



CITIZENS FOR A BETTER EASTERN SHORE

SHORELINETM

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Responsible Tourism

How to preserve the goose that laid the golden egg

By Edward T. McMahon

Edward T. McMahon is a senior resident fellow at the Urban Land Institute and author of the book, Better Models for Development in Virginia. He has appeared at a CBES annual meeting and done consulting work for Accomack County and the Town of Chincoteague. He sent this article to CBES saying, "Here is a new article on Responsible Tourism that I thought folks on the Eastern Shore of Virginia would find of value." ShoreLine is pleased to present it, slightly edited for space.

Where did you go on your last vacation? Was it rewarding and satisfying? Or were you disappointed? Tourism is big business. Americans spend more than \$800 billion a year on travel and recreational pursuits away from home. Travelers spent \$21.5 billion in Virginia in 2013, according to the Virginia Tourism Corporation. Domestic travel expenditures supported 213,000 Virginia jobs, comprising seven percent of total private industry employment. Domestic travel in Virginia directly generated more than \$1.4 billion in tax revenue in 2013.

Tourism is also a double-edged sword. On the one hand, it provides communities with many benefits: new jobs, an expanded tax base, enhanced infrastructure, improved facilities and an expanded market for local products, art and handicrafts. On the other hand, it can create problems and burdens for local communities, such as crowding, traffic congestion, noise, increased crime, haphazard development, cost-of-living increases and degraded resources.

So the question is: how do you maximize the benefits of tourism, while minimizing the burdens? First, communities need to recognize the difference between mass market tourism and responsible tourism. Mass market tourism is all about "heads in beds." It is high volume, high impact, but low yield. A classic example is Ft. Lauderdale, Florida.

When I was in college, Ft. Lauderdale was the "spring break capital" of America. City officials thought it was a great idea to invite millions of college kids to come down for a few weeks each year. What they didn't count on, of course, was that the college kids would sleep six to eight per room; the only thing they would spend money on was beer. The city had to hire all kinds of extra police and clean-up crews and pretty soon, Ft. Lauderdale had a reputation as an "out-of-control town full of drunken college kids."

Today, Ft. Lauderdale is no longer the spring break capital. It may not have as many tourists as it used to, but the tourists who do come are older and more affluent. They sleep two people to a room. They dine at fancy restaurants and shop in high-end stores. The city doesn't need to hire extra police and clean-up crews. Responsible tourism is lower volume, lower impact, but higher yield.

To understand responsible tourism, think about unspoiled scenery, locally-owned businesses, historic small towns and walkable urban neighborhoods. To understand mass market tourism, think about mega hotels, theme parks, chain stores and the new generation of enormous (4,000 to 5,000 passenger) cruise ships. Mass market tourism is about

... the more Virginia communities come to look and feel just like everywhere else, the less reason there is to visit.

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“Tourism” Cont’d from p. 1

quantity. Mass market tourism is also about environments that are artificial, homogenized, generic and formulaic. In contrast, responsible tourism is about quality. Its focus is places that are authentic, specialized, unique and homegrown. To understand responsible tourism, think about unspoiled scenery, locally-owned businesses, historic small towns and walkable urban neighborhoods.

Like most states, Virginia spends millions of dollars on tourism marketing and promotion. Marketing is important because it helps to create demand. It promotes visitation. It identifies and segments potential visitors, and it provides information about a community and its attractions.

Yet, tourism involves a lot more than marketing. It also involves making destinations more appealing. This means identifying, preserving and enhancing a community’s natural and cultural assets, in other words, protecting its heritage and environment. After all, it’s the unique architecture, culture, wildlife or natural beauty of a community or region that attracts tourists in the first place.

The best marketing a community can have is word of mouth. This occurs when the reality of the place meets or exceeds the mental image that visitors have been sold through marketing and promotion. Creation of a false image can spoil a vacation. What’s more, it can reduce repeat

visitation. Tourists may come once, but they won’t come back.

The truth is, the more Virginia communities come to look and feel just like everyplace else, the less reason there is to visit. On the other hand, the more a community does to enhance its uniqueness, the more people will want to visit. This is the reason why local land use planning and urban design standards are so important.

To attract and retain tourists, local officials need to become much more aware of the overall character of their community. Studies reveal significant differences between resident and tourist perceptions of a community. Tourists are open and receptive to everything they see, while longtime residents tend to tune out the familiar environments.

So how can a community attract tourists and their dollars without losing its soul? Here are seven recommendations:

Preserve historic buildings, neighborhoods and landscapes. A city without a past is like a man without a memory. Preserving historic buildings is important because they are the physical manifestations of our past. Saving the historic buildings and landscapes of Virginia is about saving the heart and soul of Virginia. It is also about economic competitiveness. Travel writer Arthur Frommer put it this way: “Among cities with no particular recreational appeal, those that have preserved their past continue to enjoy tourism. Those that haven’t receive almost no tourism at all. Tourism simply won’t go to a city or town that has lost its soul.”

Try to imagine Alexandria without Old Town, Richmond without the Fan, or Roanoke without its City Market. These communities would be lesser places, but they would also be diminished as tourism destinations.

Preservation-minded communities like Williamsburg, Charlottesville, Fredericksburg, Lexington and Staunton are among Virginia’s leading tourism destinations precisely because they have protected their unique architectural heritage.

Focus on the authentic. Communities should make every effort to preserve the authentic aspects of local heritage and culture, including food, art, music, handicrafts, architecture, landscape and traditions. Responsible tourism emphasizes the real over the artificial. It recognizes that the true story of a place is worth telling,

even if it is painful or disturbing.

For example, in Birmingham, Alabama, where I grew up, the Civil Rights Museum and Historic District tell the story of the city’s turbulent history during the civil rights era. This authentic representation of the city’s past adds value and appeal to Birmingham as a destination, and the museum and surrounding historic district have proved popular with visitors from all over the world.

In Virginia, the Crooked Road Heritage Music Trail is a great example of an authentic attraction. The driving route along US 58 connects major heritage music venues in Southwest Virginia, and it showcases the traditional gospel, bluegrass and mountain music indigenous to the region. Annual festivals, weekly concerts, live radio shows and informal jam sessions abound throughout the region and these events attract locals and tourists alike.

Ensure that hotels and restaurants are compatible with their surroundings. Tourists need places to eat and sleep. Wherever they go, they crave integrity of place. Homogeneous, “off-the-shelf” corporate chain and franchise architecture works against integrity of place, reducing a community’s appeal as a tourist destination.

Virginia communities need to ask: Do you want the character of Virginia and your community to shape new development? Or do you want new development to shape the character of your community? One example of a chain hotel that fits in with a Virginia community is the Hampton Inn in Lexington. Instead of building a generic chain hotel out by the interstate, the owners of the Lexington Hampton Inn converted an 1827 manor house – the Col Alto Mansion – into the centerpiece of a 76-room hotel within walking distance of historic downtown Lexington.

Bob Gibbs, one of the nation’s leading real estate market analysts says, “When a chain store or hotel developer comes to town they generally have three designs (A, B and C) ranging from Anywhere USA to Unique (sensitive to local character). Which one gets built depends heavily upon how much push back the company gets from local residents and officials about design and its importance.”

Design is, of course, critically important in the tourism marketplace. Tourism is the sum total of the travel experience. It is not just what happens at a museum or a

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festival. It is also about the places that tourists eat and sleep; the roads they drive down, and the main streets they shop on.

Every new development should have a harmonious relationship with its setting. Tourism support facilities should reflect the broader environmental context of the community and should respect the specific size, character and function of their site within the surrounding landscape. Hotels in Virginia, for example, should be different from those in Maine, Missouri, Montana or Morocco.

Make your story come alive. Visitors want information about what they are seeing and interpretation can be a powerful storytelling tool that can make an exhibit, an attraction and a community come alive. It can also result in better-managed resources by explaining why they are important. Interpretation instills respect and fosters stewardship. Education about natural and cultural resources can instill community pride and strengthen sense of place.

Gettysburg, Pennsylvania, developed a community-wide interpretation program that involves public art, wayside exhibits and interpretive markers that tell the story of the town and its role in the battle of Gettysburg. They did this after they realized that most tourists were driving around the national park and then leaving town without realizing that the town itself was a big part of the story. Since the interpretative program was completed, the number of visitors spending time and money in downtown Gettysburg has measurably increased.

The City of Richmond has also done a great job of telling its story. The Richmond Slave Trail, for example, is a walking trail that chronicles the trade of enslaved Africans from Africa to Virginia until 1775 and away from Virginia until 1865. There are numerous historic markers along the route that explain the various sites and cast new light on a dark chapter of U.S. history.

Protect community gateways: control outdoor signage. First impressions matter. Some Virginia communities pay attention to their gateways. Others do not. Many communities have gotten used to ugliness, accepting it as inevitable to progress. More enlightened communities recognize that community appearance is important. It affects a community’s image and its economic well-being. I’ll never forget how charmed I was on my first visit to New Market, Virginia, a Norman Rockwell sort of town in the Shenandoah Valley. Nor will I forget how disappointed I was on a later visit to find giant fast food and gas stations signs towering over the town’s historic buildings, obliterating the scenery and diminishing the town’s appeal as a tourist destination.

Protecting scenic views and vistas, planting street trees and landscaping parking lots all make economic sense, but controlling outdoor signs is probably the most important step a community can take for an immediate visible improvement in its physical environment. Almost nothing will destroy the distinctive character of a community faster than uncontrolled signs and billboards. Sign clutter is ugly, ineffective and expensive. Almost all of America’s premier tourist destinations have strong sign ordinances; they understand that attractive communities attract more business than ugly ones.

Enhance the journey as well as the destination. Tourism is the sum total of the travel experience. Getting there can be half the fun, but frequently, it is not.

There are many great destinations in Virginia; however, except for a few special roads, like the Blue Ridge Parkway, there are few noteworthy journeys left. This is why it is in the interest of state and local officials to encourage development of heritage corridors, bike paths, rail trails, greenways and scenic byways.

Get Them Out of the Car. If you design a community around cars, you’ll get more cars, but if you design a community around people, you’ll get more pedestrians. It is hard to spend money when you are in a car, so getting people out of cars is a key to responsible tourism and increased business. The Virginia Creeper Trail in Southwest VA is considered one of the best rail trails for cyclists in the country. It runs 35 miles from Abingdon to Whiteside near the North Carolina state line. It has brought thousands of tourists and new life to an economically distressed part of the state.

Create a “trail” with neighboring communities. The Journey through Hallowed Ground Heritage Area promotes nine presidential homes, numerous Civil War sites, more than 30 historic Main Street communities and numerous other historic and natural attractions. Few rural communities can successfully attract out-of-state or international visitors on their own, but linked with other communities, they can become a coherent and powerful attraction.

Tourism is about more than marketing. It is also about protecting and enhancing the product we are trying to promote.

Ask yourself, “How many tourists are too many?” Tourism development that exceeds the carrying capacity of an ecosystem or that fails to respect a community’s sense of place will result in resentment by local residents and the eventual destruction of the very attributes that attracted tourists in the first place. Too many cars, tour buses, condominiums or people can overwhelm a community and harm fragile resources. Responsible tourism requires planning and management. In Charleston, for example, the city prohibits large tour buses in the neighborhood south of Broad Street, known as the Battery. It also directs travelers to the city’s visitor center, which is located well away from historic residential neighborhoods that were being overrun by tourists. It has also built new attractions, like the South Carolina Aquarium, in under-served areas of the city, instead of concentrating everything in one or two overcrowded neighborhoods.

Preserve Virginia’s unique natural assets. In recent years, Virginia tourism has had steadily less to do with Virginia and more to do with mass marketing. As farms, forests and open lands decrease, advertising dollars increase. As historic buildings disappear, chain stores proliferate. Unless the tourism industry thinks it can continue to sell trips to communities clogged with traffic, look-alike motels, overcrowded beaches and cluttered commercial strips, it needs to create a plan to preserve the natural, cultural and scenic resources upon which it relies.

Tourism is about more than marketing. It is also about protecting and enhancing the product we are trying to promote. Citizens, elected officials and developers alike can take a leadership role in creating a responsible tourism agenda that will strengthen the Virginia economy, while at the same time preserving the natural and cultural assets that make it unique.



In My Opinion

Tourism Infrastructure

A promising program lost its way

By Andrew Barbour

Andrew Barbour's tourism background is extensive. In 1989, he joined Fodor's Travel Publications as an editor in New York. Later he moved to the San Francisco Bay area to create a new series of budget travel guides for the company. He wrote the first edition of Fodor's South Africa. He returned to New York in 1996 as editorial director of www.fodors.com. In 1997, he joined America Online as programming director of the Travel Channel, the then-largest online travel site in the world.

Barbour and his family moved to the Eastern Shore in 2002. Along with his tenure as a Northampton Supervisor, Barbour represented the county on the ESVA Tourism Commission from 2004 to 2008, bringing his extensive background in tourism to the Eastern Shore tourism effort. He provides his thoughts on local tourism infrastructure at ShoreLine's request.

During my term as a Northampton County Supervisor from 2003 through 2007, a major focus for me was helping to revitalize the Eastern Shore of Virginia Tourism Commission (ESVATC). I believed then – and I believe now – that tourism should play a significant economic role in both Eastern Shore counties. And, in recent years, the ESVATC's efforts have shown success: between 2008 and 2013, tourism occupancy tax (TOT) receipts in Northampton grew by nearly 14%, not including TOT receipts from the incorporated towns where several new hotels were opened.

Much of the ESVATC's gains between 2004 and 2012 can be attributed to one factor: the Northampton County Board of Supervisors (BOS) and colleagues in the Accomack BOS entrusted the ESVATC's tourism strategy to tourism experts and worked hard to shield their work from political interference. Unfortunately, that approach appears to have been jettisoned. Today, some of the tourism funds previously administered by the ESVATC are now being managed by Northampton County, and decisions about how to fund county tourism initiatives are being made by county representatives who have no tourism experience whatsoever.

To understand what's happening, a little history is in order. Under an agreement reached between County Administrator Katie Nunez and the ESVATC in 2007, a portion of the funds stemming from a 3% increase in the county's transient occupancy tax rate was dedicated to tourism-infrastructure projects in Northampton County. To oversee this, a Tourism Infrastructure Committee was appointed that consisted of the county's ESVATC commissioners – people with experience in the tourism industry. Their job was to develop and update annually a list of projects known as the Tourism Infrastructure Plan.

In a county as poor as Northampton, tourism infrastructure is a glaring need. The extra funds gave Northampton County a perfect opportunity to create – and then invest in – a long-term strategy to build up its infrastructure. Tourism infrastructure encompasses everything from public swimming pools and beaches to highway signage, boat ramps, docks, biking and walking trails, parks, and sports facilities.

To ensure that the project list was inclusive and well conceived, the ESVATC bylaws required the commissioners to

solicit feedback from the county administrator, the chambers of commerce, incorporated towns with tourism interests, and parks and recreation groups (local, state, and federal). The bylaws also specified that “only projects listed on Northampton County's Tourism Infrastructure Plan are eligible for funding.”

Unfortunately, this process is completely broken. Today, there is no list of infrastructure projects, there is no infrastructure committee, and there is certainly no consultation with stakeholders. Even more troubling, the funds (\$40,500 for fiscal year 2016) have been siphoned off for a new tourism grant program that is being run out of the county administrator's office.

What's wrong with this picture?

- 1) Two members of the new Tourism Grant Funding Committee that replaced the Infrastructure Committee, Katie Nunez and Supervisor Larry LeMond, have never held tourism-related jobs. As a result, only half of the new committee (two of Northampton's ESVATC commissioners) is actively involved in tourism operations or marketing. On the recommendation of Katie Nunez, the director of the ESVATC has been excluded.
- 2) Katie Nunez's role as county administrator means that, in participating in the grant-award decisions, she may consider a host of other issues – both fiscal and political – that have nothing to do with tourism. One of the losing submissions in this year's grant applications, for example, was a request for a stage in the park at Exmore. Rather than evaluating the application solely on its ability to foster tourism, Ms. Nunez appears to have played politics instead. In her letter of rejection to the town of Exmore, she makes a point of noting that the town does not contribute any TOT receipts to the ESVATC or the county's tourism efforts. This kind of divisive attitude is absolute poison to a tourism strategy that is committed to building a single, strong Eastern Shore brand.
- 3) The new Tourism Grant Funding Committee accepts applications for any tourism-related event, not just tourism-infrastructure projects. Winners of this year's awards include the Tall Ships event (\$12,500) and the Birding Festival, for example. These projects may well be worthy of the support of the ESVATC, but funding such projects through an application system is a slippery slope, especially when county employees/officials are making the decisions. By its very nature, the approach lends itself to manipulation through favoritism and politics. Further, it's almost impossible to determine the return on investment from such events: How many tourists did they attract from off the Shore and how much did those visitors spend? For all these reasons, we rejected this kind of approach in 2007 in favor of infrastructure grants that furthered the strategic goals of ESVATC, enjoyed community buy-in, and laid the foundation for long-term tourism growth.

I don't know how Northampton's promising infrastructure program lost its way, why the county took control of these funds, or why it changed the focus of the program. Blame may lie with the ESVATC, Northampton County, or both. What I do know is that it's impossible to build a strong Eastern Shore tourism product when the vision and funding are splintered, when people with no tourism experience are calling the shots, and politics is allowed to insert itself into the equation.



Flotsam and Jettison

By Donna Bozza

“Getting Involved” gets things done.

“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.” – Margaret Mead

Passing the buck was *not* the order of the day when a handful of citizens decided to try to rid Northampton County of a debt that once peaked at \$1.7 million. Supervisor Granville Hogg shared his frustration over the county’s decade-long failure to resolve a grant repayment to USDA Rural Development. And with that, Citizen David Boyd emailed USDA to set up a meeting. A conference call followed with Supervisor Hogg and several other concerned citizens including Spencer Murray and *ShoreLine’s* Mary Miller, who provided valuable research and historic perspective on the county’s situation.

The resulting information was handed off to the Board of Supervisors, and the Board ran with it under the leadership of Chairman Rick Hubbard. After a decade, the debt slate can finally be wiped clean, thanks in large part to citizens who decided to get involved (*See more on the USDA debt situation on page 8.*)

Bridges: Build or Burn?

“We build too many walls and not enough bridges.” – Isaac Newton

Years spent on the Shore political scene as a reporter, community activist, and heading a bi-county commission, the Eastern Shore of Virginia Tourism Commission, taught me that an opportunity to forge partnerships between local governments is as rare as an alligator in Onancock Harbor. Northampton County recently wrestled that alligator in concert with the town of Exmore – with no apparent winner.

The town’s effort to secure a Northampton County Tourism Grant was rejected, but not on the merits of the proposed project, nor by any criteria cited in the application. In fact, the County Administrator’s rejection letter stated that the grant committee found the project – an outdoor entertainment stage – “worthy and desirable to advance tourism opportunities within the Town of Exmore.”

So, why the “no”? The same county letter pointed to Exmore’s Transient Occupancy Tax, an enviable source of revenue since the town hosts two large chain hotels. (In the last fiscal year, the tax totaled \$169,000 of revenue for the town.) But “... none of these funds follow through, either to the County to make up this tourism grant or even as a direct contribution to support the [Eastern Shore of Virginia] Tourism Commission efforts.”

True. Yet the point of the grant is to build our local tourism industry, not to wield political payback. And what about the big picture? “I feel that the Committee missed an excellent opportunity to get Exmore on board with its tourism efforts...it was my personal goal to use the acquisition of this grant to prod the Town’s future financial participation,” said Exmore Town Manager Robert Duer in a letter to the grant committee. “That goal has gone out the window.”

Having attended the July Exmore Town Council Meeting and listened to the Town Manager explain the grant denial, I agree with Mr. Duer’s assessment. (*Read more about the Tourism Grant on page 4.*)

Protecting shorebirds ruffles Supervisors.

“The nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased; and not impaired in value.” – Theodore Roosevelt

With a Shore-wide Tourism Brand that touts “You’ll Love Our Nature,” it makes a recent unanimous vote by the Accomack County Board of Supervisors somewhat puzzling. The Board tabled a decision on a benign request to support a Shorebird Reserve designation citing the need for more information.

The request to support expanding the existing Maryland-Virginia Barrier Islands International Shorebird Reserve to include the state owned marshes of the Eastern Shore was presented to both county boards by Barry Truitt, a retired Virginia Coast Reserve chief conversation scientist. He explained that it was a “status designation only with no legal bearing – it doesn’t affect how you use your marshes.”

The designation would be part of the Western Hemisphere Shorebird Reserve Network, which calls attention to and educates people about dwindling shorebird populations, some of which are nearing extinction. The designation can provide a great marketing tool for locales like the Shore which utilize eco-tourism as a key economic driver. Not to mention that the designation can assist in the procurement of tourism and other grants.

Apparently, that all sounded good to Northampton Supervisors, who voted to support the designation.

But Accomack Supervisors Crockett and Thornton saw possible sinister intent. “Simple status decisions can trend into something that causes trouble,” said Crockett. Thornton, citing ongoing needs for dredging, said “we have to make decisions that are right for the public.” The Board delayed a decision.

The extra review time could result in a wiser decision. The same caution could be useful if applied to Accomack’s future decision-making regarding protecting the county’s natural resources.

“You *Would* Have Loved Our Nature” doesn’t have the same ring to it. 



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General Assembly actions

“Win some, lose some” for local governments

By Mary Miller

Every year, the local press covers the more memorable legislation passed by the General Assembly – industrial hemp production, protection for nursing mothers, changes in the official state song, etc. Seldom reported are the nitty-gritty changes that affect local land use, taxation, education, public health and sea level rise – issues that are important to homeowners and local governments. And every year, *ShoreLine* reports on some of these overlooked new regulations which have gone into effect, interesting legislation that went down to defeat and at least one new law that might leave readers shaking their heads and wondering, “What were they thinking?”

Bills passed and signed by the Governor, in the area of...

Taxation and Assessment.

- **Waiver of delinquent taxes.** A locality may now waive back taxes due on real estate in exchange for the owner’s donation of the property to a nonprofit organization that builds, renovates, or revitalizes affordable housing for low-income families.
- **Machinery and tools tax on renewable energy production property.** A locality may create a new class of property which could be taxed at a lower rate for businesses producing or generating renewable energy. In addition to solar and wind energy production, the tax reduction could apply to energy from biomass (“sustainable or otherwise”), waste products, and municipal solid waste.
- **Real property assessment for land preservation.** Localities may set acreage requirements of less than the current five-acre minimum for agricultural property to qualify for land use valuation.
- **Explanation of increased assessment.** An assessing officer of a locality must now provide a written explanation of justification for an increased real estate property assessment, if a taxpayer makes a request.

Education.

- **School Division Annual Budget.** Each local public school division is now required not only to publish its annual budget, but also to publish it on its website in line item form.
- **Diploma seals.** Local school boards are now required to establish criteria for awarding a diploma seal of bi-literacy to any student who demonstrates proficiency in English and at least one other language. This diploma seal award will start with the graduating class of 2016.

Flood hazard areas and sea level rise.

- **Residential Property Disclosure Act.** Requires an owner’s representative to make no representation to a prospective buyer about whether or not the property is located in a flood hazard zone. Purchasers are advised by this Act to exercise

whatever due diligence they deem necessary.

- **Comprehensive Plan to include sea level rise strategies.** Localities in the Hampton Roads Planning District are now required to include such strategies. The Accomack-Northampton Planning District Commission is *not* included in the requirement.

Local government.

- **Prohibited conduct by state and local government officials.** Prohibits a state or local government officer or employee from using his public position to retaliate or threaten retaliation against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.
- **Virginia Public Procurement Act.** The bill increases contract amounts for job order contracting and provides that (i) order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed is prohibited, (ii) no public body shall issue or use a job order solely for the purpose of procuring professional architectural or engineering services. The bill has numerous technical amendments and will have further review and recommendations.

Land Use Management.

- **Board of Zoning Appeals.** A variance may now be granted to a property owner “*if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property.*” Previous language required that a property owner show “*unnecessary or unreasonable hardship.*” “*Hardship*” no longer needs to be proven.
- **“Variance” definition.** For consistency with Board of Zoning Appeals (BZA) authority, the definition will no longer be dependent upon a demonstration by the property owner of “*unnecessary or unreasonable hardship.*”
- **Testing of spreading of industrial waste.** Any locality may adopt an ordinance that provides for the testing and monitoring of the land application of solid or semisolid industrial wastes – and shall have the authority to order the abatement of any violation

Defeated proposals (many favoring local government, small business or taxpayers) in the area of...

Education.

- A bill was defeated that would have required 20 minutes of physical activity per day for students from Kindergarten through Grade 5.
- Two bills were defeated that would have made it possible for local governments to review the State’s Composite Index. The Index is the basis for state aid to local school districts. The bills would have made it possible to appeal the Index computation, and to require consideration of a locality’s ability to pay, based on lower valuation and taxation of agricultural or open space lands.

Seldom reported [in the local press] are the nitty-gritty changes that affect local land use, taxation, education, public health and sea level rise – issues that are important to homeowners and local governments.

Is a PID a PUD?

A State planning expert weighs in

A ShoreLine Staff Report assembled from meeting observations

At a recent Northampton County Supervisor’s work session, in response to concerns voiced by the public about exactly what a proposed Planned Unit Development (PUD) District means, the Board Chair asked for clarification. With no professional planning or zoning staff in attendance, the County Administrator and the County Attorney attempted to explain to Board members what the county’s proposed rezoning document contained. The following is from a transcript of the audio recording:

County Administrator: “I stress to all of you, in your current ordinance there is a floating zoning district known as a PID, Planned Industrial Development or District. That is the same as a PUD under the Code of Virginia. I’m looking at you (*addressing County Attorney Bruce Jones*) to make sure I’m saying that correctly.”

County Attorney: “I don’t have it memorized, but you have something that is comparable.”

County Administrator: “So whether you take your proposed ordinance or your current ordinance, either document contains language for PUDs. (*pause*) So there is no difference.”

Well, actually there are major differences. The current zoning ordinance does include both a rezoning process and adopted criteria for a *Planned Industrial District* – a floating zone for planned industrial projects (called a Floating District because it is not currently mapped and could be placed in an appropriate area not already zoned Industrial). But this existing floating zone (PID) includes criteria for a size limit between 5 and 20 acres, established setbacks, uses, buffers, road frontages, 60% lot coverage, and sewer and water requirements.

The proposed rezoning, however, would allow a *Planned Unit Development (PUD) District* (also a floating zone) – but **with no criteria or standards** for location, for type of activity (any industrial, residential, commercial or agricultural activity, or any combination thereof would be allowed), and with no other criteria or performance standards. All essential aspects of a project could be negotiated behind closed doors, without public input.

As outgoing Economic Development Director Charles McSwain explained the no-criteria PUD process to the Board of Supervisors at the July 29 Work Session, “OK, Mr. Developer, what would you like to do?”

Planning expert offers help.

If a locality allows a zoning district to be created with no established standards, consequently allowing criteria and requirements to be created by negotiating with a developer, possibly behind closed doors, serious questions about “due process of law” could be raised. Planning and Zoning experts looking at the PUD language proposed by the county have already raised the question of whether the proposal meets the “due process of law” requirements. Without guidelines and criteria for a zoning district, where are the standards the county would apply to an application? Notably, no explanatory memorandum from the county staff or County Attorney has ever been provided to answer the

public’s questions about the PUD situation – even though certain former Planning Commissioners have repeatedly brought the matter to the County Attorney’s attention since April of 2014.

But at the Board’s July meeting, two former Planning Commissioners submitted professional opinions and PUD descriptions provided to them for the Board’s use by Dr. Michael Chandler. Dr. Chandler is a Professor Emeritus at Virginia Tech. He created and conducts Virginia’s Land Use Education Program and is responsible for the certification program for Planning Commissioners and members of Boards of Zoning Appeals. In one document provided to the Supervisors referencing the proposed rezoning draft, he states: “...the (PUD) draft provision does not, in my professional view, satisfy the intent of the Code of Virginia with respect to drawing and applying zoning standards and districts (15.2-2284) and, as such, fails to meet the substantive due process guarantee clearly articulated in the Code of the Commonwealth and mandated by the constitution of Virginia as well as the nation.”

Dr. Chandler also provides a 4-page guideline for creating a variety of planned districts which would satisfy the legal requirements of the state. He suggests that the proposed PUD draft be sent back to the Planning Commission by the Board with instructions to research and draft an ordinance that supports the goals and objectives of the county’s Comprehensive Plan, and meets the due process guarantee. He hopes his comments “...will be viewed as positive suggestions, as this is the spirit in which they have been offered.”

At the Board’s same work session, after concern was voiced by Supervisor Hogg about his confidence in whether the proposed PUD district description would “pass muster,” the Board appeared to direct the County Administrator to contact Dr. Chandler.



The Virginia Institute of Marine Science Eastern Shore Laboratory will hold their public seminar series on the first Wednesday of the month. We hope you can join us.

“PPFM Bacteria: Probiotics for Plants” Dr. Mark Holland

Professor of Biology, Salisbury University

This talk will explore a group of microbes with known positive effects on terrestrial plants used in agriculture and the discovery that they are also associated with aquatic environments.

Wednesday, August 5, 2015 – 7:30 PM
Virginia Institute of Marine Science
Wachapreague, Virginia

Keeping Track – of local government

Northampton agreement on USDA debt. After a small group of concerned citizens decided to cut through confusion and red tape and call the US Department of Agriculture (USDA) about a long-standing county debt from the sale of the Cape Charles STIP (Sustainable Technologies Industrial Park) a decade ago, the Board of Supervisors scheduled a mid-day meeting to resolve the issue. The amount originally owed by the county was \$599,734.80 – repayment of a USDA grant after the county failed to comply with grant requirements.

According to the County Administrator, USDA had indicated that a dollar for dollar match by the county for an approved community project would settle the debt – an expenditure from county funds of nearly \$1.2 million. Then recently USDA indicated that a 2 to 1 dollar match would be required – for a total county expenditure of nearly \$1.8 million. The citizens' contact at USDA confirmed this figure. It was brought to the Board by Supervisor Hogg who urged the county to deal with this issue as soon as possible.

At the June 30 Board work session the County Administrator read a new letter from USDA. The debt had unexpectedly been reduced back down to \$599,734.80, with no added county matching funds required. A county project or equipment purchase had to be approved by USDA by mid-July, 2015, and all funds expended by June 30, 2016 – or the county would have to repay the entire debt. The Board was informed that this deadline had been known for two and a half years.

A list of equipment was compiled and an agreement about which county funds to expend for purchase was quickly agreed to (see July, 2015, *ShoreLine*). On July 14, USDA approved the list of equipment purchases. If the county meets the USDA deadlines, the STIP debt will finally be settled – after a decade of negotiation.

Polling Place move? In an announcement that surprised voters, candidates and perhaps even some Supervisors, the Northampton Board of Supervisors found a proposal to move the District 4 election polling site on their July Agenda.

The wording indicated that action to move the polling site from Machipongo to Eastville was needed immediately, so that voters could be notified before the November Election Day. The proposed Eastville site is at the southern end of District 4, and removed from the population center of the district. No reason for the move was given on the Board's Agenda. At least two requests for an investigation into this unexplained proposed change have been filed by District 4 registered voters with Commissioner Edgardo Cortes, Virginia Department of Elections in Richmond.

A presentation by the Voting Registrar on behalf of the Electoral Board explained that they had been informed by the County Administrator that the Machipongo Middle School gym, the current polling place, might not be available in November due to construction, and that an alternate site would be needed. The construction project was canceled by the Supervisors several months ago. There was no indication that the Electoral Board had been informed of this change of circumstance.

"What's wrong with the (Middle School) gym?" asked Supervisor LeMond. Nothing, apparently. The Board agreed to

make no changes to the District 4 polling site.

Tax Revenue Increase? Not so Fast! If people thought that rezoning farmland to residential zoning would bring a windfall of tax revenue to Northampton County, they need to think again. In a requested presentation to the Board of Supervisors, Commissioner of the Revenue Anne Sayers explained Virginia law regarding land assessment and its impact, or lack of impact, on county tax revenue.

Virginia land is required by law to be assessed at its "highest and best use." This value is determined using established criteria: is the use legal, is it physically allowable, is it the most probable use, and is the most profitable use?

Based on those criteria Ms. Sayers explained, agriculture would remain the "highest and best use" of agricultural land, and it would continue to be assessed as farmland no matter what the parcel was zoned. Northampton County has thousands of undeveloped residential building lots, and static sales of those parcels indicates no pressure for any additional residential lots. Much of the county's acreage is zoned Agricultural and is being actively used for farming. Arbitrarily rezoning farmland to residential zoning doesn't change the land use value or the assessment criteria.

Speculation that rezoning more residential parcels in the county would automatically increase assessments and tax revenue is just that – speculation – which has no basis in fact or law.

Industrial Poultry Sites. The current Northampton County zoning ordinance has setbacks and lot coverage regulations that permit intense chicken house operations. This complies with the Virginia Right to Farm Act which prohibits localities from banning any agricultural use including poultry house operations in Agricultural zoning districts, but permits reasonable performance standards to protect resources, residential areas and property values.

In 2011, the county Planning Department identified 9 large parcels that can meet the setback requirements for industrial chicken house operations. These include: a 222 acre farm near Townsend, a 109 acre parcel in Wilsonia Neck, 61 acres near Kiptopeke State Park, 151 acres south of Eastville; a 100 acre farm adjacent to Fairview, 71 acres south of Fairview, a 90 acre farm south of Cape Charles; a 76 acre south of Cape Charles and a 52 acre parcel south of Plantation Drive. Since this list was generated, none of the owners has constructed poultry houses on these sites.

Northampton's proposed rezoning may retain current setbacks for industrial farming, according to a consensus reached by the Board of Supervisors (although no actual vote has yet been made). At the Board's July work session, language to eliminate industrial farming from a PUD district was agreed upon by consensus after Staff confirmed that poultry houses in a PUD could avoid County setbacks.

The July-August issue of *Bay Journal* examines how the dramatic increase of industrial poultry houses on the Eastern Shore is affecting rural residential neighborhoods – allowing multiple large houses on smaller lots, increasing tons of manure storage, industrial level back road traffic and the stench of ammonia from the houses are causing homeowners to flee their communities.

“Keeping Track,” *Cont’d from p. 8*

In Somerset County, MD, family farms are no longer the norm. Developers build multiple chicken houses then contract out the bird raising and farm management. The houses sit on parcels with no cropland, many designed with the new “Big House” concept (66 feet wide x 600 feet long). Fifty houses are located within a three-mile radius near the polluted Manokin River, with 67 more houses permitted and under construction in the county. Other areas are even starting to experiment with double-decker poultry houses.

An increase in both permits and construction of industrial poultry houses in Accomack County is already taking place. Any change in the reasonable performance standards now in effect in Northampton County’s zoning ordinance could result in the spread of high density industrial poultry house operations southward into Northampton.

And from Accomack. We are sorry to say that we can’t include much in this KT regarding Northampton’s larger neighbor, but *SL* is looking for motivated writers from Accomack who are interested in our mission and who would consider covering assigned topics and/or writing an Op-Ed piece for review by the *SL* edit board. Please contact Donna Bozza (donna@cbes.org) or Sarah Morgan (savoystudio@gmail.com) if you want to explore this or if you know of someone else who might.

Solar array delay. Progress on the large solar “farm” slated for upper Accomack has been slow due to a couple of hiccups, one regarding the potential tax-exempt status of the company(ies) involved. It is also unclear what, if any, tax would be paid to Accomack County during the construction and operation of the business. One County official has assured us that the eventual dismantling and disposal of the panels and other equipment used in the collection of the solar energy will be squarely the responsibility of the company, but when asked what would happen should the company go bankrupt, he could not answer definitively. Reminds us of some of the difficulties other localities have had regarding cleanup and removal of obsolete or damaged wind energy equipment. Stay tuned!



“General Assembly Actions,” *Cont’d from p. 6*

Business and Taxation.

- This perennial bill to restrict local BPOL taxes to taxing the net or taxable income of corporations and small business, instead of taxing the gross receipts of businesses before any allowable income tax deductions, was once again defeated.
- A bill that would allow a locality to reasonably limit the number of motor vehicle title loan businesses, payday lenders, check cashers, and precious metals dealers that may be operated at any one time was soundly defeated.
- And a bill that would have allowed a small portion of local fines and penalties to be deposited into a special fund which could be used for Sheriff or local Police Department operations was also defeated.

Land Use.

- A requirement that an owner of property on which industrial waste and/or sewage sludge had been stored or applied disclose such practices in writing to a prospective purchaser or lessee, was also roundly defeated.

And, what were they thinking?

In spite of all the public health concerns and efforts to combat childhood obesity, diabetes and hypertension, the following bill, with 19 Patrons in the House, was passed on a divided vote.

While school districts have regulations setting nutritional guidelines for healthy food served at breakfast and lunch, the regulations do permit sales of so-called “competitive foods” as fundraisers during school hours. “Competitive foods” do not meet the healthy foods nutritional guidelines for calories, fat, sugar or sodium content. Many states limit these fundraiser exceptions to as few as four times a year. The General Assembly now permits Virginia schools to use this exception up to 30 times per year. The House proposed the exemptions be allowed 12 times per year – a Senate amendment increased the exemptions to 30 times per year. Both Delegate Bloxom and Senator Lewis voted in favor.

In an ironic twist, many of the Patrons in support of this “unhealthy food” bill reported political campaign contributions from health and medical lobbying groups and businesses.



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Community Calendar - August 2015

Note: Please verify times and places prior to attending meetings.

CBES and Other Activities		Accomack County		Northampton County	
Aug 5	VIMS Public Seminar 7:30 PM, Wachapreague	Aug 5	Board of Zoning Appeals 10 AM, Sup. Chambers	Aug 3	Board of Zoning Appeals 1 PM, Conference Room
Aug 13	Shorekeeper Meeting* 3 PM, Barrier Islands Center	Aug 12	Planning Commission 7 PM, BOS Chambers	Aug 4	Planning Commission 7 PM, Sup. Chambers
Aug 10	CBES Exec. Committee 5 PM, CBES Office	Aug 18	School Board 7 PM, BOS Chambers	Aug 11	Board of Supervisors 7 PM, Sup. Chambers
Aug 18	ES Groundwater Committee 10 AM, Accomac	Aug 19	Board of Supervisors 5 PM, BOS Chambers	Aug 19	Wetlands Board TBA, Conference Room
Aug 18	CBES Board Meeting 7 PM, Eastville	Aug 20	Wetlands Board 10 AM, Sup. Chambers	Aug 24	BOS Work Session 5 PM, Sup. Chambers
Aug 20	UVA Seminar Series TBA, Oyster			Aug 25	School Board 5:30 PM, Sup. Chambers

* Alternating between the ES Chamber of Commerce and the Barrier Islands Center

www.cbes.org