

CITIZENS FOR A BETTER EASTERN SHORE

SHORELINE

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Poultry Houses on the Rise in Accomack County

by Sue Mastyl

At its August meeting, the Accomack Board of Supervisors reviewed the recent rapid increase in permit applications for new poultry houses in the county, and voted 9-0 to revisit the existing ordinances to make sure protections are in place, while working with Tyson Foods to add voluntary setbacks and buffers for houses already in the pipeline.

According to a staff report, a total of 16 new poultry houses were built in the county between 2010 and October 2014. Since then, 20 houses have been approved, and applications for an additional 75 houses were pending as of July 27, 2015. An additional application for 24 houses on one site has been reduced to 16 houses. Accomack County staff has also received information that a large North Carolina poultry processor (also known as an integrator) is interested in placing up to 72 additional houses in the county. As of early August, an additional 11 mapped parcels with up to 138 houses have been identified in Northampton County, all of which could be approved by right with current zoning. (see pages 3 & 4) This could lead to a total of 321 new houses in Accomack and Northampton. Most of these new houses are on lands with no recent history of poultry production.

According to Jarrod Goodman, Complex Manager for Tyson's Temperanceville plant, all but one or two of the pending applications in Accomack County are for Tyson growers.

Temperanceville plant, and an additional \$50 million expansion is planned if they can increase the capacity sufficiently.

There is pressure to grow the industry, and Delmarva in particular is

Accomack County staff has received information that a large North Carolina poultry processor ...is interested in placing up to 72 additional houses in the county.

seeing a surge. The U.S. is the world's leading poultry producer, producing 37 billion pounds of broiler meat in 2011, worth \$70 billion, according to the National Chicken Council. USDA statistics show an increase in the last 30 years from 4.2 million to 8.5 billion chickens processed annually. On Delmarva, the three counties experiencing the most growth are Accomack County, Somerset County in Maryland (with approximately 70 new houses pending for 2015), and Kent County in Delaware (with more than 50 additional houses).

Issues for Adjacent Property Owners

Both public comments and the Supervisors' discussion addressed the impact of additional poultry houses on adjacent property owners. John Schneider of Chincoteague said there needs to be more research, and asked for an assessment of all the restrictions in different counties in Delmarva. He pointed out that the buffer requirements are voluntary, and added

that detailed mitigation is needed. Wayne Johnson of Bloxom said his property value has decreased, and the promised buffers for the poultry houses in his area haven't been put in. "Sooner or later you're going to get a chance to get a good whiff," he said, adding that an environmental impact study is needed for this number of new houses.

Board Vice-Chairman Ron Wolff noted that he had counted more than 50 poultry houses in a 3-mile radius from his sandwich shop in Atlantic, noting that "you very seldom smell the houses; the problem comes when farmers put the manure on the field." Several of the supervisors said they had heard from their constituents on this issue.

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Goodman noted that the new poultry houses will be more tightly built, with better air exchange and better insulation, and said the new houses would voluntarily abide by the tighter restrictions of 500-foot setbacks and vegetative buffers, which would help with the noise and the smell.

Supervisor Wanda Thornton asked whether the poultry houses need to be regulated as concentrated animal feeding operations (CAFOs; the current CAFO ordinance only addresses swine operations), and that the 500-foot setback should be added to the zoning ordinance. She also referred to the environmental impact, including how much of the poultry litter can be applied to the land.

Impact on Our Environment and Our Health

Jay Ford, Executive Director and Shorekeeper for the Virginia Eastern Shorekeeper, spoke about a “rapidly approaching economic, environmental, and public health crisis” for the county. One of the issues, he said, is the effect this surge in growth will have on the nutrient content in the surface waters off our coast and the

fragile groundwater in the region. He listed five issues that need to be addressed:

- What is the carrying capacity of our agricultural lands for poultry litter? “As we all witnessed to the north in Maryland,” he noted, “you cannot apply litter endlessly. Once these nutrient saturation points are reached, consequences to the groundwater and surface waters are unavoidable.” He added that state regulations may be needed to rein in these practices if the county doesn’t act first.
- What are the potential economic consequences to aquaculture, fishing, and ecotourism if this surge results in degradation of our waters?
- What is the impact of these operations on local property values?
- At what point does an operation cease being a “by-right family farm,” and become an industrial operation? “Heavy machinery, discharge concentrations, truck traffic, and many other issues fly in the face of the intent of by-right agricultural uses,” he noted, adding that “24 giant grow houses, with millions of birds within a calendar year ... is industrial.”
- What are the public health consequences of this increased density? The Centers for Disease Control states, “Researchers found that the closer children live to a CAFO, the greater the risk of asthma symptoms,” since “CAFOs affect the ambient air quality of a community and children take in 25% to 50% more air than adults.” Ford noted that “When you smell a chicken house, you are inhaling chemicals (including ammonia, hydrogen sulfide, and methane) and particulate matter; these can cause respiratory irritation, chemical burns to the respiratory tract and skin, severe cough, chronic lung disease,

chronic bronchitis, and a decline in lung function.”

Are Chicken Growers Getting a Good Deal?

In addition to being exposed to the airborne chemicals mentioned above, many chicken growers do not make a good living. Multiple studies have shown that many of today’s chicken farmers live at or below the poverty line. Because integrators such as Tyson and Perdue own everything except the buildings and the manure, the companies make all the profit, and

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Economic Impact of the Poultry Industry

- The two poultry plants in Accomack County employ over 3,150 people, including 1,230 at the Tyson plant, 834 of whom are Accomack residents.
- Accomack County is #2 in Virginia and #64 in the country in chicken broiler production.
- The economic contribution to Virginia Delegate District 100 for 2014 was 2,935 jobs (including 36 growers), with wages totaling \$115 million and an economic impact of \$1.5 billion. The average annual income for a grower was \$38,200; for a plant employee, \$39,300.
- Tyson’s Temperanceville plant has a \$41 million payroll, with 66% going to Accomack County residents. Last year they paid \$7 million in utilities and \$550,000 in property taxes, and paid \$21 million to growers. They also contributed \$460,000 to community organizations.

Sources: Trembly K, Morrison R. Planning Report: Poultry Houses in Accomack County. July 29, 2015; Jarrod Goodman, Tyson Foods; US Poultry & Egg Association 2014.

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leave the growers with all the debt. These studies include:

- A 2011 USDA study showed that the bottom 20% of poultry growers made \$18,782, below the poverty level of \$22,350 for a family of four.
- A 1999 *Baltimore Sun* investigation showed that a new poultry grower could expect to make \$8,160 net per year until he or she had paid off their 15-year loan.
- In 1998, according to Farmers' Legal Action Group, almost half (45%) of poultry growers made less than \$15,000, below the poverty level that year of \$16,450 for a family of four.
- An estimate from the United Food and Commercial Workers says that 71% of poultry growers without other income live below the poverty level.

Since the integrators don't own the houses, the costs for any upgrades (which are required by the companies) are borne by the growers, who are forced into further debt. And since the integrators control the stock

of chickens and supply the feed, any complaints can be punished monetarily. Growers compete against one another in a "tournament system," in which they are paid more for producing fatter chickens with less feed. A USDA study found that the price per pound paid to growers in 2011 was 4.32 cents for the 10th percentile of growers, compared with 7.02 cents for the 90th percentile, a 62% increase. Since the company provides the chickens and the feed, they can reward and punish individual growers as they see fit, including canceling contracts.

And since the manure is the responsibility of the individual growers, any requirement for remediation or environmental protections only adds additional economic burden for them.

Both the poultry houses and the processing plants offer mostly low-wage jobs, with little room for advancement. The current expansion could lock in the county to another generation of low-wage jobs, with few options for other industries or economic opportunities to come in. 

Learn More About the Poultry Industry

The Virginia Eastern Shore-keeper will be hosting an Informational Town Hall for the Eastern Shore to discuss the poultry industry on September 9 at 6:30 PM at the Eastern Shore Community College in the Workforce Development building. We will provide an overview of current poultry operations on the Shore as well as projected growth rates. We will also discuss potential economic, environmental, and public health consequences that the surge in new houses could present to our region. Citizens will have an opportunity for questions and answers at the conclusion of the presentation as well as information on how they can get more involved. A representative from Tyson will be on hand and has agreed to field questions from the public as well.

Northampton Rezoning Update

Staff Report

There were more questions than answers at the August 24 Board of Supervisors recessed meeting. The lack of professional land use planning or legal services during the creation of the rezoning draft may have contributed to the confusing discussions and an inability by legal and planning staff to answer supervisors' questions.

A "worst case scenario" (Chairman Hubbard's term) buildout now shows that up to 172 poultry houses could be built on parcels meeting current setbacks. Board members and Staff have denied interest by the industrial poultry industry in Northampton, yet Chairman Hubbard also said that the industry wants to stay "north of Eastville" and "away from" the breeding facility off

Cherrydale Road. Supervisors Hogg and Trala voiced concern about the poultry house numbers.

Supervisor Hogg presented reports on the siting of poultry houses. Chairman Hubbard called for a meeting with the poultry industry – Delmarva Poultry Group. Professional scientific analysis has also been offered to the Board, but has been declined.

The Board agreed to a 16% lot coverage maximum for single family homes on less than one acre. Other parcels' lot coverage limits will be removed. The county will rely on State regulations for storm water management.

Questions about residential density changes were left to lie on the

table. There was no response to a question as to why the villages of Oyster and Willis Wharf would be upzoned from 1 house per 20 acres to 4 units per acre, or 80 houses on each 20 acre parcel. The issue regarding permitting a second dwelling unit for every house in the county will be revisited—perhaps using Special Use Permits.

Staff revision of the Town Edge District has not been discussed with the Towns—although most towns have stated that the current zoning district meets the needs of both Towns and County and should be retained.

The apparently complicated issue of Agritourism will be addressed at a future meeting.

Accomack PUD Lawsuit to Move Forward

Staff Report

Even though the Accomack Board of Supervisors (BoS) threw out their Planned Unit Development (PUD) Zoning Ordinance in January, Circuit Court Judge Revell Lewis declined to throw out a developer's lawsuit concerning a PUD application.

The \$8 million lawsuit claims that the county's decisions to deny a zoning application and impose a condition on a sewer system were arbitrary and capricious and denied the developer equal protection under the law. The suit also claims that closed session discussions by the Board did not meet State requirements for identifying subject matter to be discussed. The judge's order states that the county must file an answer to the developer's complaint before September 11.

In January, the Accomack BoS and the Planning Commission decided that the PUD Ordinance adopted in 2008 had been a mistake. The reasons? The county is not a high growth area in need of the growth management provided by a PUD; county officials did not fully understand the regulation; and the Ordinance was difficult to interpret, expensive and encouraged developments "inappropriately sized for the county." One Supervisor who voted for the PUD district said he would not have done so if he had understood what it could do.

Northampton County has included an open-ended PUD District in its rezoning draft. The proposed district has no criteria, and there is no PUD Ordinance included in the draft. Could Northampton County negotiate, condition or deny any application to create a new PUD District – for any use a developer wanted – without risking a similar court challenge?



Northampton County and the Chicken House Connection

SL Editorial Board



In spite of denials by staff, the poultry industry may have been talking with the county.

In spite of denials by county staff and at least one supervisor, at the August 11 Board meeting, former Northampton County Process Coordinator Rebecca Geary publicly described to Supervisors her knowledge of an hour-long phone call between a Tyson employee and the former Economic Development Director, Charles McSwain. An audible gasp was heard from the public as she revealed this information. Ms. Geary told the Board that within the past year, a Tyson representative had called to inquire about the possibility of locating chicken houses in Northampton County.

After an extended closed-door conversation, Geary was thanked by McSwain for directing the call to him. He told her that the call had been "productive" – and that he had explained to Tyson that current county zoning is restrictive. He then explained that the new zoning ordinance about to be passed would provide better conditions for locating poultry houses – in fact, would give them exactly what they needed. Calls in late July from Ms. Geary to McSwain,

who was due to resign on July 31, were not returned because the former Economic Development Director was no longer in his office.

Janet Sturgis from Franktown then told the Board that she had spoken with the County Zoning Administrator that same day, and been told that the poultry industry felt that county setbacks for chicken houses were "unfriendly." She was then told that tinkering and tweaking the county Zoning Code to accommodate the industry was "an attempt to ward off problems." "What problems?" Ms. Sturgis asked. "I thought no one in our county was approached by the chicken industry."

Board members sat silent during the presentation. There was no comment from the Chair or Staff about the apparent conflicting information presented. Citizens in attendance were left to draw their own conclusions about previous county statements that there had been no discussions between the county and the poultry industry.



Bi-Coastal Biking Bliss!

Register NOW for the 2015 Bike Tour at cbes.org

Recycling Shells a Boon to Bivalves

by Margaret Van Clief

Cyclists are often recyclers, and this will certainly be the case at CBES' sold out oyster roast following the Between the Waters Bike Tour on October 24. Volunteers from The Nature Conservancy (TNC) will be at the event collecting discarded shells for our restoration projects around the Shore. Full disclosure: I'm not only a CBES board member; I'm also the Outreach and Education Coordinator for The Nature Conservancy's Virginia Coast Reserve. And I'm really excited about the shell recycling program we're developing. TNC uses the shells in a number of projects all along the peninsula. Some may be bagged and used to study potential locations for future restoration. Others may play a role in Living Shoreline projects like the ones we've built at Oyster Harbor and on Occohannock Creek. Quite a few will make it out to the seaside to form new oyster rocks in one of the Conservancy's five sanctuaries. The bivalves in these sanctuaries are protected, which will hopefully make for even more oysters as their larvae hit the tide and float past the boundaries to neighboring reefs.

I assisted Coastal Scientist and CBES board member Bo Lusk as a seasonal Field Technician for five winters on TNC's seaside oyster restoration project, and I've come to love these little creatures. Many of the field tech's days are spent out on our oyster rocks collecting random samples in crazy winter weather and then measuring and counting every living thing (and any dead oyster) that is brought back within those samples. That data and information collected from shell bags and other indicators helps Nature Conservancy scientists decide what conditions should be emulated when designing human-made reefs. I've had the opportunity to participate in the building of some of those reefs, carrying and stacking thousands of 30 pound "oyster castles" alongside Bo and some really great volunteers to create new substrate for oysters to cling to. They love it. Some castles are already doing so well that the heavier clumps of oysters have broken off and begun to spread the footprint of the reef horizontally.

Oysters clearly make me smile, but their restoration isn't the only focus of my colleagues at the Virginia Coast Reserve. You may be aware of our eelgrass restoration project with VIMS. I'm sure quite a few of you have pulled

on a wetsuit and volunteered as a part of that effort, the largest of its kind on the planet. Due to storms and disease, eelgrass beds on the seaside all but disappeared in the last century, and with them went the bay scallop. Now, volunteers gather every spring to collect seed shoots from

healthy beds and bring them to the curing facility in Oyster. There the seeds are separated and tended to until it is time to transport them out to the seaside bays, where they are sown by hand. To date, roughly 460 acres of restored eelgrass beds have been planted, and that area has now grown to over 5000 acres of protective habitat for vulnerable creatures like baby scallops and peeler crabs. These vast meadows of seagrass also hold sediment in place and help to dampen wave activity during storms.

Of course, land protection is at the very center of TNC's mission. The Nature Conservancy helps protect nearly 45,000 acres in Accomack and Northampton Counties, including 14 of the 18 barrier islands. The Eastern Shore's importance as a migratory stopover for a great number of bird species, from the piping plover to the prothonotary warbler, is one of the

main reasons TNC first began purchasing land on the Shore. Our bird conservation program involves long-term population monitoring of the islands' breeding shorebirds and waterbirds, as well as migratory shorebirds. You may see our Bird Specialist and her team out observing bird activity as you enjoy a day on the islands. Just be sure to mind the information you see on posted signs. Our volunteers and staff love those birds, and putting those signs up is hard work!

As you can see, protection and restoration are at the heart of what we're doing here on the Shore, and that's why you'll see me at every oyster roast I can get to this season. Not only do I want to collect those shells to help create more oysters and more habitat but I want to talk to you about why I'm doing it! So, if you see me or my volunteers making our rounds, come ask us questions. And if you're shucking oysters next to an orange basket with a shell recycling sign zip-tied to it, toss in your shells and tell your friends you just contributed to the health of the whole Eastern Shore.



The author collects shells at a local event.

Confusion Reigns – Is a Food Truck a Restaurant?? When Is a Restaurant a Convenience Center?

ShoreLine Editorial Board

The Northampton County Zoning Ordinance appeared to be the last place anyone thought to look for information and definitions for two Special Use Permit applications.

With the apparent approval of the Planning Department, Kiptopeke Villas, LLC applied for one or two 200 sq. ft. restaurants. In the application signed by Angelo Manuel, the “restaurants” are described variously as a “food truck/trailer,” “food service vehicle” and “mobile.” None of those Uses are defined in the current Ordinance, and none are listed in the Use charts. Localities often encourage and permit Food Trucks as mobile operations, not as permanently established restaurants, and usually with restricted hours in one location. This Use is not currently covered in county documents. The application made its way through a Planning Commission hearing and on to the Board’s Agenda with no question asked about how a vehicle got designated as a restaurant. By the time the dust settled, the request had been reduced to one truck on the restaurant construction site.

The Board denied the application, 5-0.

Another request from the same applicant asked on the same night that a second commercial use be added to a Special Use Permit already approved for a restaurant on a non-commercially zoned parcel in the Hamlet of Kiptopeke. A retail area for non-food items inside a restaurant – another undefined, unlisted Use – was requested in a new application. The combined uses in one space now appeared to fit the definition of a “Convenience Store” rather than a restaurant. This application also made its way through the Planning Commission and onto the Board’s Agenda with no one noticing that a Convenience Store was not a Commercial Use listed for a Hamlet. The Board approved this Special Use Permit, 4-1.

A small point perhaps – a retail sales area in a restaurant located on a non-commercial parcel – but a casual disregard of the zoning process for one applicant can create a precedent for others who will expect equal consideration.



A sign announcing the permitted restaurant was placed near the entrance to Kiptopeke State Park. The eatery’s website gives its address as 22585 Parsons Circle, Cape Charles.



The FAA has recently issued notice of five wind turbines to be located near Painter.

Wind Turbines in Accomack

Staff Report

The Federal Aviation Administration (FAA) has issued notice of five wind turbines in southern Accomack County near Painter. The five separate submissions are each noted as a “Work in Progress,” which indicates that the FAA has accepted the applications and deemed them all complete. The turbines are to be located near the northwest corner of Seaside Rd. (Rt. 600) and Mappsburg Rd. (Rt. 182) on five separate parcels. Parcel owners are listed as Winter C. Cullen III of Painter, and W. Calvert Cullen IV, of Wellington FL. No information about who will construct or operate the turbines is available on the FAA site. The height of the turbines will be 545’ plus land elevation. By comparison, the height of the Armada Hoffer Tower at Town Center, Virginia Beach, is 396’. All solar and wind energy produced on the Shore goes into the regional grid. The grid serves the energy needs of customers from New Jersey to North Carolina and west to Indiana. Power produced locally is not reserved for local customers. The FAA announcement, dated March 16, 2015, contains this additional information: “Public comments are not requested, and will not be considered at this time.”



Keeping Track

Accomack Turns Down Shorebird Designation

After tabling the decision for a month, the Accomack Board of Supervisors voted 8-1 to oppose The Nature Conservancy's application to include the marshes, seaside creeks, and coastal bays in Accomack County as part of the Western Hemisphere Shorebird Reserve Network.

This designation would not add any additional regulatory burden, since these areas are already protected. It would highlight the importance of these prime shorebird habitats, provide additional protection on a voluntary basis, and support efforts to market the area for birding and ecotourism. But the Supervisors and the citizens of Wachapreague (who presented a petition with 285 signatures) are more concerned with the "slippery slope" of potential additional regulation in the future than with the very real need to protect these species today.

Northampton Supervisors Prefer to Keep Empty Seat on Planning Commission

Even with Northampton's Planning Commission shuffling through mounds of paperwork, and one member short, the Board continues to refuse to appoint a new Commissioner. Reportedly, two candidates have been interviewed and other citizens have declined to apply for appointment. A full year has passed since the Commission was fully staffed.


At the August 11 Board of Supervisors meeting, one of the applicants was nominated to fill the empty seat. The nominee had just been appointed to a State advisory commission to represent Northampton County. After a prolonged, uncomfortable silence, the Chair announced that there was no second for the nomination.

The Board Chairman failed to explain why a qualified citizen willing to serve had not been appointed.

Pollios Receive Shorekeeper Waterway Guardian Award



Deb and Michael Pollio were presented a Virginia Eastern Shorekeeper Waterway Guardian Award by the VES Executive Director and Shorekeeper Jay Ford at the organization's annual Clamboree at the Eastern Shore Yacht and Country Club on August 15. The Waterway Guardian Award, a bronze of a black skimmer by David Turner, is given in recognition of actions by individuals or organizations which help to protect, preserve and improve the quality of the tidal and ground waters of the Eastern Shore.

The Virginia Eastern Shorekeeper Creekwatcher program involves 39 volunteer Creekwatchers whose responsibility is to monitor the creeks on which they live, seeing that regulations designed to maintain water quality are observed and that the waters of their creeks are kept clean and free of debris. Creekwatchers Deb and Michael Pollio were chosen for the Guardian honor because of the exemplary work they have done as a model and inspiration to their fellow Creekwatchers in fulfilling their responsibilities as the guardians of Pungoteague Creek. 

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SHORELINE

Community Calendar - September 2015

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

CBES and Other Activities		Accomack County		Northampton County	
Sept 2	VIMS Public Seminar 7:30 PM, Wachapreague	Sept 2	Board of Zoning Appeals 10 AM, Sup. Chambers	Sept 1	Planning Commission 7 PM, Sup. Chambers
Sept 10	Shorekeeper Meeting* 3 PM, Barrier Islands Center	Sept 9	Planning Commission 7 PM, BOS Chambers	Sept	Board of Zoning Appeals 1 PM, Conference Room
Sept 14	CBES Exec. Committee 5 PM, CBES Office	Sept 15	School Board 7 PM, BOS Chambers	Sept 8	Board of Supervisors 7 PM, Sup. Chambers
Sept 15	ES Groundwater Committee 10 AM, Accomac	Sept 16	Board of Supervisors 5 PM, BOS Chambers	Sept 16	Wetlands Board TBA, Conference Room
Sept 15	CBES Board Meeting 7 PM, Eastville	Sept 17	Wetlands Board 10 AM, Sup. Chambers	Sept 22	School Board 5:30 PM, Sup. Chambers
Sept	UVA Seminar Series TBA, Oyster			Sept 28	BOS Work Session 5 PM, Sup. Chambers

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

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