

VIRGINIA:

At a recessed 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 24th day of November, 2014, at 5:00 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.

County Administrator's Report:

(1) Request from Tourism Commission for Northampton County to serve as fiscal agent.

As Chairman of the Tourism Commission, Mr. LeMond noted that this request would save the Commission insurance and administration costs related to payroll and accounts payable. The County Administrator indicated that a memorandum of understanding would be drafted to incorporate this arrangement if the Board is so desirous. When questioned by Mr. Hogg, Ms. Nunez indicated that the payroll and accounts payable amounts would be nominal. Motion was made by Mr. Trala, seconded by Mr. Hogg, that the Board approve the request of the Tourism Commission and agree to serve as fiscal agent effective January 1, 2015. All members were present with the exception of Mr. Bennett and voted "yes." The motion was unanimously passed.

(2) Bayview as an option for PSA.

The County Administrator reminded the Board that last fall, it had articulated that it

would not support the expenditure of any further funding for engineering work outside of any previously executed agreements on the Southern Node Wastewater Project until progress had been made with the Town of Cape Charles relative to an agreement to provide wastewater treatment services. To that end, the subcommittee has been working on this issue and has reached the parameters of an agreement which staff is in the process of drafting. Said agreement provides favorable terms to both parties. Ms. Nunez said that staff is requesting the Board's input as to whether it wishes to consider an alternate treatment option; i.e., the Bayview Wastewater System. If the Board is desirous of seeking this information, staff is requesting an affirmative vote in support of the PSA moving forward with the necessary engineering to conduct this analysis. It is estimated that the additional engineering fees will be not greater than \$10,000.

Mr. Hogg made the following comments:

“The statement that I'm about to make here in other words is from the standpoint that I believe that Hurt & Proffitt, it would be difficult for them to be an independent, disinterested party due to the contract that they have with the PSA and I'm most interested in seeing that we get some kind of a third, or like I say, a second opinion on things. You know, the PSA has made a very strong commitment to the Cape Charles treatment plant for that option so there's strong evidence to think that there's the potential for a conflict of interest to be present. And at this time, I think that an affirmative vote towards the support of the PSA initiative to investigate this or like I say for Hurt & Proffitt to investigate this that it would not be, it would be irresponsible on our part to do that. However, I concur that all options should be investigated. In addition, there's a need to determine if the property owners desire the service and what volumes of wastewater do they expect to generate. Once there's some agreement on the volume of wastewater that's generated and the area to be served, the Northampton County Board of Supervisors needs to issue the contract for evaluation of the Bayview wastewater collection system and any other options that may include construction of a plant near Cheriton. And I've taken a little time in order to do a little bit of analysis on my own and I know that Mr. Hubbard has made the comment and Mrs. Nunez related to that how it is you know that we've all thought we wanted to do the best there was for the County and I think that is basically what it is that we're all trying to do. Again, I've done a little bit of research and which it is that I'm more than glad to make it available for you and I just wanted to make a couple of brief, brief observations for which it is the information is available to all of us here. Based on the 2012 information the Bayview sewage system was approved for 136 residential units. Approximately 74 are existing, 20 are vacant lots and they are in place, and that leaves 42 equivalent residential units. Forty-two if we used 125 gallons per

day that is roughly speaking a surplus of about 5,000 gallons, 5,200 gallons. Currently, Food Lion, McDonald's, Hardees and the others – they have septic fields to the south of the Bayview system drainfields. In other words, it's the power station that's in-between. To my knowledge, those drainfields are functional and if it's not the case, then there's the need to address that issue. Maybe there's some portion of the capacity that's there at Bayview that could be utilized in order to assist them if it's necessary. If those entities in the Food Lion/McDonald's complex employ a County collection system at the Cape Charles light, and the effluent is pumped to Bayview wastewater system, the only thing that changes is the citizens of Northampton County have paid a significant price to relocate the wastewater that's being filtered 650 feet to the north of where it is filtered now. And why I'm saying that, in other words, you know that the only thing that's between the two is the power station. And I'm assuming that they're working fine at this point in time. I think it would be reasonable to say so because you know, they're there and they seem to be doing fine, or at least I haven't heard of anything that was failing. If Northampton County wants to assist those businesses in getting out of the sewer business, then maybe there's a need to assume the responsibility of their systems right there in place. Because the difference between what the PSA was planning to do was they were going to put in a pump station and then they were going to pump it to, you know, the pump station was going to be on their property, they were going to pump it to a wet well where it is that we were either going to pump it to Cape Charles or Bayview or wherever it is that we were going to pump it to. So it's not like it was going very far. Now they're already pumping it up the hill within 600 feet of where it is that our system is. So basically it appears that it's similar to the option the PSA is proposing with significantly less inconvenience and expense to everybody that's concerned. The only thing that changes is the system operator whether McDonald's is operating it or Northampton County is operating it. And it's been stated that there will be significant upgrades required at the Bayview wastewater system if the wastewater is collected and pumped to the Bayview system and I'd want to analyze that option especially if Northampton County assumes the responsibility for the systems in place. You know, like I say, I've got some support material here if in fact that you'all would be interested in looking at it. It gives a brief history of where it is that where we were, how we got here and I can say this, in other words, as they talk about the volumes of wastewater this started out as being 100,000 gallons per day system. We're now down to where it is that Hurt & Proffitt indicates that there's going to be 73 connections. Of the 73 connections, 59 parcels are to served. Of those 73 connections, there are proposed to be 27 active customers. That by some estimates generate as much as 23,000 gallons per day and how it is that that was figured was using their number of 59 connections times 2 which was the engineers' safety factor times 200 gallons per day which was the ERC factor from the E-1 group and it's down to 14,000 gallons using the state figures of 125 gallons per day. But anyhow, the actual pumpage of which it is that we got the records and they were presented to the PSA. It appears as though it's going to be less than 10,000 gallons per day so I mean we keep working on down and I guess that what it is that I'm looking at is from the standpoint that most of these are at four restaurants which would be McDonald's, Hardees, the Mexican restaurant where it is that the ice machine is, and most of the actual water that's being pumped walks out the door in sodas, ice, and everything else because we've already taken into consideration if they went to the restroom and the like in their recorded pumping records. So the pumpage records as I see them don't support the estimates of the 23,000 gallons per day although we are doing, what we're doing is we have to take into consideration the peak flow and the peak flow seems to be between the months of May and October. And based on the technical data that I got from the Department of Health, we're

not going to get there. But again, I have a lot of information here and if you would be interested in looking at it, these are things that came from PSA, Hurt & Proffitt, how it is that they determine things, how it is that they came up with their information and like I say, surprisingly enough, this system is only for, in other words, the Southern Node Phase 1 system. Currently, it is only looking to connect 27 customers, far below the preliminary engineering report evaluated design alternative. But again, I think that it is wise for us to take a look at the Bayview site. If in fact that it's going to be minor in general, you know, again, I'm all for that. You know, again, the best alternative may be to put a place in Cheriton."

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Mr. Bennett arrived at 5:10 p.m.

Mr. Hogg continued his comments, indicating that his research is available but felt that the Bayview system may need significant improvements to accommodate the proposed volumes.

Motion was made by Mr. Trala, seconded by Mr. Hubbard, that the Board express its support for the PSA to engage Hurt & Proffitt and incur additional engineering fees (not to exceed \$10,000) for an evaluation of the Bayview Wastewater Treatment System and the possibility of its use as the treatment option for the Southern Node Wastewater Project, Phase I. All members were present and voted "yes", with the exception of Mr. Hogg who voted "no." The motion was passed.

(3) Budget Amendment & Appropriation – Asset Forfeiture Request by Sheriff.

Ms. Nunez presented the following Budget Amendment & Appropriation request from Sheriff Doughty:

MEMORANDUM

TO: Board of Supervisors
FROM: Leslie Lewis, Director of Finance
DATE: November 18, 2014
RE: Budget Amendments and Appropriations – FY 2015

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

\$5,496.00 – This request represents a transfer from the Sheriff’s Asset Forfeiture line item (100-3102-51125) in order to pay for a replacement Low Band Radio Antenna.

Thank you for your attention to this matter.

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

A late-arriving item involving differences between the court systems’ holiday schedule and the state’s holiday schedule was presented for the Board’s information but the Board chose not to modify its action from September 22 in regard to holiday leave for its employees.

Continued Discussions re: Zoning Ordinance Amendments

Mr. Peter Stith, Long-Range Planner and Mrs. Melissa Kellam, Zoning Administrator, led the Board in discussions related to the following items:

- (4) Individual Mapping Requests (submitted by Mr. Hogg) and Shoreline Widths
- (5) Remaining 2 districts: Working Waterfront (WW) and Village Waterfront Business (VWB)
- (6) Remaining Performance Standards
- (7) Signs
- ~~(8) Nonconforming Language~~

With regard to item (4) *Shoreline Widths*, staff had prepared an analysis of the physical distances related to shoreline width for each lot contained in the analysis. Mr. Hogg stated that he thought the Board needed to be sensitive to the needs of the aquaculture industry and was not in favor of 60 ft. residentially-zoned lots but felt that this dimension was acceptable for

commercial uses.

With regard to item (4) Individual Mapping Requests, Mr. Hogg had submitted four mapping requests for the Board's consideration as outlined below:

Parcel 83-A-3A is current zoned A/RB – Agriculture/Rural Business and is proposed to be zoned A-Agriculture. Historically, the parcel was zoned A1-Agriculture in 2000 and it was rezoned in 2001 to CD-CGB Community Development-Commercial General with proffers that a vegetative buffer would be installed along Wilkins Dr. It appears that some planting has been installed on the northeast side sometime between 2009 and 2013.

Mr. Hogg indicated that he had an interest in this parcel and would be abstaining from discussion and action. It was the consensus of the Board to retain the proposed zoning of Agriculture.

Parcel 91-7-A1 is currently zoned A/RB – Agriculture/Rural Business, is proposed to be zoned C – Commercial and contains 3 acres. Historically, this parcel was zoned CD-CG – Community Development-Commercial General. There is a conditionally approved site plan for this parcel for a Royal Farms.

It was the consensus of the Board to retain the proposed zoning of Commercial.

Parcel 91-7-A2 is currently zoned A/RB – Agriculture/Rural Business and is proposed to be zoned C – Commercial. Historically, the northern 4.7 acres was partially zoned CD-CG – Community Development-Commercial Generally and the southern 18 acres was zoned CD-RR – Community Development-Rural Residential. There is an approved site plan for an antique mall on this parcel.

It was the consensus of the Board to change the proposed zoning to be Agriculture.

Parcel 91-7-14A is currently zoned TE-CG - Town Edge – Commercial General, is proposed to be C – Commercial and contains 4.99 acres. Prior to 2009 the parcel was zoned CD-CG – Community Development – Commercial General.

Mr. Hogg stated that this tax number was incorrect; his concern was relative to **Parcel 14**, which he thought had been shown as Commercial on a PSA map. This parcel is proposed to remain Agriculture and it was the consensus of the Board that it remain Agriculture.

A memo concerning consideration of Mobile Home Parks was shared with the Board. It stated,

“Mobile Home Parks are currently zoned as a distinct district, i.e., Existing Mobile Home Parks. This designation recognizes their existence and new mobile home parks could be created in a floating district, similar to a Planned Unit Development (PUD) designation. In the proposed

zoning code, the several existing mobile home parks were rezoned to districts consistent with their neighboring districts or potential use. Two were re-mapped to the PUD district. In a recent review of Virginia Code, counsel has suggested that it is better to zone those mobile home parks which were designated as PUD district as Village even though they may be non-conforming. Therefore, it is the recommendation of staff that the Stanley and Irwin Court mobile home parks be mapped as Village rather than PUD.”

While it was noted that the mobile home park property owners would be notified during the public hearing process, Mr. Bennett asked that they be contacted specifically for their input. It was the consensus of the Board to accept staff’s recommendation on the proposed zoning of the mobile home parks.

With regard to item (5), the Board reviewed a map and text for two new proposed districts: Working Waterfront and Village-Waterfront Business. Consideration of these two new districts will require a new public hearing as they were not included in the March 2014 public hearing.

With regard to the Working Waterfront District, it was the consensus of the Board to remove “cemetery” from the list of uses allowed by-right and to move “wireless communication facilities” and “wind turbine, small scale and wind mills 35 ft. in total height” from by-right use to use by special use permit. The remaining uses contained in Sections (A) and (B) were approved as presented. All dimensional and density regulations as contained in Section (C) were approved with the exceptions of “Shoreline Width”, which will be revisited at a later date and “Minimum Setback from U.S. Route” and “Minimum Setback from Railroad Rights-of-Way” which should be delineated as “N/A”.

With regard to the Village – Waterfront Business District, there was discussion relative to Mr. Hogg’s comment that the County needed to know what was going on concerning “Basic Utilities” and how best this coordination could occur.

With regard to Section (A), uses allowed by-right, it was the consensus of the Board to

remove “library” and “cemetery”. The Board also moved the “wireless communication facilities”, “wind turbine, small scale and wind mills 35 ft. in total height”, and “wind turbine, small scale 35 ft. and 120 ft. in total height” uses to those allowed by special use permit. The Board also agreed with the remaining red-lined staff recommendations as noted. With regard to Section (B), uses allowed by special use permit, it was the consensus of the Board to remove “Ponds, agricultural irrigation”. The Board also concurred with the remaining red-lined staff recommendations as noted. All dimensional and density regulations as contained in Section (C) were approved with the exceptions of “Shoreline Width”, which will be revisited at a later date and “Minimum Setback from U.S. Route” and “Minimum Setback from Railroad Rights-of-Way” which should be delineated as “N/A”.

Mr. Stith also distributed an earlier memorandum which included proposed definitions for the Board’s consideration as set out below:

MEMORANDUM

TO: Northampton County Planning Commission

FROM: Peter Stith, AICP
Long-Range Planner

SUBJECT: Working Waterfront and Village-Waterfront Business

DATE: March 28, 2014

The Accomack-Northampton Planning District Commission is currently working on compiling an inventory of Working Waterfronts in both counties as part of a regional planning effort involving PDCs from Hampton Roads, the Middle Peninsula and the Northern Neck. When staff was tasked with looking at Willis Wharf and Oyster this planning effort was discussed. For your consideration staff has developed a separate Working Waterfront district that is included in the attachments and identifies areas not only in Willis Wharf and Oyster, but other locations on the seaside and bayside that have active working waterfronts. These include areas in Bayford, Cherrystone and Red Bank as well as landing sites at the end of Martins Landing Rd, Bulls Landing and Magotha Rd. Also attached is a Village-Waterfront Business District that would only apply to Oyster and Willis Wharf.

Proposed definitions for your consideration are below:

Working waterfront – Commercial and public uses that depend upon water to function and are located on, over or adjacent to or have direct access to a body of water such as, but not limited to, fishing, aquaculture, docks, wharfs, boat ramps, marinas, marine transportation, shipping, ports, harbors as opposed to a use that may be enhanced by the water such as, but not limited to, restaurants and housings.

Working waterfront support uses, structures and buildings – Uses, structures and buildings that supply necessary services to the working waterfront such as, but not limited to, boat building, repair, storage and hauling, seafood grading, packaging, processing and sales and marine equipment sales and storage.

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It was the consensus of the Board to approve both definitions as outlined above.

With regard to item (6), Remaining Performance Standards, the Board consensus on each standard is set out below:

1. Temporary Construction Offices. It was the consensus of the Board to approve this Performance Standard as presented.

2. Temporary Emergency Housing. It was the consensus of the Board to approve this Performance Standard as presented.

3. Temporary Family Health Care Housing. It was the consensus of the Board to approve this Performance Standard as presented.

4. Home Occupations. It was the consensus of the Board to approve this Performance Standard as presented.

5. Unified Plan for all Commercial and Industrial Uses. It was the consensus of the Board to approve this Performance Standard as presented.

6. Agricultural Irrigation Ponds. It was the consensus of the Board to approve this Performance Standard as presented.

7. Accessory Dwellings and Additional Single Family Dwellings on One Lot. It was the consensus of the Board to approve Section (A) this Performance Standard as presented and to table consideration of Section (B).

8. Vehicles, Containers and Manufactured Units Converted to Permanent Accessory Structures and Buildings. It was the consensus of the Board to approve this Performance Standard as presented.

9. Wireless Communications Facilities and Meteorological Towers. It was the consensus of the Board to approve this Performance Standard as presented.

10. Wind Turbines and Windmills for on-site Residential or Commercial Production and Use. It was the consensus of the Board to approve this Performance Standard as presented.

11. Wind Energy Facilities, Large and Utility Scale. It was the consensus of the Board to approve this Performance Standard as presented.

With regard to item (7) Signs, based on comments from staff and legal counsel, it was the consensus of the Board to table this discussion until the new VDOT regulations can be more fully discussed by staff and counsel.

With regard to item (8) Nonforming Language, this item will be discussed at a later date pending further research by legal counsel.

Closed Session

Motion was made by Mr. Hubbard, seconded by Mr. Hogg, 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

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

Receipt of proposal for purchase of block of buildings across the street.

(C) 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.

Declaration Network – letter of intent

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.

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Adjourn

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the meeting be adjourned. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was adjourned.

_____CHAIRMAN

_____ COUNTY ADMINISTRATOR