

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 8th day of July, 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
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.

*Receipt of lease proposal – tillable farmland at landfill site
Receipt of request from School – disposition of Selma Lots*

(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.

*Pending litigation – property valuations suits
Response from Cheriton on Boundary Adjustment Questions Posed by the County*

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, with the exception of the Cheriton Boundary Adjustment item which was not discussed. 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) Chris Isdell, Residency Administrator – VDOT

Mr. Isdell provided an update on VDOT’s activities within Northampton County including a pipe replacement in Vaucluse, completion of mowing on the primary routes, results from Hurricane Arthur and installation of rumble strips shore wide. He also noted that mowing on secondary routes will be completed by the end of next week. Additionally, he said that new traffic signal controls will be installed in the Exmore area – a “smart” system that communicates within the network and will provide more efficient traffic management.

Mr. Hogg said that there was a lot of phragmites, an invasive weed, along Route 13. Mr. Isdell said that those areas will be mowed soon and that VDOT is also working with its management sector involving cutting and spraying. He asked if Mr. Isdell had heard anything further with regard to the Townsend crossing and Mr. Isdell replied in the negative. With regard

to the request for flashing signal near Cheriton, Mr. Isdell replied that the request has been submitted to Traffic Engineering and no answer has been received as yet. With regard to the Cape Charles Food Lion intersection, Mr. Isdell offered to speak with Mr. Hogg directly, who indicated that he was open to any VDOT solutions.

Mr. Hubbard said that he had noticed that the Sugar Run stream under Courthouse Road had backed-up recently and Mr. Isdell agreed to speak with the VDOT maintenance staff on this issue.

Mr. Bennett said that the ditch south of the former Exmore-Willis Wharf School was stopped up and asked for a telephone number that citizens could use to report such items. Mr. Isdell responded that the VDOT's call center can be reached at 1-800-FOR-ROAD.

Mr. Hogg also noted that just past the "dip in the road" on Wellington Neck, there is a road pipe that is clogged up. Mr. Isdell will investigate.

(2) Ms. Liz Scheessele, Timmons (the County's stormwater engineer) – options for incorporating water table impact design standards into local ordinance – and discussion re: stormwater pond on Townfield Drive.

Ms. Scheessele indicated that there were no regulations which specified that a certain groundwater level be used in the construction of stormwater ponds and that there was no requirement in place to force a developer to place the elevation in respect to the groundwater level. Recent stormwater regulations do allow for more stringent standards to be put in place by localities following a determination by the locality through a local study that changes are necessary to prevent depletion of water resources or to protect depleted groundwater resources. She referenced two earlier groundwater studies which may provide the necessary justification.

Mr. Charles McSwain, Development Director, suggested to the Board that it may wish to consider language to be added in an ordinance and distributed a hand-out which read "Best

Management Practices shall be designed such that the lowest outfall invert elevations shall be at or near the seasonal high water table so as to minimize the non-beneficial withdrawal of groundwater while still meeting all other applicable design specifications, e.g., water balance, and not adversely impacting upstream conveyance systems.”

Mr. Hogg questioned how the seasonal high water table was determined and Ms. Scheessele responded that the methodology is contained within the state’s specifications.

With specific reference to the stormwater pond located on Townfield Drive, Mr. Hogg asked whether there was a means to address this situation; i.e., “anything that could be done to stop the bleeding?” Ms. Scheessele responded that raising the weir would diminish the flood storage volume of the pond. Mr. Hogg replied that he believed that the reward of raising the weir would outweigh the risk. Ms. Scheessele said that if water quality and volume metrics were not met, the Board may consider going back to the developer. Motion was made by Mr. Hogg that the Board provide Ms. Scheessele with guidance to review and develop plans. Due to lack of a second, the motion failed.

Mr. Hubbard asked who has the responsibility/liability for maintenance of the stormwater ponds; i.e., what was the impact on the budget. Mr. Hogg responded that in the case of the Townfield Drive pond, the lot was owned by two people and that two different subdivisions were affected. Mr. Hubbard reiterated his comments that he was not sure what the County was getting into.

Mr. McSwain confirmed that the pond has a live/active permit.

It was the consensus of the Board to request additional information from Mr. McSwain and the County Attorney.

Mr. Hogg referenced Mr. McSwain’s hand-out and indicated that he believed the

language was appropriate. The County Administrator reminded the Board that Northampton County has chosen not to be the local stormwater authority and asked how this will play with the state. Ms. Scheessele said that they had been trying to reach DEQ and believes that there is a precedent for the localities to impose more stringent regulations. She noted that such regulations can be in the form of a policy or a construction standards manual, instead of an ordinance, but it would require a public hearing.

Following a suggestion from Mr. Hubbard, it was the consensus of the Board to refer to the Planning Commission the proposed language included in the handout.

(3) Charles McSwain, Development Director: Technology & Tourism Zones

Mr. McSwain presented the following information:

Technology Zone Proposal Northampton County

The Board has previously considered a Technology Zone, authorized by Code of Virginia 1950 § 58.1-3850 (see attached Exhibit A), and the Town of Cape Charles has utilized its Technology Zone most recently amended as of 2012. The purpose of the Technology Zone (Zone) is to target growth of technology related business into certain areas and provide quality growth and diversity for the local economy. A Zone is an overlay of existing land use designations to allow for the use of incentives to recruit businesses with technology manufacturing, services or research as their prime function.

The Zone by statute has flexibility as to the definition of a qualified firm, the incentives offered and the Board may chose the option of approving each deal for qualification. Of the Zones in place around Virginia, each vary greatly as to the degree of incentives offered. For example, Kilmarnock, VA has a very highly defined technology business, a very targeted area (one industrial park), and only rebates the cost of fees for permits, utility connections, and licenses in a declining manner over ten years. This zone also differentiates between new and expanded business at a particular site as to the incentive. Any firm which qualifies under the definition may apply for the rebate.

Conversely, the Town of Cape Charles offers an incentive that refunds (upon application) machinery and tool tax, real estate tax, and permit fees in the amount of any increase due to investment over a certain amount. "The types and amounts of the grants shall be based on the factors that the town deems relevant" says the town code, suggesting prequalification and flexibility as to the program's use.

The staff requests the Board consider the type of Zone it wishes to consider including the following detail as to qualification for a grant or benefit (examples provided):

Zone Area = Enterprise Zone area currently in place which includes most 'business use' zoning in the county. Board could consider a floating zone for broadband related installations.

Type of Primary Business Qualified could include:

- Advanced manufacturing (to be further defined)
- Research and Development (commercially applicable)
- Computer software design, development or installation
- Data Center / Call Center / Server Farm
- Alternative Energy Generation
- Environmental Sustainability
- Internet and Broadband Distribution
- Bioscience research/development/operations
- Transportation Infrastructure (privately funded)

Minimum Qualification Thresholds

- Investment - \$250,000, or
- Jobs – 5 jobs at 1.5 times the minimum wage or better

Rebate Grants

- 100% of new revenue to County resulting from investment first year
- Years 2-5 declining 20% each year thereafter

Investment and Jobs required for qualification must be completed within 3 years of start of project. New business locations within the zone could be qualified. Existing business is not qualified unless a distinctly measurable expansion project otherwise qualifies.

Recommend creation of a Task Force to further develop the Technology Zone by appointment of two Board members, two members of the Joint Industrial Development Authority of Northampton County and its Towns, and staff representatives from the offices of Administration (Nunez), Revenue (Sayers), and economic development (McSwain).

Attachment: Flyer on Fredericksburg Technology Zone, as example

{submitted by Charles McSwain, Development Director, July 2014}

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It was the consensus of the Board that letters be sent to the Towns to see if they are

interested prior to making appointments to the proposed task force.

Tourism Zone Proposal Northampton County

The Board may choose to consider establishment of a local Tourism Zone, authorized by Code of Virginia 1950 § 58.1-3851 (attached below), and Cape Charles has considered a Tourism Zone recently as well.

For Northampton County to establish a Tourism Zone(s) it should:

- Define the geographic boundaries of zone(s)
- Determine the purpose/what is to be accomplished, target businesses, specific levels of incentives (e.g., reductions and/or rebates) program, and “regulatory flexibility” in the zone(s)
- Establish program/process with applicant requirements and application
- Adopt zoning modifications through standard ordinance approval process

Support is available from the Virginia Tourism Corporation (VTC) to ensure that the zone appropriately matches the Tourism Plan.

Currently there are several Tourism Zones in Virginia. By example, James City County has placed a zone over the entire county for investments of \$350,000 or more for new businesses. Newport News has established a zone in its City Center project focused solely on entertainment venues. Waynesboro has developed a comprehensive points system for qualifying for incentives that is complicated for the user.

Should the Board want to proceed with a Tourism Zone for Northampton, collaboration with partners in Towns, ESTC, Cape Charles Business Association, Chamber, and others would be appropriate to determine the level of interest and need. The ESTC is finalizing their blueprint this summer. Then, a Tourism Plan developed by the VTC may be a good start for deciding what incentives are designed to support the target.

Recommend creation of a Task Force to further develop the Tourism Zone by appointment of two Board members, two members of the Eastern Shore Tourism Commission, and staff representatives from the offices of Administration (Nunez), Revenue (Sayers), and economic development (McSwain).

{submitted by Charles McSwain, Development Director, July 2014}

§ 58.1-3851

Creation of local tourism zones.

A. Any city, county, or town may establish, by ordinance, one or more tourism zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a tourism zone.

B. The tax incentives may be provided for up to 20 years and may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. The governing body may also provide for regulatory flexibility in such zone that may include, but not be limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ [10.1-2100](#) et seq.), the Erosion and Sediment Control Law (§ [10.1-560](#) et seq.), or the Virginia Stormwater Management Act (§ [10.1-603.1](#) et seq.), and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

D. The establishment of a tourism zone shall not preclude the area from also being designated as an enterprise zone

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Mr. McSwain noted that the Eastern Shore Tourism Commission and the State's Tourism Corporation are developing "blueprints" and suggested that perhaps appointment of the recommended task force should be tabled until the final tourism strategies are developed.

In response to a question from the Chairman, Mr. McSwain indicated that the entire county could be placed in a Tourism Zone.

At this time, the Chairman recognized School Board Chairman "Skip" Oakley and the new School Superintendent, Charles Edward Lawrence.

Consent Agenda:

(4) Minutes of the meetings of June 10 and 23, 2014.

Following a correction by Mr. Bennett relative to his comments concerning the former Exmore-Willis Wharf School at the June 23rd meeting, motion was made by Mr. Hubbard,

seconded by Mr. Trala, that the minutes of the meetings of June 10 and 23 be approved as corrected. All members were present and voted “yes.” The motion was unanimously passed.

County Officials’ Reports:

(5) 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: July 3, 2014
RE: Budget Amendments and Appropriations – FY 2014

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

\$41,173.00 – This represents an additional appropriation to Judicial Court Services representing housing costs for juveniles being held since February and awaiting court resolution. Funds will be transferred from Fund Balance to Function 100-3303-50910 (Contracted Housing). As a matter of information, the usual budget for this line item is \$30,000. For FY 2014, we anticipate spending \$71,173,000.

Thank you for your attention to this matter.

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

MEMORANDUM

TO: Board of Supervisors

FROM: Leslie Lewis
Director of Finance

DATE: July 1, 2014

RE: Budget Amendments and Appropriations – FY 2014

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

\$38,808.98 – This represents an appropriation *decrease* for the 2014 School Operating Budget and reflects the net impact of an increase in ADM from 1560 to 1564.60 as well as final payment information received from the Department of Education which included a reduction based on underperforming Sales tax collections.

Thank you for your attention to this matter.

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Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the budget amendment and appropriation be approved as presented. 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. Bennett.

The Pledge of Allegiance was recited.

Public Hearings:

Chairman LeMond called the following public hearing to order:

(6) An Ordinance to Amend an Ordinance Entitled, “An Ordinance to Provide for the Creation of Five Election Districts, to Provide for the Election of One Supervisor from each Election District, to Provide a Polling Place for Each District, and to Repeal Prior Inconsistent Ordinances” (codified as Chapter 32.01 (F)(1)(b) of the Northampton County Code of Ordinances. The purpose of this amendment is to change the polling place for District 2 from the American Legion Post #56 to the Cheriton United Methodist Church Fellowship hall at 21309 South Bayside Road in Cheriton.

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED, “AN ORDINANCE TO PROVIDE FOR THE CREATION OF FIVE ELECTION DISTRICTS, TO PROVIDE FOR THE ELECTION OF ONE SUPERVISOR FROM EACH ELECTION DISTRICT, TO PROVIDE A POLLING PLACE FOR EACH DISTRICT, AND TO REPEAL PRIOR INCONSISTENT ORDINANCES”

BE IT ORDAINED by the Board of Supervisors of Northampton County, that “AN ORDINANCE TO PROVIDE FOR THE CREATION OF FIVE ELECTION DISTRICTS, TO PROVIDE FOR THE ELECTION OF ONE SUPERVISOR FROM EACH ELECTION DISTRICT, TO PROVIDE A POLLING PLACE FOR EACH DISTRICT, AND TO REPEAL PRIOR INCONSISTENT ORDINANCES” be amended as follows:

1. That Section 6 be amended to read as follows:

Section 6. The polling place for each district is as set forth below:

District 1 – Trinity United Methodist Church Fellowship Hall (410 Tazewell Avenue)

District 2 – Cheriton United Methodist Church Fellowship Hall (21309 South Bayside Road)

District 3 – Northampton Fire & Rescue, Nassawadox (10239 Pine Avenue)

District 4 – Former Northampton Middle School (7247 Young Street)

District 5 – Exmore Fire Station (3356 Main Street)

2. All remaining portions and provisions of said Ordinance are reenacted and reaffirmed hereby.

3. This Ordinance shall be effective as of May 31, 2014.

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

Mr. Terry Flynn, General Registrar, indicated that the purpose of the amendment was to change the polling place location from the American Legion Post #56 to the Cheriton United Methodist Church Fellowship Hall; said change being requested by the owners of the Post.

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

Motion was made by Mr. Hubbard, seconded by Mr. Bennett, that “An Ordinance to Amend an Ordinance Entitled, ‘An Ordinance to Provide for the Creation of Five Election Districts, to Provide for the Election of One Supervisor from each Election District, to Provide a Polling Place for Each District, and to Repeal Prior Inconsistent Ordinances’” (codified as Chapter 32.01 (F)(1)(b) of the Northampton County Code of Ordinances be adopted. All members were present and voted “yes.” The motion was unanimously passed.

Citizens Information Period:

Ms. Barbara Herndorf, a resident of Johnson Cove Road, said that the County’s current noise ordinance was unenforceable and asked how she could obtain training and certification to be able to use a noise meter. She indicated that the requisite meters cost from \$350 - \$10,000 and required an annual calibration costing \$180. She requested a meeting with the Board to assist in crafting an enforceable noise ordinance. On another matter, she indicated that she had sent Mr. Trala a letter requesting that property taxes be frozen for seniors that are 62 years old or older.

Ms. Roberta Kellam read the following comments:

Statement of Roberta Kellam, July 8, 2014

My name is Roberta Kellam and I live at 7514 Wellington Neck Road, Franktown. I am speaking this evening to report to you that I have been appointed to the State Water Control Board by Governor McAuliffe. The State Water Control Board, as you may know, has jurisdiction over wetlands, discharges to waters of the State, groundwater, enforcement related to violations of state water control regulations, grants and loans for sewage treatment, and recently,

the Chesapeake Bay Act and stormwater management. As always, I am available to the County to help you in better understanding any matter that has been the subject of a State Water Control Board action.

It should be noted that any person may petition the State Water Control Board for new or amended regulations related to protecting the waters of the Commonwealth. (See Virginia Code Section 2.2-4007.) This avenue was pursued by a clam grower in seeking regulation of tomato plasticulture on the Eastern Shore, and it resulted in a voluntary agreement among the tomato growers and the Eastern Shore Soil and Water Conservation District to protect water quality. The State Water Control Board's regulatory process includes the creation of a regulatory advisory panel, which includes stakeholders and experts, in addition to DEQ staff, in order to undertake the scientific study and regulatory drafting of any given subject.

At the present time, the water quality on the seaside of Northampton County is protected by the County through the Chesapeake Bay Act, and the seaside waters have been protected in that manner for the past 22 years. The Commonwealth and the federal government, along with several private parties, have invested a significant amount of resources in enhancing the natural resources on the seaside. Speaking for myself and not as a member of the State Water Control Board, I believe that any development of a new regulation to protect the water quality on the seaside would be better suited for consideration by the State Water Control Board, rather than the Northampton County Board of Supervisors. As a citizen of Northampton County, I encourage you to seek the involvement of the agency with the most expertise in drafting regulations to protect the state waters, that is, the Virginia DEQ, through a petition to the State Water Control Board. This will assure the citizens of the County and the Commonwealth that all appropriate agencies, including VDACS, the academic researchers at VIMS and UVA, and all stakeholders, are involved in the process of developing any new water quality regulations.

§2.2-4007. Petitions for new or amended regulations; opportunity for public comment.

A. Any person may petition an agency to request the agency to develop a new regulation or amend an existing regulation. The petition shall state (i) the substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections, and (ii) reference to the legal authority of the agency to take the action requested.

B. Within 14 days of receiving a petition, the agency shall send a notice identifying the petitioner, the nature of the petitioner's request and the agency's plan for disposition of the petition to the Registrar for publication in the Virginia Register of Regulations in accordance with the provisions of subsection B of § [2.2-4031](#).

C. A 21-day period for acceptance of written public comment on the petition shall be provided after publication in the Virginia Register. The agency shall issue a written decision to grant or deny the petitioner's request within 90 days following the close of the comment period. However, if the rulemaking authority is vested in an entity that has not met within that 90-day period, the entity shall issue a written decision no later than 14 days after it next meets. The written decision issued by the agency shall include a statement of its reasons and shall be

submitted to the Registrar for publication in the Virginia Register of Regulations. Agency decisions to initiate or not initiate rulemaking in response to petitions shall not be subject to judicial review.

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Mr. Bill Shockley, a local farmer, said that he had submitted a proposal to lease the tillable farmland on the landfill property as well as the water in the borrow pit. He said that he has had no response from the Board and requested an answer, given the extreme heat that the County is experiencing. The Chairman indicated that Mr. Shockley's proposal had been discussed in closed session today and that he would be calling Mr. Shockley in the morning to relay the Board's comments.

Mr. Ken Dufty provided the following comments:

For The Northampton County Public Record

July 8, 2014

To: Northampton County Board of Supervisors
16404 Courthouse Road
Eastville, VA 23347

Dear Chairman LeMond and Members of the Northampton County Board of Supervisors:

After the March 11, 2014 joint meeting of the Northampton County Board of Supervisors (BOS) and the Northampton County Planning Commission (NCPC), the BOS imposed a 100-day time limit for the NCPC to make recommendations on the 150 page complete revision of the Northampton County Zoning Ordinance [see November 19, 2013 Meeting Notes of the BOS, page 9-10]. Citing Virginia Code 15.2-2285(b), County Administrator Katie Nunez at that time announced that failure of the NCPC to finish their review of the complete revision of the zoning ordinance within the 100-day time limit would allow the BOS to adopt the proposed zoning ordinance as written, and would also allow the BOS to consider the lack of a recommendation as an endorsement for approval by the Planning Commission.

Unfortunately, but as predicted by many who were observing this process, the Planning Commission was unable to finish its review of the revised zoning ordinance by the May 31, 2014 deadline, and was only able to make recommendations on about one half of the 150-page document. Indeed, some of the most important and profound suggested changes to the current zoning ordinance were not addressed by the Planning Commission, and yet the BOS did not

recommend remanding the unfinished portion of the proposed zoning ordinance to the Planning Commission to resume their review. This denial of allowing the Planning Commission allowing them to resume their review of these changes which pose to profoundly affect the future of Northampton County. This failure by the BOS runs counter to the interest of the public and those hundreds of citizens who have voiced their opposition to the proposed zoning revisions.

At the July monthly meeting to of the Planning Commission, the work on amending the current Comprehensive Plan resumed, as they were not asked to continue their review of the proposed zoning ordinance revisions. During deliberations last week, they addressed the language in the current 2009 Comprehensive Plan which calls for extending the protections of the Chesapeake Bay Preservation Act to the waters of the seaside. At first, it was recommended that the Planning Commission recommend that this language be retained and brought forward into the draft amended Comprehensive Plan. However, discussion among the members turned to a debate as to whether or not there is enough scientific evidence to support either continuing the Chesapeake Bay Act protections to the seaside or to let those protections lapse. After lengthy discussion, it was decided that the Planning Commission needed to call in experts in this field, and it was finally agreed that Art Schwarzchild, a well-respected marine scientist from Willis Wharf who has studied this issue in depth, should be invited to present evidence and input from his peers to help the Planning Commission in their deliberations.

During recent discussions by the BOS on this issue, it also seemed as if the BOS also desired input on the science and assumptions underlying the need to maintain the protections of the Chesapeake Bay Protection Act on the seaside. In short, it appears as if the BOS and the Planning Commission are traveling parallel, yet separate, tracks of review on this important issue.

Therefore, on behalf of the Citizens for Open Government, we are respectfully requesting that the BOS consider the following actions. First, we would ask you to consider holding joint work sessions with the Planning Commission to explore the issue of the continuance, or discontinuance, of the Chesapeake Bay Preservation Act on the seaside. This combined and mutual effort, if pursued, could streamline the review process and also could result in a healthy and productive exchange between the members of the Planning Commission and the members of the Board of Supervisors. It would also allow a full record to be developed on this issue, as Virginia Code demands that any revisions to a zoning ordinance be based on economic and other studies [Va Code 15.2-2284].

We also respectfully request that the Board of Supervisors remand the unfinished portions of the complete revision of the current zoning ordinance to the Planning Commission so that they can finish their review of the remaining sections, enabling the BOS to move forward in their deliberations in a less arbitrary and capricious manner. This further review of the proposed zoning ordinance by the Planning Commission can be performed simultaneously with the ongoing 90-day review by the BOS of the partial recommendations made by the Planning Commission and submitted to the Board on May 31, 2014.

Finally, we are aware that during the last worksession of the BOS, the Chairman of the BOS asked the staff to review and offer “input” on the sections of the proposed zoning that were

not addressed by the Planning Commission because of time limitations. We feel that the recommendations to remand those outstanding sections of the proposed zoning ordinance back to the very county employees who wrote the draft zoning ordinance in the first place does not offer the citizens of Northampton County due process and is indeed arbitrary and capricious. Indeed, Virginia Code is very explicit on the proper procedure to amend or revise an existing zoning ordinance, and those sections of Virginia Code [15.2-2200-2285 et.al.] explicitly call for full involvement and coordination with a local government's Planning Commission.

Thank you in advance for your consideration of this request.

/s/ Ken Dufty
Citizens for Open Government
6182 Wardtown Road
Exmore, Virginia 23350
(757) 442-7889

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(7) The following written comments were read into the record:

To the Board of Supervisors –

In its search for a viable economy, Northampton County needs to look beyond resort/real estate development (which is being done by hundreds of communities) and take advantage of its unique assets. Years ago, I stood at a podium in the high school auditorium and said to the board and people assembled there,

“Economic development efforts in Northampton County should focus on attracting the off-shore energy and aerospace industries. Our unique location, and the existing Wallops infrastructure, are unbeatable assets in the competition for these high paying jobs.”

The aerospace industry functions on an international level, and Wallops is not far away. Some of the emerging commercial space businesses will undoubtedly locate in Accomack's new industrial park, but not necessarily all. Research and development – a prime component of space science – can be done anywhere. Certainly it can be done in Northampton County, so close to the Spaceport, yet with beautifully preserved natural resources (a plus when marketing to educated consumers like aerospace researchers.)

Currently, the state's Tourism Commission is pumping time, effort and money into promoting launch tourism. I myself have parked with my husband on the Oyster waterfront to watch a rocket take off.

Northampton can take advantage of the state's focus on space tourism by opening a county-owned launch-watching site. Fortunately, the tallest piece of land in the county is the publically owned dump site on Seaside Road.

This beautiful piece of land is a gold mine waiting to be worked. The view from the top of the sealed dump is gorgeous, and there are ponds and trees already on the property. It is surrounded by a fence and already has a lockable gate. To get the landfill functioning as a launch viewing site, all the County would really need is some landscaping to disguise the existing dump buildings, a shell parking lot and some signs.

As time ripens the space tourism effort, more money can be funneled into the former landfill. It can be developed as a general-use festival park, with booth opportunities for local vendors of all kinds. This type of economic development effort would benefit local artisans of every description, as well as the hotel, food, gas and bar businesses.

Meanwhile, our Economic Development Director should be making friends in the aerospace research community, leveraging Accomack's efforts and drawing bid-paying research and support jobs. These jobs are much, much more valuable to the community than the low-paying, seasonal jobs that characterize resort development.

We, the taxpayers of Northampton County, already own the landfill. As a first step toward our nascent space industry, we should use that asset and leverage the state's interest in launch tourism to develop – in affordable stages – a festival park.

/s/ Karen Jolly Davis

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

- (i) 7/28/14: Work Session: Proposed Zoning Ordinance Amendments
- (ii) 8/25/14: Work Session: Proposed Zoning Ordinance Amendments
- (iii) 9/22/14: Work Session: Topic to be announced

The Schedule of Review for the proposed zoning ordinance amendments was distributed to the Board as outlined below:

Board of Supervisors Schedule of Review
Public Hearing Draft - ZONING Code – Changes

On June 23rd the Board began its review of the Zoning Code in light of Planning Commission recommendations. At that meeting it was agreed by the Board that staff keep a running documentation of consensus changes to the public hearing document and set a schedule for upcoming review of the balance of the comments from the public and staff recommendations. In

addition the Board suggested merging both Planning Commission and staff recommendations based on public input into the same review of each section applicable.

The following list provides the guide for sequential review. Items referred back to staff for added information will return to the Board at the top of the next agenda. Such is the case with the first item, definitions, for example.

List of Sections Requiring Review by the Board

1. Definitions
 - a. Recommendations by PC (finalize)
 - b. Staff Recommendations
2. Districts
 - a. Uses (special use vs. permitted vs. not permitted) §154.1-205-215
 - b. Dimensional and density requirements §154.1-205-215
 - c. Working waterfront uses and mapping
 - d. Mobile home parks as a PUD
3. Performance Standards
 - a. Biomass §154.1-315
 - b. Husbandry §154.1-307
 - c. Residential facilities/Family day home §154.1-314
4. Staff's recommendations (not included previously) addressing public comments, technical issues and formatting
5. Individual zoning map requests
6. CBPA

Documentation

Two sets of documents will be distributed to the Board on the date of the **Regular** monthly meeting, e.g., July 8, giving Supervisors 2-3 weeks to evaluate the documents for the next meeting. One document will be the Public Hearing Draft with suggested changes marked as Planning Commission in Aqua color and staff in red. A second document will be the current edition of the Public Hearing Draft with changes marked as Board consensus as of a date (from previous meetings). For simplicity of meetings staff recommends that the following schedule be attempted by the Board.

Work Session Dates and Topics

July 28th: Address above sections 1-3c and stay until completed (length of meeting could be long)

August 25th: Address questions from previous 1-3c and sections 3d-6

September 29th: Address any open questions and Review all changes (a chance to go back to review earlier consensus items in new light)

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The Board concurred with the proposed review schedule but noted that it would only address sections 1 and 2 on July 28th.

The County Administrator distributed her bi-monthly report as follows:

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: July 3, 2014
RE: Bi-Monthly Report

I. Projects:

A. Public Service Authority:

The Town of Cape Charles has now made its 2 appointments to the subcommittee that will negotiate an agreement concerning the sale of wastewater treatment services to the Public Service Authority: the subcommittee is composed of Bob Panek & Sean Ingram (PSA Representatives); Rick Hubbard & Granville Hogg (BOS Representatives) and Joan Natali & Charles “Sambo” Brown (Cape Charles Representatives). My office is working on arranging the first meeting, either at the end of July or beginning of August. The next meeting of the Public Service Authority is Tuesday, July 15, 2014.

B. Former Middle School Renovation:

USDA has now signed off on our contract for A&E Services with DJG, Inc. DJG, Inc. has begun their investigation of the current physical structure and condition of the property.

In addition, I have scheduled the first community input meeting for Thursday, July 10, 2014 from 6:00 p.m. to 7:30 p.m. to be held at the property in the Auditorium. The intent of this meeting is to solicit any and all comments regarding the renovation, rehabilitation and possible demolition of portions of this property as well as to ascertain if there are any other considerations of use of the property beyond what the Board has identified and provided in the scope of services for architectural services.

C. Lease of Old Jails with the Town of Eastville:

The first milestone has been reached in our lease agreement with the Town of Eastville relative to the renovation of the two old jails. Correspondence was sent to the Town seeking a status report on the project and the Town has supplied a

response to that request. Please bring the binder provided by the Town containing their response to this meeting for further discussion by the Board.

Mr. Hubbard indicated that he would like to see continued discussions with the Town. Mr. Trala said that he was willing to work with the Town as long as progress continues. Mr. Hogg said that the Board needs to see some type of plan to make sure that things are continuing with reasonable progress; i.e., a construction schedule should be requested from the Town. Mr. Bennett stated that he had seen several extensions and that he hoped in the future that fair treatment would be rendered for all projects. Mr. Hogg stated that he would like to review this matter at the end of the month. It was the consensus of the Board that a letter be written to the Town of Eastville, requesting a plan (construction schedule), including an identified funding source of the next planned steps to be undertaken by the Town in the renovation of these two structures. The County Administrator spoke to the news media present and indicated that they may wish to announce that any members of the public who wish to preserve these structures and/or to make contributions towards their preservation should contact the Town to make these wishes known.

D. FY2014 Audit:

Our auditors will be on site from Tuesday, July 8, 2014 thru Thursday, July 10, 2014 to begin the Fiscal Year 2014 audit. This is a preliminary field visit and there will be a subsequent field visit in the fall.

E. Local Vehicle License Fee Tax Ordinance:

When the Board adopted the personal property tax class for disabled veterans as part of the FY2015 Budget that set a \$0 tax rate pursuant to VA Code §58.1-3506 A (19) & B which does not impose a personal property tax rate on any qualified disabled veteran, staff felt that the current language in our local County ordinance §33.008 addressing the motor vehicle license fee of \$33 which exempted this fee for disabled veterans was sufficient (see attached under (C) (9)).

However, we now recognize that some disabled veterans may not have obtained the DMV disabled veteran's motor vehicle license plate, as prescribed in VA Code §46.2-739 as stated in our local ordinance. If the Board's intention was to ensure that there would be no fees assessed to any qualified disabled veteran, including the \$33 license fee, then we will need to amend our local ordinance to reflect that intention. ***Therefore, I am requesting Board direction on this matter and if I should schedule this for public hearing to amend Northampton County Code §33.008 .***

Motion was made by Mr. Trala, seconded by Mr. Hubbard, that the Board proceed to public hearing for an amendment to County Code

Section 33.008 as outlined above. All members were present and voted “yes.” The motion was unanimously passed.

F. Request from Sheriff Doughty for consideration of an ordinance relative to “Fire Lanes”:

Sheriff Doughty has indicated that there have been some issues with cars parking in marked Fire Lanes in the parking lot at the Food Lion near the Cape Charles light. In order for his department to address this issue, the County would need to adopt an ordinance, similar to the attached ordinance from Accomack County. I have attached the Code of Virginia §46.2-1219 which provides the authority for the county to do this. ***If the Board is willing to consider this, then I am requesting Board authorization to schedule this for public hearing to adopt such an ordinance.***

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the Board proceed to public hearing on an ordinance as outlined above. All members were present and voted “yes.” The motion was unanimously passed.

G. Consideration of Draft Noise Ordinance:

As you may recall, the current County Noise Ordinance was modeled after Virginia Beach’s noise ordinance which was challenged in court and declared unconstitutional. Counsel has been working on this issue and has drafted a proposed ordinance which is enclosed for your consideration. Please note that this has been drafted following the revised Virginia Beach ordinance as a result of that court case. The Sheriff has had the opportunity to review this draft ordinance and feels that his department will be able to measure the decibel level of noises as contained in this draft ordinance. ***If the Board is willing to consider this, then I am requesting Board authorization to schedule this for public hearing to adopt such an ordinance.***

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board proceed to public hearing on an ordinance as outlined above. All members were present and voted “yes.” The motion was unanimously passed.

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(9) FY 2015 Budget Update

The County Administrator distributed the following memorandum:

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: July 3, 2014
RE: Final FY2015 Budget

The state has now adopted the FY2015 budget and we have received revised estimates of the state revenue for our locality (see attached spreadsheet). While we received more funds than originally estimated for the Constitutional Officers, the other two primary state revenue streams of Sales & Use Tax as well as the State Recordation Fees are not projected to generate the estimate we originally had in our FY2015 budget.

Therefore, we are projecting a reduction of revenue totaling \$82,889. In order to bring the budget into balance, these are the steps we are implementing to address this situation:

1. As you may recall, when we adopted the FY2015 budget, we had a “surplus” that was put into the General Fund Contingency Account in case the state budget revenues did not meet our projections. We will be utilizing that “surplus” of \$69,191 to make up for the loss of this revenue.
2. In addition, we budgeted a total of \$39,740 across all of the Line of Duty Accounts within the Sheriff, EMS, Animal Control, Regional Jail, and Fire Prevention Departments. We have now received the FY2015 invoice from our insurance carrier (VACoRisk) which was \$32,587, therefore, providing a surplus of \$7,153 which we will reduce those accounts by that amount to address the revenue loss.
3. Lastly, we budgeted \$140,021 across all of the Worker’s Compensation Accounts in all departments. We have received our FY2015 invoice which was \$104,098. While we are still awaiting the annual audit in which the insurance company will do a “true-up” of actual payroll generated in FY2014 as compared to our paid invoice in FY2014 and will generate one more invoice containing that true-up which runs from about \$15,000 to \$20,000, this still leaves sufficient funds (\$15,923) for us to utilize to balance the FY2015 budget and address the revenue loss.

	County Original Budget as of 5/13/2014	DESCRIPTION OF FUNDING	FINAL FY15 STATE FUNDS	DIFFERENCE
SHERIFF & JAIL		Officer's Salary	\$76,714	
		Staff Salaries	\$2,527,879	
		Temporary Base	\$7,078	
		Total Salaries	\$2,611,671	

			Fringe Benefits	\$262,734	
	<i>Sheriff's Share</i> (34.23%)	\$961,765	Office Expense Base	-	
	<i>Jail's Share</i> (65.77%)	\$1,847,949	Premium Recoveries	\$(47,026)	
	TOTAL	\$2,809,714	FY15 Budget State Funds	\$2,827,379	\$ 17,665
	JAIL PRISONER PER DIEMS	\$220,282		\$229,308	\$ 9,026

\$6,043.31 to the Sheriff
\$11,622 to the Jail

COMMONWEALTH ATTORNEY			Officer's Salary	\$117,173	
			Staff Salaries**	\$94,465	
			Temporary Base	-	
			Total Salaries	\$211,638	
			Fringe Benefits	\$21,292	
			Office Expense Base	-	
			Premium Recoveries	\$(1,256)	
		TOTAL	\$222,626	FY15 Budget State Funds	\$231,674

**Includes a salary increase for all FT Assistant Commonwealth's Attorney positions of \$3,308 - need to add to the budget

CLERK			Officer's Salary	\$93,036	
			Staff Salaries	\$86,671	
			Temporary Base	-	
			Total Salaries	\$179,707	
			Fringe Benefits	\$12,052	
			Office Expense Base	-	
			Premium Recoveries	\$(1,967)	
	TOTAL	\$186,172	FY15 Budget State Funds	\$189,792	\$3,620

TREASURER			Officer's Salary	\$57,473	
			Staff Salaries	\$13,716	

			Temporary Base	-	
			Total Salaries	\$71,189	
			Fringe Benefits	\$7,162	
			Office Expense Base	-	
			Premium Recoveries	\$(1,178)	
	TOTAL	\$75,771	FY15 Budget State Funds	\$77,173	\$1,402

COMMISSIONER OF REVENUE			Officer's Salary	\$64,522	
			Staff Salaries	\$19,763	
			Temporary Base	-	
			Total Salaries	\$84,285	
			Fringe Benefits	\$8,479	
			Office Expense Base	-	
			Premium Recoveries	\$(528)	
	TOTAL	\$83,155	FY15 Budget State Funds	\$92,236	\$9,081

less Salary Adjustment for Asst. Comm. Attny, including taxes and retirement \$(3,909)

	LOCAL OPTION SALES & USE TAX	\$1,242,730	LOCAL OPTION SALES & USE TAX	\$1,120,119	\$(122,611)
	STATE RECORDATION TAX	\$54,563	STATE RECORDATION TAX	\$48,352	\$(6,211)

GRAND TOTAL DEFICIT **\$(82,889)**

Steps to bring the FY15 budget into balance

Utilize the "surplus" funds we placed in the General Fund Contingency Account when we adopted the FY2015 Budget **\$69,191**

Utilize funds from the Line of Duty Accounts in the Sheriff, EMS, ACO, Regional Jail and Fire Prevention which has surplus since we have received the FY15 VACo Insurance bill **\$7,153**

Utilize funds from each department's Worker's Compensation Accounts which has surplus now that we have received the FY15 bill from VACo **\$6,545**

NEW GRAND TOTAL **\$(0)**

* * * * *

No action was required by the Board.

Action Items:

(10) Consider a request from Wayne Downing for placement of a garage on his property, identified as Tax Map 85, Double Circle A, Parcel 63 and located at 22522 Seaside Road, which said property is located within the Brickhouse Farm Agricultural-Forestal District.

Motion was made by Mr. Hubbard, seconded by Mr. Bennett, that the Board approve the request of Mr. Downing for placement of a garage on his property identified as Tax Map 85-A-63, included as part of the Brickhouse Farm AFD. All members were present and voted “yes.”

The motion was unanimously passed.

(11) Consider a request from James & Deborah Hopper for placement of an above-ground pool at 3432 Hopper Lane, identified as Tax Map 67, Double Circle A, Parcel 4, which said property is located within the Elkington Agricultural-Forestal District.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board approve the request of Mr. and Mrs. James Hopper for placement of an above-ground pool on their property identified as Tax Map 67-A-4, included within the Elkington AFD. 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. LeMond, seconded by Mr. Bennett, that Mrs. Kay Downing be appointed to the Northampton County Planning Commission, succeeding Mr. Henry J. Heneghan, Jr., 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. Bennett, seconded by Mr. Trala, that Mr. Willie C. Randall be reappointed to the Ad-Hoc Emergency Care Committee, as a citizen representative. All members were present and voted “yes.” The motion was unanimously passed.

Motion was made by Mr. Hubbard, seconded by Mr. Bennett, that Mr. Granville F. Hogg, Jr., be appointed to the Ad-Hoc Emergency Care Committee, as a Board representative. All members were present and voted “yes.” The motion was unanimously passed.

(12) Mr. LeMond: Consider creation of an Ad-Hoc Committee to study the County’s tax structure

Mr. LeMond, who indicated that the idea belonged to Mr. Hubbard, asked the Board to consider the creation of an Ad-Hoc Committee to study the County’s tax structure. Mr. Hubbard explained that questions have been posed concerning agricultural-forestal districts, boat taxes and airplane taxes. He suggested a committee membership of five citizens, the County Administrator and the Commissioner of the Revenue, who would be tasked with researching tax rates in similar localities and provide a recommendation back to the Board by January 1, 2015. Mr. Hogg suggested an earlier deadline (November 2014) based on the fact that twice-a-year tax billing will commence in 2015. The Board did not agree with this suggestion. It was the consensus of the Board to agree to the committee membership and to seek nominations in the meantime for later appointment.

Mr. Hogg said that Accomack County broadcasts its Board meetings and questioned whether Northampton County could do so. The County Administrator indicated that she would check with the IT Department.

Mr. Hogg questioned the timeliness of Mr. Bill Shockley’s request (dated June 1st), wondering why the Board was just receiving this request for tonight’s meeting. The County Administrator responded that the request was not received until after the agenda for the June 10th

meeting had been set and that there was no closed session approved for the June work session. Tonight is the first opportunity that the Board had to review the request.

Chairman LeMond referenced an earlier comment concerning the possibility of a joint meeting with the Planning Commission and said that this was a good idea, as the proposed elimination of the Chesapeake Bay Preservation Act regulations from the seaside was the “hottest” topic in the zoning ordinance amendment discussions. Mr. Hubbard suggested that a UVA representative be asked to participate in the joint meeting as well.

Recess

Motion was made by Mr. Bennett, seconded by Mr. Hubbard, that the meeting be recessed until 5:00 p.m., Monday, July 28, 2014, 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