VIRGINIA:

At a recessed meeting of the Board of Supervisors of the County of Northampton, Virginia, held at the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 28th day of March, 2016, at 5:00 p.m.

Present:

H. Spencer Murray, Chairman	Granville F. Hogg, Jr.
Larry LeMond, Vice Chairman	Robert G. Duer
Oliver H. Bennett	

The meeting was called to order by the Chairman.

With the consent of the Board, the Chairman added several new items to the agenda as illustrated below:

(A) Update on the Zika virus. The Chairman indicated that he had been contacted by a constituent with concerns relative to the Zika virus, a mosquito-borne virus. It was the consensus of the Board that the Chairman be directed to contact the local health department for further information.

(B) End-of-Year 2016 Forecast. The following memorandum from the County Administrator and Finance Director was presented to the Board:

MEMORANDUM

TO:	Board of Supervisors
FROM:	Katie H. Nunez, County Administrator John Andrzejewski, Finance Director
DATE:	March 28, 2016
RE:	Fiscal Year 2016 EOY Projection

As requested by the Board, we have reviewed the Fiscal Year 2016 Budget to determine a projection as to how the County will close the end of the fiscal year.

Our review considered Fund 100 (General Fund), Fund 210 (Social Services), Fund 225 (Eastern Shore Regional Jail), and Fund 501 (Public Utilities) which have both personnel and operating expenses on an annual basis. This review did not include a review of the School Funds since any funds remaining at the end of the Fiscal Year are identified through a separate policy as to how they are to be applied (either to address the School's outstanding Sick Leave Accrual Policy or to fund the School's Capital Projects Fund – Fund 395). The two debt funds (Fund 401 and Fund 490) were not included since they will utilize 100% of their FY2016 appropriation to meet the County's debt obligations for FY2016.

The total amended budget for these 4 funds for FY2016 is $32,652,619 and is broken out as follows:

Personnel:	$11,402,497
Operating:	$ 6,445,928
Capital Outlay:	$ 488,755
Debt (Leases):	$ 102,357
Transfers Out:	$14,213,082

From there, we presumed that the budgeted operating, capital outlay, debt (leases) and transfers to the outside funds will be fully expended. Therefore, we focused our review on the personnel expenses and revenue. We are projecting that we will have a surplus of approximately $200,000 when examining those two categories at the end of Fiscal Year 2016.

In addition, we are projecting the General Fund Undesignated Fund Balance to be $7,195,283 or 18.28% of our required Fund Balance Policy which states that it "shall be an amount equal to at least 10% of the combined budgeted expenditures of the General Fund, Social Services Fund, Eastern Shore Regional Jail, and School Operating Fund (net of interfund transfers) at the end of the fiscal year." By policy and our bond agreement, the Fund Balance shall never be lower than 10% or $4.2 million, whichever is higher.

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While the Board was pleased to see a projected revenue surplus at the end of FY 2016, it was concerned with several requested large capital and other expenditures.

(C) Reassessment Notices. The reassessment notices have been mailed out and the Chairman indicated that several constituents have contacted him to express concerns about the 20±% decrease in real estate values.

(D) Guidance to County Administrator and Finance Director relative to the FY 2017

Budget. Mr. LeMond indicated that as the Board's representative relative to the budget, he will be meeting in the morning with the County Administrator and Finance Director and will provide the rest of the Board with a status report afterwards.

(E) Abandoned Building Program. The Chairman shared with the Board multiple photographs of derelict buildings not only in his district but along Route 13. He said that he and his wife have funded eleven Weirwood-area clean-ups. He said that these photographs illustrate "our image" and that such an image does not help us to attract residents and businesses to the County. With the consensus of the Board, the County Administrator and staff was directed to seek out grant/foundation funding to fund a clean-up program in the County. The Chairman further noted that he was not looking for a hammer to "bang" on the residents and that removal of these derelict structures do not create homelessness as they were unoccupied dwellings.

Mr. Bennett arrived at 5:20 p.m.

County Administrator's Report

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

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: March 22, 2016
RE: Bi-Monthly Report

I. Projects:

A. USDA Grant Obligation Update:
November 2015 thru March 1, 2016 Status Report: USDA has signed off completely on all items except for the 2 generators for the School. To date, we have now committed $496,283.85 of the $599,734.80 obligation or 82.75%.

School Administration has received bids in for the installation of a generator at each elementary school. The price is $109,000 per school. We budgeted $50,000 per school. I have spoken with the school and their recommendation is to install one generator at Occohannock Elementary. If the Board would like to proceed

with installing one generator at a cost of $109,000, then the shortfall is $9,000 which will be offset by $3,451 of the previously identified funds when the Sheriff's vehicles came in under budget. Therefore, the final short is $5,549 which could be taken from Undesignated Fund Balance. This allows us to fully meet our obligation to USDA.

If the Board does not wish to move forward with the generators, then the County would need to identify and obtain approval from USDA for a different project in the amount of $103,700.

At the March 8, 2016 Board of Supervisors meeting, Supervisor Hogg questioned the placement of the generator at Occohannock Elementary School if a communications tower is located at or near Kiptopeke Elementary School which would require a generator. The matter was tabled to seek additional information concerning Supervisor Hogg's concern.

After consultation with Superintendent Lawrence, he indicated that the School Board is not currently entertaining any proposals for installation of a cellular or communications tower for the Kiptopeke property. In addition, if such a proposal should be forthcoming from a third party vendor providing such services, the provision and installation of a generator servicing a communications tower would be the responsibility of that third party vendor, along with the on-going operating costs for the generator. He has confirmed that the scope of work outlined for this project is for a generator to carry the entire load of the elementary school but did not envision the generator capacity extending to a communications tower.

Board direction is needed regarding the installation of a generator at the elementary school, based upon the budgetary issues identified above.

When asked by Supervisor Hogg, Ms. Nunez reported that other items for potential funding as identified earlier by the Board included: two additional Sheriff's cruisers @ $40,835 each; a landfill mower/tractor at $35,000; and 15 AED units for the remaining Sheriff's cars at approximately $18,000. Following comments by the Board members, motion was made by Mr. Duer, seconded by Mr. Hogg, that the County Administrator be requested to contact USDA and indicate that the Board wished to modify its list of qualified projects (to satisfy the USDA obligation), by purchasing two additional Sheriff's vehicles and the AED units instead of an emergency generator for the school. All members were present and voted "yes." The motion was unanimously passed.

B. <u>2016 Reassessment:</u>
The Commissioner of Revenue's office has mailed notices to all property owners of the reassessment. The Circuit Court Judge has been contacted about appointing the Board of Equalization so that they will be prepared to begin holding appeals hearings as early as May 2016. Pursuant to Code of Virginia

§58.1-3378, the Board of Supervisors may establish a deadline for the Board of Equalization to finally dispose of all applications for equalization of real estate assessments. For the prior assessments, the Board has chosen to establish such a deadline to ensure that the County has acted timely in addressing any appeals and that our property valuation information is solidified for our budgetary purposes.

I am recommending the Board establish, via ordinance, a deadline of August 31, 2016 for the Board of Equalization to dispose of all timely applications for equalization of real estate assessments.

Board authorization is sought to allow the advertisement of an ordinance for public hearing at your April 12, 2016 meeting on this matter.

Motion was made by Mr. LeMond, seconded by Mr. Bennett, that this proposed ordinance be advertised for public hearing as recommended. All members were present and voted "yes." The motion was unanimously passed.

C. Enterprise Zone – Request to Add to the Map:
At the March 8, 2016 Board of Supervisors meeting, the Board authorized the staff to move forward with contacting three additional property owners about including their property in the Enterprise Zone Map designation and are scheduled to advertise this for public hearing at the April 12, 2016 meeting. Our office is now in receipt of correspondence from Supervisor Granville Hogg requesting consideration for Parcel 91-A-37, which he owns, for inclusion in the Enterprise Zone. The parcel is currently zoned Ag and the under the proposed 2016 Zoning Ordinance is zoned Ag.

Properties for inclusion in the Enterprise Zone should be zoned commercial or industrial or have zoning that supports commercial or industrial uses.

Board direction is needed if you want to include this parcel request from Mr. Hogg in the public hearing to amend the Enterprise Zone Map.

Due to the conflict of interest, Mr. Hogg recused himself.

Motion was made by Mr. Duer, seconded by Mr. LeMond, that property identified as Tax Map 91-A-37, as owned by Granville F. Hogg, Jr., be included in the advertisement for the Enterprise Zone amendment public hearing. All members were present with the exception of Mr. Hogg and voted "yes." The motion was unanimously passed.

D. EMS Garage Project:
Pursuant to Board direction requesting additional information about the conditions of the EMS property at Machipongo before proceeding with a building plan, my office has contracted with Shoreline Surveyors to conduct a topographic

survey, based upon a scope of work developed in consultation with Supervisors Hogg and Murray. Said work will cost $2,000 and will be completed no later than April 11, 2016.

E. Willow Oak Property:
My office was asked to determine the condition and parameters of the building that used to house the Sheriff's Office at Willow Oak. The School Board owns this property and there are approximately 5 buildings on this property as well as the gas pump station which services not only the School vehicles but also the County vehicles. The school is still actively using several of the buildings on this property. However, the former Sheriff's Office is being utilized for storage only by the school system and has indicated that they would be supportive of leasing the premises to the County for another purpose.

Public Works Director Mike Thornes has undertaken to develop a rough sketch of the building, showing the interior layout, as well as a preliminary assessment of the condition of the building. Those documents have been attached for the Board's consideration.

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Tabled Items:

(2) Consider action on Proposed Zoning Code text and map (Zoning Text Amendment ZTA 2016-01 and Zoning Map Amendment 2016-01).

Several items were presented for the Board's review as outlined below:

* Planning Commission Recommendation
* Memorandum re: Specific Mapping Requests
* Memorandum re: Public Comments
* Memorandum re: Additional 2016 Proposed Zoning Items for Board Consideration
* Memorandum re: 2016 Proposed Zoning Ordinance Adoption Options

These documents are set out below along with Board action:

To: **Northampton County Board of Supervisors**
From: **Northampton County Planning Commission**
Subject: **Repeal of the Zoning Ordinance and Map Adopted December 8,2015**
Date: **March 16, 2016**

MOTION AND RESOLUTION

This Motion is made to adopt the following Northampton County Planning Commission Resolution as follows:

RESOLUTION OF THE NORTHAMPTON COUNTY PLANNING COMMISSION REGARDING PENDING ACTION ON THE PROPOSED 2016 ZONING ORDINANCE

WHEREAS the Northampton County Board of Supervisors has applied to the County for a new Zoning Ordinance (herein after called "2016 Ordinance"); and

WHEREAS the Board of Supervisors have, by the smallest possible margin in vote, decided to "fast track" this application; and

WHEREAS a forty-three day window to review the proposed 2016 Zoning Ordinance is woefully inadequate for proper consideration by the Planning Commission; and

WHEREAS the existing 2015 Zoning Ordinance is, in form, a far superior document to the proposed 2016 Zoning Ordinance; and

WHEREAS the proposed 2016 Zoning Ordinance relies on a philosophy of allowing only uses specifically named in the use chart, and most of them only by Special Use Permit; and

WHEREAS the Planning Commission has spent thousands of man hours over the past 24 months reviewing and making suggestions to the 2015 Zoning Ordinance prior to its adoption in December, 2015; and

WHEREAS, at the Joint Public Hearing held on March 9, the Chairman of the Board of Supervisors indicated a "mood of compromise" on the part of the Board of Supervisors; and

WHEREAS the citizens of the County are understandably concerned by the complete reversal of the Board's philosophy towards zoning; and

WHEREAS the 2015 Zoning Ordinance considered the adopted Comprehensive Plan as required by State Code; and

WHEREAS the 2015 Zoning Ordinance does further public necessity, convenience and general welfare of the County; and

WHEREAS the 2015 Zoning Ordinance is consistent with good zoning practice; and

WHEREAS the most logical path to a concise, useable, and vetted Zoning Ordinance is to modify the current 2015 Zoning Ordinance in specific areas recommended by the Planning Commission prior to its adoption, and in other areas to be identified by the Board of Supervisors

WHEREAS adoption of the 2016 Ordinance before the adoption of the Comprehensive Plan would initiate a review of the new Ordinance to determine its compatibility to the current Comprehensive Plan, which will result in proposed amendments to bring it into conformity with the Plan, triggering a need for a public hearing and notice to the population.

WHEREAS If this delays the completion of the Comprehensive Plan review, the adoption of that plan will later trigger another compatibility review, resulting in the proposal for more amendments, another notice and public hearing. By deferring action until the Comprehensive Plan review is completed and adopted, only one subsequent notice and public hearing will be required, resulting in avoiding the cost to the taxpayers.

NOW THEREFORE, BE IT RESOLVED by the Northampton County Planning Commission that the Planning Commission's recommendation is for withdrawal of the proposed 2016 Zoning Ordinance; and

BE IT FURTHER RESOLVED that the Board of Supervisors identify specific areas of the 2015 Zoning Ordinance which require further review by the Planning Commission; and

BE IT FURTHER RESOLVED that review of such areas be undertaken by the Planning Commission as soon as the Comprehensive Plan is approved, which is complete in draft form, further consideration of which has been delayed by the Planning Commission's immersion in its duties to the Board for review of the proposed zoning amendments; and

BE IT FURTHER RESOLVED any subsequent action by the Board of Supervisors should address the attached list of issues discovered and identified in the small window of time allowed for its review, and that the document be reviewed by legal for items which are not in compliance with Virginia Code and Federal Statutes; and

BE IT FURTHER RESOLVED that this Resolution is adopted by the Northampton County Planning Commission on the 16th day of March, 2016.

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Pursuant to the Board of Supervisors (BOS) intent to repeal Chapter 154.1 Zoning Ordinance and Map adopted December 8, 2015 as well as Chapter 158 Chesapeake/Atlantic Preservation Areas (CAP) Ordinance and Map adopted December 8, 2015 and re-adopt the 2009, 2000 and 1983 texts and maps with certain amendments further described in the Board's January 12, 2016 Resolution and action memos dated January 20, 2016 and January 26, 2016, the Board of Supervisors requested the Planning Commission (PC) review its application and provide a response in 43 days.

Since the enactment of the 2009 Zoning Ordinance, the Planning Commission has held 112 Public Hearings, and considered 11 Zoning Map Amendments, 32 zoning text amendments and 57 special use permits. It has reviewed amendments creating standards for wind energy structures and facilities, solar energy and signage provisions for businesses located within Towns, as well as a general review of the Subdivision Ordinance. It has also twice reviewed and made recommendations on the 2015 Zoning Ordinance but was unable to completely review that short document within the allotted 100 days. Of course, during this time, the membership of the Commission has changed, and so not all members may be familiar with some of the hearings and actions.

Despite having worked with the old ordinances for years, there are many provisions within those ordinances which have never come before the Commission for review or consideration, and because of the turnover in membership, some provisions have never been considered by some of the current members. Consequently, there are large sections of the old ordinances with which the Commission has no experience or familiarity, and which would require much more time than has been allotted to review and consider.

There are several factors, which make the task more complicated. The proposed 2016 ordinance is based upon the original 1983 ordinance, which was subsequently amended by the 2000 and 2009 ordinances. In making those amendments, the prior Boards of Supervisors did not follow normal legislative drafting procedures, and strike out those sections of the earlier ordinances which were being repealed or altered, but instead left them in place, and included in the subsequent enactments a general provision to the effect that, as stated in Section 154.2.004(a) of the 2009 ordinance, "when provisions of this chapter are adopted or amended, they shall supersede and repeal any conflicting provisions previously adopted," and (b), "Whenever this chapter is at variance with the requirements of any other lawfully adopted county, state, or federal statutes, rules, regulations or ordinances, the most stringent of the applicable provisions shall govern." First, subparagraph (a) leaves a great deal of discretion to those administering and interpreting this law as to what is a "conflicting provision", which should have been deleted when the subsequent ordinance was adopted. Second, subparagraph (a) was based upon the various ordinances being adopted sequentially. Under the proposed 2016 Ordinance, they are all being adopted simultaneously, so to the extent there are provisions within the various ordinances, which are in conflict, subparagraph (a) has no relevance, and the provisions of paragraph (b) would control. As a result, if what had been a subsequent enactment that was less stringent than a provision in a previous version, the earlier and more stringent provision would apply, despite the legislative intent to relax it.

For example, the 1983 and 2000 Ordinances define "day care centers" as being limited to 6 children, but the 2009 version has no limits on the number of children, defining them merely as "facilities providing day care or nursery services for children." The intent of the 2009 version was to remove the number limitation of the previous version, but under the proposed 2016 version, the 2009 intent would be defeated by subparagraph (b), and the prior limitation on the number of children would apply because it is the more stringent. This is not an isolated example, as there are other similar conflicts where the intent of the more recent version would be subverted by the "more stringent" requirement. This is further complicated by the fact that the 2009 version contains the term "Day Care Center", with one definition, and then defines "Nursery/Day Care Centers" another, with the latter including the 6 child limit and the former not.

While this may be considered a minor example, it illustrates a much larger issue resulting from the introduction of these past ordinances as a single new ordinance, and finding these conflicts requires a very detailed and thorough examination of the text, which is not possible in the limited time allotted. The failure to find and eliminate these conflicts makes enforcement of the proposed ordinance much more complicated and could have serious economic and legal consequences.

The ultimate point is that the way the previous ordinances were drafted and are now being introduced as a single ordinance creates confusion and a legal minefield that can result in costly delays and potential litigation that could be avoided by providing the time needed to properly review and correct the problems. Given that the Planning Commission cannot perform the task assigned to it in the allotted time, the best that can be done is to highlight some of the major issues that need to be addressed.

A. Technical Issues

1. Definitions. The definitions in the various ordinances need to be combined into a single section so that duplicate or conflicting provisions, such as cited above, can be more easily detected and eliminated, and the substantive and procedural provisions in all the ordinances are consistent.

2. Provisions and sections that have been superseded by subsequent enactments need to be eliminated from earlier versions so that the legislative intent and the operative standards can be applied without conflict or confusion.

3. General Categories vs. Use Charts

   a. The Planning Commission recommends that the use chart in the 2016 proposed Ordinance be replaced with the general uses employed in the 2015 Zoning Ordinance.

   b. The proposed 2016 Ordinance would revert to use charts as the means for defining what is permitted or not permitted within each zoning district, while the 2015 Ordinance establishes general uses. The proposed 2016 use chart contains over 6,500 cells listing specific uses, and as such, is constrained to those potential uses envisioned by the authors. As such, it becomes an inflexible document unable to respond to new or omitted uses or those not previously imagined, and fails to provide the flexibility needed to respond to a changing economy and market system. For example in the Agricultural Use chart there are specific omissions including cotton, herbs, tobacco, hay, industrial hemp, blueberries, raspberries, blackberries, strawberries, field grown flowers and ornamental plants not grown in a greenhouse because they are not specifically listed. Uses that are not included within the use chart are then required to undergo the lengthy process of offering a zoning text amendment or initiate an expensive legal proceeding. Because of these impediments, uses not included in the use charts, businesses often decided not to locate within the County.

   c. In the past, the Zoning Department has taken the position that unless a use is specifically listed, it is not allowed, which seems to be the intent of the language.

However, this is inconsistent with the Supreme Court interpretation of the laws of Virginia and the equal protection provision of the U.S. Constitution. (Board of Supervisors of Fairfax County v. Southland Corporation, 224 Va.514 297 S.E. 2 d 718 (1982) Board of Supervisors v. Allman, 215 Va.434, 211 S.E. 2d 48 (1975). Board of Supervisors of Fairfax County v. McDonald's Corporation, 261 Va 583, 544 S.E. 2d 334 (2001)) Specifically, the Virginia Supreme Court has declared the operable standard is that "similar properties must be treated similarly", as well as section 14.1-488 of the Virginia Code, which requires the uniform application of zoning laws within zoning districts. If a proposed use complies with the performance standards for the district, and is similar to other uses allowed in the district, but not specifically listed in the use charts, under the current restrictions of the proposed use charts, it would not be permitted. To be successful in attracting new industries and commercial ventures, the Zoning Ordinance needs to be flexible, which is what would be allowed by relying on general categories rather than specific uses, and bring the ordinance into compliance with existing court rulings.

B. Substantive Issues

1. Affordable Housing

The Planning Commission finds that the proposed 2016 Zoning Ordinance fails to provide sufficient incentives to promote affordable housing, in that the density bonus is insufficient, and as such, fails to comply with Section 4 of the 2009 Comprehensive Plan. While the 2015 Zoning Ordinance fails to provide any density bonus for affordable housing, the provisions allowing for increased density in various zones better supports the Comprehensive Plan's encouragement for "inclusionary zoning". As stated on page 66 of the Comprehensive Plan, "This type of development, which could also include mixed use-mixed density neighborhoods, should be encouraged to the extent feasible, particularly in the Villages and Hamlets where infill lots exist and smaller lots may be created in areas which are not yet experiencing significant upward price pressure." The Planning Commission therefore recommends that the increased densities allowed by the 2015 Zoning Ordinance be used as the basis for addressing affordable housing options, and that a provision allowing for increased density bonuses be added.

The 2016 proposed Ordinance needs to be amended to provide increased incentives for affordable housing in terms of increased bonus densities and by right or minor special use in more zoning districts. While the 2015 Ordinance addresses this issue by increasing allowable densities and permitting multi-family housing units in more zoning districts, it fails to include a provision allowing a density bonus for affordable housing. Neither the 2015 Ordinance nor the 2016 Ordinance provide for Planned Unit Developments, and since the bonus would be based upon the construction of multiple dwellings, a PUD is one of the best options for achieving this goal.

Section 154.2.108 of the 2016 Ordinance purports to provide an incentive for affordable housing by offering a 10% density bonus for a rezoning application that includes the provision of affordable housing units as a part of the rezoning application. As a practical matter, in order to take advantage of this bonus, the rezoning would have to include 10 units, which, if they were single family dwelling units, would be a sizable development. Where, under the proposed ordinance, would such a development be allowed? The failure of this provision is evident from the lack of any new affordable housing being built or proposed in the last few years.

The most affordable housing type is multi-family units, but nowhere under the 2016 proposed Ordinance are multi-family units allowed by right. The cost of preparing an application for a rezoning for a multi-family complex is not insignificant, and given that there is no guarantee that it would be approved, it is a major impediment, especially for a government agency or non-profit. In a meeting with Commissioners, Elaine Meil, the Executive Director of the Accomack-Northampton Planning District Commission identified the cost of preparing an application and the uncertainty of approval as a major impediment to the submission of proposals in Northampton County.

A 10% density bonus is not a significant attraction, and should be increased to at least 20% or 25%. This would not only be a greater incentive, but also allow for developments of 4 or 5 units to take advantage of the bonus, and require a smaller investment.

Given the extent of poverty in the County, special attention should be given to creating affordable housing opportunities for those with very low incomes, being those individuals and families earning 50% or less of the current area median income. There should be an additional bonus of 5 or 10% above the standard bonus for those providing housing at affordable levels for this group.

Another consideration should be given for those low-income elderly, who are often living on social security. Again, an additional bonus of 10% should be offered for this demographic. According to the 2010 U.S. Census, there are over 1,000 residents over the age of 60 in Northampton County who live alone, and there are few housing options outside of single family homes available to them.

There is no requirement in Section 154.2.108 that the affordable housing be of the same size and include the same amenities as the other housing, or if various sizes are being offered, that the number of affordable units of different sizes be proportional to the number of different sized standard units. This is needed to insure that the affordable unit bonus not be based simply on the number of units, but that the units meet the needs of the population.

There is no requirement that the affordable units be spread throughout the development and not be separated or confined to a distinct area.

A further restriction on promoting affordable housing is contained in Section 154.2.104, Standards for Lot Coverage and Open Space Preservation. Under this provision, the maximum lot coverage ratio is established for the various zones. In the Agricultural zone, the lot coverage is limited to 15%, but increased to 25% for lots created under the Open Space Density Bonus Option created by section 154.2.108. There are no other zones that increased the allowable lot coverage ratio, but most residential areas are limited to 15 or 25%, with the exception of Existing Cottage Community, which allows for 60%. Requiring that affordable housing units be limited to just 25% of the lot coverage would often be a serious financial impediment to a developer who is only receiving a 10% density bonus, and allowing an increased lot coverage ratio would make investment more attractive.

Another alternative would be to establish an affordable housing fund, wherein a developer could receive a density bonus if a cash contribution to an affordable housing fund equivalent to the cost of providing affordable units within a proposed development were made. Creating such a fund would require drafting provisions as to the means for calculating the amount of the contribution, designating what county official or department would administer such a fund, how the funds would be segregated from other County revenues, how such funds would be preserved and invested, and ultimately how the funds would be disbursed and to whom. Accomplishing this within the time provided is not possible.

2. Planned Unit Development

The Planning Commission recommends that Planned Unit Developments be made a part of the zoning Ordinance in order to accommodate and encourage more concentrated mixed-use mixed-residential development, consuming less land, and achieving the goals set forth by the Board of Supervisors' adoption of the Healthy Communities program objective of encouraging a "Livable Community".

Northampton County has an aging population, supplemented in recent years by an influx of retirees. Much of the housing stock in the County is single family residences located on 1 acre or larger lots, which may not appeal to the newly retired who are increasingly confronted by more limited financial resources than in the past. Moreover, many of these migrants are seeking to downsize the responsibilities and their residencies, while at the same time, have easy access to necessities and conveniences. Continuing care facilities that provide various housing options, from independent living to assisted living to hospice care are attractive options for retirees, especially when they are combined with access to shopping and attractions. Declining economic conditions also make low cost housing options more attractive, such as mobile home parks. Communities, which offer such attractions as walking, hiking and bike trails are desirable. Without an option for a Planned Unit Development, the ability of the County to attract this growing segment of the population is limited, and provision should be made to meet this demand.

As technology increasingly is combining living and working environments, there is a need to provide a regulatory framework to accommodate changing conditions, especially those that cannot be met by a formula based upon an industrialized society that segregates such uses. How this interplay will work out in the future is unknown, but without flexibility to accommodate these changes, the County will forego the option of being able to attract businesses and residents seeking the benefits and advantages of this lifestyle.

The Zoning Ordinance needs to provide a flexible framework that can meet changing market demands and lifestyles in ways that cannot easily have been anticipated or foreseen in the present, and incorporating a Planned Unit Development option is the simplest solution.

3. Route 13 - Additional commercial development should be allowed along Rt. 13 in concentrated strategic areas in order to capture local and tourist traffic.

4. Town Edge – Section 154.2.081(H) states "The intent of this primary district is to provide potential development areas adjacent to incorporated towns which may, in the future, be served by extensions of public water and sewer services from the towns. Growth and increased development are intended to occur simultaneously with the provision of public infrastructure, including, but not limited to, public sewer and water, to support such growth and development." Only two of the towns have both sewer and water, which would provide them with an unfair advantage. Consideration of the Town Edge District should be deferred until a consistent policy is uniformly beneficial to all of the towns in Northampton County.

5 Residential Zoning - The loss of population has social and economic consequences as seen by the relocation of the hospital. To attract new residents, the housing and residential real estate supply should match the market demand but because of past practices there is a disconnect between the existing land use patterns established under prior zoning and current buyer expectations. The County should do a study of existing paper subdivisions with the intent to identify those which have never been improved and develop criteria for determining which plats or subdivisions should be vacated. The study should include consideration of whether the lots are buildable and meet applicable regulations (VDH, VDOT). In the event that any particular subdivision is recommended to be vacated, the owner should be given an opportunity to either bring the property into compliance with applicable regulations or reconfigure the subdivision to current standards. In order to allow the reconfiguration, Residential zoning class(es) should be retained.

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Mr. LeMond stated that the former Board, as well as the County Attorney and county staff worked on the 2015 zoning ordinance for over two years and the new Board undone that process in 2-3 minutes. He would like to see the Board compromise and take a hard look at the

recommendation as provided by the Planning Commission. Mr. Bennett agreed.

Mr. Duer said that he would not change his vote which was the platform on which he ran for office.

Mr. Hogg said that he had heard at the public hearing the need for Comprehensive Plan revisions to occur first and the need to educate staff. He suggested that the Board and Planning Commission get reacquainted with the zoning laws and other land use regulations. He believes that the best thing for the Board to do is to start with the 2009 zoning ordinance and come forward.

Mr. Murray said that the zoning issue has divided the County tremendously and believes that the 2015 zoning ordinance has some good ideas and some fatal flaws. He asked that the Board not vote on the 2016 ordinance tonight. He mentioned several points for the Board's consideration:

1. Special use permits are vital to our process.
2. Staff can be directed to integrate with the help of legal counsel the pertinent and relevant parts of the 1983, 2000 and 2009 documents into one document.
3. Affordable housing through mobile home park districts will be installed in the 2016 version.
4. Town Edge districts will be re-instated in the 2016 version.

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MEMORANDUM

TO: Northampton County Board of Supervisors

FROM: Development Department Staff

SUBJECT: Specific Mapping requests

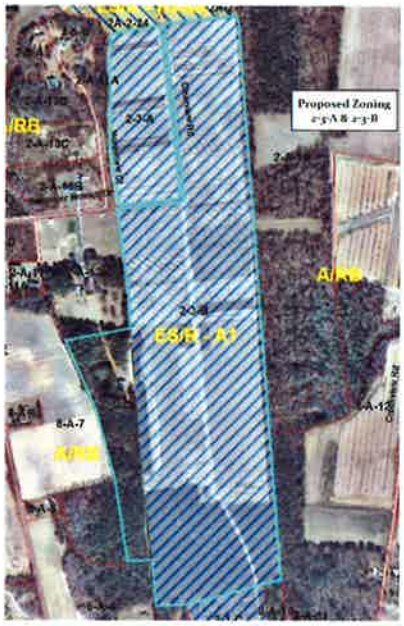
DATE: March 21, 2016

This memo includes specific mapping comments received as part of the 2016 proposed zoning process. The comment letter reference number is the column below on the left. The current zoning is on the left and the proposed zoning is on the right. Staff has provided more information on each request below. The subject parcel(s) on each map is outlined in blue.

Comment #:

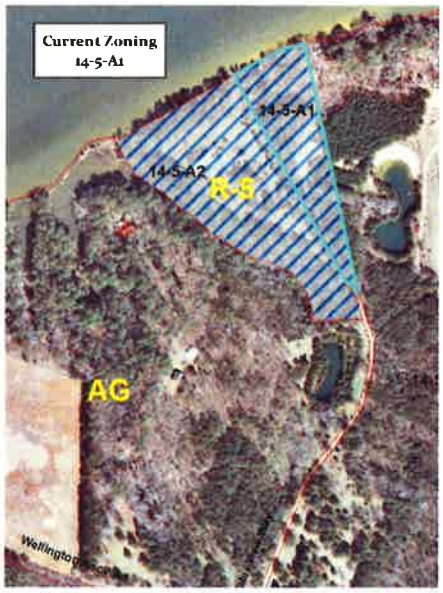
17 Request to be AG/RB – Tax Map 2-3-A and 2-3-B. These parcels contain 13 and 92 acres respectively, are currently zoned AG, Agriculture and proposed to be ES/R-A-1, Existing Subdivision/Residential – A-1. A boundary line adjustment was done in 2011 that increased the size of parcel 2-3-B to the west. This portion of that parcel is proposed to be zoned AG/RB, Agricultre/Rural Business, while the remainder is proposed to be ES/R-A1. The current use is agriculture and both parcels are located in the Concord AFD. Staff comment: No objection to request. If the Board wants to to do this it would require readvertisement because of the lot size differences between these districts.

It was the consensus of the Board to agree with the request for Ag/RB zoning, but indicated that due to readvertising requirements, this change in zoning cannot be immediately effective until the zoing map request is advertised.



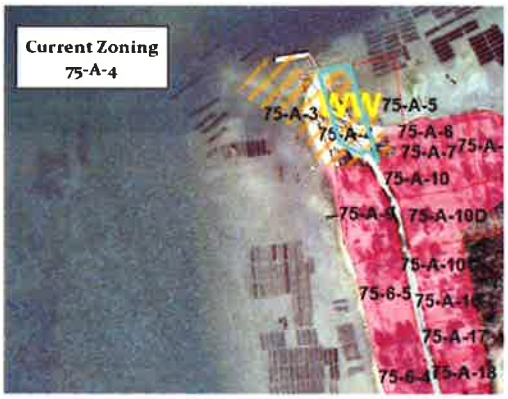
20 Request to remain R-5 – Tax Map 14-5-A1. This parcel contains 5 acres, is currently zoned R-5, Residential-5 and proposed to be A/RB, Agriculture/Rural Business. Currently, the parcel is vacant. Staff comment: While the property is clearly residential in nature, the R-5 district is proposed to be eliminated and this request cannot be accomodated under the proposed 2016 Ordinance.

No action was taken by the Board as this request cannot be accommodated.



22 Request to remain Working Waterfront – Tax Map 75-A-4. Parcel is currently zoned WW, Working Waterfront and proposed to be WH/R, Waterfront Hamlet/Residential. Staff comment: If the Board is considering retaining the WW district from the 2015 ZO, this parcel should be considered as remaining WW. Alternatively, the property will become WH/R to which the property owner objects.

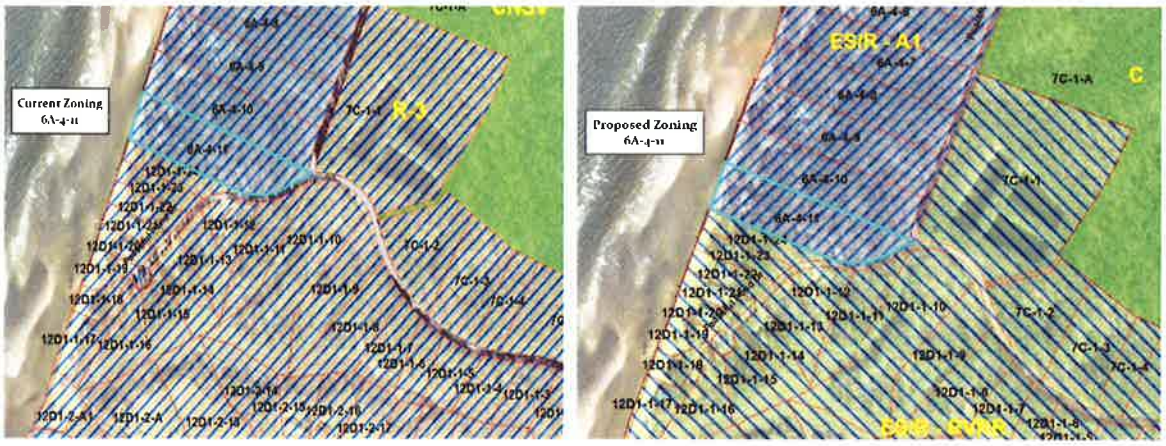
It was the consensus of the Board that it would consider including the Working Waterfront District in the 2016 version and would thereafter agree with the request for this parcel to remain as Working Waterfront.



26 Request to remain R-5 – Tax Map 6A-4-11. Parcel currently zoned R-5, Residential-5 and proposed to be ES/R – A-1, Existing Subdivision/Residential – Agriculture-1. The property contains a dwelling and is located in the Peacefuls subdivision. Staff comment:

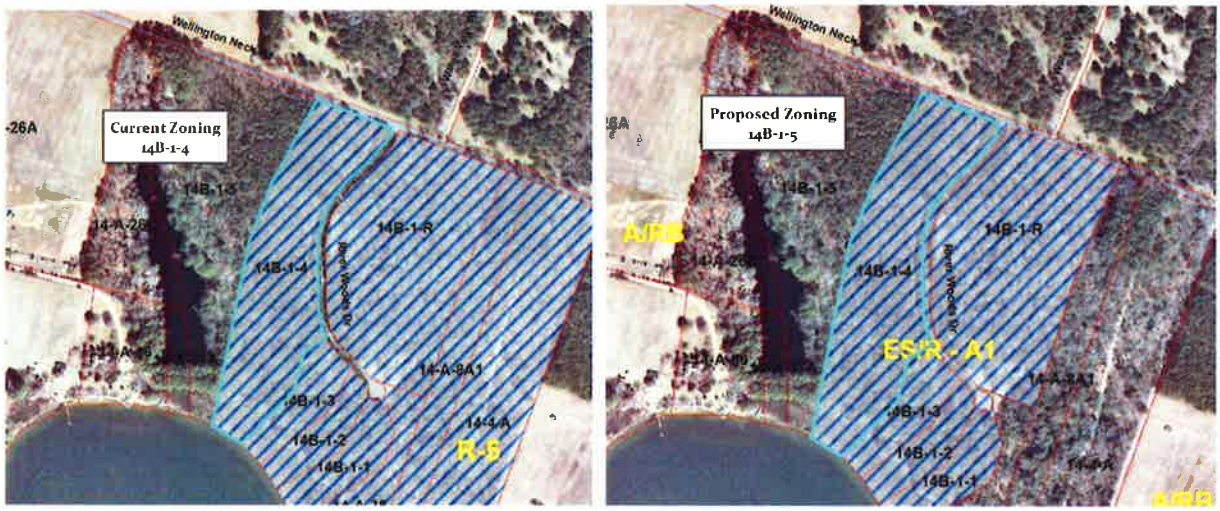
While the property is clearly residential in nature, the R-5 district is proposed to be eliminated and this request cannot be accomodated under the proposed 2016 Ordinance.

No action was taken by the Board as this request cannot be accommodated.



34 Request to be R-3 – Tax Map 14B-1-4. Parcel is currently zoned R-5, Residential-5 and is proposed to be zoned ES/R-A-1, Exsting Subdivision/Residential – Agriculture-1. There is a dwelling under construction on this parcel. Staff comment: While the property is clearly residential in nature, the R-3 district is proposed to be eliminated and this request cannot be accomodated under the proposed 2016 Ordinance.

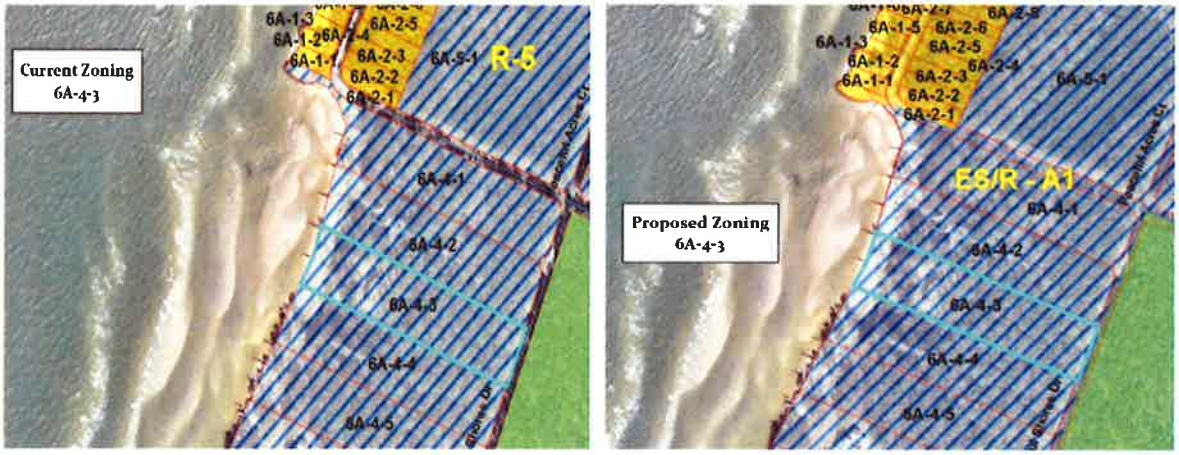
No action was taken by the Board as this request cannot be accommodated.



42 Request to remain R-5 – Tax Map 6A-4-3. Parcel currently zoned R-5, Residential-5 and proposed to be ES/R – A-1, Existing Subdivision/Residential – Agriculture-1. The property contains a dwelling and is located in the Peacefuls subdivision. Staff comment:

While the property is clearly residential in nature, the R-5 district is proposed to be eliminated and this request cannot be accomodated under the proposed 2016 Ordinance.

No action was taken by the Board as this request cannot be accommodated.

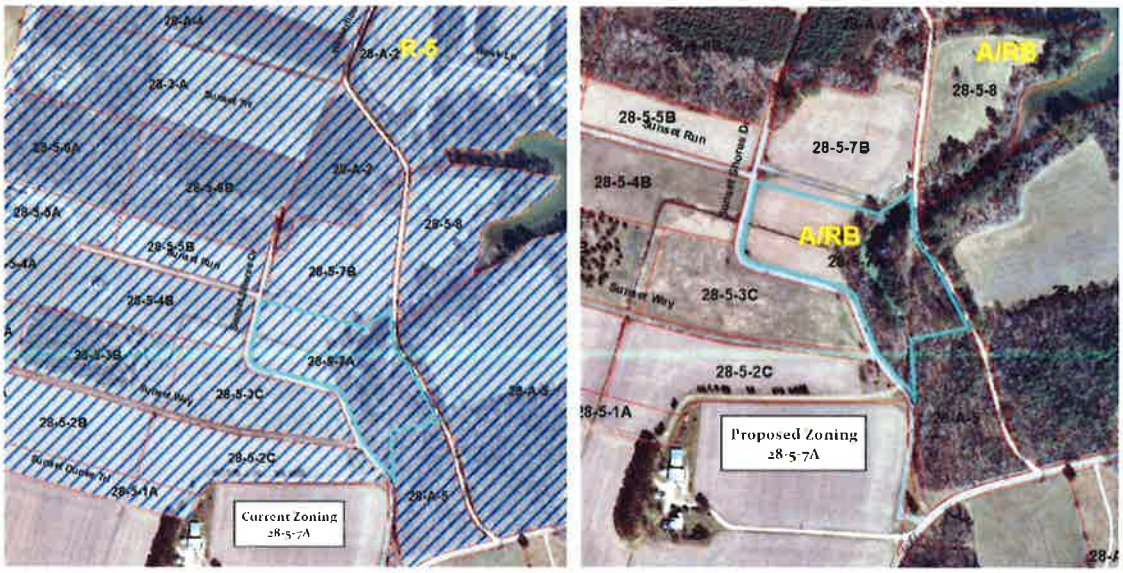


43,49, 80 Request to be remain R-1 or ES/R-RVR if possible – Area know as Kiptopeke Hamlet. Parcels are currently zoned R-1, Residential-1 and are proposed to be H/R, Hamlet/Residential. Some parcels may meet the Exising Subdivision criteria but many will not. Staff comment: The R-1 is proposed to be eliminated and many of the parcels in the vicinity will not meet the criteria for ES/R-RVR (for which none of the properties were advertised in any event). Therefore the property owners' request cannot be accomodated.

No action was taken by the Board as these requests cannot be accommodated.

51 Request to remain R-5 – Tax Map 28-7-7A. Parcel is currently zoned R-5, Residential-5 and proposed to be A/RB, Agriculture/Rural Business. This parcel is located in the Sunset Shores area. Staff comment: While the property is clearly residential in nature, the R-5 district is proposed to be eliminated and this request cannot be accomodated under the proposed 2016 Ordinance.

No action was taken by the Board as this request cannot be accommodated.



58 Request to leave Working Waterfront (WW) district – Multiple locations throughout the County, including Willis Wharf, Oyster, Cherrystone, Bayford, Redbank, Magotha Landing, Bull's Landing and Martin's Landing are currently zoned WW. Staff comment: If the Board is considering retaining the WW district from the 2015 ZO, these areas should be considered as remaining WW. Alternatively, the areas will become whatever the proposed designations are in the 2016 Ordinance. No objection has been received from anybody currently zoned Working Waterfront.

Mr. Murray stated that he believed that there were other areas in the County that can be consdiered to be Working Waterfront. Ms. Melissa Kellam, Zoning Administrator, indicated that she would provide to the Board a much-longer list of possible properties to be included in the Working Waterfront district as had been received from the State. It was therefore the consensus of the Board to pull forward the Working Waterfront District from the 2015 zoning ordinance for placement within the proposed 2016 zoning ordinance and to instruct staff to provide the material referenced by Ms. Kellam for future zoning amendment consideration.

* * * * * *

MEMORANDUM

TO: Northampton County Board of Supervisors

FROM: Development Department Staff

SUBJECT: Public Comments

DATE: March 21, 2016

Comment #:

1, 2, 3, 5, 7, 9, 10, 11, 14, 18, 19, 23, 24, 25, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 40, 41, 44, 45, 47, 48,52, 53, 54, 55, 56, 57, 59, 60, 61, 65, 66, 67,68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 81, 82, 83, 84, 85, 86, 87, 89, 90

This group of comments consisted of general expressions of support or opposition to the advertised proposal of the Board and included various negative comments on procedural issues. Proceeding with the adoption of any new zoning ordinance without a revised Comprehensive Plan was a common objection.

12 Staff considers this comment to be meritorious. Reducing the front setback would allow construction to occur closer to the front property line and further from the

shoreline. Depending on what setbacks are reduced in specific districts will determine what must be readvertised.

Staff will review and analyze this issue and report back to the Board.

13 Staff views the expense and difficulty of submittal requirements under the proposed 2016 ZO to be onerous for a Major or Minor SUP and a hinderance to reasonable land use proposals. (Such requirements may make sense at the site plan stage once a conceptual plan has been approved through an SUP)

The Board agreed that compromise is needed between the 2015 and 2016 versions in regard to SUP submittal requirements, but did not articulate what the compromise should be.

15, 16, 63 The commenter's concern is addressed by the vested rights section of the proposed 2016 ZO and in the current 2015 ZO as well as the Code of Virginia and the Constutition.

The Board concurred that this concern would only come into play if property is proposed for subdivision.

21 Staff concurs that in the proposed 2016 ZO section 154.2.082(C)(2) & (3) appear to conflict to some degree. The sections are below for your reference:

(C) *Hamlet/Residential District (H/R).* The intent of this District is:

(1) To recognize the county's small rural settlements of historic or cultural significance, often located at crossroads, and which have, over the years, taken on the form of primarily residential neighborhoods.

(2) To provide for a mixture of residential and low-impact commercial uses which are compatible in aspect, design, and form with this rural setting.

(3) To provide for primarily residential settlements in rural locales, which will support a variety of housing options.

It was the consensus of the Board to elimate subparagraph (3) above in order to address the conflict.

50 Staff considers the shoreline setback and the maximum lot coverage issues are adequately addressed in the Chesapeake/Atlantic Preservation Areas (CAP) and would recommend the removal of those sections in the propsed 2016 ZO.

It was the consensus of the Board to retain the 2015 language as per the staff's recommendation.

64 Staff recommends inclusion of the perimeter screening requirements for intensive farming.

It was the consensus of the Board to include perimeter screening requirements for intensive farming as per the staff's recommendation.

* * * * * *

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: March 22, 2016
RE: Additional 2016 Proposed Zoning Items for Board Consideration

I was asked by Chairman Murray to present five additional items to the full Board as part of the review and deliberation on the proposed 2016 Zoning Ordinance.

Item #1 – Event Venue:
Eyre Baldwin has expressed concern that neither the 2015 Zoning Ordinance nor the 2016 Proposed Zoning Ordinance provides him authority to use his property at Salt Grove (75-3-B2) as he envisions. The 2015 Zoning for this property is R-5 and the proposed 2016 Zoning for this property is Ag/RB. In reviewing his informal list in an e-mail dated March 10, 2016, it appears to be a more complex request than just a "simple fix" to the ordinance since the list of desired uses from Mr. Baldwin spans not only the district designation for this parcel but the types of uses allowed in each district.

This discussion does illustrate that the Board may wish to consider retaining the event venue components in the 2015 Zoning Ordinance since it is not a specific use outlined in the 2016 Proposed Zoning Ordinance:

> The 2015 ordinance contains a definition for event venue which *states "The commercial use of land, structures, and buildings established at a permanent location where people assemble to take part in entertainment, educational, cultural, organizational, ceremonial and/or celebratory events, open to the public or private parties for use, and usually operated in exchange for remuneration. This issue is separate from the use "agritourism" which has separate standards established by the Va. Code." The performance standards are contained in Section 154.1-318 and are attached to this memorandum. Event Venue is allowed by SUP in the AG, Commercial, and Industrial Districts.*

If the Board wishes to bring Event Venue into the 2016 proposed Zoning Ordinance (the definition and the performance standards), then the Board would need to identify which districts this would be allowed in. The staff recommendation is for placement in districts AG/RB, C-1

and EI Districts by Special Use Permit (need to select if major or minor SUP). This action would not require additional advertisement or public hearing.

Please note that this will not address the concerns or issues raised by Mr. Baldwin concerning his property at Salt Grove but introduces a use type into the 2016 proposed Zoning Ordinance that does not exist now.

Mr. Murray stated that he was in favor of the Event Venue use being brought forward into the 2016 zoning ordinance and that perhaps the accompanying performance standards can be reviewed at a later date. It was the consensus of the Board to bring Event Venue into the 2016 proposed Zoning Ordinance for placement in the Ag/RB, C-1 and E-1 Districts by special use permit (the Board did not select either major or minor SUP). The Board will need to determine whether it is my Major or Minor SUP.

At this time, Supervisor Hogg read a letter related to this topic as follows:

Due to a family illness taking me away from my Eastern Shore home, I have just recently become aware of proposed zoning changes that may impact my property. Originally zoned "AGRICULTURE", I have learned that it was rezoned in Dec. 2015 to "R5". Having planted a test plot of Chardonnay and Viognier vines 5 years ago, it has been our plan to expand these plantings to our remaining acres, with an eye toward building a winery and possibly a tasting room. After speaking with county planner Melissa Kellam, she has advised me that an "R5" designation is more restrictive and would not permit this use. Having a 27 year old son who has put down roots in the area, with plans of raising his family here, makes this appeal for me, all the more heartfelt. Since he is the driving force behind the grape growing and winemaking venture, along with recent aqua culture endeavors, my request is based on helping to secure a prosperous future for him, as well as helping address our communities continued prosperity. In light of these most recent developments, I am appealing to your good judgement and vision for the area's future to rescind my property's "R5" designation and return it to it's original, (at time of purchase) "Ag" designation. Your efforts in resolving this matter are greatly appreciated.

Thank you for your consideration,

Thomas E. Morris19488 Robin Rd. (the old Steelman property on Cherrystone Creek)Cape Charles, VA 23310tmorris007@yahoo.com
cc: mkellam@co.northampton.va.us

* * * * *

The Board indicated its understanding that Mr. Morris' request would be accommodated with the 2016 zoning ordinance adoption.

Item #2 - Royal Farms property located south of the Kiptopeke Inn (Parcel #112-A-14):
Mark Baumgartner, attorney for the Royal Farms project south of the Kiptopeke Inn, spoke at the public hearing regarding the zoning designation for his client's property. It is currently zoned

Commercial and it is proposed to go to AG/RB. Mr. Baumgartner indicated that they would like it to remain Commercial.

The Board could reclassify this property to the C-1 Zoning District without further re-advertisement.

Following comments from Board members, it was the consensus of the group to reclassify Parcel 112-A-14 as well as another parcel belonging to Royal Farms and identified as Parcel 91-7-A1 as C-1, Commercial. Supervisor Hogg commented that special use permits have already been granted for 112-A-14 in the past and referenced a petition from 110 citizens who were opposed to the rezoning of this parcel.

Item #3 – Agricultural Ponds:
Farm Bureau has expressed concerns over the 2016 proposed Zoning Ordinance as it relates to standards for ponds (Section 154.2.111 (D)) – enclosed. They are requesting the Board to remove this section. In addition, Farm Bureau indicated that one component from the 2015 Zoning Ordinance should be retained for ponds – it is Section 154.1-308 (A) (6) – enclosed.

Staff recommendation regarding the first request from Farm Bureau is that the safety standards in the proposed 2016 Zoning Ordinance (Section 154.2-111(D)) for agricultural ponds should either be retained as written or the Board should take the safety standards from the 2015 Zoning Ordinance (Section 154.1-308 (A) (1 – 5) and include them in the 2016 Zoning Ordinance.

Staff recommendation regarding the second request from Farm Bureau is supportive of this request.

It was the consensus of the Board that the 2015 safety standards should be pulled forward into the 2016 version (and delete the proposed Section 154.2-111(D)) and to include Section 154.1-308(A)(6) in regards to ponds in the 2016 version.

Item #4 – Greenhouse Sales:
Farm Bureau has expressed concern that the Category 1 Agricultural Uses Chart, Use #8 (Greenhouse Sales, Retail with Outdoor Storage and Accessory Goods/Services) requires a Minor Special Use Permit in the Agricultural District and feels that this should be allowed by Right. Staff concurs with this request.

It was the consensus of the Board to agree with the staff recommendation.

Item #5 – Minimum Separation Distances:
Supervisor Murray forwarded a concern from a citizen regarding Section 154.2.067 – Minimum Separation Distances: Subsurface Absorption Systems and Wells (enclosed) and questioned whether this section should be deleted from the 2016 proposed Zoning Ordinance.

Staff recommends the deletion of this section from the 2016 proposed Zoning Ordinance. In addition, if the Board concurs with this recommendation, then they also need to instruct the staff

to send to public hearing the deletion of Chapter 157 of the County Code (enclosed) which states the exact same thing since this was placed in both the County's Zoning Ordinance and the County's General Ordinances by the Board that adopted it in 2005.

It was the consensus of the Board to agree with the staff recommendation for deletion of the section in both places of the County Code as referenced.

Item #6 – Relaxed standards for the Chesapeake Bay Preservation Area (CBPA):
There is the ability to impose lesser standards if the CBPA is reduced in certain areas on the seaside. However, this requires greater discussion with the Board to determine what areas you would want to remove from the CBPA and then would require advertisement for public hearing along with the appropriate property owner notification. It cannot be done as part of 2016 proposed zoning text amendment or zoning map amendment since it was not advertised in the 2016 proposed Zoning Ordinance and is not the law of the 2015 Zoning Ordinance.

The Board asked Ms. Kellam that in whatever situations exist that allow her to use her discretion, that she be encouraged to do so. Ms. Kellam stated that, as is presently her practice, she will continue to help citizens of the County design their projects to be under the 2500 sq. ft. threshold where possible so as not to trigger the CBPA regulations.

* * * * *

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: March 22, 2016
RE: 2016 Proposed Zoning Ordinance – Adoption Options

As requested by Chairman Murray, I am providing the following options to the Board regarding the adoption of the 2016 Proposed Zoning Ordinance:

1. The Board could vote to adopt the 2016 Zoning Ordinance and Map as advertised.

2. The Board could vote to adopt the 2016 Zoning Ordinance and Map as amended by any of the items contained in the three staff memos (Peter Stith Memo on Mapping; Peter Stith Memo on Public Comments; and Katie Nunez Memo on Additional Items) which do not require any further public hearing.

   In addition, the Board could include, as part of its vote, an instruction to staff to merge the three distinct named documents of 2009/2000/and 1983 into one document to be known as the 2016 Zoning Ordinance and to eliminate the components of the 2000 and 1983 documents that are extraneous and to instruct staff to format the document consistent with the 2015 zoning ordinance in terms of the district pages which list intent,

uses, and density by district as well as to retain the use chart in the 2016 zoning ordinance and to correct any other formatting issues, including numbering, grammar and spelling.

The motion to adopt such a complex document as the zoning ordinance is still being drafted by Counsel and is not included with this agenda packet.

* * * * *

It was the Board's direction that an appropriate motion as outlined in paragraph #2 above be prepared for the April 12th agenda. The various text changes as outlined tonight will be placed on the County's website for citizen review. (Due to the absence of staff, map changes which were discussed tonight, will not be placed on the website.)

(3) EMS Garage Discussion

It was the consensus of the Board that this matter be kept on the table. As reported in the County Administrator's Report, a contract has been awarded for preparation of a topographic survey which is needed for preparation of a site plan. This matter will be placed on the April 12th regular meeting agenda.

(4) EMS Staffing/Funding Proposal.

It was the consensus of the Board that this matter be kept on the table. This matter will be placed on the April 12th regular meeting agenda.

Supervisor Hogg mentioned two properties (a barrow pit owned by Branscome near Nassawadox and the Dew Drop Inn at Weirwood) and questioned the proposed zoning. The County Administrator indicated that no public comment had been received relative to these two parcels, nor advance notice provided by the Board members that these properties would be discussed; therefore, the staff was not prepared to discuss them.

Adjourn

Motion was made by Mr. Duer, seconded by Mr. LeMond, that the meeting be adjourned. All members were present and voted "yes." The motion was unanimously passed.

The meeting was adjourned.

_____CHAIRMAN

_____ COUNTY ADMINISTRATOR

ABSTRACT of VOTES

Cast in NORTHAMPTON COUNTY, VIRGINIA
at the 2016 March Republican Presidential Primary Election held on March 01, 2016 for,

President

NAMES OF CANDIDATES ON THE BALLOT	*TOTAL VOTES RECEIVED (IN FIGURES)*
Donald Trump	626
Marco Rubio	366
Ted Cruz	162
John Kasich	137
Ben Carson	76
Jeb Bush	6
Chris Christie	3
Mike Huckabee	2
Rand Paul	1
Carly Fiorina	0
Jim Gilmore	0
Lindsey Graham	0
Rick Santorum	0
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	0
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on March 01, 2016, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the President.

Donald Trump

Given under our hands this 3 *day of* March, 2016

Electoral Board Seal

Jan McClure, Chairman

[illegible], Vice Chairman

Ralph Ayes, Secretary

Ralph Ayes, Secretary, Electoral Board

ABSTRACT of VOTES

Cast in NORTHAMPTON COUNTY, VIRGINIA
at the 2016 March Democratic Presidential Primary Election held on March 01, 2016 for,

President

NAMES OF CANDIDATES ON THE BALLOT	*TOTAL VOTES RECEIVED (IN FIGURES)*
Hillary Clinton	868
Bernie Sanders	324
Martin J. O'Malley	6
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	0
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on March 01, 2016, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the President.

Hillary Clinton

Given under our hands this 3 *day of* March, 2016

Electoral Board Seal

_____, Chairman

_____, Vice Chairman

_____, Secretary

_____, Secretary, Electoral Board