

VIRGINIA: At a Special Meeting of the Board of Supervisors for the County of Accomack held in the Board of Supervisors Chamber in Accomac, Virginia on the 7<sup>th</sup> day of June, A.D., 2017 at 5:00 p.m.

Members Present: Robert D. Crockett, Chair  
Laura Belle Gordy, Vice Chair  
William J. “Billy” Tarr  
Grayson C. Chesser  
Ron S. Wolff  
Harrison W. Phillips, III  
Paul E. J. Muhly  
Donald L. Hart, Jr.  
C. Reneta Major

Others Present: Rich Morrison, Director of Planning and Community Development  
Cela J. Burge, County Attorney  
Fredia Ward, Administrative Assistant

### **Call to Order**

The meeting was called to order by the Chair and opened with a prayer by Mr. Wolff, after which the Pledge of Allegiance to the Flag was recited.

### **Old Business**

#### **Accomack Wallops Working Group (AWWG) – Receive Recommendations from the AWWG on the 15 Recommendations of the Joint Land Use Study (JLUS)**

Rich Morrison stated the document contained the recommendations of the Accomack Wallops Working Group (AWWG) on the 15 recommendations made in the Joint Land Use Study (JLUS) and staff’s view on the AWWG’s rationale for their final recommendations. The 15 recommendation were:

#### **1. ‘Establish an Accomack-Wallops Working Group (AWWG):’**

**Recommendation:** The Board of Supervisors may wish to consider allowing the AWWG to continue to operate and begin implementing the recommendations contained within this report that are approved by the Board. Furthermore, the AWWG respectfully requests that the Board of Supervisors consider what the scope of the AWWG should be.

**Staff's View on the Rationale:** The Board of Supervisors established the AWWG on March 2, 2016. After meeting for nearly a year, the AWWG would like to continue to conduct meetings in order to conduct the implementation of its recommendations and to act as a conduit for NASA/NAVY related community concerns for the Board of Supervisors.

2. 'Amend/Update the Accomack County Comprehensive Plan to incorporate information in this study:'

**Recommendation:** If the Board of Supervisors approves of the recommendations made in this report, and as more information becomes available following the implementation of the approved recommendations, the Board may wish to consider language prepared by the AWWG and further vetted by the Planning Commission for inclusion in the Accomack County Comprehensive Plan.

**Staff's View on the Rationale:** The AWWG saw that if some or all of its recommendations are acted upon, future Comprehensive Plan amendments may be warranted depending upon the nature of the recommendation.

A link to the Comprehensive Plan amendment that was already approved by the Board may be found here:

[http://www.boarddocs.com/va/coa/Board.nsf/files/A65S2R6D6E97/\\$file/2016.01.20%20JLUS%20Comprehensive%20Plan%20Amendment%20Public%20Hearing%20PACKET.pdf](http://www.boarddocs.com/va/coa/Board.nsf/files/A65S2R6D6E97/$file/2016.01.20%20JLUS%20Comprehensive%20Plan%20Amendment%20Public%20Hearing%20PACKET.pdf)

3. 'Pursue available grants and/or supplemental funding sources for JLUS recommendations implementation:'

**Recommendation:** The Board of Supervisors may wish to consider requesting that the AWWG continue to seek out and pursue funding sources for the implementation of the JLUS recommendations that the Board of Supervisors wishes to implement.

**Staff's View on the Rationale:** Implementing some of the recommendations would require funding if pursued.

4. 'Establish a process for identifying County strategies to address incompatibilities within the Wallops Flight Facility (WFF) aircraft clear zones:'

*Please note that this recommendation focuses on existing development within the Clear Zone and not on potential future development.*

**Recommendation:** Funding from the State (and others if appropriate) should continue to be pursued to address existing incompatibilities. The Board of Supervisors may wish to consider directing the AWWG to begin the process of developing a list of existing incompatibilities in the Clear Zones. The method for establishing this list is yet to be determined and should include input from the County, NASA, the NAVY, the Town of Chincoteague and others as appropriate. The AWWG further advises that the priority for the list should be as follows: Clear Zone number four (#4), Clear Zone number three (#3), and Clear Zone number one (#1).

**Staff's View on the Rationale:** The AWWG has recommended creating an inventory of existing incompatibilities as a first step towards implementing this recommendation because if funding were to be acquired, then a plan would be in place that could be followed.

5. 'Establish a collaborative review process for requests relating to development of wind turbines, cell towers, radio frequency emitters (that require a FCC license) or structures:'

**Recommendation:** During the next appropriate Comprehensive Plan update or amendment, the Board of Supervisors may wish to consider including the 'Wind Turbine Suitability' maps (Interference Maps) in order to alert developers of potential issues with the siting of wind turbines and other tall structures. Furthermore, the AWWG recommends that the collaboration between the County and other relevant stakeholders continue when approached for the development of structures that may impact Wallops Flight Facility (WFF) operations.

**Staff's View on the Rationale:** The AWWG would like the County to continue the existing cooperation between the County and its federal partners when siting tall structures such as wind turbines or cellular towers in order to protect both the County's interests and the operational nature of the Wallops Flight Facility.

6. 'NASA/Navy notify Accomack County and AWWG of offshore energy development to identify potential operational infrastructure:'

**Recommendation:** If it becomes known that offshore energy development is considered, it is recommended that NASA inform all relevant parties including Accomack County and the Town of Chincoteague.

**Staff's View on the Rationale:** This recommendation did not generate much conversation with the AWWG.

7. 'Establish a range hazard notification area and provide notifications of hazards associated with rocket launches:'

**Recommendation:**

1. Real Estate Disclosures: Following a lengthy discussion, the AWWG determined that it does not see the necessity of requiring real estate disclosures in the Rocket Range Hazard Areas due to the frequency of launches.
2. Building Permits/Future Construction: When building permits are applied for with the County, an informational fact sheet and list of building materials should be given to the applicants which inform them that they are proposing to build in a Rocket Range Hazard Area and it suggests that they incorporate appropriate building materials into their development. Furthermore, the AWWG recommends that when the building material list is distributed, the County should notify NASA of intensive development(s) in the Rocket Range Hazard Areas.
3. Launch Emergency Notification System (ENS): An Emergency Notification System (ENS) should be established that utilize the County's Code Red notification systems and emerging notification technologies.

**Staff's View on the Rationale: This topic generated a significant amount of discussion and contains three (3) recommendations. The AWWG as a whole was not comfortable recommending real estate disclosures of the properties in the Rocket Range Hazard Areas because of the amount of land contained within those areas, as well as how often the rockets launch at the facility. The AWWG found that providing information to citizens when applying for building permits as well as using the Code Red system to alert citizens of launches was a relatively simple way of providing information on and calling attention to the risks in the Rocket Range Hazard Areas.**

8. **'Establish a WFF Aircraft Operations Overlay District and amend the Accomack County Zoning Ordinance and Subdivision Ordinance for compatible land use in Clear Zone, APZ1, APZ2, and other affected areas.'**

**Recommendation:**

1. Clear Zones: The AWWG believes that an overlay (zoning) district that addresses 'intensive' uses is warranted in the Clear Zones (for parcels zoned Agricultural, General Business and Residential and not Industrial) and recommends that the Board of Supervisors consider requiring conditional use permits for any use that increases the current on-the-ground density. The AWWG also recommends that single family homes be exempted from the requirement of a conditional use permit provided that it meets a checklist of standards administratively.
2. Accident Potential Zones (APZ's 1 & 2): The AWWG also recommends that an overlay (zoning district) that addresses 'intensive' uses is warranted in the APZ's (1 & 2) (for parcels

zoned Agricultural, General Business and Residential and not Industrial) and recommends that the Board of Supervisors consider requiring conditional use permits for any use that increases the current on-the-ground density. The AWWG recommends that single family homes continue to be allowed by-right and would not be impacted by an overlay (zoning) district.

3. ‘Intensive’ Land Uses: A list of land uses that the AWWG has determined to be more ‘intensive,’ particularly those that allow for assemblies of people is attached for consideration by the Board of Supervisors

**Staff’s View on the Rationale: The time spent on this topic outweighed every other recommendation contained in the AWWG’s report. It should be noted that the AWWG’s recommendation on overlay (zoning) for the Clear Zones and Accident Potential Zones (APZ’s 1 & 2) was widely discussed and reworked several times.**

**The majority of the AWWG was not comfortable in recommending an overlay (as it was recommended by the JLUS) that would create a significant departure from the existing zoning in the areas around Wallops Flight Facility. Furthermore, the AWWG’s recommendation for conditional use permits (with exceptions for single family homes) was offered as a means of acknowledging that there are certain uses (‘intensive’ such as churches and schools) that are not appropriate in the Clear Zones and APZ’s.**

9. **‘Adopt measures for early and full real estate disclosure with respect to properties located within aircraft accident potential and noise zones. Pursue Commonwealth of Virginia legislation to amend 55-571/55-519 (Required disclosures) to include WFF aircraft operations on the WFF Main Base Airfield.’**

**Recommendation:** After discussion, the AWWG determined that the County does not yet have the ability to require real estate disclosures, and that its first preference would be to pursue funding for the purchase of development rights. The AWWG recommends that the County pursue a real estate disclosure statement for the Clear Zones, APZ’s and Noise Zones. There was considerable discussion and sentiment for and against real estate disclosures among the AWWG.

Furthermore, the AWWG would like to note that in recommendation numbers seven (#7) and eleven (#11), its recommendation to distribute optional building material lists to landowners wishing to develop acts as a notification that the property is within the Rocket Range Hazard Areas, Clear Zones, APZ’s and Noise Zones.

**Staff’s View on the Rationale: After much discussion on the merits of real estate disclosures, the AWWG was divided in whether or not to recommend the continuing pursuit of the ability to require real estate disclosures by the State. This recommendation**

was put to vote, with the majority of the AWWG signifying that it would like the County to continue to pursue real estate disclosures (Four (4) voted for and three (3) voted against).

**10. ‘Provide information regarding incentives for retrofits to windows on existing buildings within the range hazard area.’**

**Recommendation:** The AWWG recommends that incentives for retrofits to windows that pose a safety concern for landowners in the Rocket Range Hazard Areas should be sought wherever possible, and that a list of affected property owners should be created to enable funding, particularly with regards to historic and culturally significant structures within the Rocket Range Hazard Areas.

**Staff’s View on the Rationale:** This recommendation generated a hearty discussion on impacted and potentially affected windows during and after launches. The AWWG in general was in agreement that funding should be sought as a proactive measure.

**11. ‘Encourage the application of noise attenuation measures within the aircraft noise zones as part of the permitting process for new construction.’**

**Recommendation:** The AWWG recommends that a list of appropriate and voluntary building materials suitable for noise attenuation in the Clear Zones and APZ’s be developed and distributed to landowners during the process for a building permit.

**Staff’s View on the Rationale:** The AWWG recommended the creation of a list because it was a straightforward recommendation in the JLUS which may be beneficial to the citizens developing in the aircraft noise zones.

**12. ‘Develop a plan for mitigating and/or accommodating the effects of recurrent flooding, storm surge events, and sea level rise for the Navy, NASA, and MARS/VCSFA facilities on WFF Wallops Island.’**

**Recommendation:** The AWWG recommends that the County continue to seek input from NASA and the NAVY on development proposals (i.e. conditional use permits and rezoning) in the vicinity of Wallops Flight Facility as it pertains to NASA’s plan for mitigating and/or accommodating the effects of recurrent flooding, storm surge events and sea level rise.

**Staff’s View on the Rationale:** The AWWG recommended this as it acknowledged it is not the advisory group that would be capable of addressing the magnitude and long term effects that recurrent flooding, storm surge events, and sea level rise may have on both the County and NASA/NAVY operations in the future. This recommendation would allow for

**the continuation of the collaborative effort between the County and NASA/NAVY when reviewing development proposals.**

- 13. ‘Develop a plan for mitigating and/or accommodating the effects of recurrent flooding, storm surge events, and sea level rise for the coastal areas of Accomack County within the study area.’**

**Recommendation:** The AWWG recommends that the Board of Supervisors be presented with the recently completed Hazard Mitigation Plan, the Coastal Resiliency Tool and other studies and initiatives as appropriate to be more informed on the topics of recurrent flooding, storm surge events and sea level rise.

**Staff’s View on the Rationale: It is staff’s belief that this was recommended to the Board as a means of providing information on the topic.**

- 14. ‘Provide an annual update to the Accomack County Board of Supervisors regarding JLUS implementation progress.’**

**Recommendation:** If the Board of Supervisors so chooses to begin implementation of any of the recommendations contained within this report, the AWWG recommends that an annual update be established. Depending on the recommendations to be implemented, the AWWG or other relevant advisory bodies such as the Planning Commission should be involved.

**Staff’s View on the Rationale: In the event that the Board of Supervisors chooses to pursue the implementation of the AWWG’s recommendations the AWWG agreed with the JLUS that an annual report of progress would be prudent.**

- 15. ‘Update the Accomack County GIS database with JLUS Report data following adoption by the Board of Supervisors.’**

**Recommendation:** The AWWG recommends that the Board of Supervisors consider directing staff to make the County GIS layers for the Clear Zones, APZ’s, Rocket Range Hazard Areas, and Noise Zones available to the public. The AWWG believes this recommendation is of great importance.

**Staff’s View on the Rationale: The AWWG recommended this because it believes that citizens should be aware of where the Clear Zones, Accident Potential Zones, the Aircraft Noise Zones and the Rocket Range Hazard Areas are located.**

Actions/or no actions on the 15 recommendations:

**Recommendation 1:** Mr. Wolff made a motion to dissolve the establishment of the Wallops Working Group because the tasks that had been given to them by the Board have been completed. Mr. Chesser seconded the motion. The motion was unanimously approved.

**Recommendation 2:** Consensus of the Board of Supervisors no action.

**Recommendation 3:** Consensus of the Board of Supervisors no action.

**Recommendation 4:** Consensus of the Board of Supervisors no action.

**Recommendation 5 and 6:** Consensus of the Board of Supervisors contains a review process for offshore energy. It was agreed that it would take a collaboration of all agencies involved in order to implement and include the Town of Chincoteague.

**Recommendation 7:** Consensus of the Board to establish a range hazard notification process through the building permit process and recommending a list of building materials into their development and referred to the Building and Zoning.

Mr. Wolff made a motion for staff compile a list of acceptable building materials and item 3 the emergency notification system be included and for Department of Public Safety to outline it. Mr. Phillips seconded the motion. The motion was unanimously approved.

**Recommendation 8:** Consensus of the Board no action.

**Recommendation 9:** Consensus of the Board no action.

**Recommendation 10:** Consensus of the Board no action.

**Recommendation 11:** Consensus of the Board no action.

**Recommendation 12:** Consensus of the Board no action.

**Recommendation 13:** Consensus of the Board no action.

**Recommendation 14:** Consensus of the Board no action was necessary it would require an annual update.



**Recommendation 15:** Consensus of the Board that the County GIS data base reflects clear zones, rocket hazard area, noise zones, etc. Cela Berge, County Attorney stated that this would imply some type of disclosure that the Board did not intend which could be illegal and was not allowed to do a disclosure at the present time and take no action.

**Closed Meeting**

Mr. Tarr made a motion to go into closed meeting pursuant to Section 2.2-3711(A.7), of the Code of Virginia of 1950, as amended for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pertaining to probable litigation settlement related to the issues of Wallops Research Park with E.V. Williams Contractor. Mr. Phillips seconded the motion. The motion was unanimously approved.

**Open Session**

The Chairman declared the meeting open to the public.

Mr. Hart made a motion seconded by Mr. Muhly to reconvene in Open Meeting and to certify by roll call vote, pursuant to Section 2.2-3712 (D) of the Code of Virginia, and to the best of each member's knowledge the only matters heard, discussed, or considered during the Closed Meeting were (i) public business matters lawfully exempted from Open Meeting requirements under this chapter and (ii) such public business matters as were identified in the motion by which the Closed Meeting was convened.

Ayes: Mr. Tarr      Mr. Wolff      Mr. Chesser      Mr. Hart      Ms. Major  
Mr. Muhly      Mr. Phillips      Mr. Crockett      Mrs. Gordy  
Nays: None

Mr. Wolff made a motion to authorize County Attorney Cela Berge to make

settlement with E.V. Williams and authorize County Administrator Michael T. Mason to make payment of \$10,000 to E. V. Willams. Mr. Muhly seconded the motion. The motion was unanimously approved.

**Adjournment**

Mr. Wolff made a motion to adjourn the meeting. Mr. Phillips seconded the motion. The motion was unanimously approved. The meeting adjourned at 5:55 p.m.

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Robert D. Crockett, Chair

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Date