



CITIZENS FOR A BETTER EASTERN SHORE

# SHORELINE

*A Journal of Natural Resources, Public Affairs and Culture on the Eastern Shore of Virginia*

TM

Volume 31

August 2018

Number 8

Northampton County

## COMPREHENSIVE PLAN PUBLIC HEARINGS

Your opportunity to comment on the Planning Commission's rewrite of your Plan, since no community information meetings were held.

**Planning Commission** • Tuesday, August 7 at 7 PM  
Machipongo Middle School

**Board of Supervisors** • Tuesday, August 14 at 7 PM  
Board Chambers, Eastville

**Find draft at:** <http://www.co.northampton.va.us/departments/comprehensive.html>

### SOME KEY POINTS::

- Huge residential housing increases, despite 16% population decline projected over 30 years.
- Small, historic, residential Hamlets turned into Villages – double the housing density, all with Industrial and Commercial potential
- Waterfront Villages and Hamlets eliminated
- Subdivisions turned into Residential Districts with increased densities/mixed-use districts
- Planned Unit Developments (PUDs) permitted anywhere – with no guidelines or parameters
- NO affordable housing designated anywhere
- Aquaculture labeled “not a major source of employment”
- Tourism and entrepreneurship called questionable economic concepts
- Real estate industry named as significant economic contributor
- No mention of county's economic upturn
- Economic goals are mostly hope – hope that someone will fund projects, that workforce will improve, that outside industries will appear
- Plan supports yet another economic development director and a separate Authority, Rt. 13 commercial development, expansion of sewer lines, and to “allocate funds” for golf courses, beaches, and boat ramps
- Draft written with no organized public input

Find more information in the July 2018 *ShoreLine* (The Disappearing Public Hearing):

<http://files.constantcontact.com/c053e3fb001/493597ff-c9f9-4a67-a51f-7a96c002ec65.pdf>

## Some Barrier Islands Open for Public Use

The Nature Conservancy (TNC)

Most TNC-owned islands are open to the public for low-impact, non-commercial, recreational day use such as hiking, bird-watching, surf fishing, and photography. These include Smith, Myrtle, Mink, Godwin, Cobb, Hog, Rogue, Sandy, Parramore, and Revel Islands as well as the TNC-owned portions of Metompkin and Cedar Islands. Pets, motorized vehicles, camping, and campfires are prohibited at all times.

Please help protect nesting birds by observing the following guidelines during the breeding season, April through August: remain below the high tide line at all times in all areas; do not traverse upper beaches, dunes, or mudflats; respect posted bird nesting areas. Harvesting of shellfish is prohibited in all TNC/Virginia Marine Resources Commission Shellfish sanctuaries. For more information, please call (757) 442-3049 or visit [www.nature.org/vcr](http://www.nature.org/vcr).



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# Watch Houses – As Old as History

By Mary Miller

At least as long as 5,000 years ago, watch houses were built in southeast Asian villages – a watchman was posted in a small hut, armed only with a loud bell, to scare away invaders from the settlements’ crops and food stores. Millennia later, weavers in Ireland built stone huts for watchmen to guard the precious sun-bleached linens from thieves.

The idea was not new when about 100 years ago, the Virginia Code read like this: “Any person holding planting-ground rented from the State...” was “...authorized to erect thereon a pier, dock, watchhouse, or shucking house for the purpose of handling, watching or shucking oysters.” This dates from the days of the Oyster Wars. The Code was amended decades later to remove the permitted buildings.<sup>1</sup>

The Oyster Wars were a series of sometimes-violent disputes between oyster pirates, authorities, and legal watermen in the Chesapeake Bay from 1865 until about 1959.

After the Civil War, the oyster harvesting industry exploded. In the 1880s, the Chesapeake Bay supplied almost half of the world’s

oysters. New England fishermen encroached on the Bay after their local oyster beds had been exhausted, and Maryland and Virginia watermen encroached on each other’s territories, which prompted violent clashes.

Virginia attempted to protect the oyster economy, but the cash-strapped Commonwealth had limited enforcement capabilities – especially after it sold its three-vessel maritime police fleet at auction. Virginia Governor William E. Cameron then launched two personal expeditions against the pirates. The missions ended when he failed to capture the *Dancing Molly*, a sloop run by three women who managed to outrun the governor’s ships.<sup>2</sup>

Watermen then took matters into their own hands. Private watch houses started to appear near the oyster grounds. In both the National Park Service Archives and a *Saturday Evening Post* article dated April 22, 1911, watch houses on pilings are described: “In each of them a man guards his planted beds with a rifle or sawed-off shotgun.”

Although oyster watch houses are now a thing of the past, a few remaining relics still stand, survivors of decades of storms. Oyster rustling, however, may still be with us – as recently as 2005, nearly 400,000 oysters were heisted from a restored reef near Cobb Island. In 2007, the State planned a crackdown on poaching and



Although State Code no longer permits watch houses, a few relics still remain in tidal waters.

pirating through increased patrolling of tidal waters and fines for violations. But Jim Wesson, then state Director of Oyster Restoration, indicated that, “Virginia’s Eastern Shore is another story, especially in the myriad seaside coves and creeks where detection and patrols are difficult.”<sup>3</sup>

In many areas known for historic tourism, watch houses still stand as symbols and reminders of lively historic periods of piracy and lawlessness.



<sup>1</sup> Virginia Code § 28.2-630

<sup>2</sup> Moore, James Tice (July 1982). “Gunfire on the Chesapeake: Governor Cameron and the Oyster Pirates, 1882–1885.” *The Virginia Magazine of History and Biography*

<sup>3</sup> [https://pilotonline.com/news/article\\_bff283c8-cc05-5ec4-944d-6a3ba45be345.html](https://pilotonline.com/news/article_bff283c8-cc05-5ec4-944d-6a3ba45be345.html) SL August 2018

**Ed. note:** *CBES thought it might be helpful to provide some background given the Northampton Planning Commission’s modern-day discussions of watch houses.*

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Cecil Watts

#### Editor/Design

Sarah Morgan, *Savoy Studio*

#### How to reach CBES

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<http://vims.adobeconnect.com/afterhours> and log in as a guest at the date-time of the event.



# DEQ Extends Groundwater Permit Application Process for CAFOs

By Sue Mastyl

A recent Public Notice from the State Water Control Board announced an “enforcement action ... for certain groundwater withdrawal users for violations of the Groundwater Management Act of 1992 ... in Accomack and Northampton counties.” The public comment period for this notice ran from June 25 to July 25, 2018.

This involves a Consent Order, issued to 58 poultry operations, or CAFOs (concentrated animal feeding operations), to complete their applications by October 1, 2018, and specifies that in-line meters must be installed on all wells for each CAFO. Without data from the meters, the Department of Environmental Quality (DEQ) is relying on estimates, based on USDA formulas, for groundwater usage at each site.

As was noted in the February 2018 issue of *ShoreLine* (“Eastern Shore Groundwater – Numbers Show Disturbing Trends”), Matthew Link, Office of Water Supply, Water Withdrawal Permitting for DEQ, reported that the compliance initiative to encourage agricultural operations to apply for groundwater withdrawal permits, which ended on December 15, 2017, yielded 45 applications, including 39 poultry operations, which were being reviewed for completeness at that time. The 39 applications represented less than 50% of the 83 poultry CAFOs under operation in Accomack County. The agency’s plan then was to make a formal request to those CAFOs who had not submitted an application, and then begin issuing consent orders for CAFOs out of compliance. According to Lee Crowell, Enforcement Operations Manager for DEQ, this Consent Order has been issued to give the applicants (now 58) more time to compile the necessary information.

CBES raised certain concerns during the public comment period, including:

- Although DEQ had set a deadline of last December, and indicated they would start issuing fines for anyone out of compliance, these 58 farms have been given an extension of 10 months, with no penalties, to continue pumping groundwater – out of compliance with regulations.
- Although DEQ has identified 83 CAFOs under operation, only 58 are included in this Consent Order. According to Crowell, the remaining operations may not meet the threshold requirement of 300,000 gallons per month. However, CBES believes that the public

deserves a full accounting of all CAFOs currently operating on the Eastern Shore and under construction, including where they stand in the permit process.

- The estimated groundwater volume for these 58 CAFOs totals 409,980,000 gallons annually, or 1.123 MGD (million gallons a day). Although we don’t know the groundwater consumption for the remaining CAFOs, as well as those still under construction (or whether any wells are drawing from the shallow Columbia aquifer), a conservative estimate for all CAFOs would be 2 MGD. Added to the 10.4 MGD working estimate for the Eastern Shore, this yields 12.4 MGD, with a recharge rate of 9 MGD. This will put severe pressure on our sole-source aquifer. 

*Ed. Note: Once these applications are received, DEQ will study and model these sites, and issue individual draft permits for comment for each site. We hope DEQ will not just approve all of these operations, while putting public drinking water in jeopardy. CBES will be following the review process closely, to make sure that citizens have the opportunity to weigh in, and we hope that DEQ will schedule multiple local public hearings for these, to avoid any appearance that the process is being rushed.*

## Shorekeeper Update

By Sue Mastyl

Virginia Eastern Shorekeeper (VES) will be changing from a 501(c)3 organization, as part of the Waterkeepers Alliance, to a new role as the Virginia Eastern Shore Clean Water Council, a volunteer community organization. They will continue to hold monthly meetings, and will continue their advocacy work.

As mentioned in the April 2018 issue of *ShoreLine* (“CBES Reaches a Milestone”), VES was one of CBES startup projects. In 2002, CBES supporters Vic Schmidt, Jack Ordeman, and George Savage, along with other committee members, started the organization, and in 2003, hired Richard Ayers as the first Shorekeeper. In 2007, Dave Burden became the second Shorekeeper. In 2014, Jay Ford was hired as the first full-time Shorekeeper and Executive Director.

See *Shorekeeper*, cont’d on p. 6

**These 58 farms have been given an extension of 10 months, with no penalties, to continue pumping groundwater out of compliance with regulations.**

CBES thought this was a good summary of the issues raised by the proposed new anchorage off Cape Charles.

# Northampton Resolution Opposes Proposed New Anchorage off Cape Charles

## Resolution concerning the proposed Vessel Anchorage located in the Chesapeake Bay in waters off Cape Charles and to establish a No Discharge Zone at the new anchorage, even if beyond 3 nautical miles:

WHEREAS, the initial anchorage was established off the beach of Cape Charles in 2016 with no Environmental Impact Statement (EIS), no water quality modeling, and no consideration of the impacts to the Northampton County aquaculture and tourism businesses; and

WHEREAS, Northampton County is home to a vibrant and growing shellfish industry, with a dockside value of \$56.6 million dollars in 2017, generating over \$90 million in total economic output, 800 jobs; and

WHEREAS, the region in the vicinity of Cape Charles is central to the shellfish industry, with one of the largest hatcheries and over 100 shellfish leases located within 3 nautical miles of the proposed anchorage area; and

WHEREAS, the early life stages of these shellfish are exceptionally sensitive to a wide range of pollutants; and

WHEREAS, bacterial and viral contamination from improperly treated sewage can accumulate in the shellfish and adversely affect human health; and

WHEREAS, closure of these areas to harvest, even temporarily due to bacterial or other contamination, can have very negative impacts on the industry and the economy of the County; and

WHEREAS, discharge of ballast water within the area can introduce nonindigenous shellfish pathogens which could have long term, devastating effects on this important industry; and

WHEREAS, The Clean Water Act prohibits the discharge of untreated waste into United States Territorial Waters; and

WHEREAS, 33 U.S. Code § 1322 - Marine Sanitation Devices allows states to apply for complete prohibition of vessel sewage for waters requiring greater environmental protection (e.g., protection of shellfish beds); and

WHEREAS, 33 U.S. Code § 1322 - Marine Sanitation Devices allows the United States Coast Guard (USCG) or any other Federal or state government entity to enforce the provision; and

WHEREAS, EPA certification to performance standards for Marine Sanitation Device (MSD) Type I or Type II (which is most likely what all of these vessels use), related to overboard discharge, is not designed to meet the water quality standards for shellfish waters and in fact allows for more than 14 times the fecal coliform/100 ml allowed for shellfish water quality and twice as much as allowed for swimming quality; and

WHEREAS, Northampton has developed, and continues to grow, a vibrant tourism economy necessitating clean water for swimming, fishing, and water sports which amounted to almost \$78 million for Northampton County in 2016; and

WHEREAS, these ships have created pervasive night lighting pollution for the lower half of Northampton County, disturbing citizens and potentially disturbing migratory bird paths; and

WHEREAS, the current anchorage is located on top of "The Cabbage Patch," an important spawning ground for fish, potentially having an adverse effect on fish populations and affecting commercial and recreational fishing in the Chesapeake Bay; and

WHEREAS, the Town of Cape Charles and Northampton County have significant economic risk and no positive economic impact as a result of these vessels.

NOW, THEREFORE, BE IT RESOLVED, that the Northampton County Board of Supervisors requests that:

- Options be provided for relocation of Anchorage R to be sited further south at or near the mouth of the Bay

*See Resolution, cont'd on page 5*

## 2018 CBES Between the Waters Bike Tour

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**Resolution, cont'd from p. 4**

and/or east of the Chesapeake Bay Bridge-Tunnel, where any pollutants or contaminants reaching tidal shorelines of Northampton County will be mitigated by tidal actions and less likely to cause public health issues or harm to shellfish beds and that the anchorage be at least 3 nautical miles offshore and be limited to 20 ships at any one time;

- A full Environmental Impact Statement (EIS) be performed on the establishment of the current and the proposed anchorage location, which is proposed to be located on an important spawning ground for fish, potentially having an adverse effect on fish populations and affecting commercial and recreational fishing in the Chesapeake Bay;

- Since both the Atlantic sturgeon and the smaller shortnose sturgeon are native to the Chesapeake Bay, and both are federally listed as endangered species, an Endangered Species Act (ESA) Section 7 consultation may be required as well; and

- A “No Discharge Zone” be designated at any proposed anchorage site in the Chesapeake Bay and that the USCG be notified by the Commonwealth to enforce the No Discharge Zone, and that the Governor inform the Virginia Marine Resources Commission, the Virginia Department of Environmental Quality, and the Virginia Department of Health to also enforce the No Discharge Zone;

- The USCG develop an Anchor Management Plan, including notification of arrival and departure of ships, a maximum time the vessels may lay at anchor, rules and regulations regarding management of solid waste, effluent discharges, and oil/water separators for bilge waste, requirements for a bridge watch, appropriate lighting, restrictions on anchorage during severe weather, security requirements for crew personnel who may come ashore, and other pertinent guidance for vessel owner/operators;

- Assurance that the USCG Cape Charles Small Boat station has the resources needed to monitor the ships, enforce the No Discharge Zone, test and analyze anchorage water, and respond to vessel emergencies such as oil spills, groundings, and major storm preparation.

Adopted this 10th day of July, 2018.

by the Northampton County Board of Supervisors



*In addition to the above Resolution, the following information was on the USCG official comments website:*

Information included in July 10, 2018 letter from Virginia Department of Environmental Quality (DEQ) to the United States Coast Guard (USCG) and submitted to the Docket (<https://www.regulations.gov/document?D=USCG-2015-1118-0070>):

DEQ coordinates Virginia’s review of federal documents pertaining to the Coastal Zone Management Act. The USCG Anchorage project has been classified as a “federal agency activity,” which requires review to determine possible “effects on Virginia’s coastal resources or uses.” DEQ has forwarded the Anchorage notice to 15 additional State agencies.

Comment Submitted by Bettina Rayfield,  
DEQ Program Manager, Commonwealth of Virginia



*Aerial view of the Eastern Shore of Virginia, looking northwest from the southern end of Northampton County.*

## **Phase III Watershed Implementation Plan**

Submitted by Curtis Smith,  
Northampton-Accomack Planning District Commission

The Accomack-Northampton Planning District Commission will be holding the first of 4 regional stakeholder meetings for development of the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan (WIP).

This public meeting will focus on urban pollutant source sector recommendations for the counties of Accomack and Northampton to meet water quality goals set by the United States Environmental Protection Agency. Local input in the WIP can drive state policy and influence future funding availability for the region.

### **Phase III Watershed Implementation Plan (WIP)**

#### **Stakeholder Meeting**

**Thursday, August 23 at 10 AM**

**Virginia Tech Agricultural Research  
& Extension Center**

**33446 Research Drive, Painter, VA**

If you have questions, please contact Curtis Smith at [csmith@a-npdc.org](mailto:csmith@a-npdc.org).

# Keeping Track

## DEQ Announces Additional Testing for CAFOs

As noted in the May, 2018 issue of *ShoreLine* (“Update: VPDES Permits”), the Department of Environmental Quality’s (DEQ’s) recommendations for the Virginia Pollution Discharge Elimination System (VPDES) permits for 3 poultry farms, or CAFOs (concentrated animal feeding operations), which the EPA had flagged with discharges into nearby waterways, were approved by the State Water Control Board on April 12. These recommendations were for visual water sampling 6 times a year, and increased compliance monitoring, but with no quantitative analysis of water samples for pollutants, including nutrients and bacteria, since the agency had determined it was not practical to isolate the source of any pollutants.

In an important development, DEQ announced on July 2 that they will now undertake water quality monitoring at these 3 sites and 1 additional site, following concerns raised by Jay Ford, Chesapeake Bay Foundation (CBF), and other stakeholders. Water quality samples – for nitrogen, ammonia, phosphorus, bacteria, and sediment – will be taken upstream and downstream of each CAFO, including 4 within a day of rainfall and 2 during dry weather.

“Large poultry operations produce significant amounts of chicken litter [manure], dander, ammonia, and other waste. Monitoring is a modest but important measure of how poultry operations may affect the health of our creeks, rivers, and the Chesapeake Bay,” noted CBF Virginia Executive Director Rebecca Tomazin.



## Shellfish Condemnation Zones

The Virginia Department of Health (VDH) regularly establishes Shellfish Condemnation Zones, also known as creek closures, in the waterways of the state, due to potential health consequences from consuming the shellfish, primarily oysters, clams, and mussels, found there. Within the boundaries of the zones, it is “unlawful for any person, firm, or corporation to take shellfish from this area, for any purpose, except by permit granted by the Marine Resources Commission, as provided in Section 28.2-810 of the Code of Virginia.” Information on these condemnation zones can be found via an interactive map found on the Virginia Marine Resources Commission (VMRC) website at [https://webapps.mrc.virginia.gov/public/maps/chesapeakebay\\_map.php](https://webapps.mrc.virginia.gov/public/maps/chesapeakebay_map.php)

To find out which areas are closed, simply check the box on the left side of the map labeled “Shellfish Condemnation Zones by VDH,” and uncheck other boxes. Enlarge the area of interest and click on the red-colored portion to open an official document listing the specific parameters of the zone plus an enlarged map.

The same map contains location information on public grounds, public clamming grounds, and open harvest areas. Other information available includes locations of sanctuaries for oysters as well as those for submerged aquatic vegetation, which are vitally important for a healthy environment in Shore waters. Map users can also find out where private leases are located, and what areas have applications submitted for future leases.

So before you pluck those tasty bivalves for your Oyster Roast, Clams Casino, or *Moules Marinière*, check to see whether they are healthy and legal to obtain. *Bon appétit!*



## Shorekeeper, *cont'd from p. 3*

As of June 4, Jay Ford became the new Virginia Voices Outreach Coordinator for the Chesapeake Bay Foundation (CBF), based on the Eastern Shore of Virginia. In his new role, Ford will continue to advocate for clean water on the bayside and the seaside, including poultry issues, offshore drilling, and groundwater withdrawals, as well as advancing the Chesapeake Clean Water Blueprint throughout Virginia.

CBF Hampton Roads Director Christy Everett said that Ford’s “great wealth of experience and knowledge will help us expand our work on the Eastern Shore and beyond.... We’re lucky to have him on board.”

“Shorekeeper is very proud of what we have accomplished in the last few years, under Jay Ford’s tenure as Executive Director,” said Joe Valentine, President of VES. “We now have an opportunity to begin a new chapter for the Eastern Shore. As we share many joint objectives with CBF, we have been working with them for the past few months to establish a presence here on the Eastern Shore. We see this as a win-win opportunity, as Jay will now have the backing of CBF’s well-respected scientific and advocacy work, as well as administrative support.”

CBF will continue to support the regular annual events, including State of the Waters and the Clamboree. This year’s Clamboree will be held September 15 at the Island House Restaurant in Wachapreague, starting at 5 PM. For tickets and more details, go to [www.cbf.org](http://www.cbf.org). Ford can be reached at [jford@cbf.org](mailto:jford@cbf.org).



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# Celebrating 30 Years of *ShoreLine*

The mid- to late 1990s was a period of increasing public participation in local government and community affairs. Voices were raised loudly, both in support of, and adamantly opposed to, issues that would determine both counties' futures. *ShoreLine* worked to cover all of them.

In 1994, Accomack voters turned down a \$51 million bond issue for new schools. Northampton County unveiled its “Blueprint for Economic Growth” – to build a diverse economy, preserve farmland and natural and cultural resources, attract capital investment, brand the Eastern Shore and its products, and promote sustainable development. CBES received a grant for a Power Macintosh 6100, to self-publish *ShoreLine*. And NAAT (Northampton Alliance Against Trash), with 14 volunteers, collected 21,120 pounds of abandoned refrigerators, stoves, broken furniture, and tires in Cheriton. They had to leave behind a 500-pound safe dumped in a vacant lot.

In Accomack County, a Board of Supervisors “discretionary fund” was discovered that had been used for constituent medical bills, house repairs, tickets to social events, and church donations. The Board voted “No” to a motion to eliminate the fund, then voted to freeze expenditures pending a State Police investigation. Indictments followed a few months later.

In December, then-Governor George Allen announced that the State had taken an option on land at Bayview, in Northampton County, for a “super-max” prison.

In 1995, Northampton citizens met for a 2-day event in Cape Charles to design the Sustainable Technologies Industrial Park (STIP) – “a world class eco-industrial park.” *ShoreLine* ran a 2-part informational series on the Freedom of Information Act – how to use it and its role in open government.

Then in June, the Board of Supervisors, after much public opposition, voted “no support” for the State prison in Bayview. After much negotiation between local government and state agencies, the Department of Corrections failed to provide sufficient information on the environmental impact of the facility for a complete environmental review.

And Virginia Tech researchers began attempts to identify sources of *E. coli* pollution in local waters. The study would be “the first of its kind in the world” in the field of molecular epidemiology. 

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# SHORELINE

## Community Calendar - August 2018

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

CBES and Other Activities		Accomack County		Northampton County	
<b>Aug 1</b>	<b>VIMS Public Seminar</b> 7:30 PM, Wachapreague	<b>Aug 1</b>	<b>Board of Zoning Appeals</b> 10 AM, Sup. Chambers	<b>Aug 1</b>	<b>Board of Zoning Appeals</b> 1 PM, Conference Room
<b>Aug 9</b>	<b>Shorekeeper Meeting*</b> 3 PM, ES Chamber of Commerce	<b>Aug 8</b>	<b>Planning Commission</b> 7 PM, Sup. Chambers	<b>Aug 7</b>	<b>Planning Commission (PC)*</b> 7 PM, Machipongo
<b>Aug 21</b>	<b>ES Ground Water Committee</b> 10 AM, Accomac	<b>Aug 15</b>	<b>Board of Supervisors</b> 5 PM, Sup. Chambers	<b>Aug 14</b>	<b>Board of Supervisors (BOS)*</b> 7 PM, Sup. Chambers
<b>Aug 21</b>	<b>CBES Board Meeting</b> 7:00 PM, Eastville	<b>Aug 21</b>	<b>School Board</b> 6:30 PM, Sup. Chambers	<b>Aug 15</b>	<b>Wetlands Board</b> TBA, Conference Room
<b>Aug 23</b>	<b>Watershed Implementation Plan Stakeholder Meeting</b> 10:00 AM, Painter	<b>Aug 23</b>	<b>Wetlands Board</b> 10 AM, Sup. Chambers	<b>Aug 15</b>	<b>PC Work Session</b> 7 PM, Sup. Chambers
				<b>Aug 27</b>	<b>BOS Work Session</b> 7 PM, Conference Room
				<b>Aug 28</b>	<b>School Board</b> 6:00 PM, Machipongo

\*Comprehensive Plan Public Hearings

\* Alternating between the ES Chamber of Commerce in Melfa and the Barrier Islands Center in Machipongo

**For Memberships & Information: [www.cbes.org](http://www.cbes.org)**