has ever been done, and, in fact, the proposed Zoning Code is a substantial and significant deviation from the Comprehensive Plan such that no reasonable interpretation of consistency is available to the County. Almost 3,000 acres of Agricultural land were unilaterally upzoned in direct conflict with the Comprehensive Plan's FLUM. For those landowners whose property was rezoned or upzoned, it is clear that the Notice from the County was not accurate.
12. Individual requests for up-zoning were submitted to the Planning Commission and Board of Supervisors as a result of this Board proposal. Up-zonings without proper application do not appear to be legal, even in light of the zoning code repeal, replacement and re-map. Without a properly executed rezoning application, the County is denied the ability to obtain proffers and the neighboring property owners are denied their right to notice.

13. The proposed Zoning Ordinance is not in compliance with VA Code 15.2-2200, Declaration of Legislative Intent, as evidenced by the lack of planning related to impacts on community health and welfare, to infrastructure and to community resources as related to proposed changes in the Zoning Code. Proposed changes such as greatly increased density, particularly waterfront development, far from existing infrastructure, place citizens at risk due to contamination of surface and ground water, traffic impacts, flooding, and emergency response. Poorly defined high impact industrial and commercial uses proposed, by right, throughout the County, place citizens at risk in terms of their health and welfare and also at financial risk, due to adverse effects on property values. Additionally, the needs of agriculture and aquaculture are not addressed, as required by the Code, with the proposed residential development of thousands of acres of Prime Farmland and with the potential impacts of contaminated surface water to the aquaculture industry.
14. The proposed Zoning Ordinance is not in compliance with VA Code 15.2-2283 by neglecting to consider the impacts of increased traffic in relation to convenience of access and safety on US Route 13, one of the most dangerous highways in the state, and on secondary roads, many of which are flood prone; failing to give reasonable consideration to the facilitation of a convenient attractive and harmonious community, by eliminating Intent Statements and ignoring public input related to their desires related to the community in which they reside; by failing to consider the impacts on police and fire protection, transportation, flood protection, schools and other public requirements. The proposed Zoning Ordinance also does not evidence consideration of the provision of Water and Sewerage by failing to acknowledge and plan for the fact that the County is dependent on a sole source aquifer and the fact that salt water intrusion has already occurred within the County, and by failing to focus on the cost-effective provision of sewer services by encouraging development in and around towns and villages, as planned in the current Zoning Ordinance. The lack of Intent Statements puts historic areas, such as Hamlets at risk by removing protection against encroachment, counter to the Code requirement that reasonable consideration be given to protect against the destruction or encroachment on historic areas. Although members of the Board have described this proposed Ordinance as being one that will "encourage economic development activities, promoting desirable employment", as required by this Chapter of the Virginia Code, no actual data or specific justification to support that conjecture has been provided (that is, the County's Economic Development Department has yet to produce an "Economic Plan.") The proposed Zoning Ordinance runs counter to the Virginia Code requirement that it give "reasonable consideration against overcrowding of the land, undue density of population, in relation to community facilities, danger and congestion in travel" by failing to analyze such impacts and thereby plan for them. The proposed Zoning Ordinance does not give reasonable consideration to the

preservation of Agricultural or Forestal Land, as required by this section of Virginia Code, by eliminating the Agricultural Forestal District designation and by rezoning thousands of acres of Prime Farmland. The proposed Zoning Ordinance fails to give consideration "to the creation and preservation of affordable housing" as evidenced by the removal of provisions such as the Affordable Housing Bonus, single-wide manufactured homes in all zones, and the Mobile Home Park zoning district. The proposed Ordinance fails to give consideration to the protection of surface and ground water" by increased density and decreased shoreline widths in waterfront areas, and by the elimination of Chesapeake Bay Act protections from the seaside.

15. The proposed Zoning Ordinance is not in compliance with VA Code 15.2-2284, which requires that Zoning Districts shall be drawn and applied with reasonable consideration the existing uses and character of the property as evidenced by the extensive by-right uses proposed throughout all districts, without consideration for the suitability of these uses. The Virginia Code also requires studies to evaluate trends and future requirements for various community needs and services. No studies have been done to this end. This section of Code also requires the conservation of public resources and the preservation of flood plains, which is not met within this Ordinance. The elimination of the Chesapeake Bay Act on the seaside, decreased waterfront lot widths and increased waterfront densities all place these public resources at risk, without any studies done to evaluate the extent of these risks. This section of the Virginia Code also requires protection of life and property from impounding structural failure, a requirement not met by this proposed Zoning Ordinance due to the vague nature of definitions, and weak performance standards at the same time a large number of uses by-right are proposed throughout all districts. This section of Code also requires reasonable consideration to the protection of agricultural and forestal lands, the intent of which is not met with the removal of the Agricultural Forestal District designation. The protection of properties and their values is required by this section of Code, however, the proposed Ordinance does not meet this intent due to the extensive utilization of by-right uses throughout all districts, likely harming property values. No evaluation of this impact has been done. This section of Code requires consideration of the most appropriate use of land throughout the locality, which is not evident in the proposed Ordinance as seen by the rezoning of Prime Farmland to residential use and by the elimination of the Working Waterfront district.

## PART II: COMPREHENSIVE PLAN

The Virginia Code does not require the County to have a zoning code; however, the Virginia Code absolutely requires the County to adopt a Comprehensive Plan. (See, Virginia

Code Section 15.2-2223.) A zoning code is one of the tools made available by the Commonwealth to local governments to implement the Comprehensive Plan. (See, Virginia Code Section 15.2-2224(B).) The close relationship of the Zoning Code to the Comprehensive Plan allows for the studies, data and analysis of the Plan to be utilized in support of the Zoning Code, and allows for the Zoning Code to execute the Land Use portion of the Plan and other policy objectives such as agriculture and natural resource protection and affordable housing (commonly referred to as *vertical integration*). The fundamental justification for both planning and zoning to be vertically integrated is so that public resources are expended on public facilities in the most efficient and cost-effective manner (e.g., extension of sewer and water infrastructure, construction of new schools and community facilities, emergency response, new road construction, etc.). Although individual Zoning decisions might be justified if not in complete conformance to the Comprehensive Plan, we have not found any Counties where a complete Zoning Code was adopted even though it was in direct conflict with the community's Comprehensive Plan. According to the Albemarle County Land Use law Handbook, decisions that conform to the Comprehensive Plan are more likely to be found "reasonable;" logically, it would follow that a complete Zoning Code that was not in conformance with the Comprehensive Plan might not be found "reasonable." (See, page 9-1.)

The current Zoning Code, amended in October 2009, was developed to reflect the community input and planning articulated within the 2008/2009 Comprehensive Plan Update. It was abundantly clear that residents of Northampton County do not want to sacrifice the tourism, agriculture and aquaculture industries, and fragile environmental resources, in order to promote uncontrolled residential sprawl development throughout the County. This was true in 2009, and it was confirmed in the 2012 public input meetings held in support of the current Comprehensive Plan update.

The land use patterns of Northampton County are historical in nature: early American settlements surrounded by lands that have been farmed since the first Europeans arrived on this continent. The 2008/2009 Comprehensive Plan Public Input component shows that the residents of Northampton County respect and cherish the historical settlements as well as the agricultural and ecological nature of the area and want to preserve the community character through planning, zoning and financial incentives such as Agriculture/Forestal Districts. Sewer and water infrastructure is intended to be provided in areas central to growth where existing systems can be expanded, such as the Cape Charles and Exmore Town Edges. Expansion of infrastructure requires a higher density population growth potential and commercial or industrial land uses; the 2008/2009 Comprehensive Plan focuses growth in the areas closest to existing infrastructure (the Towns) and discourages sprawl in the outlying areas by limiting the new residential development to low density Agriculture and Existing Subdivisions. Hamlets and

Villages are also seen as potential growth areas where higher densities and varied land uses can be supported, infill development promoted, and eventual public sewer and water anticipated with proper planning. The existing Comprehensive Plan and Zoning Code rely upon the County's ability to execute expansion of infrastructure into the Town Edge areas for economic development, affordable housing and protection of the environmental resources such as ground and surface waters. The failure of the County to accomplish any infrastructure improvements cannot be fixed by this proposed new Zoning Code – in fact, this proposed Zoning Code would remove any incentive to develop land in closest proximity to the existing infrastructure that can be most easily expanded.

The chart that follows identifies the areas of most egregious conflict between the proposed Zoning Code and the 2008/2009 adopted Comprehensive Plan and Future Land Use Map:

| **2008/2009 Comprehensive Plan – Part 1, Section 1 – Public Input** | **Proposed Zoning Code and Other Amendments, Inconsistencies** |
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| **1.2.3 Housing affordability**—should focus on infill development and rehabilitation of existing structures -- *Housing* | • No attention to this concept in proposed Zoning Amendments; proposed Zoning Amendments promote new development outside of existing settlement areas. |
| **1.2.4 Economic Development**—find ways to strengthen agriculture, seafood-based industries and water-related activities for economic development, but also as a crucial part of maintaining the county's rural character and traditional development pattern of towns and villages-- *Economic Development* | • Elimination of seaside Bay Act protection, decreased shoreline lot frontage, permitted rezoning to residential in Agriculture Districts, non-compatible uses in Agriculture Districts and on working waterfronts, all jeopardize the traditional county industries and the resources needed to sustain them. |
| **1.2.5 Community character and development pattern**—generally favored compact development forms, traditional townscapes and working agricultural landscapes-- *Housing & Economic Development* | • Permitted rezoning to high density residential PUDs, higher density Residential Districts and Commercial and Industrial uses in residential and agricultural areas undermines this repeated community aspiration. |
| **1.2.7 Community facilities and infrastructure**—new development brings demand for services that may stretch the county's financial capabilities— | • No adequate government services policy has been established to deliver or fund services for widespread residential development.<br>• By Right uses and densities eliminates most rezoning and removes negotiating |

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| identified "conditional zoning" as one way to address infrastructure needs-- *Housing* | ability from the county. |
| **<u>2008/2009 Comprehensive Plan – Part 1, Section 1 – Vision Statement</u>** | **<u>Proposed Zoning Code and Other Amendments, Inconsistencies</u>** |
| Preserve rural development pattern; direct new development to towns and villages-- *Housing & Economic Development* | • Permitted rezoning to high density residential PUDs, higher density Residential Districts and Commercial and Industrial uses in agricultural areas undermines this repeated community aspiration.<br>• Elimination of Town Edge Districts reverts many areas to Agriculture District density (1:20) |
| Develop a healthy, sustainable local economy based on Agriculture, Aquaculture, recreational tourism and compatible industries-- *Economic Development* | • Removal of seaside Bay Act protections, lack of meaningful Performance Standards for rezoning, lowered setbacks for intensive agriculture, by-right non-compatible uses on farmland and in residential neighborhoods and removal of working waterfront protections all undermine this community aspiration |
| Preserve natural resources that serve as the foundation for the local economy—*Economic Development* | • Removal of seaside Bay Act protections, lack of meaningful Performance Standards for rezoning, lowered setbacks for intensive agriculture, by-right non-compatible uses on farmland and in residential neighborhoods and removal of working waterfront protections all undermine this community aspiration.<br>• Uncontrolled residential sprawl development threatens the sole source aquifer. |
| Ensure new development is located and scaled to be compatible with historic settlements and structures, and varied enough to meet the needs of all income groups-- *Housing* | • Lack of intent statements eliminates any requirement for compatible development, or for inclusionary housing. |
| Subdivision design standards, to preserve open space and rural character--*Housing* | • Removal of Lot Area Ratios for any development will eliminate standards which would preserve open space, control drainage issues in flood prone or low-lying areas and ensure compatibility with rural character.<br>• Lack of meaningful criteria and |

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| | Performance Standards for PUDs will have the same effect. |
| Established standards for Village development to assure architectural compatibility and consistency with scale and density of surrounding areas-- *Housing* | • Lack of intent statements eliminates any requirement for compatible development. |
| Protect the agricultural industry from encroachment, by using sensible land use guidelines-- *Economic Development* | • Permitted non-AG uses in AG District, many industrial, commercial, recreational and institutional uses By Right, will all encroach on farming operations.<br>• Permitted Rezoning to R, R-1, R-2, R-3, R-5 or PUDs in any District, including Agriculture, will provide incentive to convert productive farmland to other uses. |
| Protect the aquaculture industry with careful land use planning to ensure coastal waters remain clean and productive and working waterfronts remain viable-- *Economic Development* | • Permitted rezoning to high density residential, reducing shoreline lot frontage, removal of Bay Act protection on the seaside and permitting non-water dependent uses on working waterfronts will adversely impact both the resources and operating areas necessary to a thriving aquaculture industry. |
| Direct development away from sensitive natural areas including sensitive waterfront lands, flood prone areas and wetlands-- *Housing & Economic Development* | • Removal of seaside Bay Act protections, lack of meaningful Performance Standards for PUD rezoning, lowered setbacks for intensive agriculture, by-right non-compatible uses on farmland and in residential neighborhoods will all impact adjacent natural areas<br>• Removal of Lot Area Ratios for any development will eliminate standards which would preserve open space and control drainage/stormwater runoff issues in flood prone or low lying areas. |
| **2008/2009 Comprehensive Plan – Part 1, Section 2: The Land Use Plan** | **Proposed Zoning Code and Other Amendments, Inconsistencies** |
| Design Goals:<br>1. Promote compact development forms that both preserve open space in rural areas and maintain distinct town and village edges in settlement areas.<br>2. Promote infill development in existing towns | 1. New Residential Districts of large-lot subdivision (R-3 and R-5) are not compact or clustered and encourage sprawl.<br>2. New Residential Districts and elimination of Existing Subdivision District promotes new residential growth |

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| and villages and rehabilitation of existing structures.<br>3. Allow for a range of residential densities, particularly in designated development areas, to provide housing options varied enough to meet the needs of all incomes.<br>4. Ensure new development is appropriately located and scaled to be complementary extensions of existing settlements and structures and, where appropriate, the rural landscape.<br>5. Promote consolidation of existing entrances and minimize the creation of new entrances to improve the safety of the U.S. Route 13 corridor | in Agricultural land, rather than in the existing settlement areas.<br>3. Higher densities allowed in new development than is currently the normal density will lead to development that is not complementary to existing settlements.<br>4. Widespread by-right commercial and industrial uses with no meaningful performance standards do not ensure appropriate location and scale of new development.<br>5. Elimination of Route 13 Overlay District threatens the safety and appearance of the Route 13 Corridor |
| 2.1.1 Land Use Planning Goals<br>• Direct new residential development to areas in or adjacent to existing towns and villages – where there is the greatest potential for central utilities and adequate public services – *Housing*<br>• Ensure that new development is located according to policies and the Future Land Use Map in this Plan – *Housing and Economic Development*<br>• Direct new industrial and business development to limited areas in and adjacent to existing towns and to key locations near the Cape Charles harbor and the railroad – *Economic Development* | • Elimination of Town Edge Districts reverts many areas to Agriculture District density (1:20)<br>• FLUM has been disregarded in the proposed Zoning amendments<br>• Rezoning to Commercial and Industrial PUDs, with no meaningful criteria or Performance Standards, undermines this land use goal<br>• By-right Industrial and Commercial Uses in residential and Agriculture districts disregards this land use goal |
| Land Use and Community Design Policies: | |

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| 1. Accommodate growth where it can be supported by infrastructure improvements<br>2. Maintain existing community character which supports heritage, culture and nature based tourism<br>3. Preserve natural resources that support agriculture, aquaculture, eco-tourism and maritime activities. | • Elimination of Town Edge and addition of new Residential Zones promotes development outside of areas supported by infrastructure capabilities.<br>• All Zones have been upzoned by allowing an additional dwelling unit "guest house" by-right, resulting in higher net densities outside of infrastructure areas.<br>• New commercial and industrial uses without Special Use Permits in agriculture areas undermine the county's rural character.<br>• Upzonings and permitted rezoning to high density residential and PUDs undermine the natural landscape and rural character.<br>• Removal of Chesapeake Bay Preservation Act from the Seaside, high density Residential Development in the Villages of Willis Wharf and Oyster, high density Residential Zoning Districts throughout the watershed of the Bayside and Seaside, narrow lot shoreline widths, and multiple industrial and commercial uses without Special Use Permits will all contribute to the degradation of water quality, wildlife habitat, groundwater resources, and other natural resources of the County. |
| Conservation District:<br>• 1 dwelling unit/50 acres<br>• No public sewer and water<br>• No community facilities other than parks and outdoor recreation | • Increased density by-right with allowance for additional dwelling unit "guest house."<br>• By-right uses include biomass facilities, research facilities, basic utilities (which could include coal fired power plants, among other generation facilities), which are clearly in direct conflict with the Conservation District. |
| Rural / Agriculture Areas:<br>• 1 dwelling unit/20 acres<br>• Rezoning to higher density is discouraged<br>• New residential should be clustered<br>• No sewer and water<br>• Minimal community facilities<br>• Transportation improvements focused on Agriculture needs | • Increased density by-right with allowance for additional dwelling unit "guest house."<br>• No limitation on rezoning to higher intensity Residential District or PUD, in direct conflict with the Plan.<br>• Many non-agricultural, commercial and industrial uses by-right, which encourages the conversion of farmland to development.<br>• No limitation on rezoning to higher intensity commercial and industrial with associated public sewer and water. |
| Hamlet (e.g., Bethel Church, Birdsnest, Culls, Marionville, Pat Town, Wierwood):<br>• 2 dwelling units/acre | • Density increased to 4 MF/acre; even higher with "guest house" density allowance.<br>• Many high impact non-compatible, |

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| • Infill with SF residential<br>• New structures of same scale and type<br>• No public sewer and water<br>• Not preferred location for county-owned facilities other than parks | commercial, recreational and industrial uses allowed By-right, with no Notice to residents, and no assurance that development will be compatible.<br>• Elimination of Lot Area Ratios for any development will eliminate standards which would preserve community character and manage stormwater issues in flood prone or low lying areas. |
| Waterfront Hamlet (e.g., Bayford, Redbank, Cherrystone Landing):<br>• 2 dwelling units/acre<br>• Residential infill<br>• Small scale business, institutional, employment uses<br>• Working waterfront<br>• No public sewer and water<br>• Not preferred for County-owned facilities other than parks | • Consolidated with Hamlet zone; density increased to 4 MF/acre; even higher with "guest house" density allowance.<br>• No protection for Working Waterfront<br>• Many high impact non-compatible, commercial, recreational and industrial uses allowed By-right, with no Notice to residents, and no assurance that development will be compatible.<br>• Elimination of Lot Area Ratios for any development will eliminate standards which would preserve community character and manage stormwater issues in flood prone or low lying areas. |
| Village (e.g., Capeville, Cheapside, Hare Valley, Machipongo, Martin Siding/Reedtown, Townsend, Treherneville):<br>• 2 DU/ac – SF<br>• 4 DU/ac – MF<br>• Mixed housing types<br>• Preferred location for community facilities<br>• Community sewer and water not prohibited but requires planning. | • All densities increased by addition of by-right "guest house."<br>• Elimination of Lot Area Ratios which preserves community character and open space could exacerbate stormwater drainage issues in flood prone and low lying areas.<br>• Many high impact non-compatible, commercial, recreational and industrial uses allowed By-right, with no Notice to residents, and no assurance that development will be compatible. |
| Waterfront Village (Willis Wharf and Oyster):<br>• 2 DU/ac<br>• Working waterfront<br>• Conform to Vision Plans<br>• Waterfront-related uses that are compatible in scale, proportion and impact<br>• Mixed use buildings<br>• No residential in harbor and working waterfront<br>• Preferred location for community facilities<br>• Community sewer and water not prohibited but requires planning | • Increase in residential densities that are not in line with Vision Plans.<br>• Density of 4 SF or MF dwelling units/acre is a large increase from the current 2 DU/ac.<br>• Conversion of extensive acreage from Rural Waterfront Village – 1 District (1 du/10 ac.) to Village District (4 DU/ac) jeopardizes surface water quality by stormwater runoff from developed parcels and exacerbates stormwater runoff impacts on the land.<br>• No protection for working waterfront. |

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| Existing Subdivision (e.g., Vaucluse, Waverly, Wilsonia Landing, Butler's Bluff, Chesawadox, Highland Heights, Tower Hill):<br>• Single use rural subdivisions<br>• No sewer/water<br>• No expansion<br>• Infill only<br>• 2 DU/acre – 1 DU/3 acre<br>• No non-residential development<br>• No community facilities except for recreation | • Removal of this Zoning District impacts rights of lot owners in Existing Subdivisions.<br>• Proposed conversion of Existing Subdivisions to proposed new Residential Districts would include numerous by-right commercial and industrial uses (e.g., basic utilities, biomass, assisted living facility) which compromise the residential nature of the Existing Subdivisions.<br>• Proposed conversion of Existing Subdivisions to proposed new Residential Districts would increase allowable density and intensity of use by allowing by-right guest house, and multi-family units. |
| Existing Cottage Community (Battle Point, Downings Beach, Silver Beach, Smith Beach):<br>• No new developments, infill only<br>• No rezoning<br>• Single family development only<br>• 2 DU/ac<br>• No nonresidential development except for by SUP or home occupation<br>• No public sewer and water<br>• No community facilities except for recreation | • Proposed Zoning Code allows new Cottage Communities to be created with NO minimum Density, NO minimum shoreline width, NO minimum lot size in direct conflict with the Comprehensive Plan which limits the development to 2 DU/acre.<br>• The Proposed Zoning Code allows numerous commercial and industrial activities "by-right" rather than by SUP. |
| Town Edge (Adjacent to Towns, future expansion of Towns, and may be served by Town facilities):<br>• 1 DU/2 acres to 5 DU/acre<br>• Public sewer and water<br>• Neighborhood-oriented commercial<br>• Cluster, compact and mixed use that preserves community spaces | Elimination of Town Edge converts many areas to Agriculture Density (1 DU/20 acres). |
| The Comprehensive Plan does not include any new Residential Zoning Districts outside of the Town Edge, Hamlet and Village areas due to:<br>• No public sewer<br>• No public water<br>• Cost of providing public services to widely dispersed populations – transportation, school bus, emergency medical, fire and public safety response.<br>• Surplus of available Residential lots within the County with low demand | The Proposed Zoning Ordinance creates five (5) new Residential Zoning Districts outside of the Town Edge, Village and Hamlet areas: R, R-1, R-3, R-5 and RM. Densities for these new districts are as follows (note that densities do not include the by-right accessory dwelling unit allowed for each SF unit):<br>R: 1 SF or MF dwelling unit/20,000 sq. ft. |

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| | R-1: 1 SF or MF dwelling unit/1 acre<br>R-3: 1 SF or MF dwelling unit/3 acres<br>R-5: 1 SF or MF dwelling unit/5 acres<br>RM: 1 SF dwelling unit/20,000 sq. ft or 1 MF dwelling unit/10,000 sq. ft.<br><br>The proposed Zoning Code offers no planning for the community services, emergency services, facilities, transportation, sewer and water infrastructure and schools that would be required in order to support this new Residential development. The proposed Zoning Code does not consider the impacts to groundwater, surface waters, shorelines, affordable housing, aquaculture needs, agriculture preservation, and historical resources from these new Residential Districts. |
| **2008/2009 Comprehensive Plan – Part 1, Section 5: Environment and Natural Resources Plan** | **Proposed Zoning Code and Other Amendments, Inconsistencies** |
| 5.4.Groundwater Protection. d. Continue to implement the Chesapeake Bay Preservation Act on a County-wide basis | The proposed Amendment to the Bay Act removes the Bay Act protections on the seaside; in direct conflict with the Comprehensive Plan. |
| 5.4.Groundwater Protection. e. Study and implement zoning regulations to protect and manage selected recharge areas and other groundwater-sensitive areas. | The proposed Zoning Code fails to address development standards to protect groundwater. |
| 5.4.Groundwater Protection. i. Develop standards for industrial development that will protect groundwater. | The proposed Zoning Code fails to include any performance standards for Industrial Activities that would address groundwater protection. |

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| 5.5.Natural Environment and Marine Habitats.u. Continue to implement the Chesapeake Bay Preservation Act on a County-wide basis. | The proposed Amendment to the Bay Act removes the Bay Act protections on the seaside; in direct conflict with the Comprehensive Plan. |

**PART III: VIRGINIA CODE-ZONING**

The proposed Zoning Code does not comply with Virginia Code 15.2-2200, Declaration of Legislative Intent, in that development is being proposed throughout the County, without any planning to meet infrastructure needs of this sprawl form of development. The intent of this chapter is to encourage localities to improve the public health, safety, convenience and welfare of their citizens and to plan for future development of communities to the end that transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities.

> Density in the Agricultural zone is proposed to increase 400%, with 61% of that increase proposed in waterfront areas. These are areas furthest from infrastructure support and in areas that already exhibit poor water quality, with coliform bacteria contamination, and saltwater intrusion. These are areas served by often poorly maintained secondary roads, many of which flood regularly, and are areas already identified as being at high risk in relation to emergency response when the hospital moves.
>
> The infrastructure needs, public health needs, and the needs related to the convenience and welfare of the County's citizens related to the increased density that is proposed have not been analyzed and therefore no planning has been done to meet the needs described within this intent statement.

Chapter 15.2-2200 also states that "residential areas be provided with healthy surroundings for family life".

> The proposed Zoning Code recommends allowance of a huge number of uses by right, in residential areas. Most other municipalities utilize the Special Use Permit process extensively, as a means of protecting neighboring property owners property values and quality of life. Many of the proposed uses are potentially

hazardous and definitions are very vague, requiring a great deal of time already by the Planning Commission and County Staff to rewrite definitions. Allowing some of the proposed uses could be very hazardous to citizens. As an example, the Economic Development Director acknowledged, when a Planning Commission member noted that the category of use "Waste Related" could involve toxic waste dumping, "Yes, it could be very ugly." The Planning Commission voted to change the use to requiring a special use permit in the Industrial and Commercial zones, versus by right, based on the discussion.

The proposed Zoning Code also recommends removal of the Planning Commission from the review of Special Use Permits. This eliminates the value that the Planning Commission brings to the process in terms of research, and eliminating this review is a disservice to the citizens of the County.

This Chapter also states that the needs of "agriculture, industry and business be recognized in future growth."

The state of Virginia includes Aquaculture within the definition of Agriculture. The needs of these industries, which are a core part of the economy of the County, are not addressed with the changes proposed within this Zoning Code. The removal of the Chesapeake Bay Act from the seaside has the potential for adversely affecting water quality on the seaside, harming the Aquaculture industry. The impact of this change has not been studied, as acknowledge by Charles McSwain at the Public Hearing related to the proposed Ordinance on March 11, 2014. Two thousand eight hundred and fifty five acres of Prime Farmland are proposed to be rezoned to residential use, without any rationale for this rezoning. This removes Prime Farmland from its best use and increases the tax burden on those property owners.

VA Code 15.2-2200 also intends to "encourage the preservation of agricultural and forestal lands."

The current Agricultural Forestal designation is proposed to be eliminated. No analysis of alternative programs to encourage protection of these lands and to provide incentives for farmers has been done. Residentially developed lots utilize more in services than agriculturally designated zones. No analysis of this

differential and the impacts of the proposed changes has been done.

The code also specifies that "the growth of the community is to be consonant with the efficient and economical use of public funds."

As noted above, the Current Comprehensive Plan addresses this by encouraging growth in and around towns where infrastructure is available. The proposed sprawl type of development does not encourage efficient use of public funds.

VA Code 15.2-2283 "Purpose of Zoning Ordinances" states that Zoning Ordinances shall be for the general purpose of accomplishing the objectives of 15.2-2200 (Declaration of Legislative Intent). To these ends, such ordinances shall be designed to give:

Reasonable consideration to (i) provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structural failure, crime, and other dangers" (ii) "reduce or prevent congestion on the public streets."

Traffic impacts of the proposed increases in density on US Route 13 and on secondary roads have not been evaluated, despite the fact that US Route 13 is one of the most dangerous highways in the state and that many of the secondary roads are not well maintained and that they flood regularly.
Convenience of access with the development sprawl proposed has not been considered.

Increased development in flood prone areas and areas at risk for storm surge is proposed, putting citizens living in those areas and first responders at risk.

Reasonable consideration shall be given "(iii) facilitate the creation of a convenient, attractive and harmonious community."

The proposed Zoning Ordinance has eliminated Intent Statements from each zoning district, despite the fact that most, if not all, of the Zoning Ordinances of other municipalities do utilize Intent or Purpose Statements clarifying the purpose of each district. Feedback from the public workshops held after this proposed Zoning Code was drafted supported reinserting Intent Statements in the Ordinance. The current Zoning Ordinance includes carefully crafted Intent

Statements, which clearly define each zoning district. The stated desires of the citizens of the County are not adhered to with the establishment of zones that have no clear intent and with the allowance of a huge number of by right uses virtually anywhere in the County. The lack of a stated intent does not promote the creation of an attractive and harmonious community.

Reasonable consideration shall be given "to (iv) facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements."

The proposed increases in residential density would strain police and fire protection, especially since the development pattern proposed is one of sprawl.
Very vague definitions of some potentially intense uses such as Basic Utilities, Residential Facilities, Civic Groups, Clubs and Organizations, Industrial Services, etc, have been provided within the proposed Ordinance. Many of these uses do not include performance standards or reference to scale for the use and are proposed to be used in all zones, including residential areas. These uses may include high traffic impacts, with heavy truck traffic and/or increased trips per day in areas ill-suited to such uses, with resultant increase in infrastructure needs and costs. These potential impacts have not been analyzed or planned for.

Planning for the various needs referenced in the code is difficult due to lack of clarity. Clearer definitions, references to scale and performance standards are needed.

Reasonable consideration shall be given to "facilitate the provision of water".

As noted previously Northampton County utilizes a sole source aquifer, fed only by rainfall, rather than by lakes and rivers. Salt water intrusion has already compromised water sources in portions of the County. US Route 13 sits atop the prime recharge area for the County's sole source aquifer. Unplanned development puts citizens of the County at risk by increasing the risk of salt water intrusion and potential contamination of the entire ground water supply for the County.

Consider the provision of sewerage.

> Development near available infrastructure is the most cost effective means of meeting this need. The current Zoning Ordinance supports development in and around towns, where infrastructure is available. The proposed ordinance promotes sprawl, including increased waterfront development in areas already exhibiting compromised water quality and dependent on septic systems. The County does not currently enforce its own policy to monitor septic system failures.
>
> The PUD ordinance, as presented, is weak, with the very real potential of leaving the County responsible in the future for numerous, incompatible, failed waste treatment systems

Reasonable consideration to (v) protect against the destruction of or encroachment upon historic areas.

> The removal of intents removes protection against encroachment upon historic areas, such as Hamlets. The Hamlet Zone is proposed to remain, but without any clarification for the purpose of the zone.

Reasonable consideration to (vi) encourage economic development activities that provide desirable employment and enlarge the tax base."

> No justification for the Proposed Zoning Ordinance has been provided to support how the proposed changes would enhance economic activity and how they might provide desirable employment. Staff has been asked to identify categories of employers that did not locate to Northampton County due to the Zoning Ordinance or SUP process and have not provided any data related to this request.

Reasonable consideration to (vi) protect against the overcrowding of land, undue density of population in relation to community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life from fire, flood, and impounding structure failure, panic and other dangers.

> No studies have been done regarding the impact of any of the proposed changes

on population density and the related impacts on community facilities, on traffic, etc.

Reasonable consideration to (viii) provide for the preservation of agricultural or forestal lands".

As noted earlier, the current Agricultural Forestal Designation is slated for removal with this proposed Zoning Ordinance.

Reasonable consideration (x) to the creation and preservation of affordable housing suitable for meeting the current and future needs of the planning district."

The proposed Zoning Code removes current provisions such as the Affordable Housing Density Bonus, single-wide manufactured homes in all zones, and the Mobile Home Park zoning district, having a negative effect on the availability of affordable housing in the County.

Reasonable consideration to (xi) protect surface water and ground water.

As noted earlier, the County is reliant upon a sole source aquifer to provide drinking water to the citizens of the County, with the recharge spine located under US Route 13. This groundwater has already been compromised and no studies have been done to evaluate the effects of the proposed Zoning Ordinance on the sole source aquifer.

Clean surface waters surrounding the County are critical to the Aquaculture Industry and to water based tourism activities, both key components of the economy of the County.

VA Code 15.2-2284 states that Zoning Districts shall be drawn and applied with reasonable consideration for the existing use and character of the property

No rational has been provided regarding the rezoning of properties as it relates to the existing use and character of the property

the suitability of the property for various uses

Extensive by right uses are recommended in all districts without consideration for the suitability of the use within each district

the trends of growth or change, the current and future requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services

Studies to support the extensive changes proposed have not been done, nor have studies related to the impact of the proposed changes. In fact, at the Public Hearing regarding the proposed Zoning Ordinance, held March 11, 2014, the Director of Economic Development was asked what studies had been utilized to prepare the changes in this Zoning Ordinance. Mr. McSwain responded "we have limited studies on issues of that nature, however the planning process we went through for the past ten years gave us a lot of insight." In fact, public input over the last ten years does not support the changes proposed.

the conservation of public resources, the preservation of flood plains,

Again studies have not been done to evaluate the impact of proposed changes in Zoning on public resources such as the surface waters and ground water. In fact, members of the community have beseeched the Board of Supervisors to call on experts to testify about issue such as the lifting of Chesapeake Bay Act Protections from the seaside, decreased lot widths, and increased waterfront densities. The Board has not acted upon these suggestions.

the protection of life and property from impounding structural failures

Very vague definitions make evaluation of potential threats to life and property from structural failures related to uses difficult. The elimination of the Planning Commission from the SUP process makes evaluation of these threats more cumbersome for the Board of Supervisors.

the preservation of agricultural and forestal land

As noted previously, the proposed Ordinance would eliminate the Agricultural Forestal program, creating challenges in the consideration of the preservation of these lands

the conservation of properties and their values

By right uses throughout the County are proposed in this Ordinance, many of which could have a negative effect on property values. At the Public Hearing of March 11, 2014, the Director of Economic Development was asked if studies had been done to determine what the potential impact of many of these uses could have on residential property values. The answer was "no".

the encouragement of the most appropriate use of land throughout the locality

As noted earlier, the proposed ordinance recommends the residential development of thousands of acres of Prime Farmland, removing this resource from its best use.

The Working Waterfront designation is recommended for removal in the proposed ordinance. This removes a use required by the vibrant aquaculture industry.

* * * * *

Mr. Art Schwarzschild read the following comments:

TO: Northampton County Board of Supervisors

FROM: Art Schwarzschild
4231 Willis Wharf Rd

SUBJ.: Proposed zoning changes

DATE: June 10, 2014

Dear Members of the Northampton County Board of Supervisors.

Tonight's meeting of the Northampton County Board of Supervisors will be an informative event. This is your first opportunity to vote on the zoning changes that you and the county staff are proposing. You know I am very much against these changes, as are the many fellow Northampton County Citizens who have publically addressed you at your previous meetings. Statements made by you and the county staff during these past few months concerning what you have termed a "zoning amendment" have been widely divergent and confusing on this issue. As

a result, I will be very interested to witness how you respond to the public outcry against this new zoning proposal at your meeting tonight. Before your actions, however, I would like to take one more opportunity to voice my opinion on this issue.

After much thought I have come to the conclusion that I can sum up my feelings concerning the proposed changes to the Northampton County Zoning and the process by which these changes were developed with 2 words…..Unprecedented and Offensive. Please allow me to elaborate:

**Unprecedented**: The Board of Supervisors acting as a petitioner to put forward a "Zoning Amendment" that is in actuality a complete re-write of the county's zoning code.

**Offensive:** The Board of Supervisors and County Staff developing a "Zoning Amendment" that makes sweeping changes to the zoning ordinances in multiple communities without seeking public input into the development of these zoning changes. Most specifically, failure of anyone from the BOS or County Staff to meet with residents from the Waterfront Villages of Oyster or Willis Wharf before proposing changes that would reverse all the efforts these communities put forth to create their Village Vision Statements and get the Waterfront Village Zoning designation adopted into the county comprehensive plan and zoning ordinance.

**Unprecedented:** The Board of Supervisors setting an impossible timeline for the Planning Commission to review the massive zoning changes being proposed and stating that should the Planning Commission fail to meet this deadline the BOS would be justified in enacting the "Zoning Amendment" as written with no consideration of Planning Commission input/comments.

**Offensive:** The Chairman of the Board of Supervisors admonishing citizens attending a public meeting that anyone issuing "threats" would be gaveled down, when the "threats" he was referencing were citizens informing the Board of Supervisors that they were considering using their constitutional rights to initiate law suits or recall petitions against a Board that has repeatedly failed to listen to its constituents and continually acts in a manner directly contradictory to the stated preferences of the citizens the board was elected to represent.

**Unprecedented:** Not one, not two, but three former members of the Board of Supervisors speaking out at one public meeting, begging the current board members to reconsider the actions the board has taken in proposing massive changes to the zoning ordinance. Please note, all three of these former board members were very popular with their constituencies, and were NOT voted out of office. Instead, they gracefully stepped down after their terms had expired. In my opinion, any one of these former board members would easily win re-election if they decided to run again.

**Offensive:** The very notion that this Board of Supervisors would consider removing Chesapeake Bay Act protection from the sea-side of Northampton County without first putting in place significant safeguards to ensure the continued protection of the pristine water quality found on our sea-side. Even more offensive, the unmitigated gall that this Board of Supervisors has the hubris to believe it can determine if these safeguards are needed without any input from the large scientific community that has spent the past several decades studying this very area.

**Unprecedented:** The fact that this Board of Supervisors, claiming the desire for development and strengthening of the local economy would risk destroying a growing economic driver (our expanding Aquaculture industry) for the pipe dream of developers creating another Chincoteague, Virginia Beach or Ocean City like resort community here in Northampton County, and while doing so, completely ignoring the public support that created the county's current Comprehensive Plan that cherishes the rural nature and small town, historic character of our communities.

Given the multiple Unprecedented and Offensive actions involved in the creation and advancement of the massive zoning changes being proposed I beg the Board of Supervisors to reconsider these actions. **Please** listen to the public outcry against this process and these proposed changes.

**Please** allow the Planning Commission the time it needs to completely and thoroughly review your "Zoning Amendment".

**Please** read and carefully consider the current recommendations from your Planning Commission and any future recommendations they may put forth should they be allowed to complete their review. **Please** seek out and listen to sound scientific advice concerning the potential impacts of removing Chesapeake Bay Act protection from the sea-side of Northampton County.

**Please** remember that you were elected to represent all citizens of Northampton County and to act on our behalf in support of the County Comprehensive Plan and Vision Statements of communities throughout the county.

Lastly, **please** make note that your actions tonight will speak volumes to this community and may be the legacy you leave us, forever marking the way you will be remembered as a public servant and representative of this community.

Sincerely,

Arthur Schwarzschild
4231 Willis Wharf Road
Chairman Willis Wharf Village Steering Committee

* * * *

Ms. Elaine Bealle again spoke to the Board, noting that she wanted the public to understand the aforementioned programs. She said that the County needs businesses and needs population growth. She asked the Board to provide incentives to protect existing businesses, noting that the County's financial burdens will increase if the current stagnation continues.

Mrs. Kay Downing strongly urged the Board to retain the Planning Commission and the special use permit process, but only if applications were deemed to be detrimental to their neighbors. She said that the four special use permits approved last month represented a waste of staff time and taxpayers' moneys as no conditions were recommended by the Planning Commission or implemented by the Board and that the $250 permit fee was too high for many of the county's citizens. She said that she would like the Board to consider accessory living units and "condos" as a housing choice – a good option for the working class and retirees.

Mr. Larry Jones agreed that the special use permit process was "dangerous". He said that he had started an organic farming business in 1986, has been faced with arson and fraud and has been homeless for seven years.

Mrs. Mary Floyd Thomas said that she came from a farming family and was surprised to see that her property is proposed to be rezoned to residential. She said that it was not a good plan to strive towards the "Virginia Beach" model.

Mr. Larry Jones again addressed the Board, noting that he wanted to continue his organic farming business but that the County has cited him for a dangerous structure (located at 6172 Lankford Highway).

Mr. Wilson Cropp said that he owns property previously zoned as commercial in 200 and Town Edge in 2008 and is now proposed to be zoned as agriculture. He is contiguous to commercially zoned property and across-the-street from industrially zoned property. He requested similar zoning.

Ms. Katherine Horst said that she was baffled by why the Board is not offering comments on how the zoning amendments are beneficial to its constituents and questioned why the Board was supporting the amendments, whose interest was the Board serving, and what was the Board

getting out of it.

Mr. Ken Dufty said that he knew the zoning amendments were an attempt to bring businesses to the community and that the Board and citizens needed to sit down and work out their disagreements; i.e., “get on the same page”. He said that based on earlier comments, the Board may be considering not renewing agricultural-forestal districts when they expire and that if Northampton County is developed like Virginia Beach, the taxes will not go down. He said that there has to be a balance. Lastly, he invited the Board to attend the Groundwater Committee’s meeting on tomorrow.

Ms. Linda Nordstrom agreed with Mr. Dufty’s comments, indicating that there were so many “whys”. In going forward, she hoped that we can work together with information being provided to the citizens.

Two letters from Mr. Robert Richardson were read into the record:

June 9, 2014

TO: Board of Supervisors
Northampton County, VA

RE: Human pollution on the Seaside
In Area 1

Mr. Chairman and Members of the Board

After hearing many references to a huge wave of pollution on the seaside, if the Chesapeake Preservation Act is suspended I decided to quantify the amounts of pollution identified and documented in Area 1. My conclusions after due diligence regarding this matter are that in the past twenty three (23) years under the preservation act, no evidence of human pollution has been documented by any person or entity. Should anyone in Area 1 possess documented evidence of pollution they are called upon to come forward now.

Robert C Richardson

Robert C. Richardson
6365 Riverside Farm Lane
Seaview, VA 23310

June 9, 2014

TO: Board of Supervisors
Northampton County, VA

RE: Comprehensive Plan

Mr. Chairman and Members of the Board;

In the past several years the county has experienced extreme controversy regarding the comprehensive plan. I propose that the plan be replaced by a simple document that all county residents can read and understand in fifteen (15) minutes. The comprehensive plan will consist of five (5) parts and will be used to establish all ordinances, regulations, and rules. The parts are as follows:

1. A compelling need
2. Non discriminatory
3. Cost effective, cost neutral or cost offset
4. Required to benefit a majority of taxpayers
5. Ordinances, regulations or rules must be used a minimum of five (5) times annually or be eliminated

Robert C. Richardson

Robert C. Richardson
6365 Riverside Farm Lane
Seaview, VA22310

Chairman LeMond thanked the public for their comments and said that action on the proposed zoning amendments was not going to happen overnight.

Mr. Hubbard said that there were a lot of misconceptions which was very frustrating. He proposed a 90-day period where the Board would not act on the zoning ordinance amendments. The Chairman agreed, noting that the next three work sessions have been dedicated to this topic.

It was the consensus of the Board to continue its review and discussions relative to the proposed zoning ordinance amendments but to delay action on same for a period of ninety (90) days.

(11) Ms. Katherine H. Nunez, County Administrator, presented the following bi-monthly report.

(i) 6/23/14: Work Session: Proposed Zoning Ordinance Amendments
(ii) 7/28/14: Work Session: Proposed Zoning Ordinance Amendments
(iii) 8/25/14: Work Session: Proposed Zoning Ordinance Amendments

**TO:** Board of Supervisors
**FROM:** Katie H. Nunez, County Administrator
**DATE:** June 6, 2014
**RE:** Bi-Monthly Report

**I. Projects:**

A. Update on Morley's Wharf:
An obstruction below the water line was reported at the "double" boat ramp at Morley's Wharf earlier this spring and we have temporarily closed this ramp (we have left the single ramp open) while staff has been investigating the nature of this obstruction and how to solve this problem.

We have received a proposal from GMB to provide engineering services (see attached) at a cost of $$6,892. ***Since this is a harbor project, I am requesting Board approval to pay for this engineering service from the Harbor Improvement Account (#100-33300).*** All revenues collected from boat slip rentals or harbor fees are placed in a reserve account specific for improvements to

the County's harbors or boat ramps. Traditionally, we have used these funds to provide our match money for Port Authority Grants we receive. At this time, we need to do this preliminary engineering in order to determine what are the improvements that will need to be made, develop the scope of work as well as the application for a Port Authority Grant. I have attached the spreadsheet detailing the current balance of this account, for your information.

*Based on comments from Supervisor Hogg who indicated that he wished to make a personal investigation of this matter, it was the consensus of the Board to table action on this requested expenditure, pending Mr. Hogg's report.*

B. Public Service Authority:
The PSA met with a representative from Hurt & Proffitt to review progress drawings on the Southern Node Commercial Service Area. The Phase I flow projections they utilized are 20,000 – 60,000 gpd, based upon DEQ/Dept. of Health flow rates & the defined service area and types of uses in the service area. The cost estimate is still firm at $1.8 million. They are currently 75% complete on their scope of work and anticipate completion by end of June 2014.

Cape Charles has appointed Joan Natalie to the subcommittee that will be discussing a proposed agreement with Cape Charles for providing treatment services to the PSA. They anticipate making their second appointment at their meeting on June 19, 2014. Once I receive notification of that, then I will convene a meeting of this subcommittee to commence their work.

The next meeting of the Public Service Authority is Tuesday, June 24, 2014.

*Mr. Hogg questioned whether there had been any revision to the June date for completion by Hurt & Proffitt. He asked what were the volume limits to be imposed by the Town of Cape Charles and said that Hurt & Proffitt's understanding is not exactly 'where we want to be". He said that he thought the Board needs to give direction to the PSA and that the PSA's priority needs to be the medical complex in Nassawadox.*

C. 2014 General Assembly Legislative Summary:
Enclosed is the tracking of bills passed by the General Assembly for 2014 that affects local government. There may be legislation that requires the County to revises its ordinances or local policies and they have been flagged for review by the respective departments. I will have a full report on this for our next meeting.

D. Status on Proposed Zoning Ordinance:
The Planning Commission has provided their recommendation to the Board of Supervisors by the deadline of May 30, 2014. Staff has prepared a total of 3 work binders for each Supervisor and has scheduled the June work session to be the first of many work sessions on the proposed zoning ordinance.

* * * * *

Action Items:

(12) Consider approval of Fireworks Permits for Cherrystone Campground for Friday, July 4, 2014 and Sunday, August 31, 2014.

Motion was made by Mr. Hubbard, seconded by Mr. Hogg, that the Board approve fireworks permits for Cherrystone Campground for July 4, 2014 (rain date: July 5th) and August 31, 2014. All members were present and voted "yes." The motion was unanimously passed.

Matters Presented by the Board Including Committee Reports & Appointments

Motion was made by Mr. Bennett, seconded by Mr. Trala, that Rev. Charles Kellam be reappointed as Citizen Member to the Accomack-Northampton Planning District Commission for a new term of office commencing July 1, 2014. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that Mr. Michael Zodun be reappointed to the Eastern Shore of Virginia Broadband Authority for a new term of office commencing July 1, 2014. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Hogg, seconded by Mr. Bennett, that Mr. William E. Denny be appointed to the Social Services Board for a term of office commencing July 1, 2014. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that Mr. Marshall B. Cox, Sr. be reappointed to the Wetlands Board for a new term of office commencing July 1, 2014. All members were present and voted "yes. The motion was unanimously passed.

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the Board authorize the acceptance of a deed for the former Exmore-Willis Wharf School property (identified as Tax Map 10, Double Circle 4, Parcels 18A, 11B, A, A1, B and B1), contingency upon full payment of the delinquent taxes and the pro-rata share of the current year's taxes through June 30, 2014, at which time this offer shall expire. All members were present and voted "yes," with the exception of Mr. Bennett who voted "no." The motion was passed.

(13) Matters by Mr. Hogg.

Mr. Hogg asked for status reports on several items as he read the following issues identified below:

**CONTINUOUS DISCHARGE OF GROUNDWATER**

I note renewed activities in the Townfield Road area. Staff has renewed a permit.

There continues to be an issue with the CONTINUOUS DISCHARGE OF GROUNDWATER from the Columbia aquifer (upper groundwater aquifer).

It is my opinion the invert of the outfall pipe is located in the upper ground water aquifer. This is evidenced by water running out of the pipe for more than 5 years. It has been suggested to staff to raise the level of the spillway.

Northampton County has been declared a Critical Groundwater area. The agricultural community is encouraged to use irrigation ponds over installing wells and pumping from our drinking water sources. Further the Agricultural Community relies on the UPPER GROUNDWATER AQUIFER for irrigation for their and the County's well-being. Former County Agent, William Shockley, has reported to this Board the importance of retaining water for irrigation purposes.

Although Mr. McSwain's report goes back 5 years, the issue of RELYING ON BAD INFORMATION FROM THE ENGINEERING COMMUNITY and <u>the lack of understanding of provided information</u> goes back much longer and Northampton County has had knowledge that the INFORMATION exists. Northampton County has permitted this travesty to occur. Northampton County should have never permitted the pipeline installation to occur and the position that now that the pipeline is in place and is not illegal act is disturbing.

Staff may raise the issue of water quality. If the spillway is raised to the proper level there will be a water quality issue with the developer's stormwater management pond.

Each of you need to decide if the economy of the Agricultural Community and our community's ability to get a glass of water when they are thirsty is more important than water storage volume in a stormwater management pond that is designed for the possibility of the 100 year storm overflowing the banks of the existing pond.

Based on my reading of the report NO STEPS are being taken to REMEDIATE the issue and Staff is awaiting Guidance on this matter. Failure to address our future water needs far outweighs the NEED AND ABILITY TO CORRECT STAFF'S PAST ERROR.

Since no steps are being taken to correct the issue, I move to direct staff to direct the party they issued the permit, to construct an OUTFALL SPILLWAY at a height equal to the UPPER SEASONAL HIGHWATER TABLE. Based on the hydrologists comments that would be between 8.5' and 9.0'. Due to lack of a second, the motion failed.

> *Mr. Trala indicated that he did not have enough information to be able to vote. To that end, Mr. Charles McSwain, Development Director, was tasked to provide additional information to the Board.*

**Maintenance of STORMWATER MANAGEMENT facilities**
I have read the document prepared by Mr. McSwain.

There are several STORMWATER MANAGEMENT facilities that have been constructed within Northampton County. My observation like Mr. McSwain's is many of them indicate they are not performing as designed. To improve our county's image and demonstrate the desire of our community as well as being PROACTIVE to the NEW Storm Water Management Act regulations this is a good opportunity to bring attention to the responsible parties there is the need to maintain their improvements.

> *Motion was made by Mr. Hogg, seconded by Mr. Hubbard, that the Board direct staff to send a letter to all owners of properties where a Best Management Practice (BMP) was required for development and the BMP is not functioning as designed and inform them the BMP needs maintenance and to notify the county within 30 days of the letter to advise of the date they intend to begin maintenance. All members were present and voted "yes." The motion was unanimously passed. The letter should contain language providing them a grace period of thirty (30) days after which time the County may initiate enforcement action.*

In the interim, staff can look for whatever documentation they may have. After 90 days turn over the list of those BMP improvements that are still not functioning as designed for further processing.

**STATUS on the Hospital AD HOC Committee**
**At the March 11, 2014 Meeting**

The New Charge for the Ad-Hoc Emergency Services Committee was to be presented. Please advise on the Status.

*The Chairman reported that that the first meeting of the Committee since the new charge was issued was held at the end of May.*

**Signage as it applies to ECONOMIC DEVELOPMENT**
It is my understanding Northampton County has a sign within the Chesapeake Bay Bridge Tunnel Right of Way. Ms Nunez was instrumental in getting this sign installed. And I might add that it needs maintenance.

The Eastern Shore Tourism Commission, which this Board financially supports has a sign just north of the Welcome Center.

The Tourism Commission has another sign approximately 2 miles south of the Welcome Center. There is NO SIGN on the first island where the restaurant is located.

It appears adding the Website addresses to these signs could provide a small step to providing information of what Northampton County and Towns within the area served by the Tourism Commission have to offer to persons traveling through the area.

I move to request the County Administrator/Economic Director contact CBBT and determine what is required to upgrade and install signs at the aforementioned sites.

*The County Administrator indicated that the Tourism Commission sign is maintained through the VDOT "TOT" program and not subject to modification by the County. She was directed to investigate the need for repainting of the County sign within the CBBT right-of-way.*

**I refer to the minutes of April 8th,**

Mr. William "Alan" Vose brought forth the issue of Internet Service for the SECOND TIME. Northampton County has boasted the fact of having installed the "BACKBONE" for Internet Service. Based on Mr. Vose's comments there is a problem getting ACCEPTABLE Internet service at a reasonable cost to our constituents. Our constituents are interested in knowing what steps Northampton County has taken to resolve the matter. Please provide the public with information on our progress.

*It was noted that comments would perhaps be made with regard to this topic at the next meeting.*

**DISCUSSION WITH VDOT**
Mr. Singh of the Lankford Truck Plaza, indicated he was opposed to parcel 112-A-14 being rezoned Commercial for a PROPOSED TRUCK STOP.

Mr. Singh in his communication with this Board has pointed out that there are significant

dangers with TRUCK STOPS having access for crossing the medians whereby all traffic is blocked for short periods and several fatal accidents have occurred due to such TRUCK CROSSINGS within a short distance of his facility.

With the increase in traffic, safety issues as it relates to INGRESS and EGRESS of heavy slow moving vehicles and other changes will VDOT consider reviewing this matter further.

Based on the recent comments by VDOT there may be the opportunity to place a WARNING SIGNAL at the intersection of U.S. 13 and S.R. 646 (Townsend Drive).

*Mr. Hogg made a motion to request a resolution for VDOT to review the situation and the proposed resolution to the matter, but there was no second to the motion.*

*The County Administrator read an e-mail from VDOT with regard to this issue as set out below:*

*I have spoken to our Land Development Engineer (Dale Pusey) and he has recently had communications with a consultant Bryant Goodloe about the project back in December. In this conversation VDOT discussed Chapter 527 requirements and concerns for tractor trailer site access and internal site circulation. The consultant stated his intentions to further investigate traffic-related impacts of this project in January of this year but we have not heard anything more since then. The impacts asked to check were the entrances and the internal site to be sure that tractor trailers can use this crossover to exit to the north. They also said they would secure new turning movement counts at this crossover for the period of 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. we have yet to hear back from them. Finally they were advised that any TIA or engineering study must be based on current traffic data and current access management regulations will apply and that any Access Management exception request may have to be accompanied by a traffic engineering study.*

***Chris Isdell***
*Accomac Residency Administrator*
*Virginia Department of Transportation*

**At the March 11, 2014 Meeting**

The request for the Quarterly Status Report from the School Board. Items identified last fall by the School System. What is the Status?

*It is noted that a Facility Maintenance Plan update was provided to the Board at this meeting.*

**March 24, 2014 Meeting**
Supervisor Bennett requested information on the number of Homes without indoor plumbing.

I have read the comments from A-NPDC on how National Fish and Wildlife Foundation is going to pay the consulting firm of SKEO SOLUTIONS to perform a WINDSHIELD SURVEY to determine how many houses are without INDOOR PLUMBING on the Bayside of Northampton County.

I have no idea of what process the consulting firm intends to use to perform such a task. Without having some knowledge of how the consulting firm intends to verify their information I do not recommend participation in such a program.

I move staff make an inquiry to the Health Department in Nassawadox and request the information and report back to the Board with the information provided by VDH at the next Board meeting.

If the response comes as an e-mail, please forward the response to Board members e-mail addresses.

> *The County Administrator noted that without such survey, there was no way of obtaining an accurate accounting. Motion was made by Mr. Bennett, seconded by Mr. Trala, that a formal request be made to the ANPDC for the gathering of this information but to obtain a cost estimate first. All members were present and voted "yes." The motion was unanimously passed. It was suggested that there could possibly be grant funds available to cover the cost.*

**PSA MATTERS**

With Town of Cape Charles election over, There is a need for the PSA Subcommittee to convene.

At the PSA meeting on May 20, 2014, Hurtt & Profitt provided an update on the Design. In my opinion the Engineer does not have good information and direction. The engineer is on a schedule to complete design plans by the end of June. Has there been any revision to the schedule?

Currently there are approximately 15 property owners that are interested in Wastewater service.

Once it is determined if the Town of Cape Charles has an interest in processing a volume of wastewater collected by PSA, what limitation on volume, if any and a rate to process the wastewater, the County or PSA can contact those interested parties and other parties (unknown) with better information on rates to determine if there is continued interest in Wastewater service. Further once there is information on the type of service the Commercial Properties desire it will assist in determining the volume to be processed.

If my understanding of Hurtt & Profitt's schedule is correct, the Board needs to suggest to PSA that it needs to wait until better information is available before proceeding further.

Based on current information received by the Board the priority for PSA should be in the Medical Services Area of Nassawadox.

*This issue was discussed during the County Administrator's Report.*

**BOS Minutes 2013-08-26**

Policy Issues
1. § 15.2-2289. Localities may provide by ordinance for disclosure of real parties in interest. *Currently this regulation is not included in the zoning ordinance. This regulation is optional. Would the BOS like to include this regulation? Consensus from the staff is that the BOS* ***may not*** *want to consider this additional requirement.*
It was the consensus of the Board to not consider this additional requirement.

**I move we now reconsider the above decision for the following reasons:**

1. Currently the county does not permit individuals that are in arrears on taxes to be granted additional privileges to include tax reduction or subdivision of property. It is not reasonable, if not illegal, to deny a person the ability to subdivide and to sell off a portion of his property, either personal or Real to pay his taxes.
2. Currently there are a significant number of corporate or LLC entities that are on our TOP FORTY DELINQUENT TAX List. Over 60^ for 2013 and over 50% for 2012.
3. It is my opinion it is appropriate for the governing body to know all the beneficiaries in a CORPORATE BODY, to include but not limited to Corporations, LLC's, Partnerships, etc. Who the beneficiaries are and what interests they hold in a decision made by the governing body. It would provide the opportunity for the governing body to discuss with the beneficiaries the issue of the taxes due. Currently the county garnishes wages, and other tools to collect taxes. If you are not aware of the principals how do you know who to bring action against. Everyone needs to be treated equally.

   *Mr. Hogg asked that the Board reconsider its decision from August 26, 2013 as outlined above. Noting that he would like to hear a legal opinion from the County Attorney, Mr. Hubbard asked that this matter be tabled. It was the consensus of the Board to do so.*

With regard to item #5 under the Consent Agenda, motion was made by Mr. Hogg that the Board reconsider its action to approve the A-95 Review. Due to lack of a second, the motion failed. Mr. Hogg commented that the community composting proposed in the A-95 Review was contrary to the Comprehensive Plan.

(14) Matter by Mr. Hubbard: request Commissioner of the Revenue to audit sales tax

Mr. Hubbard stated that based on the sales tax figures supplied by the State, the County's

revenue collection is running way behind. He requested that the Commissioner of the Revenue conduct an audit of the sales & use tax for Northampton County. The Board concurred with this request.

Mr. Trala stated that he was hearing many complaints about ditches and ditch maintenance being not performed by VDOT. He would like to have further discussions with VDOT concerning where, how, and how often ditch maintenance is performed. Motion was made by Mr. Trala, seconded by Mr. Hubbard, that staff write a letter to VDOT, relaying these concerns and asking for a status report on same. All members were present and voted "yes." The motion was unanimously passed.

Motion was made by Mr. Hogg, seconded by Mr. Bennett, that the AFD Committee be asked to review and provide a recommendation regarding the suggestion that property owners within an AFD should be responsible for maintaining the ditches associated with those properties and the County should consider making this a requirement of the AFD ordinance. All members were present and voted "yes." The motion was unanimously passed.

Recess

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the meeting be recessed until 5:00 p.m., Monday, June 23, in the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, in order to conduct the work session. All members were present and voted "yes." The motion was unanimously passed.

The meeting was recessed.

_____CHAIRMAN

_____ COUNTY ADMINISTRATOR