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 12th day of August, 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.

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that a late-arriving item be added to the Action Agenda: Letter from VDOT relative to comments on the Cape Charles Access Road Project. All members were present and voted "yes." The motion was unanimously passed.

Closed Session

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

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

Appointments to boards, committees
New hires/terminations report

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

Review status of old jails lease w/ Town of Eastville
Review draft lease with Verizon Wireless for space at Hare Valley Waste Collection Site.

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

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

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

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

The Chairman read the following statement:

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

Board and Agency Presentations:

(1) Mr. Nick Pascaretti, update on the Broadband Project.

Mr. Pascaretti updated the Board on the Broadband Project, noting that the Authority has continued to build and expand the network. He said that connectivity has been completed to Chincoteague and Parksley and is underway in Cape Charles, Exmore, Onancock and Belle Haven. It is hoped that the Towns will issue RFPs to third-party vendors so that service can be extended to their areas. He said that 48% of Broadband's revenue is from wholesale sales to vendors. Twenty-percent is from education; 5% is from the health care field; 4% is from government; and the remaining 3% is from other enterprises. He estimated that there had been

20% growth rate over last year. Mr. Hubbard and Mr. Hogg both indicated the need to get the service out to the citizens, with Mr. Hogg suggesting the use of temporary towers, tall buildings (such as the hospital) and the fire tower at Birdsnest. Mr. Pascaretti replied that the first temporary tower has been ordered and is awaiting installation. The hospital itself is serviced at this time but the Authority has not been actively trying to serve the Nassawadox residential population. The fire tower is being used in Hallwood. Mr. Hogg asked Mr. Pascaretti if he could confirm the merger of Charter Communications with Comcast and Mr. Pascaretti replied that he had heard a rumor to that effect.

(2) Mr. S. Eyre Baldwin spoke about his property in Oyster, noting that gas and kayak sales were allowed but rental of kayaks was not, necessitating a special use permit, and that most people cannot afford the SUP fee. He said that he embraced the waterfront village concept but has a different opinion about by-right vs. special use uses. He said that better communication is needed to be able to get things done. Mr. Baldwin stated that he fully believes in water and sewer, noting that there is a big problem with the urban blight that has occurred in the past six years, and asked the Board how we can make things better such as the abandoned buildings in Eastville. He further asked why haven't we been involved in the process for the middle school building renovation to-date and that there were other USDA uses available. He cautioned the Board not to be polarized by people who are threatening to sue it. He thought that the PSA was "horrible", because it is politically charged. He said that he was willing to keep investing, having spent $10 million on his projects in Cape Charles, Eastville and Webster. He distributed a copy of a recent presentation to the Planning Commission as well as two letters of support from Mayor Jim Sturgis of Eastville and Exmore Town Manager Robert Duer. Said documentation is set forth below:

August 12, 2014

Board of Supervisors
Northampton County
P. O. Box 66
Eastville, VA 23347

Dear Planning Commission Members,

I would like to address the Commission members in an effort to clear the air and exchange accurate information regarding: **1).** Future uses of the "Harvey" property in Oyster, **2).** The "By Right" services that can be offered in a waterfront village according to our current zoning and **3).** Future water and sewage issues facing Northampton County. There has been a great deal of misinformation regarding these issues and I feel it would be in the best interest of all concerned parties to take the time to clear up any misconceptions surrounding each of these subjects. I would also like to speak briefly about our small towns and the reason we feel so strongly about investing in them.

For six years now, the speculation concerning the Oyster properties has run the gambit from the simple thought of saving the original structure from demolition by moving it across the street and preserving it for future use, to the extreme rumors that the Baldwin family wants to turn the old building into a hotel or condominiums. Let's talk about the facts. We were fortunate enough to have the opportunity to save this old Oyster dwelling which was scheduled to be torn down by its owners, The Nature Conservancy. The structure was carefully moved across the road, beautifully renovated and it is now a real asset to the village of Oyster, even though to date it sits empty. If nothing else ever happens to turn this wonderful building, (which we call 'Harvey'), into a great business location, at least we have saved an unsightly old structure and turned it into a beautiful addition to the Oyster harbor area. The story should not end there.

At this point in our Oyster project, it seems to make the most sense to turn the old, but beautifully restored building into a multi-use business that would serve the needs of the harbor area, attract tourist dollars and provide local jobs. Currently, part of the "Harvey" site is occupied by the Cherrystone Aqua Farm which operates a clam nursery facility. The clam operation has thrived at this location and all expectations for production have been exceeded. After a very successful 2013 growing season, Cherrystone expanded the number of clam tanks at the Oyster location in 2014. This successful pairing has already experienced growth in just one year. The Cherrystone Aqua Farm business on the waterfront of Oyster is a perfect addition to the harbor community.

Other ideas that seem to make sense for the "Harvey" site include a waterfront "Mom and Pop" general store where locals, boaters and traveling tourists can stop in to purchase gasoline, ice, drinks and snacks for their boat ride out on the seaside. With the county owned Oyster Boat Ramp located directly across the harbor, it seems a natural fit for this business to cater to the needs of the hundreds of boaters per month using the boat ramp daily during at least three seasons of the year. With that thought in mind, it would also make sense to sell products related to a day out on the water. These items would include not only gasoline, ice, drinks and snacks, but items such as life jackets, fishing poles, lures, sunglasses, sunscreen and a host of other boating related necessities. The store may also sell marine supplies such as portable gas tanks, boat plugs and small trailer parts. We would like to be able to rent out kayaks to folks who want to come to the area and explore our harbor, marshes and waterways. We have been asked to stock items made by local artists and food products made by local small businesses. These items may include paintings, photography or handmade jewelry by local artists as well as locally produced baked goods, preserved foods and wines. This great old building was originally built to be used as a general store.

It is extraordinary to think that gasoline cannot be purchased in the village of Oyster.

Along with the "Mom and Pop" general store concept, we would like to offer a raw bar or small snack bar for locals and travelers who are looking for a place on the waterfront to sit and eat seafood or a sandwich with family and friends. On our menu, we would like to be able to offer products grown and harvested on the Eastern Shore and prepared or produced by local talents. In addition to the prepared foods, we would like to sell local oysters and clams as well as fruits and vegetables by the dozen or by the bushel basket to our customers. This type of down home, waterfront business could be a wonderful addition to Oyster and Northampton County. It would benefit local growers and harvesters, increase local employment and again help boost the local economy.

Another idea for the "Harvey" building is the thought that we may be allowed to make a nightly rental unit over the downstairs business area. It would be a space for travelers to spend a few nights at this unique location. This would not be a long term rental space or a condo unit, but just a simple space where travelers can come and stay for a few days, spend their money in our county and leave. This would be a natural adjunct to the harbor.

We are very fortunate that the Nature Conservancy has protected the land that they have protected around this federal harbor. It does not mean that commerce has to end. Currently there is aquaculture, a research community and a recreational community functioning in Oyster, and there is nothing wrong with selling those folks gasoline, a bag of ice, a soda or boat paint from a harbor front business. Think about ecotourism and the simple restrictions that are put on this potentially wonderful project. Clean businesses like ecotourism would be a great fit for the "Harvey" building, but currently I am not allowed to rent out a kayak according to the current county zoning.

This brings me to the second topic mentioned above: The "By Right" services that can be offered in a waterfront village business according to our current zoning. The only problem with this beautiful building, at this wonderful location is the restrictions placed on it by county government. These restrictions do not allow us to realize the full potential of this great opportunity. The current restrictions make it cost prohibitive for us to continue to move forward. The current Northampton County zoning does not even allow us to rent out a kayak or rent a short-stay room from the harbor location.

I am asking the Northampton County governing bodies to work with us to make the "Harvey" building in Oyster a great example of what can happen when private money and local government work together to look towards the future. This is a prime example of how a little forward thinking by our governing bodies could help restore these small, once thriving communities. I am asking this Planning Commission to please work with us come up with a plan for "Harvey" that works for all parties. We are open to ideas, but we are also urging the Planning Commission to help ease the current restrictions that are preventing us from moving forward with a potentially great waterfront village business. I am here today to openly discuss the possibilities. I urge you to think to the future with regard to a project such as this one, which is funded with private money that will benefit not only the owner, but the village and the county. Projects like "Harvey" could be a model for restoring our small towns in Northampton County. We need to work together, move forward and make this business an asset to the village of Oyster, the County of Northampton and the entire Eastern Shore.

The third topic I would like to revisit with Northampton County is the subject of a regional water and wastewater system. We need to take a serious look into the future with regard to the water and sewage issues of Northampton County. How long can a peninsula such as ours, with a limited amount of natural resources, continue to support all of the wells and septic tanks currently in use, as well as future systems, before there are failures of massive proportions? We are all aware that there are water and sewage issues throughout the county. I would like the opportunity to talk openly with Northampton government officials about the possibility of a regional water and wastewater facility at the Webster site in Cheriton.

This topic was first introduced a few years ago, because of the issues with the Cape Charles water and sewage systems, surrounding areas with substandard water & sewage systems and the need for water & sewage systems for current businesses and future business growth. The problems with the Cape Charles water system have existed for many years. I would like to reference the water study presented by Elaine Meil of the Accomack-Northampton Planning District Commission of June 30, 2014, in which she notes that the water quality issues of Cape Charles are just as bad as they have ever been and getting worse. The wells in Cheriton, at the Webster site, are not affected by the water issues that plague Cape Charles. Studies have shown that the Webster site is sitting on top of the deepest part of the aquifer that runs under this county.

Another reason to explore the possibilities of a regional water and wastewater system is the future of the small towns in Northampton County. Our small towns are currently struggling to stay alive. These towns represent perfectly good subdivisions, so why do we want to go out and destroy a good crop producing field or forest to put in the infrastructure for growth? Why continue to ruin our fields and make land unproductive when we have towns that already have infrastructure in place and we are abandoning them?

Thinking ahead to the future of Northampton water and sewage needs, I urge the Planning Commission take a serious look at the possibility of a regional water and wastewater system at the Webster site in Cheriton. Here is an answer that solves the issues of Cape Charles and other towns in this county. For instance, in what the county calls the Southern Node, from Eastville to Cape Charles, the towns & hamlets could be serviced without promoting highway development. We are not opposed to any person, township, organization or Northampton County, helping us develop a regional and practical system that works for all individuals, towns, hamlets and businesses in Northampton County. We are open to ideas. I urge the decision makers of this county to revisit the installation of a regional water and wastewater facility. The Webster site in Cheriton is the perfect place for such a facility as was pointed out in studies eight years ago. All of the information regarding this topic that was given to the county at that time, still holds true today.

Finally, I think it is very important to talk about the small towns in Northampton County. Our small towns need all of the help they can get just to survive. I think we would all like to see our towns not only survive but thrive. We must come up with new ideas to help our small towns to repair, renew and grow, so that they will continue to exist for future generations. These small towns are part of the fabric of who we are. We all need to concentrate on renewing and strengthening our main streets and responsibly managing business growth on Route 13 with the emphasis on saving these one to two hundred year old subdivisions.

In closing, I would like to thank you for your time. I look forward to working with you in order to realize some of these goals. How do we move forward together and arrive at a time when I can rent a kayak in a seaside waterfront village in Northampton County? Will you help me realize the full potential of this property in a timely and cost effective way? I want to invite you to come to "Harvey" in Oyster. Don't listen to the speculation, come see the facts and look at the effort for yourself.

Sincerely,

Eyre Baldwin

4

Town of Eastville, Virginia 23347
P. O. Box 747
Eastville, Virginia 23347

August 12, 2014

Board of Supervisors
Northampton County
PO Box 66
Eastville, Virginia 23347

Dear Supervisors:

I am writing in support of Eyre Baldwin and the number of redevelopment projects he has done in the town of Eastville. On a number of occasions, he has taken our worst, most disheveled structures and at great expense, has adaptively reused then.

Our own town office building, formerly the post office and a CPA office, is now a great, modern efficient office. The former Drug Store building is a great two story office space, and is a great addition to the downtown area. It complements the Inn very well. Jimmy Browns store, formerly the Bill U Nottingham dry goods store, now houses 3 different businesses, including a law office, realtor office and entrepreneur office.

The Old Sugar Run building, ready for finishing work, is a great adaptation for the former Masonic Hall Building. As with the former Drug Store Building, it has incorporated building techniques centuries old. Having them made viable again is a great asset for the town.

I could only wish for more to take an interest in a towns' future.

Sincerely,

James G. Sturgis
Mayor

TOWN OF EXMORE
P. O. Box 647 ◆ 3305 Main Street ◆ Exmore, Virginia 23350
Ph: (757) 442-3114 ◆ Fax: (757) 442-4038

August 8, 2014

Northampton County Board of Supervisors
PO Box 66
Eastville, VA 23347

Dear Sirs:

It has come to my attention that Eyre Baldwin and his associates have renovated an old building in Oyster and are presently asking Northampton County for direction as to what types of businesses can occupy the currently empty structure. It is my understanding that there are zoning restrictions on the types of businesses that can be located on a waterfront village property, and that Eyre is asking the county to ease the current zoning and allow this project to grow into an exciting new opportunity for the village of Oyster and Northampton County. I am writing this letter of support for the Harvey project because I have experienced firsthand what it can mean to a town when a private individual such as Eyre commits to a revitalization project. As a citizen of Northampton County and the Town Manager of Exmore I whole heartedly support such development.

I have personal experience with Eyre's visions and abilities to revitalize our County. He was instrumental and a driving force in Exmore's revitalization efforts in the late 90's, working hand in hand with our Town Council. He oversaw the conversion of the "old shirt factory" building into what New Ravenna now calls home. Few individuals realize what a daunting task that conversion was. He also oversaw the conversation of the Cameo Theater building into a warehouse facility. From 2000 - 2004 I had the privilege of working directly with Eyre and Sara and witnessed several more of his revitalization efforts with the expansion of his previous work on the shirt factory building. These renovation projects not only saved two old, empty buildings, but brought them back to a state that today they are a major component of the Exmore downtown revitalization effort. New Ravenna has subsequently grown to become one the largest employers in Northampton County and nationally recognized for their product. This was a perfect example of a very successful project that was privately funded with the needed cooperation of a local government.

While Eyre did not seek headlines, much of New Ravenna's success can be attributed to his efforts in revitalizing several old, dilapidated buildings into a world class mosaic factory. Having direct experience with his visions and ability to accomplish a stated mission I speak with confidence, that if allowed to develop the Harvey property in Oyster, the final product will be something that will enrich all of Northampton County and our citizens.

Sincerely,

Robert G. Duer
Town Manager

Narrative Summary of Zoning Changes Related to Oyster Property
August 6, 2014

The purpose of this narrative is to review the changes that have been proposed and those enacted effecting the Oyster property identified as Tax Map # 85A-3-5, Lot 5 at Oyster Harbor.

In late 2009, early 2010 there were concept plans being drawn for the Oyster property at Oyster Harbor. Members of the development team representing the Madonia's and Baldwin's met at various times with County Planning and Zoning staff and supervisors to discuss the constraints of the current zoning ordinance in terms of use and dimensional development on this irregularly shaped harbor. Based on those conversations, suggestions were forwarded to the Board of Supervisors with a request for a text amendment for certain uses within waterfront village and waterfront commercial districts of which the Oyster Harbor is part. The Board of Supervisors advanced proposed text changes for the Planning Commission's consideration in July of 2010. The staff report of September 2010 and Planning Commission's work through that winter contemplated many changes and exhaustively discussed the nuances of differing kinds of uses related to waterfront development.

On June 14, 2011 the Board of Supervisors took up Zoning Text Amendment 2011-07 dealing with uses and Appendix B on Densities, Lot Sizes and Dimensions relating to setbacks in the waterfront village and waterfront commercial and neighborhood business districts. There were many speakers to the hearing and there were many written comments as well. The upshot was that in Category 3 Commercial Uses Guide and Outfitter Services with waterfront service or with accessory goods and services was changed from a Special Use Permit to a Minor Special Use Permit. Other retail establishments under 2,500 sq. feet for waterfront service was also created with a Minor Special Use Permit. Restaurants providing waterfront service less than 2,500 sq. feet with no drive-thru was now allowed with a Minor Special Use Permit. Certain other aspects related to the neighborhood village for art studios or conference centers were also considered. The most specific of them was that a conference or retreat facility would require a Special Use Permit no matter the number of guest rooms or accessory goods or services. No changes were made to any of the residential uses in waterfront village/waterfront commercial or waterfront village/neighborhood business. Upon review, Appendix B on Densities, Lot Sizes and Dimensions wound up with no changes and the existing chart from 2009 of Appendix B remains controlling.

Subsequent to that at the end of June 2011 an e-mail was sent to follow up on a conversation that Cole Burge had with then Planning Director, Sandra Benson, regarding the uses being contemplated on the Oyster Harbor parcel. At that time a request was being made for additional guidance or a policy document related to those uses recently amended in the waterfront commercial/waterfront village district and water dependency. Specifically, some of the retail kinds of things of course with guide service would still be requiring a Minor Special Use Permit, boat rental or other wholesale retail sales of clams,

crabs and fish would still be allowed. Sandra Benson has retired from employment of the County, so that particular issue was never completed.

Since that time the Development office, including Planning and Zoning as a Department of Northampton County government has done exhaustive work in reviewing and proposing changes to the 2009 Zoning Ordinance. At this point, no changes have been adopted; therefore those changes put in place at the June 14, 2011 Board of Supervisors meeting are controlling.

Att: Minutes of June 14, 2011 Board of Supervisors meeting - pp 44-56

Consent Agenda:

(3) Minutes of the meetings of July 8 and 28, 2014.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the minutes of the meetings of July 8 and 28 be approved. All members were present and voted "yes." The motion was unanimously passed. Mr. Hogg indicated that he wished to revisit the issue of Conservation Districts, as illustrated on page 9 of the July 28th minutes during the August work session.

County Officials' Reports:

(4) 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: August 4, 2014

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

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

$1,555.15 – This represents an insurance reimbursement relative to a Sheriff's Office incident. Please transfer these funds to the Sheriff's Vehicle & Equipment Supplies line item (100-3102-55600). FY 2015

$601.00 – This represents an increase in FY 15 Victim-Witness funding. The increase in revenue will be used to offset the increase in payroll expenses.

$52,050.00 – This represents a *decrease* in FY 15 lease proceeds. Due to an increase in lease issuance fees, it is not cost effective for the County to obtain funding this fiscal year. The Voter Registration Office has decided not to upgrade its equipment during FY 15.

$1,000.00 – FY 2014
$2,000.00 – FY 2015

This request represents a budget adjustment for Miscellaneous Revenue for the Sheriff's Office calendar sales of $1,000.00 for FY 2014. This money will be spent on expenses relating to the DARE Program. In FY 2014, the total calendar sales revenue of $2,000 was not spent by the end of the fiscal year; therefore, the Sheriff is requesting these funds be carried forward to FY 2015 to be used for the DARE Program expenses (100-3102-55300).

$2,888 – This represents additional revenue received from the Virginia Rescue Squad Assistance Fund for the E911 Center and will be expensed through that project (730-3104-58565). FY 2015

$86,800 – This represents additional revenue received from a PSAP Grant and will be expensed through the PSAP 911 Continuity Enhancement project. (730-3104-58560). FY 2015

$69,191.00 – This represents a *decrease* in the Contingency Fund as a result of reductions in state funding. The Board tentatively approved the transactions associated with this reduction at its July 8, 2014 meeting. **$13,691** represents a reduction in Workers Comp expense as a result of reductions in state funding. FY 2015

$32,638.00 – This represents a budget adjustment for FY 2014 due to an increase in Ambulance Fee Revenue and will be used to offset associated salaries & wages.

$46,618.00 – This represents a budget adjustment for FY 2014 due to an increase in Solid Waste Revenue and will be used to offset associated hauling and tipping fees.

$38,250.00 – This represents a budget adjustment for FY 2015 to move tourism grant funding from FY 14 to FY 2015.

$66,917.00 – This represents a decrease in Stormwater Program Development for FY 2014 as a result of the County opting out of the stormwater management program.

$212,799.00 - This represents an increase in the Code Compliance Office's budget for the *initial* costs of the demolition of the former Exmore-Willis Wharf Elementary School. The source of funding is the Appropriated Fund Balance line item. While the Board approved the budget in FY 2014, funds were not expended until FY 2015.

$52,215.00 – This represents additional costs incurred in the demolition project at the former Exmore-Willis Wharf Elementary School and were approved by the Board on July 28, 2014. Source of funding is the Appropriate Fund Balance line item. FY 2015

Thank you for your attention to this matter.

* * * * *

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the budget amendments and supplemental appropriations be approved as presented above. All members were present and voted "yes," with the exception of Mr. Bennett who voted no to the $212,799.00 item. The motion was passed.

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MEMORANDUM

TO: Board of Supervisors

FROM: Leslie Lewis
Director of Finance

DATE: August 4, 2014

RE: Budget Amendments and Appropriations – FY 2015

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

$1,923.30 – This represents an appropriation *reduction* for the 2015 School Operating Budget and reflects the final FY 15 award of Carl D. Perkins Career and Technical Education Act funding.

$122,025.00 – This represents a *transfer* of capital project appropriations between projects as outlined below.

OES asphalt parking lot overlay	($122,025.00)
Roofing – KES – Replace asphalt shingles & plywood	$61,012.00
Roofing – OES – Replace asphalt shingles & plywood	$61,013.00
	$0.00

Thank you for your attention to this matter.

* * * * *

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

Mrs. Lewis distributed the following spreadsheet relative to the potential loss of revenue as a result of the July 24th tornado (transient occupancy and meals tax). At this time, she does not anticipate that there will need to be any revenue adjustments.

Analysis : Possible Revenue Loss due to Tornado

Transient Occupancy Tax and Food and Beverage Tax

**Unaudited numbers below were obtained from the Commissioner of the Revenue Office:

	Potential Loss Revenue	2011	2012	2013
Third Quarter Transient and Occupancy Tax (TOT)		$72,800	$74,100	$78,100
Average Quarterly (TOT) for **2014** based on the last 3 years	$75,000			
Average Weekly (TOT) for **2014** based on the last 3 years	$6,250			

TRANSIENT OCCUPANCY TAX

Provision: 58.1 - 3819 Code of Virginia of 1950, as amended.

The **Transient Occupancy Tax** is an additional sales tax based on the cost of renting a space in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms for rent. The tax in Northampton County is 5% of the cost of the room or facility, except within the corporate limits of Cape Charles the county tax is 2%. All facilities offering space for rent must apply and register for the collection of the Transient Occupancy Tax. Upon receipt of the application, the applicant will be issued a numbered license and returns for filing and paying the tax.

NOTE:

County's Ordinance -Use of FUNDS (Transient Occupancy Tax)

a) Forty percent (40%) of the funds collected shall be allocated to the County's General Fund;	**$2,500**
b) Forty-five percent (45%) of the funds collected shall be allocated as the annual contribution to the Eastern Shore Tourism Commission from the Northampton Board of Supervisors	$2,812
c) Fifteen percent (15%) of the funds collected shall be allocated as the County's allocation towards a Tourism Infrastructure Grant Program	$938

***** CONTINUED ON NEXT PAGE*****

FOOD AND BEVERAGE TAX

Provision: 58.1 - 3833 of the Code of Virginia of 1950, as amended.

The Northampton County Food and Beverage Tax is an additional sales tax based on the cost of selling certain food and beverages for human consumption by a restaurant, as such term is defined in subsection 9 of 35.1 - 1 of the Code of Virginia. The tax is 4% of the sale. Owner/seller of such businesses are required to make application to the Commissioner of the Revenue. A license, number and monthly returns for filing the tax will be issued. The tax is due before the 20th of the month following the taxing period.

	Potential Loss Revenue	2011	2012	2013
Annual collections of Food and Beverage Tax		$8,945	$8,610	$9,840
Average Monthly (F&B) for **2014** based on the last 3 years	**$761**			
Average Weekly (F&B) for **2014** based on the last 3 years	**$176**			
100 % of F&B taxes collected remains in the County's General Fund	$176			

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:

(5) Special Use Permit 2014-08: Wood Lee Terrace Development Co., MCM Cape Charles, LLC has applied to expand an existing 965 gallon per day drainfield to a 2165 gallon per day mass drainfield to accommodate the addition of a 2,580 square foot Veterinary Clinic at 22491 Lankford Highway, in the Food Lion Shopping Center. The property contains 2.37 acres and is identified as Tax Map 84, double circle 4, parcel D and is zoned EB, Existing Business.

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

Mr. Peter Stith, Long-Range Planner, indicated that the Planning Commission is recommending approval of the petition.

Representing the applicant, Ms. Debra Guerrero, said that her firm was attempting to market the space and the proposed veterinary office would provide a needed service to the residents of the area. She has been working with the Health Department and does not feel that there will be a problem with receiving the Health Department permit.

In response to a question from Mr. Hogg, she responded that the contractors, Health Department staff and County employees have been “exceptional” in explaining the special use permit process but that she was “handicapped” in being from Virginia Beach and not used to dealing with septic systems. Mr. Hogg also asked if she had an idea of the wastewater volumes involved. She responded that flow meters will be installed for each tenant and that engineering calculations are currently being used as the tenants’ allocations.

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

Motion was made by Mr. Trala, seconded by Mr. Bennett, that Special Use Permit 2014-08 be approved as petitioned, pending Health Department approval. All members were present and voted "yes." The motion was unanimously passed.

The Chairman called to order the following public hearing:

(6) An Ordinance to Regulate Fire Lanes

The purpose of this ordinance is to regulate fire lanes in Northampton County.

AN ORDINANCE TO REGULATE
FIRE LANES

WHEREAS, pursuant to the provisions of the Code of Virginia, §46.2-1219, the governing body may by ordinance regulate the flow of vehicular and pedestrian traffic, the parking of vehicles, and speed limits on parking lots which are open to the public and designed to accommodate fifty or more vehicles.

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

Section 1: Fire Lanes

(a) No vehicles except emergency or law enforcement vehicles shall be parked in any area clearly marked "Fire Lane" within a privately owned parking lot or facility. For the purposes of this section, emergency vehicles shall include fire trucks, ambulances and vehicles being actively used for some purpose relating to the fight of fire or other delivery of emergency services.

(b) No person shall be considered to have violated this section unless the area in which parking is prohibited is clearly identified and marked with the words, "Fire Lane".

(c) A summons or parking ticket charging an offense under this section may be issued by law enforcement officers and other uniformed personnel employed by the county to enforce parking regulations without the necessity of a warrant being obtained by the owner of a private parking area.

(d) In any prosecution charging a violation of this section, proof that the vehicles described in the complaint, summons, parking ticket citation, or warrant was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, § 46.2-600 et seq., shall constitute in evidence a prima

facie presumption that the registered owner of the vehicle was the person who committed the violation.

(e) Any person violating this section shall be guilty of a Class 2 misdemeanor.

(f) This provisions of this article shall not be applicable within the corporate limits of any incorporated town within Northampton County in which parking in fire lanes is regulated by town ordinances, provided, however, that the provisions hereof shall be applicable on property owned by Northampton County and located within said corporate limits and within the limits of any incorporated town in which parking in fire lanes is not regulated by town ordinances.

Section 2. Effective Date

This ordinance shall become effective immediately upon its adoption by the Board of Supervisors.

* * * * *

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

The County Administrator indicated that this ordinance was being proposed at the request of Sheriff Doughty.

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

Motion was made by Mr. Hubbard, seconded by Mr. Hogg, that AN ORDINANCE TO REGULATE FIRE LANES be adopted as presented. All members were present and voted "yes." The motion was unanimously passed.

The Chairman called to order the following public hearing:

(7) An Ordinance to Amend an Ordinance Entitled, "An Ordinance Providing for the Levy and Assessment of a License Tax Upon Motor Vehicles, Trailers and Semi-Trailers and Repealing all Ordinances in Conflict Herewith", codified as Section 33.008 of the Northampton County Code of Ordinances.

The purpose of this amendment is to exempt qualified disabled veterans (limit of one vehicle) pursuant to Code of Virginia Section 58.1-3506 A (19) & B, from the license tax fee.

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED,
"AN ORDINANCE PROVIDING FOR THE LEVY AND

ASSESSMENT OF A LICENSE TAX UPON MOTOR VEHICLES, TRAILERS AND SEMITRAILERS, AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH"
As codified in the Northampton County Code of Ordinances as Section 33.008

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

Section 33.008 (C) (9) be amended as set out below:

Motor vehicles owned and used personally by either:

(a) any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the Virginia Department of Motor Vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed in Va. Code Ann. §46.2-739; or

(b) Qualified Disabled Veteran (limit of one vehicle), pursuant to Code of Virginia §58.1-3506 A (19) & B.

Satisfactory evidence that all personal property taxes owed upon such motor vehicle have been paid in a timely manner must be provided to the County Treasurer prior to exemption of any motor vehicle license tax under this section.

* * * * *

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

The County Administrator indicated that the purpose of this ordinance was to clarify the benefit provided to qualified disabled veterans by exempting them from the vehicle license tax.

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

Motion was made by Mr. Bennett, seconded by Mr. Trala, that AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED, "AN ORDINANCE PROVIDING FOR THE LEVY AND ASSESSMENT OF A LICENSE TAX UPON MOTOR VEHICLES, TRAILERS AND SEMI-TRAILERS AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH",

codified as Section 33.008 of the Northampton County Code of Ordinances, be adopted as presented. All members were present and voted "yes." The motion was unanimously passed.

The Chairman called to order the following public hearing:

(8) An Ordinance to Repeal Chapter 98 (Noise Ordinance) and Replace it with Chapter 98.1 of the Code of Ordinances of Northampton County.

The purpose of this ordinance is to repeal the current Noise Ordinance and replace it with a new Noise Ordinance.

AN ORDINANCE TO REPEAL CHAPTER 98
AND REPLACE IT WITH CHAPTER 98.1
OF THE CODE OF ORDINANCES
OF NORTHAMPTON COUNTY

Sections Repealed: NCC §§98.01 through 98-08
Sections Added: NCC §§98.1-01 through 98.1-09

WHEREAS, the Northampton County Board of Supervisors adopted on March 14, 2005, the "Northampton County Noise Ordinance" , codified as Chapter 98 of the Code of Ordinances of Northampton County; and

WHEREAS, the Northampton County Board of Supervisors now deems it advisable to repeal the aforesaid ordinance which constitutes the totality of Chapter 98 of the Code of Ordinances of Northampton County; and

WHEREAS, the Northampton County Board of Supervisors hereby replaces it with a new "Chapter 98.1: Noise" as set out below:

Chapter 98.1: NOISE

Sec. 98.1-01. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

> *A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Audible and discernable means the sound can be heard by the human ear, and the sound is sufficiently distinct such that its source can be clearly identified.

Background noise level shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

Emergency means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical injury or illness or property damage threatened or caused by an emergency.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Instrument, machine or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.

Moped means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. A moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour.

Motor carrier vehicle engaged in interstate commerce means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

Motorcycle means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.

Motorized skateboard or-scooter means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is

powered by a gasoline engine that displaces less than 36 cubic centimeters.

Motor vehicle means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

Noise means any audible sound which disturbs or tends to disturb humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Public area means any real property owned by the government, including, but not limited to, public rights-of-way, sidewalks, parks, and buildings.

Residential dwelling means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound generation means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

Sec. 98.1-02. Administration and enforcement.

(a) The Sheriff of Northampton County shall be responsible for the enforcement of the noise control program established by this Chapter and may be assisted by other County departments as required.

(b) Nothing in this section shall preclude a private citizen from obtaining a magistrate's summons based upon a probable cause determination by the magistrate's office.

Sec. 98.1-03. Violations.

(a) Any person who violates any provision of this article shall be deemed to be guilty of a Class 2 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a

Class 1 misdemeanor.

(b) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

(c) In addition to and not in lieu of the penalties prescribed in this section, the County may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

Sec. 98.1-04. Exceptions.

No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the County; (4) activities authorized by a permit issued by the County; or (5) activities for which the regulation of noise has been preempted by federal law.

Sec. 98.1-05. Use of sound level meters.

The decibel level of any noise regulated on a decibel basis by this article shall be measured by a sound level meter. The test results shall be prima facie evidence if administered in accordance with Va. Code § 19.2-270.7, as amended from time to time. In order to implement and enforce this article effectively, the Sheriff of Northampton County shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article.

Sec. 98.1-06 Maximum sound levels and residential dwellings.

(a) *Nighttime.* No person shall permit, operate or cause any source of sound to create a sound level that can be heard in another person's residential dwelling during the hours between 10:00 p.m. and 7:00 a.m. in excess of 55 dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.

(b) *Daytime.* No person shall permit, operate or cause any source of sound to create a sound level in another person's residential dwelling during the hours between 7:00 a.m. and 10:00 p.m. in excess of 65 dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.

(c) *Measurements in multifamily dwellings or mixed use structures.* In a structure used as a multifamily dwelling or a mixed use structure, the Sheriff may take measurements to determine sound levels from indoor common areas or other dwelling units within the structure, when requested to do so by a residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors and windows to the receiving area closed.

(d) *Exemptions.* The following activities or sources of noise shall be exempt from the

daytime prohibition set forth in subsection (b) of this section:

(1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges, or universities.

(2) Athletic contests and other officially sanctioned activities in city parks or facilities.

(3) Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property during the hours of 6:00 a.m. until 10:00 p.m.

(4) Gardening, lawn care, tree maintenance or removal, and other landscaping activities during the hours of 6:00 a.m. until 10:00 p.m.

(5) Agricultural, aquacultural and forestal activities.

(6) Church bells, carillons, or calls to worship by other sound-producing devices.

(7) Religious or political gatherings to the extent that those activities are protected by the First Amendment to the United States Constitution.

(8) Public transportation, refuse collection and sanitation services.

Sec.98.1-07 Motor vehicle maximum sound levels; amplified sound from vehicles.

(a) No person shall operate or cause to be operated a public or private motor vehicle, motorcycle, moped, motorized skateboard or scooter on a public right-of-way at any time in such a manner that the sound level emitted by the operation of the motor vehicle or motorcycle, when measured at a distance of one-hundred (100) feet or more is audible and discernible or exceeds the level set forth in the following table:

	Sound level in dBA	
Vehicle Class	Speed limit 35 MPH or less	Speed limit over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90

Any motorcycle	82	86
Any other motor vehicle, moped, motorized skateboard or scooter or any combination of vehicles towed by any motor vehicle	76	82

(b) This section shall not apply to any motor carrier vehicle engaged in interstate commerce.

(c) Notwithstanding any other provisions of this section or article, it shall be unlawful for any person to play or operate, or permit the playing, use or operation of, any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the city, including any public or private street or alley, in such a manner as to be audible and discernible at a distance of one hundred (100) or more feet from the vehicle in which it is located.

(d) The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade, nor to motor vehicle alarms or other security devices, nor to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

Sec. 98.1-08 Specific prohibitions.

The following acts are declared to be violations of this article:

(a) *Vehicle horns, signaling devices and similar devices.* Sounding any horn, signaling device, or similar device on any automobile, motorcycle or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning.

(b) *Nonemergency signaling devices.* Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes from any one location for more than ten (10) consecutive seconds in any hourly period; provided, however, that this subsection shall not apply to the sounding of such devices by religious uses or by public bodies or agencies for testing, traffic control or other public purposes.

(c) *Emergency signaling devices, security, burglar and fire alarms, etc.* Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency.

(d) *Audio and audio-visual devices, musical instruments, amplified sound etc., excluding those in motor vehicles.* The playing or operation of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, amplifier or any other device that produces, reproduces or amplifies sound except for those located in motor vehicles, where the sound, when measured in any public area including but not limited to any public street or sidewalk, or from other private property between the hours of 7:00 a.m. and 11:00 p.m. exceeds eighty (80) dB(A), or between the hours of 11:00 p.m. and 7:00 a.m. exceeds seventy-five (75) dB(A); provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the County or for which the County has granted a permit.

(e) *Noise-sensitive areas.* The making of any unreasonably loud and raucous noise within two hundred (200) feet of any school, place of worship, court, hospital, nursing home, or assisted-living facility while the same is being used as such, that substantially interferes with the workings of the institution.

(f) *Construction equipment.* The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment between the hours of 9:00 p.m. and 7:00 a.m. except as provided in §98.1-04 above, or as specifically deemed necessary and authorized by a written document issued by the city manager or his designee.

Sec. 98.1-09. Severability.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this article shall not affect the validity of the remaining parts thereto.

* * * * * *

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

The County Administrator indicated that this new ordinance was being proposed as the ordinance currently "on the books" was modeled after the Virginia Beach ordinance which has been over-turned by the Courts. She noted that the Sheriff has "tested" the ordinance for the past six weeks and feels that his department can enforce its provisions. She also referred to a memorandum contained in the agenda packet which detailed a meeting she had had with Ms.

Barbara Herondorf, a citizen who addressed the Board last month, with regard to the noise issue.

This memorandum is shown below:

MEMORANDUM:

TO: Northampton County Board of Supervisors

FROM: Katie H. Nunez, County Administrator

DATE: August 6, 2014

SUBJ.: Noise Ordinance

At the July 8, 2014 Board meeting, you received comments from Ms. Barbara Herondorf relative to the noise ordinance. As a follow-up to those comments offered, I met with Mrs. Herondorf to discuss her comments and concerns with the proposed ordinance. I agreed to forward her concerns to the Board since she was concerned that the 3-minute time limit would be insufficient to impart all of her issues. Her concerns are detailed as follows:

(1) The ordinance references "A-weighted sound" and does not reference A.N.S.I. standards as stated in the Code of Virginia referencing a locality's ability to have a noise ordinance

(2) She doesn't feel that the language is sufficient where it is defined on where to stand to measure sound.

(3) She questioned whether a private citizen can measure and file a violation of the noise ordinance.

(4) With regard to Section 98.1-08 (c), she believes that these instances are not intentional acts of the homeowner and that the time frame referenced should not be included. She also felt that violations of this section should result in a fine and not a criminal violation.

(5) Suggested that the Board pursue the repealing of state law regarding noise enforcement and substitute these provisions in its place:

(i) Are we on your property?
(ii) Can you hear the noise?
(iii) Is it unnecessary noise? Examples of both "necessary" and "unnecessary" noises would be provided.
(iv) Am I making a complaint?

If these four questions are answered in the affirmative, it would constitute a violation of this law.

Could violations fall under the “Disorderly Conduct” standard/law? There should be no time restrictions, since people have varying operating hours.

* * * * *

Ms. Barbara Herondorf addressed the Board; her comments are set out below:

-Va Supreme Court (VSC) decision - Tanner vs City of Va Beach
-Circuit Court said if he could prove the police were biased against him they would reverse the lower court decision, but he couldn't prove it
-VSC said the old law was unconstitutional:

- The wording in the law is general, vague, arbitrary, discriminatory
- Our law enforcement officers are dishonest and biased
- Law enforcement officers don't know when something is too loud
- Our citizens can't understand the law and don't know when something is too loud

So someone came up with a law using sound meters, to take subjectivity out of the law and replace it with objectivity. Unfortunately in many cities, not able to get a conviction even with a sound meter. Why?

1- Sound meters pick up all sounds around it, can't isolate one particular sound and drown out all the other sounds.
2- You can't prove in court where the measurement of sound on your meter came from because we don't have that kind of technology.
3- Meters must be calibrated and certified by a third party on a regular basis - cost $180 per calibration - if you drop it must be recalibrated, you can recalibrate it yourself but would be considered tampering.
4- The closer you are to a sound, the more accurate it is. The farther away from the sound, the less accurate it is because there's more interference between you and originating sound.
5- So the sound meter does not provide the objectivity it was supposed to. It's still up to the judge as to who he believes.

Issues with the proposed law in Northampton County, Chapter 98.1 Noise:

1- If the county is going to adopt this into law, then citizens who want to take their neighbor to court as a civil matter must also must buy a sound meter.

2- Who will do the required training for citizens here in Northampton County? Current Va Noise Code 98 says: "Measurement equipment operators shall be employees of the Northampton County Sheriff's Office or <u>other persons</u> who have been trained in the proper use of the sound level meters."

3- Cost to purchase a sound meter - need a type 2, A weighted - $350 - $10,000 (attachment 1)

4- Proposed law should include ANSI standards - cost $100 to download from their website

5- Correction needed to distinguish single family homes from apartment buildings. In Proposed law Section 98.1-06 Maximum sound levels and residential dwellings, a, b, c says four feet from the wall.

- Va Code 98.05 Measurement of Noises, A-1 states "measured from a site which is not on the lot or parcel of real estate from which the noise is originating - and - properties containing multiple dwelling units may be measured from any location that is at least three feet from the dwelling ... (attachment 2, 3, 4 from Va Beach code)

Attachment 2 - "four feet from the wall"
Attachment 3 - "50 ft or more from the source of the sound"
Attachment 4 - "at least three feet from the dwelling"

6- Other suggestions:

- Emergency signal devices, ie: home alarm system, should not be a violation - instead a non-court related fine from Treasurer's Office.
- No time restrictions to the law, ie: 9 pm to 7 am. Noise is bothersome at any time of the day or night.

<u>My solution</u>:

- I believe will hold up in the VSC
- Similar to old law the VSC says is unconstitutional, except that it shifts the focus from the law enforcement officer to the citizen - Takes the bias away from officer who the VSC says is biased and doesn't know when something is too loud - and <u>puts the focus on the citizen making the complaint</u>
- Defines necessary and unnecessary noise
-Is objective rather than subjective
-Does not use general terminology like loud (what is loud?), does not use vague wording, and its very clear so everyone can understand it.
-It's simple, requires no equipment.

-Discard current law requiring sound meters and create new law that will pass the test of the VSC.

-New law says Keep *your* noise on *your* property. If your neighbor can hear it on their property and complains, that's a violation of the law.

-Call the officer who asks 3 questions:
1- Can you hear the noise?
2- Is it unnecessary?
3- Is someone making a complaint?
-If the answer is Yes to all three questions, there is a violation of the law.

Explanation of three questions:
1. It's not up to the officer to decide whether he thinks the noise is loud or bothersome to him. The VSC has said NO to that. What is "loud" to one person might not be loud to another. ie: What is bothersome to you may not be bothersome to me. If a citizen complains about hearing a neighbor's noise and yes, the officer can hear it, then move to the second question.

2. Is it unnecessary? The officer can investigate. Gives the officer some control as to whether he feels the noise is necessary or not. If yes its unnecessary, move to question 3.

3. Making noise isn't a violation until someone complains about it. If the answer is yes to all three questions, there is a violation.

** A QUICK FIX: Incorporate noise into Disorderly Conduct. Do you still need a sound meter?

Delegate Bloxom wants support from the Board and Sheriff.

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[illegible]

Specifications: IEC 61/2804 Type 2 and ANSI S1.4 Type 2 [illegible]

Price: $352

Main Features:

- [illegible]
- Single Range [illegible] 30 to 105 dB
- [illegible]
- [illegible] weighting A and C
- [illegible]
- [illegible]
- [illegible]
- [illegible]
- [illegible]
- USB [illegible] download and data [illegible]
- [illegible]

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Sitemap

p.m. and 7:00 a.m. in excess of fifty-five (55) dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors to the receiving area closed and windows in the normal position for the season.

(b) Daytime. No person shall permit, operate or cause any source of sound to create a sound level in another person's residential dwelling during the hours between 7:00 a.m. and 10:00 p.m. in excess of sixty-five (65) dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors to the receiving area closed and windows in the normal position for the season.

(c) Measurements in multifamily dwellings or mixed use structures. In a structure used as a multifamily dwelling or a mixed use structure, the police department may take measurements to determine sound levels from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

(d) Exemptions. The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (b) of this section:

(1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges, or universities.

(2) Athletic contests and other officially sanctioned activities in city parks or facilities.

(3) Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property.

(4) Gardening, lawn care, tree maintenance or removal, and other landscaping activities.

(5) Agricultural activities.

(6) Church bells, carillons, or calls to worship by other sound-producing devices.

(7) Religious or political gatherings to the extent that those activities are protected by the First Amendment to the United States Constitution.

(8) Public transportation, refuse collection and sanitation services.

(Ord. No. 3082, 5-12-09)

Sec. 23-70. Motor vehicle maximum sound levels; amplified sound from vehicles.

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, when measured at a distance of fifty (50) feet or more, exceeds the level set forth in the following table:

(3)

(c) Emergency signaling devices, security, burglar and fire alarms, etc. Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency.

(d) Audio and audio-visual devices, musical instruments, etc. The playing of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, or any other device that produces, reproduces or amplifies sound, including any such device in a motor vehicle, where the sound is plainly audible to any person other than the player(s) or operator(s) of the device and those who are voluntarily listening to the sound and is plainly audible and discernable at a distance of fifty (50) feet or more from the source of the sound; provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the city or for which the city has granted a permit.

(e) Noise-sensitive areas. The making of any unreasonably loud and raucous noise within two hundred (200) feet of any school, place of worship, court, hospital, nursing home, or assisted-living facility while the same is being used as such, that interferes with the workings of the institution.

(f) Construction equipment. The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment between the hours of 9:00 p.m. and 7:00 a.m. except when operated in the course of emergency work or as authorized by the city manager.

(Ord. No. 3082, 5-12-09)

Sec. 23-72. Sound levels: restaurants.

No person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant during the hours between 11:00 p.m. and 7:00 a.m. (1) in excess of seventy-five (75) dB(A) when measured from any public area, including but not limited to adjacent streets or sidewalks; or (2) that is plainly audible and discernable at a distance of fifty (50) feet from any of the restaurant's external walls when measured from any property other than the property on which the restaurant is located.

(Ord. No. 3082, 5-12-09)

(4)

[illegible] building or [illegible] building the [illegible] school, church, hospital, clinic or other public building.

(Ord. passed [illegible])

§ 97.04 EXCEPTIONS.

(A) Notwithstanding any other provision of this chapter [illegible] permitted by agricultural operations, construction operations or commercial mining operations which are customarily and reasonably associated [illegible] such operations shall not be prohibited.

(B) This chapter shall not apply to [illegible] gate used by commercial or industrial operations unless such [illegible] endanger the health and/or safety of persons who are not working on the [illegible] commercial or industrial operation.

(C) This chapter shall not apply to [illegible] gate used for the purpose of alerting persons to emergency situations or to [illegible] generated in the performance of emergency work by fire and rescue personnel or to [illegible] generated by law enforcement personnel in the performance of their duties.

(D) This chapter shall not apply to the [illegible] generated by the discharge of a firearm by any person lawfully engaged in hunting, nor shall it apply to the [illegible] generated by the discharge of a firearm by one engaged in target practice at any existing sportsman's rifle range, or at a location which is at least 500 feet from any school, church, hospital or clinic or other public building or public property, residence or place of business of another, provided that with the consent of the owner, lessee, or operator of such other residence or place of business, no such minimum distance shall be required.

(E) This chapter shall not apply to parades, festivals, outdoor concerts and rallies for which permits have been issued by the county, such permits [illegible] notwithstanding, will be [illegible].

(F) This chapter shall not apply to sporting events held in or adjacent to sporting arenas or venues.

(G) This chapter shall not apply to generators [illegible] serving a power emergency.

(Ord. passed [illegible])

§ 98.05 MEASUREMENT OF NOISE.

(A) Wherever in this chapter any noise level is prohibited by or is to be determined by decibel level, the measurement of such noise level shall be conducted as follows:

the further away, the more interference

(1) Where the noise to be measured is originating from private property, such noise shall be measured from a site which is not on the lot or parcel of real estate from which the noise is originating. Provided, that in the cases of properties containing multiple dwelling units or commercial units such as, but not limited to, apartment buildings and shopping centers, noise may be measured from any location that is at least five feet from the dwelling or other unit from which the noise is originating. Such measurement shall be conducted at a height of at least four feet above ground and at least three feet from any reflecting surface. Any such prohibited decibel level will be deemed to be exceeded when the sound level meter set for FAST response, using the C-weighting network, exceeds the specified level.

(2) *Maximum permitted decibel levels*

District	*Daytime* Level	*Nighttime* Level

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

Motion was made by Mr. Trala, seconded by Mr. Bennett, that AN ORDINANCE TO REPEAL CHAPTER 98 (Noise Ordinance) AND REPLACE IT WITH CHAPTER 98.1 OF THE CODE OF ORDINANCES OF NORTHAMPTON COUNTY be adopted as presented. All members were present and voted "yes," with the exception of Mr. Hogg who voted "no." The motion was passed. Mr. Hogg indicated that he had some reservations and wanted the Sheriff's Office to take a look at some of Ms. Herndorf's suggestions and that he would prefer to wait until after Ms. Herndorf could meet with the Sheriff. Mr. Bennett stated that he believed the ordinance was a "start" in the right direction, providing service to the public and allowing folks to rest more peaceful in their homes.

Citizens Information Period:

Mr. William A. Vose read the following comments:

Aug 12th 2014

My name is William A. Vose, I go by Alan.

In October of last year, I addressed this board regarding my dissatisfaction with the available choices primarily in cable TV and Internet. Since that time, I cancelled my services at my old house in Newport News, VA. I then signed up for "high speed internet" and a home phone with the only company who currently provides both, Verizon. I also addressed the board in February I believe or possibly March of this year. Since then I have dropped Charter and gone with Dish network. I dropped Charter as their service to put it bluntly stank, no HD, poor signal quality and outages, for which I got some of the most unbelievable reasons.

I had a few issues with Verizon, primarily related to service I had started then abruptly stopped in early 2012. This was due to a "bait and switch" on their part. Once we got that resolved, the service is ok, not great, but ok.

My cable TV provider, Charter, advertises a "triple play" package, and I received a nice letter from my previous provider, Cox, with this as a suggested service for my new address. I have provided a copy for the board.

Charter does not offer, in Northampton County, HD TV, Internet or phone, they do have fair quality (mostly) TV service.

My internet service provider was Thom Henderson's ESVA.net DSL service. He advertises, up to 1.5 Megabits per second (Mbps) download speed. I usually got that or slightly better, but had numerous times when I would have my modem drop off-line, or the speeds would go down around dial-up levels. The problem seemed worse after a heavy rain spell. Since he buys the service from Verizon, he would have to notify them, have a Verizon technician dispatched by which time they couldn't find anything.

When I switched to Verizon on December 18th, almost immediately I had the same problems that I had with ESVA, verifying, in my mind, that the problem was in the line. Verizon sent a technician out on a Sunday afternoon, it took him 3 hours to fix it, but he got it fixed. Verizon has two tiers of service, I opted for the higher tier, up to 3.0 Mbps download, at first I was right where I had been with ESVA, after the service call on December 22nd, I am right at the advertised speed. Verizon keeps advertising their FIOS but have no interest in offering it here.

Unfortunately, what I had, what NASA, Shore Memorial, the Social Security Office, and probably this county and Accomack County have is over 10 times faster, my Cox service averaged around 40 Mbps, but, I will admit, they weren't always stellar, I had a period where I was in dial-up speed range, and it took their technicians almost 4 months to find the problem in a tap, up the street from my house. Cox's download speeds are one of the highest in the country. My Cox service was the Premier package.

I appreciated the letter to Nick Pascaretti at the broadband authority, but I had talked to him previously, his hands are tied, he cannot sell to retail customers, he can offer me a commercial T1 line, for $1500 per month.

We need to either tell Charter to start providing what they advertise, or revoke their franchise and get Cox over here.

Cox internet service levels:

Essential – 5 Mbps download, 1 Mbps upload

Preferred – 25 Mbps download, 5 Mbps upload

Premier – 50 Mbps download, 10 Mbps upload

Ultimate – 100 Mbps download, 20 Mbps upload

Charter internet service level:

One only – 30 Mbps download, 4 Mbps upload

Comcast internet service levels:

Performance starter – 6 Mbps download

Performance – 25 Mbps download

Blast! – 50 Mbps download

Extreme 105 – 105 Mbps download

Verizon DSL levels:

HSI - .5 to 1 Mbps download, 384 Kbps upload

HSI enhanced 1– 1.1 to 3 Mbps download, 384 Kbps upload

HSI enhanced 2 – 3.1 to 7 Mbps download, 768 Kbps upload

HSI enhanced 3 – 7.1 to 15 Mbps download, 768 Kbps upload

I do not believe the last two are available here, I was only given the first two as options. As you can see, even IF Charter had internet, they aren't anywhere near the speeds Comcast North of us or Cox South of us offer.

Mrs. Martina Coker read the following comments:

August 12, 2014

Martina Coker
1530 Elliotts Creek Lane
Cape Charles, VA 23310

Please enter this letter into the public record.

As you are aware, I recently resigned my position as Planning Commissioner. I resigned my position because I can no longer serve in good conscience, given the flawed process the Board of Supervisors and the Planning Commission are working under, as it relates to the proposed Zoning Ordinance.

I continue to be dismayed at the manner in which the Zoning Ordinance was developed and proposed, without any public input or analysis of data which could support proposed changes. The changes that are proposed may have a significant detrimental effect on residential property values for the citizens of the County. The proposed Zoning Ordinance strips property owners of their rights to maintain their property value by eliminating the Special Use Process for virtually all uses, many of which could decimate property values and adversely affect the quality of life of citizens of this County. It is important that citizens understand that , if a use is permitted by right on an adjacent property, you have no ability to prevent the construction and operation of that use, if someone elects to initiate that use. Many high intensity uses are proposed by right throughout all proposed zoning districts, including residential zones.

The revision of a Zoning Ordinance should involve a review of the Comprehensive Plan prior to such revision. That allows a review of current data, including census data, review of economic indicators, analysis of trends and input from citizens.

I have written previously about the ways in which the proposed Zoning Ordinance does not meet the intent of State Code and is inconsistent with the Northampton County Comprehensive Plan. I will not reiterate that here, as it is part of the public record already.

The statements of a fellow Planning Commissioner, Mike Ward, are of particular concern to me. The Planning Commission is now working to finish an update of the Comprehensive Plan, which was put on hold so that we could make a desperate attempt to review the proposed Zoning Ordinance in a ridiculously short period of time. During our review of the Comprehensive Plan, Mr. Ward has stated that we should work to have the Comprehensive Plan fit into the proposed Zoning Ordinance. This is absolutely not the appropriate approach and I have grave concerns with the fact that a Planning Commissioner holds that view.

I want to thank all who have participated in the Public Workshops as part of the Comprehensive Plan revision and all of the citizens who have taken the time to comment on the proposed ordinance. I encourage everyone to stay engaged in the process and it is my hope that public input will be considered by the Board of Supervisors.

I appreciate the opportunity to have served my fellow citizens and I have done that to the best of my ability.

Martina Coker

Mr. Tommy Arnold told the Board that the FEMA regulations are being decreased and that a letter of final determination is supposed to be submitted in September. At that time, the County can adopt new flood regulations. He asked that the Board be prepared to act to adopt the new flood maps at that time. He currently has a project pending the adoption of the new regulations.

Mr. Randy Parks, a member of the Northampton County School Board, said that the School Board will discuss the middle school issue at its meeting this week. He said that the School Board will analyze the costs to redevelop the Machipongo facility as a middle school.

Mr. Jay Ford, Executive Director of Virginia Shorekeepers, said that they had urged the Board to stop the ongoing zoning amendment process, calling it a “broken” process as no community stakeholders were involved. He said that he Board was “cherry-picking” the academics chosen to participate, limiting the process in scope and perspective, instead of having an open process. This academic work group cannot be endorsed by the Shorekeepers. He asked that the Board listen to the people of the County and develop a comprehensive plan as is required by the Code.

Mrs. Roberta Kellam read the following comments:

Statement of Roberta Kellam, August 12, 2014 to the Northampton County Board of Supervisors

My name is Roberta Kellam and I reside at 7514 Wellington Neck Road in Northampton County. I am speaking tonight to address the July 10, 2014, memorandum from Charles McSwain to Katie Nunez. Mr. McSwain states that the simplification of the zoning code is squarely on target as a non-financial incentive for community investment.

Mr. McSwain attached an excerpt from a report from the International Economic Development Council to support his statement. It should be noted that the only mention of planning and zoning appears on the last paragraph of the second page of Mr. McSwain's attachment, and merely states: "Prolonged processing increases the cost of development and decreases businesses' ability to respond to rapidly changing market realities." This statement does not say that a community should get rid of all of its special use permits and eliminate any protections for residential property owners. This statement does not say that commercial and industrial uses that may be noxious and offensive to residential areas should be allowed any place, any time, and without notice to adjoining property owners. Is there a successful community that you, the Board, or Mr. McSwain, have identified, that allows the type of zoning code that this Board has under its consideration? Certainly not St. Johns County, Florida, or most other places, for that matter.

It's interesting that Mr. McSwain failed to note another study by the International Economic Development Council, by Joy Wilkins, et al, entitled "Does Rural Land Use Planning and Zoning Enhance Local Economic Development? " The answer, from a study of 57 rural communities in Georgia, was a resounding "yes."

The Zoning Code proposed by the Board of Supervisors would have a negative impact on residential property values in the County, harm the water quality and the valuable aquaculture industry, and result in a net loss of economic benefits from where we are now. The economic impact study from the current zoning code noted that it would create short term pain but result in long term gain to the community. It should be obvious that the Planning Commission found many deficiencies in Mr. McSwain's proposed Zoning Code – gentlemen, send it back to the Planning Commission and involve the public before you make any decisions. Thank you.

Mrs. Mary Miller read the following comments:

Gentlemen—

Mary Miller—Eastville

Since March you have been hearing legitimate concerns from your constituents about many of the proposed zoning changes. Your constituents have heard very little from you. At information meetings, Staff assured people that most zoning districts stayed the same. But no one appeared to go the extra mile and mention the big changes to those districts. I found no notice to land owners that they will lose their right to be notified about changes until the bulldozers appear on site.

Many of us have voiced concern about the arbitrary decision to allow commercial uses, by right, in residential neighborhoods, rural villages and in hamlets– indoor and outdoor recreation businesses, convenience stores, research facilities, restaurants, waste water treatment plants, campgrounds, large residential facilities, towers and wind turbines—all by right, almost no performance standards, no lot coverage limits—and all with no advance notice to the neighbors. These uses aren't home offices—these are commercial businesses.

You know as well as we do what this will do to property values—and to residential neighborhoods. Outdoor lighting, traffic coming and going, people congregating, dumpsters in the side yard, late night hours—all the things necessary to commercial uses, will be a nightmare for nearby home owners. But so far, we've heard no justification from you about why you need to destroy the peace and quiet of small rural neighborhoods by allowing by-right commercial establishments

Commercial uses belong in commercial districts—usually by right in a Commercial General District. The towns all have it right—downtown is downtown, residential is mainly residential—and property values are protected. Some commercial uses can work with residential—but the home owners need to have the right to know ahead of time, and have the right to protect their home investment and their quiet residential neighborhoods through the Special Use Permit process we have in the Zoning Ordinance now.

I request that my comments be inserted into the public record.

Thank you. *Northampton County Board of Supervisors Aug 12, 2014*

Dr. Art Schwarzschild said that the Willis Wharf Village offered to meet with the Board to consider changes to the zoning ordinance and echoed comments made earlier by Mr. Baldwin calling for better communication. He questioned why members of the public only get three minutes to address the Board and Mr. Baldwin was allowed much longer. He said that he had specifically invited Mr. Bennett to meet with his constituents in Willis Wharf. He also said that he had offered to supply a "blue-ribbon" panel of water quality experts to be of service to the Board.

Mr. Dave Kabler said that during his tenure on the Planning Commission, only one special use permit had been denied. He informed the Board of an event held this past weekend – a well-attended party in a barn – as an example of why impacts on property values are very important and can be addressed through the special use permit process.

Mr. John Ordeman read the following comments;

Submitted to be read into the record of the August Board of Supervisors meeting by John Ordeman, a resident of Nassawadox

It is ironic that the Northampton County supervisors, who claim to be supporting the zoning regulations promoted by Director of Economic Development Charles McSwain because they want to make the county more "business friendly," have already taken actions that are harmful to the county's foremost business, agriculture, and are now may be preparing to pass new zoning regulations which would put the county's other most important business, aquaculture, in jeopardy.

A "Cost of Community Services Study" conducted specifically for Northampton County by the American Farmland Trust showed that the owner of farmland receives only 23 cents' worth of county services for each dollar he pays in taxes; whereas, the owner of residential property receives 97 cents' worth of county services for each dollar he pays in county taxes. The farmer is, in effect, subsidizing the homeowner. In order to make taxation fairer for the farmer, virtually all counties in Virginia have adopted "use-value assessment" for purposes of taxation, thereby taking into consideration for assessment purposes the monetary value of the crops that can be raised on farmland. The alternative basis for taxation is a property's "best and highest use," the amount the land would sell for if the land owner were willing and able to sell it to a developer -- even though there is no potential buyer offering to purchase the land.

A decade ago, after receiving an "Impact of Use-value Assessment Study" from Virginia

Tech, the Northampton supervisors voted to adopt "use-value assessment" as the basis for taxation. Recently, however, the Board of Supervisors reversed their position and adopted the "best and highest use" for taxation assessment for all county real property. The reasoning behind this decision was that an owner of farmland could avoid having to pay a higher assessment by putting his property in an Agricultural and Forestal District (AFD), a program which assigns the owner of farmland a lower assessment in exchange for his having given up the opportunity to develop the land for a period of ten years. So long as landowners of property that qualified for the AFD program had this option, taxes on their farm property were reasonably fair. The current Board of Supervisors, however, has made it clear that they will not grant AFD status to new applicants or renew them on present AFDs when they expire. All farmland is to be taxed on the "best and highest use" assessment regardless of the income received by farming the land. Owners of farmland are, therefore, rightly concerned that their income from farming will not be sufficient for them to pay their taxes, and they may be forced to sell their property under duress for whatever a developer would be willing to pay. The consequence of the supervisors' refusal either to re-establish "use-value assessment" as the basis of taxation for farmland or to grant AFD status for qualifying properties will be very friendly to the real estate development business but devastating to the agriculture business.

"It is the policy of the Commonwealth," according to the Virginia 'Declaration of Policy Findings and Purpose' pertaining to AFDs, "to conserve and protect and to encourage the development and improvement of the Commonwealth's agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also the policy of the Commonwealth to conserve agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, as well as for aesthetic purposes." The Board of Supervisors apparently does not believe that these policies of the Commonwealth of Virginia regarding AFDs have sufficient merit to warrant their consideration in Northampton County.

Existing regulations designed to ensure water quality essential for the propagation of clams and oysters on the seaside have been deleted from the proposed zoning regulations. The proprietors of aquaculture businesses and scientists in the shellfish biology field have spoken out unanimously and persistently in opposition to the elimination of Chesapeake Bay Act regulations on the seaside, and it would seem that the supervisors may be responding to the clamor. They have agreed that, before they vote on the matter, they will listen to presentations of scientific evidence – something that was admittedly not considered by those who wrote the proposed zoning regulations.

The Northampton supervisors are well-intentioned in their efforts to make the zoning code more "business friendly," for the county would certainly benefit if new businesses were to be established here, and everything that is reasonable and prudent should be done to encourage and facilitate the process of establishing a business. It is ironic, however, that in their efforts to bring new businesses to the county, they have already taken actions that are proving harmful to the agriculture and are contemplating actions that would be harmful to aquaculture.

"Business friendly" should also apply to the businesses that are traditionally and currently the foundations of Eastern Shore economy, and any efforts to bring in new businesses to the

Shore can and should be undertaken without making changes in the zoning code and taxing policies that would be detrimental to agriculture and aquaculture.

* * * * *

Mr. Ken Dufty read the following comments:

6182 Wardtown Road
Exmore, Virginia 23350

August 12, 2014

Northampton County Board of Supervisors
County Administrator Katie Nunez
Northampton County Planning Commission members
County Attorney Bruce Jones
County Courthouse Complex
Eastville, Virginia

Re: Proposal to Completely Rezone Northampton County

Northampton County Officials:

Please include these comments in the official record of the above captioned proceeding.

I. ***Regarding Biomass Conversion to Alternative Fuels***

In the March 11, 2014 Public Hearing Document which outlined the draft proposed changes to the existing Northampton County zoning ordinance (NCZO),biomass conversion to alternative fuels is allowed "by-right" in every zoning district. This apparently was included in the proposed NCZO by county attorney Jones due to a misinterpretation of Virginia Code 15.2-2288.01, which simply states that a locality cannot require a Special Use Permit (SUP) for a "small scale" biomass facility. This section of code does NOT require a locality to include "by right" these facilities in every zoning district, and to think that the legislative intent for this regulation was crafted in that manner is, simply, wrong. Section 15.2-2288 clearly indicates that if such a facility IS allowed in a particular zoning district, a SUP cannot be required.

At last week's Planning Commission meeting (August 5, 2014), Mr. McSwain seemed to argue that a small scale biomass facility could only be feasible in an agricultural district because the definition of "small scale" stipulates that "at least 50% of the feedstock is produced on site". This, it seemed the argument went would make it impossible for a facility like this to be built in a residential, hamlet or Village Zone. However, this argument is fatally flawed because Mr. McSwain, either through ignorance or intention, did not read the rest of the definition.

The definition of "small scale" in this section of code reads that "small scale" is defined as "at least 50% of the feedstock is produced on site **or by the owner of the conversion equipment.**" (emphasis added).

This means that if the developer who wants to build a biomass facility in any zoning district places on ANY site his boilers, condensers, methanol tanks, storage facilities and other equipment, he or she can import 100% of the feedstock necessary to operate his biomass facility...IN ANY ZONE, as long as the building in which the plant is operated is under 4,000 square feet.

Again, as has been the case in many instances during this rezoning process, the code of Virginia is being twisted tightly upon itself to promote and accomplish the goals of the individuals, both elected and appointed, who are driving this process forward.

It is obvious, both from a legal and common sense perspective, that the "by-right" allowance of biomass facilities in every zoning district is a fatal flaw in the proposed zoning ordinance, and that it must be taken out of the draft document.

II. The Draft Zoning Ordinance must be abandoned and the process needs to start over.

As is evidenced by the mistakes made in the biomass allowance mentioned above, the draft zoning ordinance is replete with major legal defects, all of which will have a deleterious effect on the character and quality of life in Northampton County if allowed ratification. Other defects include: 1) improper notification to potentially affected landowners (upzoning of nearly 3,000 acres of ag land to residential); 2) arbitrarily changing density from 400-4,000%; 3) failure to notify incorporated town residents on the border of county land that the Town Edge Districts were proposed to be arbitrarily abolished; 4) failure to conduct economic, environmental and social studies and investigations to support the changes in the proposed zoning ordinance; 5) attempts to discriminate against lower income residents by imposing restrictions on affordable housing; 6) arbitrarily removing the protections of the Chesapeake Bay Act on the Seaside; and, 7) failure to take reasonable consideration of the Comprehensive Plan, as required under the Dillon Rule and Virginia Code.

III. The Draft Zoning Ordinance which must be modified, will have to be re-advertised and notices sent out to ALL Northampton County residents, fully explaining the scope and intent of the proposed ordinance.

There is no doubt that the proposed zoning ordinance needs to be scrapped in its entirety, and the process to supposedly make Northampton County more "business friendly" needs to start over in a legally defensible manner. But if it is the choice of the crafters of this proposed ordinance to move the process forward with the changes that MUST be made in order for it have even a small chance of surviving a court challenge, you will have to make revisions that will make the proposed code more restrictive than the ordinance which was proposed and submitted in February, 2014 and which was the subject of the March 11, 2014 Public Hearing. The biomass debacle is a poster child for the fact that modifications must be made to the proposed ordinance, as removing the "by right" allowance to build one or more of these facilities in any zoning district will make the ordinance "more restrictive". Note, Virginia Code 15.1493(c) states that "additional public hearings and notice is required if the Board determines that land is to zoned to a more intensive use classification than was contained in the public notice."

This re-publication and re-noticing of the changes that MUST be made to the draft ordinance will be expensive to the taxpayers of Northampton County, and is a direct result of missteps by the Board of Supervisors, the County Administrator, the County Attorney, and Mr. McSwain. It is also a prime example of why the Commonwealth of Virginia expressly regulates the actions of a local government as it pertains to land use and zoning decisions, and it should give us all due cause to be thankful for John Forrest Dillon and the fact that Virginia is a "Dillon Rule" state.

Sincerely,

Kenneth G. Dufty
(757) 442-7889

Amid rancor, Exmore biodiesel plant OK'd

Clerical oversight corrected Monday night

By Carl Larson Danes
Staff writer

EXMORE — Nearly two years ago town lawmakers voted to approve a biodiesel plant on a former industrial site within Exmore's corporate limits, and after Monday night's council meeting it looks as if the project again may have received a green light.

The project has not only stalled since the March 2007 joint public hearing on the project, but it also has changed substantially — from the name of the company, to the principals involved and the manufacturing process itself.

The plant would convert natural greases into fuel for items like vehicles and furnaces.

Ken Dufty, an Exmore resident who operates an antiques shop with his wife in town, has been outraged by the proposed plant since he first heard about it.

Dufty has fought more than his share of environmental battles as the former president of a major advocacy group — and for years as the top environmental manager advising lawmakers in upstate New York.

Mayor Guy Lawson and town attorney David Rowan both

See EXMORE, page A7

"I'd like to work with these folks to make sure it happens in the best interest of the town."

Billy Moore, Exmore Town Councilman, addressing a proposed biodiesel plant within

Exmore

From front

informed council members and the public that the only action to be taken was to approve the minutes of the March 2007 minutes that were never recorded, or to approve corrected minutes, but that the approval of a special-use permit for a biodiesel plant had already been granted and could not be taken away.

Nonetheless, Dufty took the opportunity during the public comment period to address at length the problems associated with the most recent iteration of a manufacturing plant he said is too dangerous to have in downtown Exmore.

He cited more than a dozen biodiesel plants that have had explosions or fires since council approved the permit, and a couple that occurred within a year before that time — including one at a Bakersfield, Calif., site he said was caused by static electricity.

From Iowa to Alabama and from York, N.D. to Princess Anne, Md., he listed the explosions since 2006 along with details of each.

The company that originally applied for the permit was called U.S. Biodiesel and two principals involved then, Skip Summers and William Kennedy, are no longer affiliated with the project under its new name, Exmore Energy Project.

At an earlier town meeting, Ed Pedrick, the company's marketing vice president, said he was a partner to the original applicant and bought out his interests.

Other material changes to the project Dufty highlighted included its increased scale and the fact that soybeans are no longer being used in the process.

He questioned earlier statements by Pedrick reporting that the state environmental agency does not require certain permits for the plant.

Dufty also questioned the process that will be used, saying Green Shift, a New York-based company that operates biodiesel plants and manufactures the processing equipment, has created an easily expandable model.

That's the model planned for Exmore, despite the fact that the in-town site is not suitable for expansion.

Greg Barlage, Green Shift's chief operating officer, attended last month's council meeting and said he agreed there should be an environmental impact study.

"It's the responsible thing to do," he said.

Dufty also said biodiesel kills fish, birds and other wildlife and is treated like a hazardous spill.

Pedrick rebutted the claims, saying Dufty's comments were out of context.

Exmore resident Don McShane is worried about the wind carrying potentially toxic smoke in the event of an accident at the site.

"The chemical compositions of the lighter than air components are lethal," he said. "If you breathe that in a closed environment, you are going to die. ...

"I don't know that I want to take that risk. If I don't know how to control it I am a little alarmed a bout having it in this location."

Lawson advised council members that only those who were on the town council and present at the time of the original vote on the permit should vote on the minutes of the meeting.

Councilman David Scanlan was not on town council at the time; nor was John Metz, who was on the planning commission but missed the meeting.

Councilman Billy Moore called the comments received from the public to date "thought provoking," but didn't think that could change what already had been done.

"I don't see how we can undo what we did," he said. "I'd like to work with these folks to make sure it happens in the best interest of the town."

Councilman Charles Massey made the motion to accept the minutes and Moore seconded it. The motion was approved unanimously with Scanlan and Metz abstaining.

After holding a brief executive session to receive legal counsel on the proposed project, Lawson announced that the special-use permit would be given after the planning commission goes through a similar process to adopt their minutes.

After the commission "makes sure they have done the same thing by adopting their minutes — when their minutes are approved and adopted — the special-use permit will be written," he said.

Ms. Ann Hess said that she applauded the earlier idea of the Board sitting down with a panel of scientists and that she would like to hear something from the Board as to what it is planning. Additionally, she urged the strengthening of the broadband service.

The following comments were received from Mrs. Price Mears Clark and were read into the record:

Dear Chairman LeMonde and members of the Northampton County Board of Supervisors:

As I may perhaps be unable to attend your meeting tomorrow, August 12, 2014, I am writing to you instead and ask that this letter be included in the record of your meeting.

I ask that you please do not move forward on the proposed zoning code changes, which have not been fully reviewed by the Planning Commission. The procedure to push through these proposed changes has been totally flawed, not only with the denial of the Planning Commission's review, but also due to lack of input opportunities by the public. It seems to me that the only argument I heard for the Board's unwillingness to start over was because of the cost of notifying by mail all landowners. Well, here's a money saving plan for that! Instead of sending a separate letter and map for every tax parcel, instead send one letter for every landowner, and in that mailing include one letter and one map that addresses all the tax parcels owned by that individual. That would certainly cut back on mailing costs to some extent.

It appears that special interests are driving this proposed zoning code change, and I ask that you step back and really assess the situation and your duty to ALL the citizens of Northampton County.

Thank you.

Sincerely,

Price Mears Clarke

August 11, 2014

* * * * *

The Board agreed with a comment raised from Dr. Schwarzschild that a letter submitted and contained in the agenda packet actually be read into the record as follows:

Dear Ms. Nunez and Mr. Stith,

please forward this letter to the Northampton County Board of Supervisors and Planning Commission and ask that it be read into the public record as part of the discussion concerning the proposed zoning amendments.

TO: Northampton County Planning Commission and Board of Supervisors

FROM: Art Schwarzschild 4231 Willis Wharf Rd.

RE: Zoning in Waterfront Villages

DATE: 08/06/14

If you are going to reference something to make a difference, be accurate. These words were spoken by Eyre Baldwin last night after he read a prepared statement to the Planning Commission. In his statement Mr. Baldwin indicated that his plans to develop property in Oyster were being thwarted by what he believes is an overly restrictive zoning ordinance and repeatedly stated that he could not even legally rent kayaks or small boats on the property. When I returned home after the meeting I went on the county website to check the zoning use tables and determine if this was in fact correct. It is NOT. Please note that in the Category 5, Marine Related Uses section of the Waterfront Village Zoning Table as published on the County website, Boat Sales/Rentals are listed as permitted by Special Use Permit (SUP) in the Commercial areas of the Waterfront Village Zoning District. This means that Mr. Baldwin can, in fact, rent boats from his property if he simply applies for a SUP which I feel certain would be approved.

I would like to note, for the record, that during my time working with a citizens group from Willis Wharf and Oyster which helped develop the Waterfront Village Zoning District, I do not recall any discussion to limit the ability of businesses to sell/rent boats in the commercial areas of the waterfront villages. Furthermore, I have personally stated during workshops and public meetings with both the PC and BOS (and during private meetings with Mr. Baldwin) that I truly believe the communities of Willis Wharf and Oyster would benefit from additional marine related services near the public boat ramps. These services could include things like a fuel dock, bait/tackle shop, marina store, and lunch counter/small restaurant. All items Mr. Baldwin indicates he would like to include on his property in Oyster.

From my reading of the county zoning tables for the Waterfront Village zoning district, all of the above mentioned uses are allowable in the commercial area. True, some of these uses require obtaining a SUP, but this is only reasonable in order to make certain that the installations meet all required state and local guidelines and do not negatively impact neighboring properties and businesses.

As the Chairman of the Willis Wharf Village Steering Committee I would like to take this opportunity to once again state, for the record, that the residents and property owners of Willis Wharf are NOT against development in our village or along our waterfront. We do, however, greatly desire that any such development be in harmony with our Village Vision Statement.

As a reminder, the Willis Wharf and Oyster Vision Statements were created through a lengthy process of public meetings and consensus building, facilitated by paid planning/development advisers and approved by the citizens and property owners of Willis Wharf and Oyster. After adoption by the Willis Wharf and Oyster Communities and a series of public meetings/hearings before the PC and BOS, both village Vision Statements were incorporated into the county comprehensive plan.

The heart of the Willis Wharf Village Vision statement is:
Willis Wharf hopes to remain a small, distinct seaside village that retains its own identity and determines its own destiny while:
1) maintaining the pristine quality of the ground and surface waters and other natural resources in and around the community as part of daily life.
2) supporting its residents and local economy with traditional seafood, farming and related industries that are clean, environmentally low impact and ecologically sound.
3) Preserving its traditional village character along with its rich natural and cultural heritage through gradual growth that protects surrounding rural open spaces with well planned, managed and compatible development.

I do not see how any of this statement can be seen as a road-block to the efforts Mr. Baldwin claims to support in developing his property in Oyster. Rather, I would hope it can be a road-map to help guide him in his efforts.

Lastly, I understand that some members of the PC, BOS and County Staff have determined that the SUP process is too onerous for citizens and businesses to undertake. As a result the proposed zoning amendment removes the SUP requirement for many uses, and allows many uses by right in districts/areas which they were either not permitted or permitted only after obtaining a SUP. Please know that in developing the Waterfront Village Zoning designation citizens, property owners and business representatives from both Willis Wharf and Oyster went line by line through the usage table to determine which uses they believed were approriate for our villages and where in agreement with our vision statements. The zoning designation was then vetted throiugh a series of public meetings in front of the PC and BOS before being adopted by the county and incorporated into the county's zoning ordinance. Should you stand firm in your resolution to remove the Waterfront Village Zoning district I sincerely hope that you will very carefully review the list of uses to ensure that only truly water dependent uses be permitted by right in the waterfront portions of our Waterfront Villages.

Thank you for your consideration and all the work you do for the citizens of Northampton County.

Art Schwarzschild
4231 Willis Wharf Rd.
Chairman Willis Wharf Village Steering Committee

* * * * *

The meeting was recessed for a three-minute break.

After that time, the Chairman reconvened the meeting.

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

(i) 8/25/14: Work Session: Proposed Zoning Ordinance Amendments
(ii) 9/22/14: Work Session: Topic to be announced
(iii) 10/27/14: Work Session: Topic to be announced

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

I. Projects:

A. Public Service Authority:
The subcommittee tasked with negotiating with the Town of Cape Charles to develop an agreement for wastewater treatment services met on Tuesday, July 29, 2014 at 7:00 p.m. The Cape Charles representatives indicated conceptual support for providing wastewater treatment services contingent upon a successful agreement being reached. They were tasked with updating and refining their cost proposal which will be the focus of the next meeting, which is currently not scheduled until after the Cape Charles Council meets and develops this revised cost proposal.

B. Former Middle School Renovation:
I have attached a separate memorandum reporting on the Community Meeting held on July 10, 2014 as well as the status of the project.

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.

The County Administrator stated that as a result of guidance provided during the closed session, a letter will be sent to the Town of Eastville that

the County intends to terminate the lease agreement in sixty days' time unless concrete evidence is provided that the Town has secured the funding required pursuant to the lease agreement. Additionally, staff will be developing a Request for Proposals for demolishing of the two old jail buildings.

D. Posting of Board of Supervisors' Meetings on the County Website:
Pursuant to a request from Supervisor Hogg, I have confirmed the cost of placing the audio recordings of the Board of Supervisors' meetings on the County website. The main cost is to increase our web storage and we used a standard of 2 years' of audio files being stored, thus requiring a cost of $240.00 per year. If the Board wishes to expand that to the Planning Commission, then the cost would be $480.00 per year.

It was the consensus of the Board to approve the $480 expenditure for posting of two years' worth of minutes of the Board as well as the Planning Commission.

E. Consideration of Requiring the Disclosure of Real Parties in Interest as Part of the Zoning Ordinance and its impact to the County's Ordinance that prohibits the issuance of any permit from Planning, Zoning or Building due to delinquent taxes:
Pursuant to a request from Supervisor Hogg, County Attorney Jones has provided his opinion on how the adoption of the Disclosure of Real Parties in Interest relates to the authority that resides in the County ordinance for withholding the issuance of permits due to delinquent taxes.

I have enclosed the Code of Virginia that details the "Disclosure of Real Parties in Interest (§15.2-2289), a copy of the County ordinance on the issuance of permits if there are delinquent taxes (§33.012) as well as County Attorney Jones' memo.

Mr. Hogg stated that it was a matter of making the public aware and that the Board needs to have an open policy. Mr. Hubbard wondered about the practice in other localities. Staff was tasked with obtaining this information.

F. Report Commissioned through the Department of Development:
As part of the Fiscal Year 2014 budget, funds were provided to allow certain reports to be commissioned to assist Director of Development Charles McSwain in developing and carrying out an economic development strategy for the County. While the bulk of this information is not new to the Board, obtaining this outside perspective from a company that specializes in locating and placing new investment and business opportunities is enlightening to gage how they view the County. Mr. McSwain and I are available to discuss further at your convenience.

It was the consensus of the Board to place this matter on the September regular meeting agenda for further discussion as well as placing the document on the County's website.

G. VDOT- Cape Charles Access Road:
Enclosed please find the updated calendar from VDOT for this road project as well as the correspondence for the preliminary jurisdictional determination for waters of the U.S. from the Army Corps of Engineers. The budget is being updated and will provide you the latest as soon as we receive it.

H. Townfield Drive – Stormwater Pond:
As a follow-up issue from the July 8, 2014 Board meeting, staff had developed a proposed zoning text amendment which would prevent this issue from occurring again. The Board referred this matter for review and input from the Planning Commission who took this matter up at the August 5, 2014 meeting. Enclosed is a report from Director of Development Charles McSwain regarding the Planning Commission's action on this review.

Mr. Hogg stated that he would like to have further discussion on this matter and was hoping that the County's consultant would review prior meetings and plans relative to the current situation.

It was the consensus of the Board to move the proposed language to public hearing and to accept staff's recommendation for wording – not the recommendation as supplied by the Planning Commission. Said report as referenced above by Mr. McSwain is set out below:

MEMORANDUM

To: Katie Nunez

From: Charles McSwain

Re: Planning Commission response to BMP outfall elevation policy/code chnage

Date: August 6, 2014

July 8, 2014 the Board referred this question to the Planning Commission. The Planning Commission met on August 5, 2014 and recommended the code change for the Board's further consideration with one word change. Below please see the original language with the one word change. Also recommended by the Planning Commission was the inclusion of definitions for two terms in the policy.

Proposed Code insert §154.1614

BMPs 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 ground water while still meeting all other applicable design specifications, e.g., water balance, or not adversely impacting upstream conveyance systems.

Staff recommendation:

Substituting the word "or" does not convey any benefit to the policy and will likely create confusion and poor design. Recommend retaining original language with support of Liz Scheessele, Timmons Group, county contract design engineer.

Definitions:

Outfall invert elevations: Common in wet ponds used for stormwater management is a weir over which excess water flows due to rain or some condition that raises the pond water level. The elevation typically measured above sea level is the height of the weir over which water spills out (outfall) into a pipe and eventually runs by gravity into some water body elsewhere.

Non-beneficial withdrawal: The drawing of ground water for no purpose beneficial to mankind.

* * * * * *

I. <u>EMT Daytime Staffing at Northampton Fire and Rescue:</u>
Correspondence has been received from Northampton Fire and Rescue requesting that the career staff currently assigned to them as a pilot program for the summer be extended permanently. With the current intended date of termination of this program set for August 29, 2014, this does not allow sufficient time to actually review the statistics of coverage and response time as a result of this staffing pilot program. Therefore, I will be extending the program until September 20, 2014 which will coincide with the conclusion of the 6-week staffing assignments calendar of the EMS Department, allow us time to review the results of this pilot program and discuss with the Board at the September 9, 2014 meeting, and notify Northampton Fire and Rescue of the decision reached regarding the continuation of this pilot program.

It was the consensus of the Board to place this item on the regular September agenda for further discussion.

* * * * *

(11) Report on Tornado

The following memorandum was distributed to the Board:

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez
DATE: August 7, 2014
RE: Tornado – July 24, 2014

Enclosed is a spreadsheet tracking the costs involved in responding to the Tornado that impacted the Cherrystone Campground on July 24, 2014. As you are aware, there was a tremendous public safety response and we have provided the cost of overtime for law enforcement and EMT personnel. If an individual was scheduled to work that day, we have only reflected the cost of OT in our calculations. The 9-11 Commission activated additional personnel to handle the influx of calls from this event and we have included that cost on our spreadsheet.

A shelter was activated at the High School, approximately at 10:15 – 10:30 a.m. on July 24, 20114 to provide a location for the campers to be moved off the Cherrystone Campgrounds site to allow for a quicker clean-up response and for public safety to ensure everyone's safety until the premises was secured. School personnel were engaged initially for transportation purposes and the buses were utilized to move campers out of the premises and to the shelter if their personnel vehicles were damaged from the tornado. Our count of those that were transported by bus to the shelter was around 250 individuals. However, many of the campers were able to transport themselves and arrived at the shelter bringing our final count to around 650 individuals that were serviced at the shelter. Social Service, County Administration and School personnel were actively engaged in managing the shelter, starting at 10:30 a.m. until it was closed at 9:00 p.m. on Thursday, July 24, 2014. Initially, staff obtained food and beverages within the first hour of opening the shelter and then donations were graciously provided from the community at large. The enclosed spreadsheet details the funds spent for food, beverages, supplies for the

We were highly successful in placing each family that required lodging on Thursday evening and most had the resources to cover that expense with the exception of one family. At approximately 8:30 p.m., this family was the only one remaining at the shelter and I agreed to ensure their lodging expense would be covered so that we would not have to keep the shelter open overnight. That expense is reflected on the spreadsheet.

As mentioned, substantial community donations poured in that were beyond generous and we could not have managed as well without this assistance and we are deeply grateful. Staff were pulled in on Friday, July 25, 2014 to conduct a full inventory of the donations remaining and County staff worked through Wednesday, August 6, 2014 in getting these donations assigned to the non-profit agencies operating on the Eastern Shore, such as the Fire & EMS Departments, the Food Bank/Food Pantry, Area Agency on Aging, several churches, the Coalition Against Domestic Violence, etc. The School personnel that assisted with this process on that Friday were not scheduled to work that day and their costs are reflected on the spreadsheet.

Several county vehicles were impacted by the hailstorm that accompanied the tornado and that is

listed on the spreadsheet. We are filing a claim with our insurance company to repair these vehicles which suffered only cosmetic damage (severe dents throughout the exterior body of each vehicle) and the deductible is $250. While we have estimates for the repairs, the insurance company's final determination of the costs to be covered will be made by them.

While the County declared a state of emergency for this event, it did not reach to the level that a state or federal declaration was made; therefore, there will be no federal disaster assistance funds forthcoming. I am recommending that the personnel costs, resulting in the accrual of overtime for our personnel involved in the response to this event, be approved by the Board from our undesignated fund balance, as well as the associated costs listed on the spreadsheet beyond the personnel expense. ***Board action is required to affirm this recommendation.***

Northampton County
State of Emergency - Tornado, July 24, 2014

Expenses:	
Finance Department, Thurday 7/24/14:	
Purchases starting immediately(before donations had arrived) after shelter was opened: bottle water, drinks, juice boxes, pizzas, fried chicken, snacks, diapers, hygien products, baby food, baby formula, sugar, cream, socks, coloring books, dog food, paper products, etc	$918.59
Admin Office, Thursday 7/24/14:	
Hotel Lodging for a family with no resource to pay for hotel room	$98.17
EMS, Friday 7/24/14: Food for workers at Campsite	$133.44
Facilities, Friday 7/25/2014: Tree removal	$150.00
School Bus Transportation	
4 Buses -398 miles @ $1.10	$437.80
County staff including social services (14 employees)	
Emergency Operations, Sheltering, Depr's Mgt and Donation Mgt.	$3,279.51
EMS (8 employees)	$1,061.24
Sheriff (44 employees)	$5,629.46
School (26 employees) Sheltering & Donation Management	$4,305.61
911 (3 employees)	$197.73
TOTAL EXPENSE --- before revision for tipping fees	**$16,161.55**

Damage to Vehicles

Admin- Chevy Maliba (hail damage)	$4,677.88
Facility - Pick-up (hail damage)	$3,827.96
Sheriff car #1	$5,022.80
Sheriff car#2	$4,674.16
Sheriff car #3	$4,257.20
sheriff car #4	$4,006.15

All 6 cars will be treated as one claim;cost to county is $250 (deductible); just submitting the claim to insurance company and will have to await their determination of our estimates to repair these vehicles.

Lastly, the waiver of tipping fees @ the landfill runs thru Thursday, August 7, 2014. These costs will be calculated on Monday, August 11, 2014 and at that time will be added to this spreadsheet.

UPDATE AUGUST 11,2014, re:tipping fees

61.2 tons = Tipping fees revenue that was waived due to tornado	$3,978.00

Total Expense -- after revision for tipping fees **$20,139.55**

UPDATE AUGUST 11,2014

****

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the Board approve the recommendation as outlined above. All members were present and voted "yes." The motion was unanimously passed.

Mr. Hogg commented that timber loss was not included in the agricultural assessment previously submitted and that he, along with the campground and another individual, have personally experienced a million dollar loss.

The County Administrator noted that as per the state's thresholds, it would have to incur $1.37 per capita or $10,961,403 in damages in order for the state to declare a state of emergency and petition the federal government for assistance. If that were the case, public assistance, individual assistance and hazard mitigation programs would be available. For crop loss, a thirty percent loss across the county would have to have been experienced for funding to become available from the farm service agency although special assistance is being received as a result of this event. Timber is not a defined crop under this standard.

(12) Report on NMS Community Meeting

The following memorandum was distributed:

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: August 6, 2014
RE: Report on the Renovation of the former Northampton Middle School Community Meeting held on July 10, 2014

On July 10, 2014, a community meeting was held to solicit any and all comments regarding the renovation, rehabilitation and possible demolition of portions of the former Northampton Middle School 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. Twenty-two people were in attendance, including staff and your architect from DJG, Donald Booth. I am providing you a listing of the issues/comments/questions raised at this meeting.

1. Why isn't this building being returned to the School to be a middle school again?
2. Locating the EMS Department at this site/location is not in the best interests of the County when the lower end of the County is in need of improved and enhanced medical facilities to counter-act the impending relocation of the hospital.
3. What is the cost to run the former school now for the County?
4. The County owns other property, such as the old Eastville Social Services Building, that should be redeveloped and the County should not position a renovated County property in direction competition with other commercial buildings. This property (former Middle School) should be sold.
5. What are the specific costs to address the HVAC System? To address the mold remediation? To renovate the portion of the building for EMS?
6. What will happen to the building as a whole if a phased renovation approach is taken?
7. What would be the traffic patterns on the property?
8. Can the available funds be split and the EMS component peeled off from this project?

The development of this project has been a long and complicated operational and policy decision spanning over several Boards of Supervisors. According to the Fiscal Year 2009 Budget Book, the middle school was closed "due to severe funding constraints brought about through a combination of the rising composite index and declining student enrollment."

Additionally, the Fiscal Year 2009 Budget Book states:

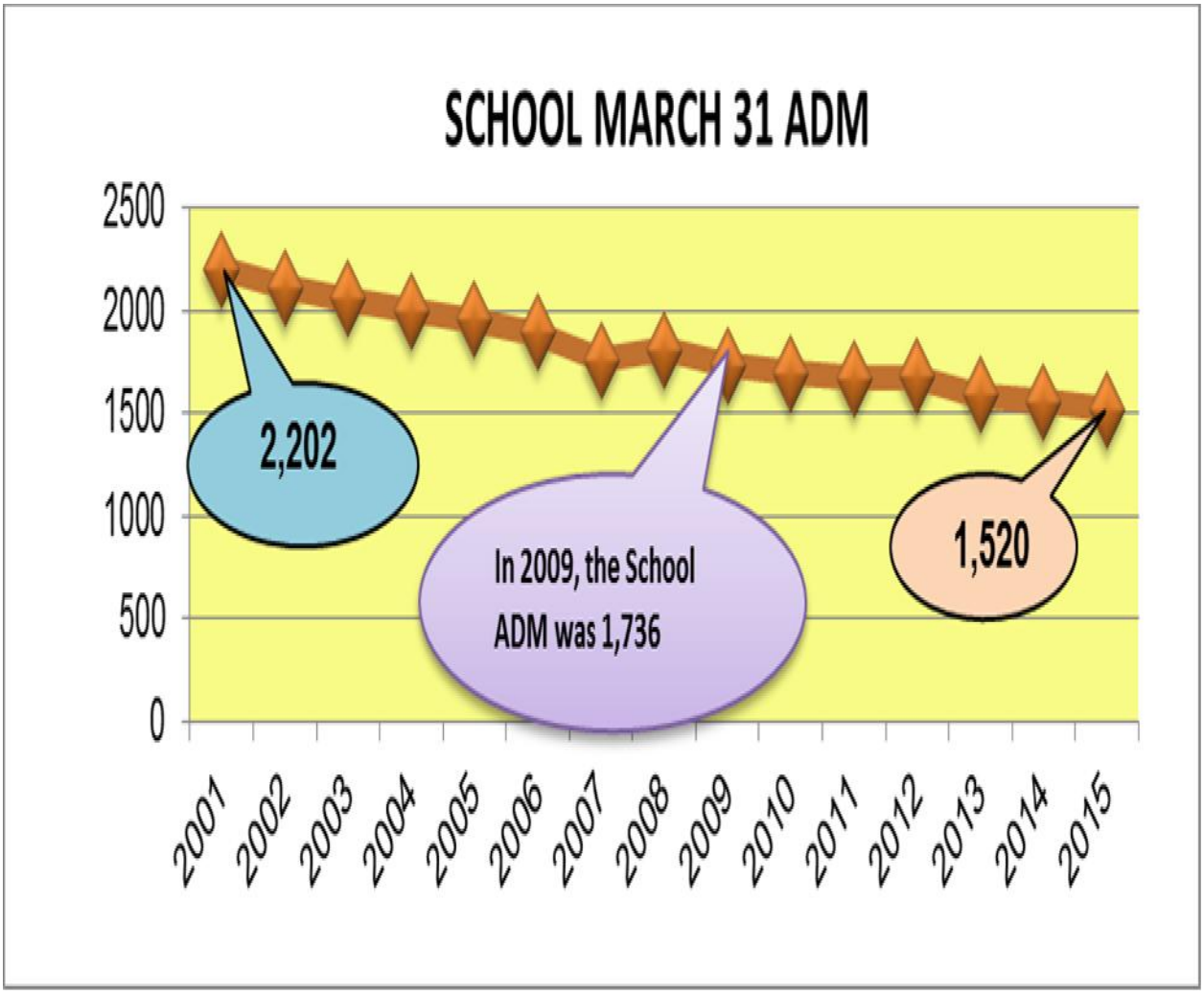
> "The Northampton Middle School closure was precipitated by several factors. First, the Virginia Composite Index for Northampton increased from .3925 to .5488 resulting in a loss of over $1.9 million in state aid. The middle school was built for 650 students and housed only 370 students. In addition to the increased composite index and declining enrollment, the 54 year old structure needed over $2.2 million in renovations to repair the crumbling original foundation, inadequate bathroom facilities, and other structural issues. Since the elementary schools were under capacity, the decision was made to close the Middle School at the end of the 2007-2008 school year." [REPORT ON SCHOOL OPERATIONS, UNDER THE EDUCATION TAB]

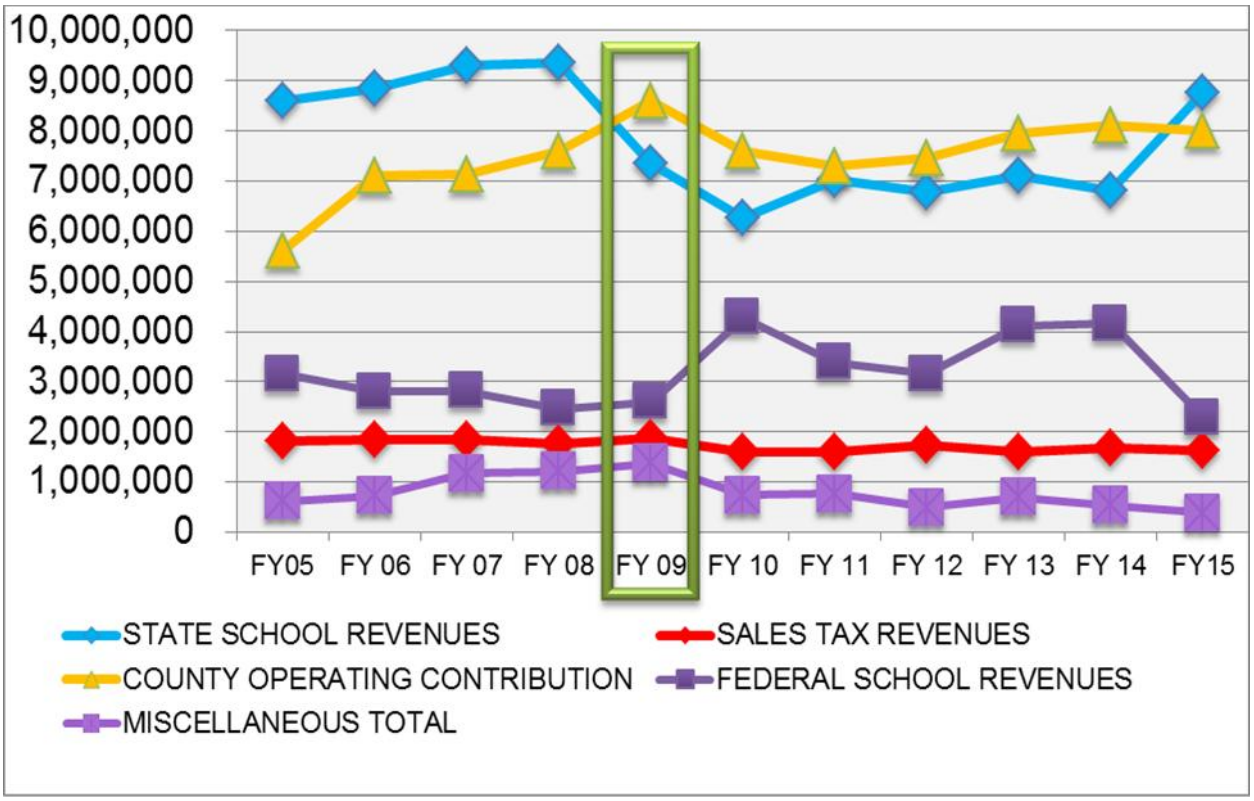
The County took management of the property in September 2009 and completed the legal transfer of the property from the School Board to the Board of Supervisors in December 2009. This was required since it is a property that continues to house school functions via the School Administration building and the law required us to segregate any "non-school used property" and return to the ownership of the Board of Supervisors.

In addition, this transfer continued the shared usage of the water and septic fields serving both the former school and the current Administration building with the County being responsible for the maintenance and management of the water & septic systems. The parking lot was subdivided but continues to serve both properties, the electric service associated with the parking lot lights

has been assigned a value representative of the County's share of said service which is transmitted annually to the School and the exterior front lights of the middle school which are tied into the electric service of the School Administration building have also been assigned a value representative of the County's share of said service which is transmitted annually to the School. If the former Middle School is sold, then these issues would need to be addressed and resolved so that the School Administration building would have its own water and septic and the exterior electric service would need to be addressed to separate the 2 buildings.

As referenced in the FY2009 Budget Book, the financial aspects associated with this decision to close the middle school as an independent and separate facility were a driving force since the County was not able to make up the loss of the state aid as a result of the declining student enrollment. Please see the three charts below which demonstrate that the situation has not improved vastly in these areas of student enrollment and state aid.

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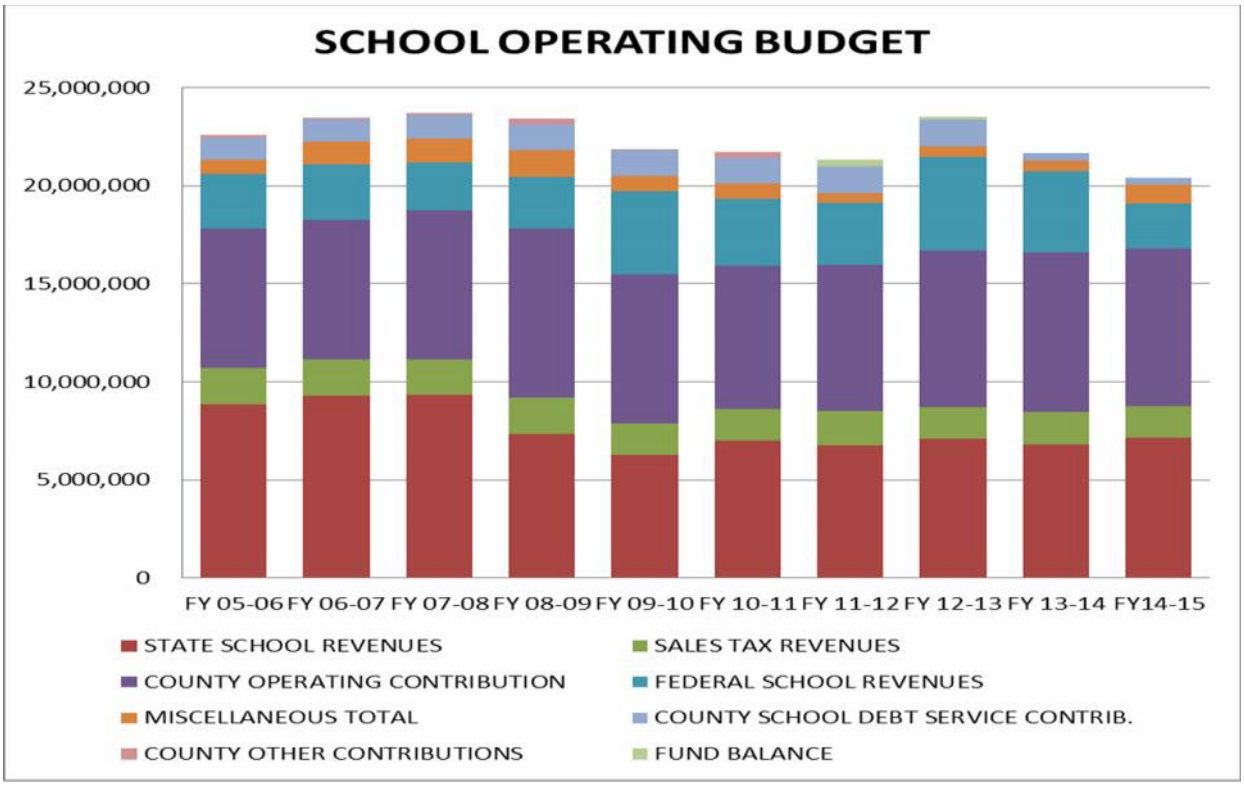
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SALES TAX REVENUES
COUNTY OPERATING CONTRIBUTION
FEDERAL SCHOOL REVENUES
MISCELLANEOUS TOTAL
COUNTY SCHOOL DEBT SERVICE CONTRIB.
COUNTY OTHER CONTRIBUTIONS
FUND BALANCE

Following the completion of the County Administration Renovation project and our departure from the former Middle School building, the Board instructed that a letter be sent to the School Board inquiring as to their intent relative to the former Middle School (dated September 28, 2011 – see attached) and a response was received from the School Board (dated October 19, 2011 – see attached) indicating that they are not interested in re-acquiring the old middle school building and would like to pursue other options to provide an age-appropriate setting for the middle level students.

As a result of that correspondence, discussions commenced regarding how the County could utilize this space and could it resolve an outstanding obligation that the County has with the USDA. After extensive debate by the Board of Supervisor and at two separate meetings on June 25, 2012 and July 22, 2013, an intended use of the property was identified and this was communicated to USDA on December 12, 2013 (see attached letter). This scope of work has been approved by USDA (see attached e-mail dated March 27, 2014).

Relative to the cost of operating the property today, these costs are contained within the County's Facilities Management budget. Please note that the building is not running at full capacity so these costs are not fully reflective of the cost of operating this property.

Water & Sewer Costs for Repairs and Maintenance and Laboratory Testing: $12,400
Fuel Oil: $65,000
Electrical Service: $18,000
Maintenance Costs for HVAC and General Building Issues: $12,800
Custodial Supplies: $1,500
TOTAL: $109,700

DJG Representative Donald Booth indicated that the costs of addressing the HVAC system and the attendant mold issue is part of the work product that they are working on and will be included in the Master Plan document that will be provided to the Board of Supervisors in the near future. In addition, the consideration of the uses identified and the amount of square footage needed to support those uses will determine if the whole building should be retained or not, which will impact what the traffic flow on the property will be. As part of their work assignment, the evaluation of the building and the cost to address the building issues relative to the funds that the County has available for this project will determine if a phased concept is needed and how that phasing would be proposed.

Since there were several questions posed relative to the cost of providing an EMS Facility (including a garage building) within this building as well as independent of this building, DJG, Inc. is working on developing those cost projections for the Board's consideration. In addition, I am arranging to speak with USDA to pose the question of pulling the EMS Project out of the scope of work and the associated money for that piece of work. I am hopeful to have a response at our Tuesday meeting on this issue.

Beyond this, no comments were provided at the meeting to identify any new uses beyond what the Board has listed nor any objections or comments offered if there is any demolition of portions of the building as part of this project. However, since we have not clearly identified

what portions of the building may be considered for demolition, I would not take that as a resounding backing that there is no opposition to this concept.

* * * * * *

It was the consensus of the Board to await additional information to be received from DJG, the County's architectural firm.

(13) Report on Zoning Matters (Subdiv Ordinance Amendment, Zoning Ordinance Amendment)

The following memorandum was distributed to the Board:

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: August 6, 2014
RE: Proposed Amendments for the Zoning Ordinance and Subdivision Ordinance, Respectively

J. Stormwater Regulations concerning development under 1 acre in the Chesapeake Bay Preservation Area (CBPA):
The State Water Control Board has adopted final regulations governing stormwater management and enforcement which now assigns local responsibility for any land disturbance area less than 1 acre and greater than 2,500 square feet. So, even though the County has opted not to adopt an ordinance overseeing all administration and enforcement of stormwater regulations and has assigned that responsibility to the State, through the VA Department of Environmental Quality (DEQ), we will be compelled to amend our local zoning ordinance to add this responsibility to the County. Attached is proposed language for your consideration. ***I am requesting Board authority to forward a zoning text amendment application to the Planning Commission and to authorize staff to schedule the required public hearing(s).***

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board direct staff to submit a zoning text amendment application to the Planning Commission and schedule the required public hearings as recommended above. All members were present and voted "yes." The motion was unanimously passed. Said proposed language is set out below:

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED,
"NORTHAMPTON COUNTY ZONING ORDINANCE"

BE IT ORDAINED by the Board of Supervisors of Northampton County, that "NORTHAMPTON COUNTY ZONING ORDINANCE", codified as Section 154 of the Northampton County Code, be amended as follows:

1. That a new sub-paragraph (e) be inserted under **§ 156.164 CHESAPEAKE/ATLANTIC PRESERVATION DISTRICT (CAP)** as set out below:

(L) Performance Standards

(2) General Performance standards for development and redevelopment:

(e) A land-disturbing activity including clearing, grading or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre shall require the approval of a stormwater management plan, agreement in lieu of stormwater management plan or exception, as applicable. Runoff stormwater runoff associated with such land disturbing activities shall be regulated in accordance with applicable Virginia Stormwater Management Program Regulations, including those set forth at 9 VAC 25-870-103, as amended from time to time.

2. That subsequent sub-paragraphs contained in this section shall be renumbered accordingly.

3. That sub-paragraph (h) under Section *(L) (2)* thereof be deleted; said section to be deleted is set out below:

~~(h) For any development or redevelopment, storm water runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.).~~

4. That all remaining portions and provisions of "AN ORDINANCE ESTABLISHING THE 'NORTHAMPTON COUNTY SUBDIVISION ORDINANCE" are reenacted and reaffirmed hereby.

* * * * * * *

K. Proposed Amendment to the Subdivision Ordinance:
In reviewing the above item with staff from Department of Conservation & Recreation/Department of Environmental Quality, it was noted that we still had an outstanding issue from our last compliance evaluation of the Chesapeake Bay Preservation Act. In that review, they stipulated that our local ordinance needs to contain a requirement that plats have a notation of the five-year pump-out for

onsite septic systems as outlined under the Chesapeake Bay Preservation Area Designation and Management Regulations. Attached is proposed language for your consideration to amend the subdivision ordinance. (Said proposed language is set out below.) ***I am requesting Board authority to schedule a public hearing to amend the subdivision ordinance.***

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED,
"AN ORDINANCE ESTABLISHING THE
NORTHAMPTON COUNTY SUBDIVISION ORDINANCE"

BE IT ORDAINED by the Board of Supervisors of Northampton County, that "AN ORDINANCE ESTABLISHING THE NORTHAMPTON COUNTY SUBDIVISION ORDINANCE", codified as Section 156 of the Northampton County Code, be amended as follows:

1. That new paragraphs be added to **§ 156.071 CONTENTS OF PLAT** as set out below:

(SS) All record plats and final site plans shall show the resource protection area and resource management area boundaries and the extent of the buildable area allowed on each lot based on all applicable setbacks, buffers, easements, right-of-ways and other limitations such as the location of the primary and reserve on-site sewage disposal system areas and well protection areas, if public utilities are unavailable.

(TT) All record plats and final site plans shall provide the following notation: "There shall be no encroachments in the resource protection area, including but not limited to, land disturbing activities, vegetation removal and construction activities without the appropriate authorization from Northampton County."

(UU) All record plats and final site plans shall provide the following notation: "As the resource protection area is a dynamic feature and may change due to natural processes such as erosion and accretion, the location of the resource protection area as shown on this plat shall be re-verified prior to the issuance of development permits by Northampton County."

(VV) All record plats and final site plans shall show the location of all primary and 100% reserve on-site sewage disposal system areas and shall provide the following notation: "All on-site sewage disposal systems must be pumped out at least once every five years."

2. That all remaining portions and provisions of "AN ORDINANCE ESTABLISHING THE 'NORTHAMPTON COUNTY SUBDIVISION ORDINANCE" are reenacted and reaffirmed hereby.

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the proposed subdivision ordinance amendment be scheduled for public hearing as outlined above. All members were present and voted "yes." The motion was unanimously passed.

(14) Report on Legislative Summary

The Board received a memorandum on legislative changes, both mandatory and optional, as promulgated by the 2014 General Assembly. Due to the lateness of the hour, it was the consensus of the Board to hold discussion of the "optional" items until next month. Motion was made by Mr. Hubbard, seconded by Mr. Bennett, that the mandatory amendments to various ordinances be scheduled for public hearing and that the one mandatory policy amendment be approved as presented. All members were present and voted "yes", with the exception of Mr. Hogg who voted "no." The motion was passed. It is noted for the record that amendments will be scheduled for public hearing for the following ordinances:

(1) AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED, "AN ORDINANCE TO PERMIT EXEMPTION FROM TAXATION OF REAL ESTATE OF CERTAIN ELDERLY OR HANDICAPPED PERSONS", codified as Section 33.027 of the Northampton County Code.

The purpose of this amendment is to incorporate the definition of "eligible person" and an amendment to the definition of "total combined income" as a result of changes made by the 2014 General Assembly.

(2) AN ORDINANCE AMENDING AN ORDINANCE ENTITLED, "AN ORDINANCE ESTABLISHING THE NORTHAMPTON COUNTY SUBDIVISION ORDINANCE", codified as Section 156 of the Northampton County Code.

The purpose of this amendment is to comply with corrective action imposed by the Virginia Department of Conservation and Recreation relative to the inclusion of language in the Subdivision Ordinance that plats shall have a notation of the five-year pump-out for onsite septic systems as outlined under the Chesapeake Bay Preservation Area Designation and Management Regulations.

(3) AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED, "AN ORDINANCE TO PROVIDE FOR RABIES CONTROL REGULATIONS IN NORTHAMPTON COUNTY, CODIFIED AS CHAPTER 95: ANIMALS, OF THE NORTHAMPTON COUNTY CODE.

The purpose of this amendment is to exempt service dogs from the animal license tax.

* * * * *

It is noted for the record that the one mandatory policy amendment (to the County's Personnel Policies) is as outlined below:

Add to the existing Northampton County Personnel Policies & Procedures Manual the following paragraph under Section 14.10 as shown below:

Section 14-10: Political Activity

Every County employee is entitled to exercise the right to vote and may join or affiliate with civic organizations of a partisan or political nature, attend political meetings, advocate and support the principles and policies of civic or political organizations in accordance with Federal, State, and local laws.

No employee, may (1) engage in any political campaigning or electioneering while on duty; (2) be required to contribute to, solicit for, or act as a custodian of funds for political purposes; (3) be coerced or compelled to contribute by any other employee of the County for political purposes; or (4) use any County supplies, materials, equipment or facilities for political purposes or to aid a political candidate, party or cause.

No person may simultaneously be a classified employee and serve as a member of the Northampton County Board of Supervisors; however, classified employees may be a candidate for election to the Northampton County Board of Supervisors.

It is the policy of the County of Northampton to maintain efficiency, responsiveness and productivity in its operations and to prevent the use of County equipment in a fashion inconsistent with the public interest and the law. In accordance with Virginia law, no employee shall use County-owned assets, including telephones, computers and related devices, for political activities as defined in Virginia Code Section 15.2-1512.2.

* * * * *

(15) Report on Tax Structure Committee

The following proposed resolution establishing an Ad-Hoc Tax Structure Committee was distributed as outlined below:

RESOLUTION TO CREATE AN AD-HOC COMMITTEE TO STUDY THE EXISTING TAX STRUCTURE IN NORTHAMPTON COUNTY

Whereas, the Board of Supervisors has adopted a real estate tax, pursuant to the Code of Virginia Section 58.1-3200; and

Whereas, the Board of Supervisors has adopted various personal property taxes associated with motor vehicles, motor homes, trailers, motor cycles, boats, airplanes, heavy equipment, farm equipment, business equipment and other miscellaneous types of personal property equipment, pursuant to the Code of Virginia Section 58.1-3506 (et seq.); and

Whereas, the Board of Supervisors has adopted the Agricultural Forestal Districts and the imposition of land use tax for those districts adopted by ordinance, pursuant to the Code of Virginia Section 58.1-3230; and

Whereas, the Board of Supervisors is desirous of reviewing said tax structures across all categories to determine its fairness and competitiveness for the County for the expansion of both residential, commercial, industrial, and agricultural uses.

NOW THEREFORE, BE IT RESOLVED that the Northampton County Board of Supervisors establishes an ad-hoc committee called the Local Tax Review Ad-Hoc Committee charged with reviewing the existing taxes adopted by the Board of Supervisors and to evaluate the rate imposed for each tax and determine its competitiveness to our comparable communities as provided by the Finance Director and the County's Financial Advisors; and

To examine personal property categories that are available pursuant to the Code of Virginia but that the County has not currently adopted as part of its tax structure and provide a comprehensive review and recommendation to the Board whether it should consider or not consider adding any additional personal property categories to the County's tax structure; and

To examine and review the valuation methodology utilized for agricultural property that receives Land Use valuation through the Agricultural Forestal Districts and provide a comprehensive review and recommendation to the Board whether it should consider implementing a revised valuation methodology currently employed by the County; and

To examine and review whether One Year Land Use, pursuant to the Code of Virginia Section 58.1 - 3230, which the County rescinded in 2009, should be reinstated and provide a comprehensive review and recommendation of this matter; and

Said reviews shall consider the impact of each recommendation to the base revenue that the County historically derives from said tax source and the potential impact to future revenues based upon any proposed/recommended changes to the tax identified.

The composition of this committee shall be a diverse representation of the community, including representation from the agricultural, business and industrial sectors of the County and include representatives that have experience and knowledge in the areas of finance, local government, and any other relevant areas. The ad-hoc committee shall not exceed ten (10) members. The committee shall have the ability to seek input from individuals that have needed

expertise or information to assist in their charge but these individuals shall not become members of the ad-hoc committee. The ad-hoc committee will be staffed by the Finance Director and will be supplemented by the Commissioner of Revenue and the County Treasurer, as needed.

The committee will develop a final recommendation that will be presented to the Board of Supervisors no later than December 31, 2014.

* * * * *

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the foregoing resolution be adopted. All members were present and voted "yes." The motion was unanimously passed. Mr. Hogg questioned if one of the tasks of the Committee would be to review the actual taxes to be paid – not only the tax rates – and the County Administrator confirmed that this information will be included as part of the Committee's analysis.

Tabled Item:

(16) Consider a request from Northampton County Public Schools re: donation of Selma property.

The County Administrator indicated that she plans to speak with the new Superintendent and invite him to attend a future meeting of the Board for discussion of this topic, including the use by the Schools of less than all five Selma parcels.

Action Items:

(17) Consider a resolution on the Cheriton Boundary Line Adjustment Request

Motion was made by Mr. Trala, 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, the Town of Cheriton has submitted a request for a Boundary Line Adjustment to the Northampton County Board of Supervisors; and

WHEREAS, the Northampton County Board of Supervisors has considered the Town's request and finds same to be in keeping with the Board's POLICY FOR CONSIDERATION OF ALTERATION OF TOWN BOUNDARIES BY MEANS OF BOUNDARY ADJUSTMENT OR ANNEXATION, adopted July 22, 2008.

NOW, THEREFORE, BE IT RESOLVED, that staff is hereby directed to proceed in accordance with the Code of Virginia, Section 15.2-3107, by advertising the Board's intent to approve a Boundary Line Adjustment with the Town of Cheriton, and to provide all such further notices as are required by law.

* * * * *

(18) Consider a Proclamation – Celebration of Savage Family Reunion

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

Northampton County
Virginia

Proclamation

WHEREAS, in the mid to late 1800s, we believe the Fisher, Savage and Finney families settled in and around Bayford, Franktown and Cape Charles, Virginia, in Northampton County, and those family members were:

- Stephen Oliver and his wife Virginia Bell Oliver
- Jacob Fisher and his wife Elnora Bell Fisher
- Jim Savage and his wife Catherine Collins Savage
- James Albert Bell and his wife Martha Robinson Bell
- Belford Finney and his wife Eva Oliver Finney

and

WHEREAS, twenty-five years ago, descendants of those families held a planning meeting and agreed to hold a family reunion, and they were:

- Delsie *Fisher* Savage
- Catherine *Savage* Smith
- Elizabeth *Savage* Hunter
- Naomi *Francis* Allen
- Tonya Johnson
- Lynda Mitchell

- Judison T. and Jennida Savage
- Webster and Jeanette *Fisher* Shepherd
- Willie Lee and Phyllis Savage
- Wilmer and Joyce Frances
- Samuel *(Finney)* Bailey

and

WHEREAS, September 2-3-4 of 1989, the first Fisher-Savage-Finney Family Reunion was held on the camp grounds of Occohannock on the Bay in Belle Haven, Virginia, and for the past 24 years, the Fisher-Savage-Finney Family Days of Celebration have been held in various cities throughout the United States during the labor day weekend; *and*

WHEREAS, these are times of separation and drift and people are beginning to realize that the health of the human spirit is vitally dependent upon the preservation of the family and the knowledge of its roots; *and*

WHEREAS, the Fisher-Savage-Finney Family has gathered in recognition of these truths.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED, this 12th day of August, 2014, that the Labor Day Weekend be and the same is hereby declared to be the anniversary date of the first Family Reunion of the Fisher-Savage-Finney Family; *and*

IT IS FURTHER PROCLAIMED that in September of each year, the Fisher-Savage-Finney Family shall gather and celebrate their continued love and union, with the 25th annual celebration being a milestone year and will be celebrated in Montego Bay, Jamaica on August 30th through September 2, 2014.

* * * * *

(19) Consider a request from Mr. Dan Brown for construction of a new home on property within the Elkington AFD.

Motion was made by Mr. Hubbard, seconded by Mr. Hogg, that the Board approve the request from Mr. Dan Brown for construction of a new home on property identified as Tax Map 66-7-B within the Elkington Agricultural-Forestal District. All members were present and voted "yes." The motion was unanimously passed.

(20) Consider approval of the lease renewal for the Wardtown Waste Collection site.

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the Board approve the renewal of the five-year lease with Lipman & Lipman, Inc. for the site of the Wardtown Waste

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

(21) (Late-arriving item): VDOT Letter re: Cape Charles Access Road.

The County Administrator indicated that VDOT is evaluating the environmental impacts of the proposed Route 642 (Old Cape Charles Road) improvement project, which involves preparing a Categorical Exclusion environmental document that will provide for new construction on new location and widening the existing lanes with shoulders and ditches. To complete VDOT's evaluation, it is soliciting written comments by September 3rd. Ms. Nunez indicated that she will bring back proposed comments for the Board's review at its August 25th work session.

Matters Presented by the Board Including Committee Reports & Appointments

Mr. Hogg reminded the Board that Mr. Steve Sturgis of Farm Bureau had addressed the Board at a previous meeting and requested a written response to his questions and asked if such a response had been provided. The Chairman indicated that he would take care of this.

Mr. Hogg commented that several citizens have requested that draft Board of Supervisors' meeting minutes be placed on the website as done in the past. The Chairman indicated that it was his belief that only the final, adopted minutes should be posted on the website to eliminate confusion among the public if various versions are released. It was noted that if a member of the public wants a copy of the draft minutes, they can request same.

Mr. Hogg asked if the Board was planning to send the proposed zoning ordinance amendments to the Planning Commission for further work. The County Administrator replied that the Board has taken no action to do so.

Recess

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the meeting be recessed until 5:00 p.m., Monday, August 25, 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