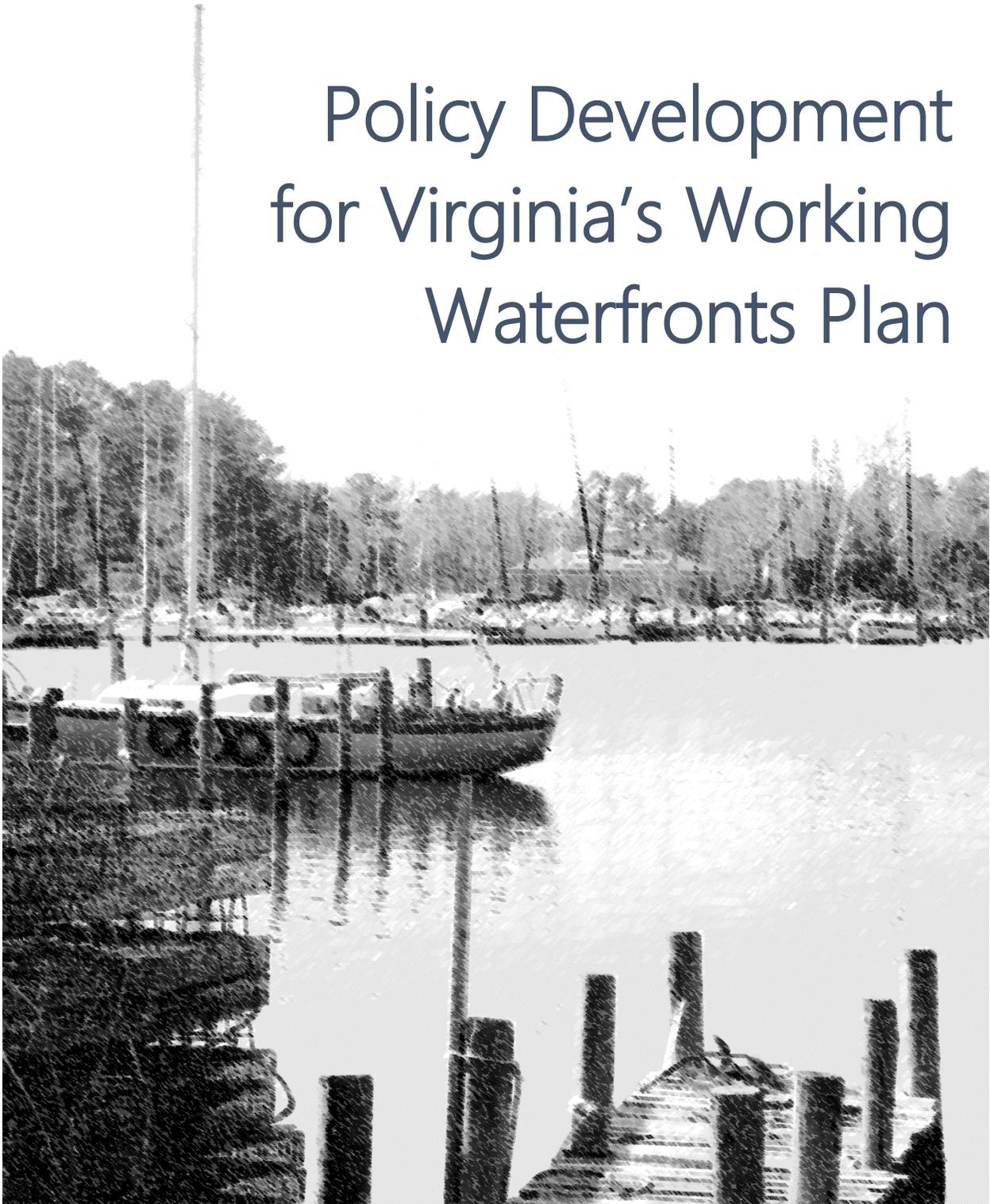


Policy Development for Virginia's Working Waterfronts Plan



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The views expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.



Virginia Coastal Zone
MANAGEMENT PROGRAM



MIDDLE PENINSULA
PLANNING DISTRICT COMMISSION



NOAA
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

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Executive Summary

Within the coastal Virginia, increasing demand for waterfront property along has resulted in increased property values and higher costs for traditional water-front businesses. These and other factors have caused not only the region but the Commonwealth to slowly lose its working waterfronts - an issue that will have long-term consequences for local economies, the environment, coastal culture, and overall quality of coastal living. Loss of working waterfronts constitutes a potential loss of jobs for watermen (i.e. recreation and commercial, shellfish farmers, etc) and the agriculture industry (i.e. timber and grain barges); a loss of cultural identity and heritage in the region; and a loss of working waterfront support industry jobs (i.e. boat building transportation, seafood processing, etc.).

While threats to the existence of working waterfronts remain, there is growing recognition of the problem and an expanding list of possible solutions. Nationally, coastal states and localities are using planning, zoning, land conservation and acquisition, tax incentives, public improvements, and state and local regulations to help preserve their working waterfronts. Therefore in preparation for the development of a Virginia Working Waterfront's Plan in 2015-2016, the Middle Peninsula Planning District Commission was funded through the Virginia Coastal Zone Management Program to research policy tools applicable to localities within the Commonwealth. This toolkit provides Virginia localities with policy options and tools to improve, preserve, or protect working waterfronts.

Additionally to build on previous efforts focused on working waterfronts, MPPDC staff continued hosting meetings of the Working Waterfront Steering Committee in order to discuss on-going local working waterfront issues within communities and ways to resolve these issues. In part, Committee members worked together to develop specific questions for Tidewater localities to answer. These questions aimed to understand current policies within the locality related to working waterfronts as well as new policies that the locality would consider to further protection of working waterfronts within their jurisdiction.

Introduction

Working waterfronts throughout the Middle Peninsula provide critical access to coastal waters for citizens engaged in commercial and recreational fishing, seafood processing, boat building, aquaculture and other water –dependent businesses.

During the last five years the Middle Peninsula Planning District Commission (MPPDC) staff have worked with Virginia Tidewater Planning District Commissions (PDC) (i.e. Northern Neck PDC, Hampton Roads PDC and Accomack-Northumberland PDC) to discuss and implement policy to improve working waterfronts. In the first two years, each PDC developed a consensus definition of working waterfronts for its region in collaboration with its member county governments and stakeholders. Based on these definitions, details of working waterfronts infrastructure were collected in each region, creating an inventory of just under 400 working waterfronts facilities among the four planning districts. In the second and third years, economic impact modeling was conducted in working waterfronts communities within each of the four regions to understanding the economic importance of working waterfronts facilities to their respective communities. In the fourth year, outreach to local decision makers within each region took place to help increase awareness of the economic importance of working waterfronts as well as identify existing policies and also new policies that could be successfully introduced and implemented within a given region. One specific product of this effort was conducted under NA13NOS4190135, *Aberdeen Creek Dredging Project- Restarting an Economic Engine*, was requested by the Gloucester County Board of Supervisors (BOS) in an effort to determine the economic impact of the commercial seafood industry in Aberdeen Creek harbor that is experiencing significant sedimentation problems. The study found over \$4,000,000 in direct economic impacts from direct seafood landing annually which is significantly greater than the dredging costs estimates projected between \$608,000 and \$1,592,000 for the harbor. The remaining public policy question facing the Gloucester BOS does \$4,000,000 of economic impact warrant the spending to local tax dollars to dredge the harbor. Now during this project the MPPDC staff conducted in-depth research on policy tools that will be integrated into a working waterfront Plan for Virginia. To summarize efforts (ie project, conference, etc) to improve

working waterfronts in the Tidewater region Figure 1 depicts activities to cultivate strong working waterfronts policy in Virginia and highlights investments made by the CZM Program (both Section 309 and 306 funds) as well as leveraged support acquired through other sources.

Product #1: Establish an Overall Working Waterfront Steering Committee and Executive Committee

MPPDC staff established a Working Waterfront Steering Committee to help continue guiding working waterfront policy discussions as well as long-range plan development for Virginia's Coastal Zone. Throughout the course of this project MPPDC staff convened two meetings. At the kick-off meeting on January 14, 2015, MPPDC staff invited the Steering Committee to the MPPDC boardroom in Saluda, Virginia to review the project's scope of work, previous projects and outcomes that have been completed to-date (Figure 1), as well as working waterfront policy that may or may not work at the local level. Based on discussions new issues and opportunities were identified by the steering committee, including:

- a. ***Workboats are the waterways “uninsured motorist”*** - It is continued to be reported that marinas requirement of insurance for working boats keeps many working vessels away from private slips. A question was raised if there could be an equivalent of an “uninsured motorist” insurance or a state subsidized insurance program that would cover vessel moorage at private marinas. This idea has merit and will require research to determine options.
- b. ***Renewal of captain licenses*** – There is a changing landscape at the federal level making it harder for Captains to renew licenses. In order to renew a license, captains must see a coast guard doctor which requires more time and makes it difficult to pass the health requirements.
- c. ***Meeting new regulations increases financial hardship*** - Local working waterfront businesses are financially impacted in efforts to meet new regulations (i.e. stormwater). Therefore, can a state funded revolving loan program be established to

help with improving water quality at marinas (i.e. purchasing equipment or addressing stormwater runoff, etc.).

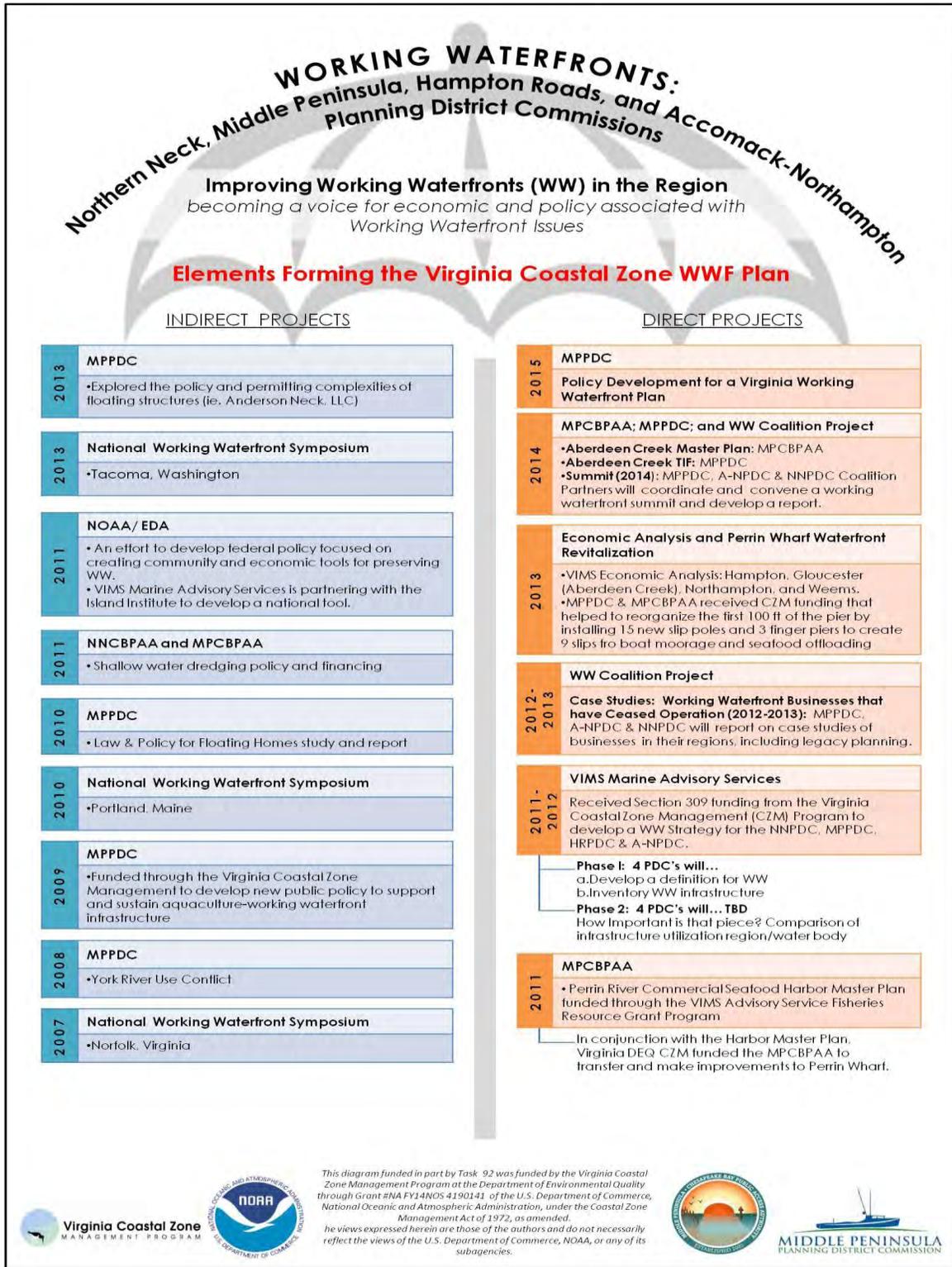


Figure 1: Project related to working waterfronts throughout Tidewater Virginia.

In addition to the new issues and opportunities, the Steering Committee discussed the need for citizen groups to understand how local policy and state legislation is developed. Therefore, to meet this need MPPDC staff developed a document to inform citizens and citizen groups on how to contribute to changes in public policy. For meeting minutes please see Appendix A.

The second meeting of the Steering Committee was hosted by the City of Poquoson on April 14, 2015. At this meeting the Committee discussed the Virginia CZM five year strategy that will guide projects and funding for working waterfronts from FY16-FY21, the potential of developing a statewide umbrella policy for uninsured boaters, and reviewed the outreach document for (Appendix B) citizens and citizen groups that provides step-by-step instruction explaining how citizens and citizen groups may influence or contribute to public policy at the local and level. Additionally, as this project consists of a series of meetings with local governments, committee discussed the content of questions that should be asked. Following the formal meeting City of Poquoson staff organized a tour of working waterfront site for the steering committee. Sites included Whitehouse Cove Marina, Amory's wharf, Messick Point and Port Messick Marina. For meeting minutes please see Appendix C.

Product #2: In-depth Research on Policy Tools

In preparation for the development of a Virginia Working Waterfront's Plan in 2015-2016, MPPDC staff conducted research on policy tools identified by the National Working Waterfront Network. As these policy tools have been utilized by communities throughout the nation to improve, preserve and/or protect working waterfronts, MPPDC staff was interested in finding what policies may or may not work for Virginia localities. Therefore to begin, MPPDC staff first consulted with Sharon E. Pandak with the law firm of Greehan, Taves, Pandak & Stoner, PLLC, to see which tools may not be applicable to Virginia localities based on the Virginia Administrative Code (VAC) as well as the current political climate in Virginia. Based on this conversation it was found that there were only three policy tools that will not work in Virginia, including moratoriums, exactions, and contract zoning. In conjunction with consulting with Virginia counsel, MPPDC staff organized policy tools into

worksheets for the Working Waterfront Steering Committee to review in hopes of providing feedback on the policies that may or may not work within their localities. Of all committee participants, only two provided feedback regarding the policies. See feedback in Appendix E.

With this gathered information, MPPDC staff has developed a Virginia Working Waterfront Policy Toolkit that defines the each policy tool, and in some cases references VAC and/or examples of the tool already being implemented in Virginia. Not only will this toolkit aid in the development of the Virginia Working Waterfront's Plan, but will also assist localities interested in implementing new local policy to preserve and/or improve working waterfronts within their community. Please see Appendix F for the Virginia Working Waterfront Policy Toolkit.

Product #3: Report on Stakeholder Meetings for Policy Tool Review

As mentioned in Product #1, the Steering Committee worked to develop questions to be explored with local governments regarding current local working waterfront policies as well as new policies that may be considered in the future (Appendix D). These questions were finalized and provided to Mr. Bill Pruitt, retired Director of Virginia Marine Resource Commission (VMRC), who was contracted with the MPPDC to conduct meetings with local government. With experience in both commercial and recreational water-dependent issues, Mr. Pruitt convened well over 200 meetings with local Boards of Supervisors, individual Board of Supervisor members, local government administrators, and local working waterfront business leaders from Lancaster, Northumberland, Richmond, Westmorland, Accomack, Northampton Gloucester, Mathews, Middlesex, Essex, King and Queen, and King William Counties as well as Tangier (Table 1).

Table 1: This table displays the number of meetings that Mr. Pruitt had with local government and business leaders.

Locality	Local Government and Business Leaders			
	Full BOS/Town Council (yes or no)	Individual BOS/Town Council members (# of BOS/Town Council)	Local Government Administrators (yes or no)	Local Business Leaders (# of local businesses met with)
Lancaster	n/a	2	Yes	17
Northumberland	Yes	2	Yes	10
Richmond	Yes	2	Yes	18
Westmoreland	Yes	2	Yes	9
Accomack	No	4	Yes	25
Northampton	No	3	Yes	10
Tangier	No	4	Yes	20
Gloucester	No	3	Yes	25
Mathews	No	3	Yes	20
Middlesex	No	3	Yes	15
Essex	No	3	Yes	7
King & Queen	No	1	Yes	3
King William	No	2	Yes	5

As a result of these meetings 12 working waterfront issue areas or “stressors” were consistently expressed by each region:

1. Shifting Development Patterns
2. Land Use Change
3. Appropriate use of Zoning to ensure that the waterfront is managed in a harmonious way
4. Additional comprehensive plan language needed
5. Loss of Commercial Processing Facilities
6. Loss of Commercial Fishing Facilities
7. Maintain a network of public tie up facilities
8. Private WWF business owners (marina owners, dock owners, fish and oyster houses etc) need for preservation of commercial slips that spatially and seasonally correct
9. Tools to expand oyster farming
10. Tools for Business Legacy Planning and Transition Planning
11. *Improved Understanding of Existing and New Tools to Protect Water Quality*
12. *Dedicated State Funding for existing public Working Waterfront infrastructure*

With these identified stressors, MPPDC staff organized the stressors into a memo for Tidewater localities (Appendix G). Besides explaining the stressor, the memo offered

localities with planning and policy options to address working waterfront stressors. This memo also encourages local planning staff to explore the National Working Waterfronts toolkit to increase local knowledge, awareness, and implementation strategies to ensure the preservation of working waterfronts in the Tidewater region. The memo was mailed to each administrator of the Tidewater localities.

While implementation of specific tools is a local decision, MPPDC staff will continue to remind and encourage Tidewater localities that these policy and planning tools are available to improve working waterfronts within their localities. In particular MPPDC staff will present this information at the 2nd Virginia Working Waterfront Summit expected to take place in Summer 2016.

Conclusion

As a result of the project, policy discussions were advanced through the Working Waterfront Steering Committee as well as with local government administrators in select localities. With zero political pushback from elected official regarding this topic, this provides space for opportunity and a chance to improve, preserve and protect working waterfronts in Virginia. This, in conjunction with a Virginia Working Waterfronts Plan, will help communities with existing water-dependent commercial infrastructure to understand the long-term costs associated with the loss of working waterfronts, develop new policy tools to help manage increasing growth pressure and build capacity to develop working waterfronts as thriving components of local economies.

Appendix A:

Working Waterfront Steering Committee Minutes – January 14, 2015

Middle Peninsula Planning District Commission
VIRGINIA WORKING WATERFRONT PLAN
STEERING COMMITTEE

January 14, 2015
1 - 3 P.M.

Meeting Minutes

1. Welcome/Introductions:

The Middle Peninsula Planning District Commission (MPPDC) hosted a meeting of the Virginia Working Waterfront Plan Steering Committee on January 14, 2015 at 1pm in the Saluda, VA Board Room. Committee members in attendance included: Ms. Charity Gavaza, City of Poquoson Economic Development Department; Ms. Anne Smith, Marina Specialist at Virginia Institute of Marine Science (VIMS); Susanne Musick, Marine Recreation Specialist at VIMS; Mr. Sean McNash, Gloucester County Planning Department; and Mr. James Moore, York Haven Marina. Others in attendance included Ms. Beth Polak, Virginia Coastal Zone Management Program Coastal Planner, Mr. Lewis Lawrence, MPPDC Executive Director, and Ms. Jackie Rickards, MPPDC Planner.

Mr. Lewie Lawrence welcomed the group and introduced the meeting agenda.

2. Background – What’s been done to date?

a. Working Waterfront (WW) Umbrella

Mr. Lewie Lawrence reviewed the recent history working waterfront projects across the Commonwealth related to working waterfront preservation. An umbrella diagram that depicts the history of projects directly and indirectly related to working waterfronts projects completed to date was discussed (See Attachment 1).

b. 2015 Initiative

Mr. Lawrence and Ms. Polak explained that the overall purpose of this project is to develop a Virginia Working Waterfronts Plan that provides guidance for Virginia localities and offers policy options that are applicable and enabled in the Commonwealth.

i. Establish WW Steering & Exec Committee-

As part of this project, MPPDC staff has developed a WW Steering Committee to help guide this project. Committee members consist of stakeholders that attended the Working Waterfront Coalition meeting in 2013 and expressed interest in working waterfronts, as well as original members of the Working Waterfront Workshop from previous projects. Together, this committee will help identify at least three influential working waterfront private business leaders for each of the four working Waterfront Coalition Regions. These local industry representatives will serve as the direct point of contact for a review of policy tools. A subset of the steering committee will also serve as an executive committee to assist with monthly project oversights.

ii. Research on WW policy tools

Mr. Lawrence reviewed “The Sustainable Working Waterfront Toolkit” developed by the National Working Waterfronts Network (NWWN). He referred to the ‘working waterfront tools’ listed on the second page of the executive summary that included policy options that the NWWN put together to reflect tools that coastal communities across the nation have utilized to improve and protect working waterfronts. Therefore, as this list becomes a resource for policy development within Tidewater Virginia, MPPDC staff will conduct research on specific tools and their applicability to Virginia localities.

iii. Bill Pruitt outreach to local communities

Mr. Lawrence explained that the MPPDC has contracted with Mr. Bill Pruitt, retired Virginia Marine Resource Commission Director, to reach out to local communities and promote policies that protect working waterfront. To-date Mr. Pruitt has reached King & Queen, Northampton, Lancaster, Mathews, Gloucester, Accomack, Middlesex, Northumberland, Essex, James City, York, Richmond and King William Counties.

2. Discussion – Working Waterfront Policy Review

With a solid overview of the history of working waterfront projects in the Tidewater as well as an understanding of the project goals, Mr. Lawrence asked the committee to explain which of the working waterfront tools will not work in their communities.

While committee members did not specifically mention any tool that would not work in their locality there was fruitful discussions that generated ideas as well as direction. First, Mr. Moore expressed some reasons why he thought that working waterfront culture has declined, including the cost of complying with new stormwater regulations, boat insurance requirements as well as taxes on waterfront properties. More specifically, boat insurance requirements at marinas generally dictate where boats tie up. Mr. Lawrence offered that (if possible) a state umbrella insurance policy could alleviate the issue. With this question Mr. Lawrence will research this and report back to the committee at the next meeting. Ms. Musick mentioned the coast guard’s renewal process for charter boat captain licenses can be lengthy particularly when a captain may have a health issue, which ultimately impacts the captain’s business and livelihood. Therefore it was suggested to research how this impacts other state and if and how this is being addressed. Ms. Musick also mentioned that when making outreach material for commercial boaters that it’s essential to use terminology and definition that are familiar. Additionally there is a need for commercial boaters to understand the public policy process, including the steps and the time involved in generating new policy and/or legislation. Mr. Lawrence mentioned that a process guide could be developed for the public as well as for local government.

3. Next Step’s

a. Identification of specific influential leaders (NN-MP-ES-HR)

In order to gain political leverage with Tidewater Virginia communities there's a need to identify influential leaders within all regions in the tidewater (ie. Northern Neck, Middle Peninsula, Eastern Shore, and Hampton Roads). Mr. Lawrence asked the committee for influential leaders and the City of Poquoson identified Gordon Hesel, Delegate of the 91st District, and Gene Hunt, City of Poquoson Mayor.

b. Mr Pruitt's Outreach Effort

Mr. Lawrence mentioned that he would contact Mr. Pruitt's and request him to contact Tidewater Virginia localities for policy specific information. Mr. Pruitt would ask localities which tools they are currently implementing associated with protecting working waterfront and ask localities what new tools would be willing to explore (up to 3).

c. Next Meeting

The next meeting will be planned for late spring in the City of Poquoson.

d. Other

4. Conclusion

Meeting was adjourned.

Meeting Outcomes:

New Issues/Opportunity

1. Once again it was reported that marinas requirement of insurance for working boats keeps many vessels away from private slips. A question was raised if there could be an equivalent of the "uninsured motorist" insurance or a state subsidized insurance program that could cover vessel moorage at private marinas. This idea has merit and will require research to determine options. Staff will start researching this concept.
2. Federal issue: renewal of captain licenses – a lot of time was dedicated to discussing the changing landscape at the federal level making it harder for Captains to renew licenses with new health events.
3. Can a state funded revolving loan program be established to help with water quality at marinas (purchase equipment or address stormwater runoff etc).

Community Outreach

1. As Mr. Bill Pruitt, retired VMRC Commissioner, continues to reach out to local elected officials, it was suggested that Mr. Pruitt (staff will provide the documentation) inquire with each locality interviewed to identify specifically:
 - a. How that locality is currently addressing working waterfront protections
 - b. For the locality to review the list of proposed WWF protection tools and to identify up to 3 tools and to commit to consider adopting such tools.

Attachment 1 – Working Waterfront Diagram

WORKING WATERFRONTS: Northern Neck, Middle Peninsula, Hampton Roads, and Accomack-Northampton Planning District Commissions

Improving Working Waterfronts (WW) in the Region
*becoming a voice for economic and policy associated with
Working Waterfront Issues*

Elements Forming the Virginia Coastal Zone WWF Plan

INDIRECT PROJECTS

DIRECT PROJECTS

2013	<p>MPPDC</p> <ul style="list-style-type: none"> • Explored the policy and permitting complexities of floating structures (ie. Anderson Neck, LLC)
2013	<p>National Working Waterfront Symposium</p> <ul style="list-style-type: none"> • Tacoma, Washington
2011	<p>NOAA/ EDA</p> <ul style="list-style-type: none"> • An effort to develop federal policy focused on creating community and economic tools for preserving WW. • VIMS Marine Advisory Services is partnering with the Island Institute to develop a national tool.
2011	<p>NNCBPAA and MPCBPAA</p> <ul style="list-style-type: none"> • Shallow water dredging policy and financing
2010	<p>MPPDC</p> <ul style="list-style-type: none"> • Law & Policy for Floating Homes study and report
2010	<p>National Working Waterfront Symposium</p> <ul style="list-style-type: none"> • Portland, Maine
2009	<p>MPPDC</p> <ul style="list-style-type: none"> • Funded through the Virginia Coastal Zone Management to develop new public policy to support and sustain aquaculture-working waterfront infrastructure
2008	<p>MPPDC</p> <ul style="list-style-type: none"> • York River Use Conflict
2007	<p>National Working Waterfront Symposium</p> <ul style="list-style-type: none"> • Norfolk, Virginia

2015	<p>MPPDC</p> <p>Policy Development for a Virginia Working Waterfront Plan</p>
2014	<p>MPCBPAA; MPPDC; and WW Coalition Project</p> <ul style="list-style-type: none"> • Aberdeen Creek Master Plan: MPCBPAA • Aberdeen Creek TIF: MPPDC • Summit (2014): MPPDC, A-NPDC & NNPDC Coalition Partners will coordinate and convene a working waterfront summit and develop a report.
2013	<p>Economic Analysis and Perrin Wharf Waterfront Revitalization</p> <ul style="list-style-type: none"> • VIMS Economic Analysis: Hampton, Gloucester (Aberdeen Creek), Northampton, and Weems. • MPPDC & MPCBPAA received CZM funding that helped to reorganize the first 100 ft of the pier by installing 15 new slip poles and 3 finger piers to create 9 slips for boat moorage and seafood offloading
2012-2013	<p>WW Coalition Project</p> <p>Case Studies: Working Waterfront Businesses that have Ceased Operation (2012-2013): MPPDC, A-NPDC & NNPDC will report on case studies of businesses in their regions, including legacy planning.</p>
2011-2012	<p>VIMS Marine Advisory Services</p> <p>Received Section 309 funding from the Virginia Coastal Zone Management (CZM) Program to develop a WW Strategy for the NNPDC, MPPDC, HRPDC & A-NPDC.</p> <p>Phase 1: 4 PDC's will... a. Develop a definition for WW b. Inventory WW infrastructure</p> <p>Phase 2: 4 PDC's will... TBD How Important is that piece? Comparison of infrastructure utilization region/water body</p>
2011	<p>MPCBPAA</p> <ul style="list-style-type: none"> • Perrin River Commercial Seafood Harbor Master Plan funded through the VIMS Advisory Service Fisheries Resource Grant Program <p>In conjunction with the Harbor Master Plan, Virginia DEQ CZM funded the MPCBPAA to transfer and make improvements to Perrin Wharf.</p>



This diagram funded in part by Task 92 was funded by the Virginia Coastal Zone Management Program at the Department of Environmental Quality through Grant #NA FY14N05 4190141 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended. The views expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.



Appendix B:
Outreach Document – Contributing to Public Policy Changes

Contributing to Public Policy Changes

FOCUS: LOCAL POLICY

With a need for citizens and citizen groups to understand how they can turn their ideas into new and/or amended local policy the diagram below provides a step-by-step process to accomplish this.



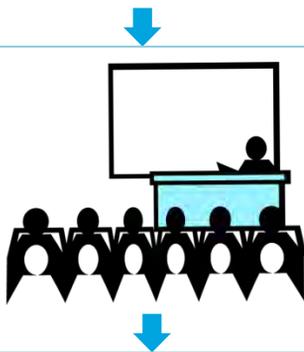
- 1 Individuals or groups of citizens should organize ideas. What change are you trying to achieve? Why? Who/what will the change impact?



- 2 Meet with a community leader / topic expert to review and solidify thoughts and objectives. Gain local citizen support or stakeholder support along the way.

- 3 Meet with local government staff and present thoughts and objectives regarding local policy changes. Policy is pin pointed.

- 4 With enough local constituent support, work with local government staff to refine language of new/amended policy



- 5 Present or request local staff to present new/amended policy changes to County Board of Supervisors or Town Council.

- 6 The Board of Supervisors or Town Council will hear the new/amended policy and inform the board/council that the public notice will be advertised.



- 7 The public notice will inform the citizens of the locality that new/amended policy has been proposed and that public comments are requested.

- 8 Once the public comment period is complete, County/Town Staff will review the public comments, make necessary changes, and then revisit the Board of Supervisors or Town Council. Public Comments will be shared and staff will make a recommendation to either pass or not pass the policy.



- 9 The Board of Supervisors and Town Council will vote.

- 10 If passed the new/amended policy will go into effect on a proposed date.

- 11 If the policy is not passed then revisit¹⁵#2 and seek addition support.

Contributing to Public Policy Changes

FOCUS: LEGISLATION

With a need for citizens and citizen groups to understand how they can turn their ideas into new and/or amended legislation the diagram below provides a step-by-step process to accomplish this.



- 1 Individuals or groups of citizens should organize ideas. What change are you trying to achieve? Why? Who/what will the change impact?



- 2 Meet with a community leader / topic expert to review and solidify thoughts and objectives. Gain local citizen support or stakeholder support along the way.

- 3 Meet with local government, planning district commission staff or the Delegate to present suggested amendments or new legislation. Amount of support should be identified and regulation will be pin pointed.



- 4 With enough regional or district wide support, work with the Delegate to refine language of new/amended legislation.



- 5 The Delegate will introduce the bill to the General Assembly and present to the appropriate committee.



- 6 If the bill is passed the new/amended legislation will go into effect on a proposed date.
- 7 If the bill is not passed then revisit #2 and seek addition support.

Appendix C:

Working Waterfront Steering Committee Minutes – April 14, 2015

Middle Peninsula Planning District Commission
VIRGINIA WORKING WATERFRONT PLAN
STEERING COMMITTEE

April 14, 2015
10:30 A.M. - 3 P.M.

Meeting Minutes

1. Welcome/Introductions:

The Middle Peninsula Planning District Commission (MPPDC) partnered with the City of Poquoson to host the second meeting of the Virginia Working Waterfront Plan Steering Committee on April 14, 2015 at 10:30am in the City of Poquoson’s Chambers. Committee members in attendance included: Ms. Charity Gavaza, City of Poquoson Economic Development Department; Mr. Ben McFarlane, Hampton Roads Planning District Commission; Mr. Bob Moses, Port Messick Marina; Ms. Lee Riggins Rich, Riggins Enterprises, LCC; Ms. Anne Smith, Marina Specialist at Virginia Institute of Marine Science (VIMS); Mr. Donald McCann, VIMS/Virginia Marine Trades Association (VMTA); Ms. Doug Ellis, Virginia Department of Housing and Community Development (VDHCD); Mr. Ernest Asaff, VMTA/Norview Marina; Ms. Sherry Spring, Gloucester County; Ms. Anne Ducey-Ortiz, Gloucester County; Mr. Stuart McKenzie, Northern Neck Planning District Commission; Speaker Pollard, William Mullen; Ms. Gretchen Gochenour, City of Poquoson Parks and Recreation; Ms. Susanne Musick, Marine Recreation Specialist at VIMS; Mr. Sean McNash, Gloucester County Planning Department; and Mr. James Moore, York Haven Marina. Others in attendance included Ms. Beth Polak and Mr. Shep Moon, Virginia Coastal Zone Management Program; Mr. Lewis Lawrence, MPPDC Executive Director; and Ms. Jackie Rickards, MPPDC Planner.

Ms. Charity Gavaza welcomed the Steering Committee to the City of Poquoson and introduced Mr. Randy Wheeler, City of Poquoson’s Manager. Mr. Wheeler also welcomed the group and provided a quick summary of the City of Poquoson and how working waterfronts are a critical part of the City’s heritage. Mr. Wheeler then introduced a short DVD of the City of Poquoson, titled *Poquoson is the Place* (<https://vimeo.com/41927814>).

Following the video, Ms. Rickards welcome the group and started on the agenda.

2. Last Meeting Follow-ups

a. State-wide boat Insurance policy

As a result of the kick-off meeting there was interest in the development of a state-wide umbrella policy for uninsured boaters particularly as uninsured boaters are not able to dock at marinas. Thus if an equivalent of a state funded “uninsured motorist insurance” policy for workboats could be developed this could be beneficial for watermen throughout tidewater Virginia. Since the last meeting, Ms. Rickards explained that MPPDC staff has reached out to coastal partners to address the question. The coastal partners stated that they were unaware of other states with such insurance policies or programs, and mentioned that new legislation would be needed. Thus with more research needed, this topic could be included as an action item in the Virginia Working Waterfronts Plan that will be developed in FY 2016.

b. Public Policy Process Diagram

There was also mention at the kick-off meeting that the general public and community groups needed guidance regarding the public policy process and how they can get involved in amending or developing new policy and legislation. Thus, since the last meeting Ms. Rickards presented 2 diagrams that laid out the process of developing new policy and legislation (Attachment A) and requested comments. Speaker Pollard recommended that a guidance sheet also be developed for regulations.

3. Review- Question's to have Mr. Pruitt pose to Localities

Since the beginning of the project Mr. Pruitt has been working with localities in Tidewater Virginia to gain an understanding of their local policies that support the working waterfront industry. To supplement discussions with localities, MPPDC staff generated a short list of questions to have answered (Attachment B). Mr. Lawrence presented the questions to committee. While the committee commented on the questions, there was mention to include more flexibility in question #2 which asked the locality to consider specific tools from the National working Waterfront Coalition Network toolkit. As each locality will respond differently to this question, the Committee thought it would be best to have Mr. Pruitt gauge the localities receptiveness to considering new tools to address working waterfronts. If the locality is unwilling to commit to a few tools then Mr. Pruitt will offer a meeting with the PDC to discuss the tools, opportunities and options in more detail. The Committee also mentioned that the involvement of the planning departments would be important to collect specific local policies.

4. Discuss- Virginia CZM five year strategy for Working Waterfronts

As the Virginia CZM Program Coastal Needs Assessment and Strategy for FY2011-2015 comes to a close, Ms. Beth Polak reviewed the progress made throughout this Cumulative and Secondary Impacts of Growth and Development Working Waterfronts Strategy. Ms. Polak explained that the last year in this strategy will focus on the development a Virginia Working Waterfronts coastal zone-wide plan that will serve to guide communities in protecting, restoring and enhancing their water-dependent commercial and recreational activities. Mr. Lawrence then reviewed the 2015 Virginia Coastal Zone Management Program Grant project scope of work titled Virginia Working Waterfronts Master Plan and the 2nd Virginia Working Waterfront Summit (Attachment C). This scope of work reviews five deliverables that include the development of the state-wide plan as well as a second working waterfront symposium.

5. Other

a. Funding/Grant Availability

Ms. Gavaza explained that funding is always a very important part of executing projects. Therefore if additional funding opportunities could be developed for working waterfronts it could assist in rebuilding local infrastructure. Also Mr. Jamie Moore explained that new regulations (ie. Stormwater) is has increased business operating costs. Thus grant opportunities could assist the local businessman. Mr. Lawrence explained that the National Working Waterfront Network has developed a list of finance options for working waterfront projects (Attachment D).

6. Next Meeting

Ms. Rickards explained that the next meeting of the Working Waterfront Committee will be in June of 2015.

7. Conclusion of Formal Meeting

8. Lunch at Surf Rider

9. City of Poquoson Working Waterfront Tour

Ms. Gavaza provided a tour to interested committee members of working waterfronts and marinas within the City of Poquoson. The tour began at the Surf Rider Restaurant which is the location of the Whitehouse Cove Marina. This marina is a 165 wet slip marina, with new floating docks, a public boat ramp, fishing and crabbing pier, a boat pump out station, a RV Dump Station, as well as a bathhouse. The Committee was then taken to Amory's Wharf (a.k.a. Thomas Jefferson Rollins Nature Area which is the new official name since it has been dedicated as a park). The wharf had a history of being utilized by working watermen, however the wharf's infrastructure was destroyed by Hurricane Isabel. Therefore Ms. Gavaza expressed that this location would still be ideal for working watermen if funding became available to rebuild. The next location that the committee visited was Messick Point and Port Messick Marina which has two double ramps and a 50 vehicle/trailer parking spaces. While Messick Point is not currently open to the public, the owners are waiting for funding to build a breakwater to reduce wave energy at the access point. The last stop of the tour was York Haven Marina, where boats are housed, built and maintained. Also at this location local watermen can dock their workboats at a reduced rate.

Attachment A: Public Policy Process Diagram

Contributing to Public Policy Changes

FOCUS: LOCAL POLICY

With a need for citizens and citizen groups to understand how they can turn their ideas into new and/or amended local policy the diagram below provides a step-by-step process to accomplish this.



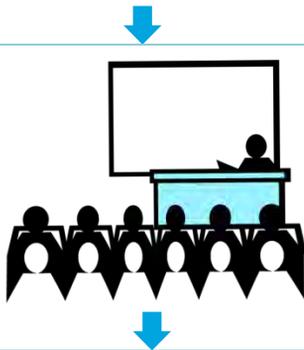
- 1 Individuals or groups of citizens should organize ideas. What change are you trying to achieve? Why? Who/what will the change impact?



- 2 Meet with a community leader / topic expert to review and solidify thoughts and objectives. Gain local citizen support or stakeholder support along the way.

- 3 Meet with local government staff and present thoughts and objectives regarding local policy changes. Policy is pin pointed.

- 4 With enough local constituent support, work with local government staff to refine language of new/amended policy



- 5 Present or request local staff to present new/amended policy changes to County Board of Supervisors or Town Council.

- 6 The Board of Supervisors or Town Council will hear the new/amended policy and inform the board/council that the public notice will be advertised.



- 7 The public notice will inform the citizens of the locality that new/amended policy has been proposed and that public comments are requested.

- 8 Once the public comment period is complete, County/Town Staff will review the public comments, make necessary changes, and then revisit the Board of Supervisors or Town Council. Public Comments will be shared and staff will make a recommendation to either pass or not pass the policy.



- 9 The Board of Supervisors and Town Council will vote.

- 10 If passed the new/amended policy will go into effect on a proposed date.

- 11 If the policy is not passed then revisit²²#2 and seek addition support.

Contributing to Public Policy Changes

FOCUS: LEGISLATION

With a need for citizens and citizen groups to understand how they can turn their ideas into new and/or amended legislation the diagram below provides a step-by-step process to accomplish this.



- 1 Individuals or groups of citizens should organize ideas. What change are you trying to achieve? Why? Who/what will the change impact?



- 2 Meet with a community leader / topic expert to review and solidify thoughts and objectives. Gain local citizen support or stakeholder support along the way.

- 3 Meet with local government, planning district commission staff or the Delegate to present suggested amendments or new legislation. Amount of support should be identified and regulation will be pin pointed.



- 4 With enough regional or district wide support, work with the Delegate to refine language of new/amended legislation.



- 5 The Delegate will introduce the bill to the General Assembly and present to the appropriate committee.



- 6 If the bill is passed the new/amended legislation will go into effect on a proposed date.
- 7 If the bill is not passed then revisit #2 and seek addition support.

Attachment B: Question's to have Mr. Pruitt explore with Localities

Elected Official Name: _____

Locality Name: _____

Question to explore with Localities – Local Working Waterfront Policies

1. Would you consider your community working waterfront friendly?

YES NO

If YES, does your locality have specific policies addressing working waterfronts?

If NO, has there been specific policy that discourages working waterfronts within the community?

2. Knowing the policies in place regarding working waterfronts, would your locality consider 1 or more new or additional tools from the National Working Waterfront Coalition Network toolkit to implement locally?

**Attachment C: 2015 Virginia Coastal Zone Management Program Grant project scope of work titled
Virginia Working Waterfronts Master Plan and the 2nd Virginia Working Waterfront Summit**

2015 VIRGINIA COASTAL ZONE MANAGEMENT PROGRAM GRANT

Virginia Working Waterfronts Master Plan & 2nd Virginia Working Waterfront Summit

Deliverable #1: Convene the Working Waterfront Executive Committee established under NA14NOS4190141 Task 92

Percent total project budget: 10%

Description (4000 character and spaces limit): The Working Waterfront Executive Committee (MPPDC, NNPDC, HRPDC,A-NHPDC, Virginia Coastal Zone Management Program staff and VIMS Marine Advisory Service Staff) will convene to develop a “table of contents” for the Virginia Working Waterfront Master Plan. The Committee will identify sections of the plan that each participating region will be responsible for, including the development of chapter content for specific plan sections. The Committee will develop a standard template to ensure each region’s response (MPPDC, NNPDC, HRPDC,A-NHPDC) is of the same font and style for integration into the statewide plan.

Timeframe: Start: October 2015
End: November 2016

Deliverable #2: State Wide Response Concerning Working Waterfronts

Percent total project budget: 10%

Description: Marine Advisory Service (MAS) staff located at the Virginia Institute of Marine Science have served as a project partner over the four year strategy. MAS staff will coordinate and develop content for the sections of the plan identified in Product #1 as “state wide” using the standard and template from product #1

Timeframe: Start: November 2015
End: February 2016

Deliverable #3: Assembly of the Virginia WWF Master Plan

Percent total project budget: 50%

Description: Product #3 will be based on the results of products and 1 and 2. Each participating PDC is responsible for the development of plan content that reflects the regional specific work completed to date, as well as the political framing necessary for local consensus. Each partner (PDC and MAS) will submit completed chapters to the staff assigned for master plan assembly. Each PDC region will utilize region specific results achieved under NA14NOS4190141 Task 92 Product #3 facilitated by Independent Working Waterfront Contractor Bill Pruitt. Task 92, Product #3 focuses on enforceable policy actions needed to further protect and manage working waterfronts.

Additionally, each participating PDC is responsible for reformatting working waterfront inventory data previously collected under the 2011-2012 Section 309 award through a VIMS Marine Advisory Services Coastal Program grant. At a minimum, each region will allow for reformatting and development of previously collected working waterfront data for inclusion in Coastal GEMS with supporting source report information previously developed. Action steps include:

- 1) A discussion as to which attributes would be the most important to include in GEMS (5 or less)
- 2) Modification of regional specific excel spreadsheet including selected attributes and site location coordinates
- 3) Submittal of regional specific PowerPoint-pdf documents to serve as a source document for searching.

Timeframe: Start: January 2016
End: March 2016

Deliverable #4: Design of a Draft Working Waterfront Resolution

Percent total project budget: 10%

Description: Product #4 will be a draft resolution to be considered by local governments, PDCs and possibly the Virginia General Assembly attesting to the state of the commonwealth on matters related to Working Waterfront Preservation. Each participating PDC will bring the plan before its governing body requesting consideration of the plan and resolution with a recommendation that member local governments consider the same.

Timeframe: Start: February 2016
End: March 2016

Deliverable #5: Rural Chesapeake Bay/Seaside of Virginia Working Waterfront Coalition Summit #2

Percent total project budget: 20%

Description: Working Waterfronts Executive Steering Committee will organize, coordinate and convene the second Virginia Working Waterfront Summit to be held at a central location (possibly VIMS) and possible remote location (Wachapreague) to present the Draft Statewide Working Waterfront Plan. The Summit will consist of two parts: a) Panel of working waterfront specialists will discuss the growing national problem faced by loss of working waterfronts, b) Panel of working waterfront specialists and attendees will review and discuss the draft state wide plan.

Timeframe: Start: June 2016
End: July 2016

Attachment D: Financing in Virginia



National Working Waterfront Network

Financing Tools for Virginia State Homepage

Official State of Virginia Website
State of Virginia

Economic Development Entity

Virginia Economic Development Partnership

In 1995, the Virginia General Assembly created the Virginia Economic Development Partnership to better serve those seeking a prime business location and increased trade opportunities and, therefore, to foster increased expansion of the Commonwealth's economy. As a state authority, the Partnership is governed by a 25 member Board Of Directors comprised of businesspersons from around Virginia, each of whom is appointed by the Governor and the General Assembly. Our President & Chief Executive Officer is employed by the Board to oversee the fulfillment of our mission: "To enhance the quality of life and raise the standard of living for all Virginians, in collaboration with Virginia communities, through aggressive business recruitment, expansion assistance, and trade development, thereby expanding the tax base and creating higher-income employment opportunities."

Loan

Virginia Water Facilities Revolving Loan Fund

Department of Environmental Quality

Since 1987, the Virginia Clean Water Revolving Loan Fund (Fund) has been providing low interest loan funding for water quality improvement projects throughout the Commonwealth. Funds are currently provided to local governments, public service authorities, agricultural producers, partnerships, and corporations for a variety of project types. Loan repayments are circulated back into the Fund to create a dedicated source of revenue available for future clean water projects.

Virginia Small Business Financing Authority

Virginia Department of Business Assistance

The Virginia Small Business Finance Authority (VSBFA) is the Commonwealth of Virginia's economic development and small business financing arm. We help Virginia's existing businesses and those businesses that are seeking to come to Virginia through our extensive portfolio of financing programs. Although we do not offer grants, we add value by helping Virginia's financial institutions offer business loans that they might not be able to offer without our assistance. Whether you are seeking to purchase a building or some equipment, whether your business is for-profit or a qualifying 501 (c) 3 not-for-profit, whether it is a start up or has been in business for many years, the VSBFA is happy to talk with you and your bank about your business' credit needs.

Dedicated Revenue

Chesapeake Bay Restoration Fund

Division of Legislative Services

To be eligible for receiving a grant, applicants should submit proposals emphasizing environmental education or restoration and conservation of the Chesapeake Bay. Projects focusing on environmental education should increase public awareness and knowledge about the Bay, and projects of a restoration and conservation nature should be action oriented. Grants are awarded for one year, except in special circumstances. Grant funds may not be used to supplant existing state or local general fund appropriations.

Grant

Virginia Environmental Endowment

The mission of Virginia Environmental Endowment is to improve the quality of the environment by using its capital to encourage all sectors to work together to prevent pollution, conserve natural resources, and promote environmental literacy. Grant making priorities in the Virginia Program are focused on water quality research and monitoring of water quality conditions; land and open space conservation; Chesapeake Bay fisheries conservation, research, and education; and environmental education. Although

<http://www.wateraccessus.com/>

accorded a national scope by our charter, the Endowment currently limits awards to eligible nonprofit organizations for programs conducted in the state of Virginia and in the Kanawha and Ohio River Valleys of Kentucky and West Virginia.

Virginia Land Conservation Foundation

Department of Conservation and Recreation

The Virginia Land Conservation Foundation was established to help fund permanent conservation easements and to purchase open spaces and parklands, lands of historic or cultural significance, farmlands and forests, and natural areas. State agencies, local governments, public bodies and registered (tax-exempt) nonprofit groups are eligible to receive matching grants from the foundation. The purpose of the foundation is to provide state funding used to conserve certain categories of special land. Those categories are open spaces and parks, natural areas, historic areas, and farmland and forest preservation.

Business Incentives

Economic Development Partnership

Virginia works enthusiastically with new and expanding Virginia employers that create a higher standard of living for Virginians, enhance the local and state economies, and increase revenues to state and local governments. Incentives are Virginia's investment in its economic future and a business decision for both the Commonwealth and the company. As a result, they must make good fiscal sense for all parties. Designed to target the needs of the company and the development plans of localities and the state, Virginia offers a variety of performance-based incentives. From tax credits to tax exemptions, Virginia continues to demonstrate its willingness to invest in those who invest and reinvest in the Commonwealth.

Open Space Lands Preservation Trust Fund

Virginia Outdoors Foundation

A program to help landowners cover costs of conveying conservation easements and the purchase of all or part of the value of the easements. Conservation easements preserve farmland, forestland, and natural and recreational areas by restricting intensive uses, such as development and mining, which would alter the conservation values of the land.

Tax Incentive

Land Preservation Tax Credit

Department of Conservation and Recreation

Virginia allows an income tax credit for 40 percent of the value of donated land or conservation easements. For tax years 2002 through 2008, taxpayers may use up to \$100,000 per year for the year of sale and the ten subsequent tax years. For tax years 2009 and 2010, taxpayers may use up to \$50,000 per year for the year of the sale, and then 12 subsequent tax years for taxpayers affected by the credit reduction for those years. Unused credits may be sold, allowing individuals with little or no Virginia income tax burden to take advantage of this benefit.

Repository

Newport News Seafood Industrial Park

The Newport News Seafood Industrial Park (SIP) is one of the nation's premier seafood harbors and an important part of the City's economy. The SIP is owned by the City and managed by the City's Harbor Master, Doreen Kopacz. It is home to a number of seafood and other water-dependent companies.

Virginia Coastal Access

A website created by Virginia Sea Grant, Virginia Institute of Marine Science Marine Advisory Services and the Middle Peninsula Chesapeake Bay Public Access Authority (MP-PAA) in order to provide the public with information concerning public access to the tidal waters of Virginia.

Virginia Marine Resources Commission

Links to other Marine Resources related web sites.

The Middle Peninsula Public Access Authority

Virginia Coastal Access

The Public Access Authority (MP-PAA) recognizes that shorelines are high priority natural areas and that it is critical to set aside access sites for all types of recreational activities important to our economy and to the citizens of the Commonwealth of Virginia. As a regional leader in addressing public access issues, the MP-PAA understands the importance of public outreach and quality education as it relates to water access. It is our intention to better inform the public on issue of public access concern.

Technical/Planning Assistance

Virginia CZM Program and Coastal Public Access Authorities

Department of Environmental Quality

Public Access Authorities are a tremendous asset in meeting the Governor's 400,000 acre land conservation goal. These local authorities can often close on land deals far more quickly than state and federal agencies, and they can own and manage the land in perpetuity. They also create a meaningful avenue for local priorities to be addressed by local communities.

Appendix D:
Working Waterfront Financing in VA



National Working Waterfront Network

Financing Tools for Virginia State Homepage

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Appendix E:
Virginia Working Waterfront Policy Feedback

National Working Waterfront Network **WORKING WATERFRONT TOOLS**



Policy and Regulation

Examples: Building Code, Coastal Zone Management Program, Design Standards, Exaction, Historic Preservation, Litigation, Moratorium, No Net Loss Policy, Police Power, Public Trust Doctrine, Real Estate Disclosure, Special Purpose Political Subdivision, User Fee, Visual Access

As it relates to Decision and Policymakers.....

Decision and Policymakers may adopt formal policies or regulations to address discrete working waterfront issues. Building and development codes, for example, may impose water-dependent use requirements. Permitting programs can be designed to require consideration and mitigation of the impact of a working waterfront conversion on water-dependent business or uses.

As it relates to Waterfront Landowners.....

Although waterfront landowners do not have the authority to enact laws, regulations, or policies, they are key stakeholders directly impacted by such enactments. As such, they are in a position to influence the decision and policymaking process. The public support of waterfront landowners is often essential to securing the passage of legislation to provide incentives to maintain the working status of waterfront lands.

As it relates to Waterfront Users.....

Working waterfront users can have considerable influence on local and state policies and regulations like tax or policy incentives for waterfront landowners that grant preferences to working waterfronts. In addition, many waterfront users are businesses that require access to the water, and often make important contributions to the local economy and character of coastal communities.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: What is the mechanism for anglers/users to impact policy? I think there may be a lack of knowledge of the pathway to follow to ask for or implement change.

Sharon Pandak: The term "exaction" is seriously frowned upon politically in Virginia and, therefore, while certain "exactions" may be legally sustainable, they are problematic as an identified "tool". In the land use/zoning context, moratorium(a) are prohibited in Virginia. The moratorium term causes negative political conditions.

Source of Information:
<http://workingwaterfronts.ning.com/page/toolkit>

Financing

Examples: *Appropriation, Bond Financing, Dedicated Revenue, Economic Development Entity, Foundation, Grant, Loan, Loan Guarantee Subsidy, Tax Increment Financing, Trade Association*

As it relates to Decision and Policymakers.....

Many states have created special funding programs to preserve working waterfront access. Money for such programs can come from a variety of sources, including grants, general fund revenue, and the issuance of state and municipal bonds. Indirectly, taxes can also be used by a government entity as a means of raising funds the public can invest in the acquisition of public access or working waterfronts. A land gains tax, real estate transfer tax, impact fees, or tax increment financing can all be explored for these purposes.

As it relates to Waterfront Landowners.....

Waterfront landowners can take advantage of grant programs and loan funds dedicated to preserving their lands as working waterfronts, or for specific waterfront uses, such as commercial fisheries.

As it relates to Waterfront Users.....

For many users of working waterfront infrastructure, tools for financing capital improvements or ongoing operations and maintenance costs are not directly applicable. Users, for instance, cannot get a loan or a grant to make an investment on somebody else's property. Working waterfront users, however, frequently help finance the ongoing viability of the infrastructure they use through the payments of taxes, fees, and rent. By entering into leases or other business arrangements, waterfront users may be able to help provide the financing needed to keep the infrastructure operational. In addition, many public financing programs require a commitment from the waterfront landowner to support water-dependent uses for a specific period of time. Users may also influence the funding for public financing through the provision of stakeholder input, or by advocating for a specific appropriation, bond financing, or dedicated revenue.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: The same resources may not be available to all user groups (e.g. commercial vs. recreational captains).

Planning

Examples: Action Planning, Business Recruitment Plan, Comprehensive Plan, Disaster Recovery Planning, Growth Management, Harbor Management Plans, Historic Resources Survey, Land Use Planning, Marine Spatial Planning, Six Hats Exercise, Smart Growth, Special Area Management Plan, SWOT Analysis; Waterfront Master Plan

As it relates to Decision and Policymakers.....

Local governments can use comprehensive plans, including waterfront master plans, harbor management plans, and special area management plans, to incorporate provisions to preserve and plan for the needs of working waterfronts.

As it relates to Waterfront Landowners.....

Planning processes are dependent on the input of stakeholders and waterfront landowners, who have an important stake in the outcome of comprehensive plans, harbor management plans, marine spatial plans, and other plans. Although decision-making authority resides with governmental bodies, waterfront landowners can raise issues of concern and offer potential solutions by actively participating in planning processes.

As it relates to Waterfront Users.....

Waterfront users can be important participants in planning processes. This is true whether policymakers are developing comprehensive land use plans, harbor management plans, special area management plans, or engaging in marine spatial planning. Some strategies, like development of business recruitment and growth management plans, can be quite focused on the needs of working waterfront users. Concerns about losing a historic industry often drive these planning processes. For example, in Gloucester, Massachusetts, the comprehensive planning process helped identify issues facing waterfront users and provided a forum for negotiating compromises that allow continued access to the working waterfront.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: Again, there may be a lack of knowledge of the planning process and fears about top-down rules, etc. What are the pathways for anglers/captains to have a say in planning decisions?

Zoning

Examples: Contract Zoning, Form-based Code, Impact Fees, Incentive Zoning, Overlay Zoning, Private Zoning, Shoreland Zoning, Water Dependent Use, Water Dependent Use Zoning, Zoning, Zoning Ordinance

As it relates to Decision and Policymakers.....

Zoning may be used to help fully realize any working waterfront goals, especially if those goals have been clearly articulated in local comprehensive plans. For example, zoning may help ensure that water-dependent uses, such as marinas, maintain priority and that other authorized uses, such as commercial spaces, are compatible. For example, Portland, Maine has worked hard to preserve its working waterfronts through zoning that ensures compatibility of uses located on the piers and the city waterfront, while being sensitive to the long-term operation and maintenance needs of pier owners as fishing in the Gulf of Maine has declined. (www.wateraccessus.case_study.cfm?ID=32)

As it relates to Waterfront Landowners.....

The ability of waterfront landowners to adapt to changing conditions is often constrained by zoning laws. Some constraints, such as water-dependent use requirements, might be viewed as positive from a working waterfront perspective. Other constraints can work at cross-purposes with working waterfront initiatives, for example, when property is zoned residential and commercial activities are considered non-conforming uses. Although decision-making authority rests with governmental entities, working waterfront landowners can seek changes in zoning laws that negatively impact their ability to maintain their businesses. For example, waterfront, marine use, and other forms of zoning have been used in many communities to ensure that certain sections of a community are specifically identified as working waterfront areas. This approach encourages new waterfront landowners to locate their water-dependent businesses in appropriate districts, and protects existing businesses from conversion.

As it relates to Waterfront Users.....

Waterfront users are often impacted by zoning decisions. Changes in the economic condition of the working waterfront can cause waterfront landowners to seek changes to or exemptions from zoning ordinances that may shift or displace traditional uses. The public process around zoning decisions gives waterfront users a chance to participate in the decision-making process and contribute to the development of solutions that work for the community, users, and landowners.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: There may be reluctance to change existing use or patterns of use to reflect new zoning. Multiple users may not co-exist or adapt well to single-use zones (ex. A marina or public landing may only offer a limited number of slips for commercial and recreational boats (including charter captains)).

Sharon Pandak: The use of contract zoning may cause negative feelings. Exaction is a condition development that is imposed on a parcel of land that requires the developer to mitigate anticipated negative impacts of the development.

Taxation

Examples: Ad Valorem Tax, Current Use Taxation, Excise Tax, Income Tax, Property Tax, Real Estate Transfer Tax, Sales Tax; Special Assessment, Special Taxing Districts Tax, Tax Abatement/Deferral, Tax Incentives

As it relates to Decision and Policymakers.....

Impacts of high waterfront taxes can be mitigated through changes in tax policy that provide incentives for maintaining working waterfront access or protection. For example, a change in tax policy to an ad valorem, or "current use," tax that assesses working waterfront property based on the value of land as it is currently being used can help communities retain water-dependent business that may be struggling to pay property taxes assessed on the fair market value or "highest and best use" of the property.

As it relates to Waterfront Landowners.....

Waterfront landowners may be able to reduce their tax burden by allowing access (working waterfront and otherwise) to their land. Tax incentives may include income tax deductions, reduced property taxes, reduced estate taxes, avoidance of capital gains taxes, and gained investment interest. In some states, incentives might also include a current use taxation structure for open space, or for working waterfronts that provide access for commercial fishing activities. Landowners also stand to gain income and receive tax reductions when land trusts or public entities purchase easements on their lands (such as if a land trust or other entity purchases a parcel's working waterfront access rights from a landowner). Tax incentives may also be available to help waterfront landowners cope with rising property values.

As it relates to Waterfront Users.....

Waterfront users often indirectly benefit from tax incentives for working waterfronts. Tax programs, including current use taxation, property tax abatement and other tax incentives, can help landowners maintain working waterfronts on their property. This in turn ensures continued access for water-dependent uses. Waterfront users also support working waterfronts through tax payments, which are often the revenue source for public financing of working waterfront initiatives.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: There may be a lack of knowledge (are you sensing a theme here ? J) from recreational anglers or charter captains about existing tax breaks that could be transferred to their industry.

Community/Stakeholder Engagement

Examples: Branding, Coalition, Conflict Resolution, Focus Group, Initiative, Partnerships, Stakeholder Analysis, Technical Assistance, Visioning Exercise

As it relates to Decision and Policymakers.....

Working waterfront stakeholders in any given community are those who are most affected by changes to the waterfront. As such, their engagement and participation is critical in visioning, planning, and implementing actions along the waterfront. Without the stakeholders at the table, initiatives are much less likely to succeed. The Middle Peninsula Planning District Commission in Virginia, for example, established the York River Use Conflict Committee to gain a better understanding of existing uses and conflicts along the York River and inform the development of policy recommendations.

As it relates to Waterfront Landowners.....

Waterfront landowners are critical stakeholders in discussions related to the protection of working waterfronts, including planning efforts, zoning decisions, mapping and inventory efforts, and other projects. Decisions made as a result of these discussions can affect property values and tax rates, the viability of business, traditional way of life, and other high-stakes issues. Waterfront landowners should be encouraged to actively engage in the policy process.

As it relates to Waterfront Users.....

Waterfront users are often the most identifiable stakeholder in a community's working waterfront. Users can influence the local and state decision-making and policy processes by utilizing community and stakeholder engagement tools like coalition-building and forming partnerships.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: The right people (recognized and respected leaders) need to be part of the planning process. I think that although someone may be able to be recognized wherever they go, that is not always a good thing if folks have a negative association with them or their past involvement in past jobs or projects. Someone who has a lot of respect with one community may not be well like in another, so there should be diverse representation from across all industries.

Mapping, Inventory, Study

Examples: *Build Out Analysis, Coastal Access Site Inventory, Community Assets, Mapping/Inventory, Economic Analysis/Assessment, Force Field Analysis, Legal Tools Inventory, Legislative Task Force, Marketing Study, Natural Resource Inventory, Needs Assessment Repository, Visual Preference Survey, Working Waterfront Inventory*

As it relates to Decision and Policymakers.....

To clearly delineate their programs and policies, Decision and Policymakers must gather information about their working waterfronts. North Carolina and Alabama, for example, established legislative study committees in response to public concerns regarding loss of traditional working waterfronts. Maine and other states have inventoried and mapped working waterfront land (including ownership patterns), providing for the first time a comprehensive understanding of the status of working waterfront access and a baseline for tracking change.

As it relates to Waterfront Landowners.....

Although private waterfront landowners generally do not conduct mapping inventories or studies of waterfront property, they and their property feature prominently on maps and in studies. Having an understanding of the scale of private waterfront ownership in a region gives owners clout, and helps municipalities plan for potential conversions. Waterfront landowners can therefore benefit from actively participating and cooperating in data collection efforts.

As it relates to Waterfront Users.....

Some inventories, mapping projects, or studies may come from and be conducted by users or groups working closely with working waterfront users. Others may emerge as part of a public process. Participation in mapping, working waterfront inventories, and other studies can be an extremely important way to influence decisions being made by others about working waterfronts.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: There may be lack of access for users to planning tools that may be helpful; they may not know how to use the mapping tools even if they have access to them.

Land Conservation, Transfers, Acquisitions

Examples: Acquisition; Compensation, Conservation Easement, Conveyance, Covenant, Deed Restriction, Easement, Eminent Domain, Land Bank, Land Trust, Lease, Liability Waiver, Purchase of Development Rights, Right-of-Way, Transferable Development Rights, Transferable Slip Rights, Working Waterfront Conservancy

As it relates to Decision and Policymakers.....

Sometimes the most effective means of protecting or enhancing a working waterfront is to buy the property. A local government, for instance, may choose to purchase a dock or marina to ensure continued public use and access. Private owners, nonprofit organizations, and government agencies can form public/private partnerships to pursue the purchase and acquisition of working waterfront property and interests.

As it relates to Waterfront Landowners.....

Waterfront landowners can place easements on their land that provide for working waterfront access; they can transfer access rights to specific user groups; or they can engage in acquisition of new lands, specifically for working waterfront uses. Waterfront landowners and developers can utilize financial incentives built into permitting programs that transfer access rights to users or other waterfront developments. In some states, like Maine, landowners have used conservation easements to maintain docks and prevent conversion to non-water-dependent uses.

As it relates to Waterfront Users.....

Waterfront users in some communities have purchased development rights, easements, covenants, or otherwise placed restrictions on properties they rely on to increase the likelihood of continued water access. Waterfront users are at a high risk for displacement around the time a working waterfront is being transferred or sold. They can work with the sellers, land trusts, and the community to acquire the property for the benefit of the broader community.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: Property owners may not offer equal access to all users and there may be a lack of knowledge about that access.

Private Agreements

Examples: Consideration, Contracting for Access, Installment Contract, Lease-Option Contract, Private Use Agreements, Use Permitting

As it relates to Decision and Policymakers.....

Although a government decision-making body cannot require private entities to enter into contracts, policy can be crafted providing incentives for agreements that support working waterfronts. These can be implemented through other tools identified above, such as zoning. Additionally, local and state governments also own working waterfront infrastructure and can enter into private agreements like any other private land owner.

As it relates to Waterfront Landowners.....

Private waterfront landowners can enter into various kinds of agreements with water-dependent users to provide access. Through such agreements users secure rights of access, while the landowner gains some kind of benefit or compensation. These arrangements can take the form of informal agreements, (e.g., when a clammer is granted a verbal agreement by a waterfront landowner to cross private land to access clam flats), or through written contracts, (e.g., where the agreement is stipulated in a lease). The landowner may receive a financial benefit or simply enjoy a feeling of goodwill.

As it relates to Waterfront Users.....

Private arrangements between the landowner and user can help ensure that specific users or a community of working waterfront users maintains water access. Formal private agreements like leases, private use agreements, or other contracts, can provide revenue for the landowner and certainty for the user. Informal arrangements that allow access across private property can also be important; however, many coastal communities have seen that, as pressures on landowners increase, users of working waterfronts are likely to see changes to or the ending of these informal arrangements. Users with informal agreements are particularly at risk for displacement when a property is transferred, particularly if the new owner does not have a connection to those working waterfront users. In any private agreement, a tangible benefit to the landowner will help fortify the agreement, should it need to go before the court.

Why would this tool **not** work in your community?

THOUGHTS/NOTES:

Susanna Musick: Users may have a concern about fluctuations in ownership. Owners may have a concern about liability risk and insurance costs.

Appendix F:
Working Waterfront Policy Toolkit

VIRGINIA WORKING WATERFRONT POLICY TOOLKIT

*Guiding localities to protect, restore and enhance their water-
dependent commercial and recreational activities*

2015





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The views expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.

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I. INTRODUCTION:

In preparation for the development of a Virginia Working Waterfronts Plan during FY2016, the Middle Peninsula Planning District Commission (MPPDC) staff was funded through the Virginia Coastal Zone Management (CZM) Program Grant # NA 14NOS4190141 Task 94.01 to research tools identified by the National Working Waterfront Network. As these policy tools have been utilized by communities throughout the nation to improve, preserve and/or protect working waterfronts, MPPDC staff was interested in finding the policies that could be utilized by Virginia localities.

To begin this research MPPDC staff first consulted with Virginia Counsel to understand which tools may not be applicable to Virginia localities based on the Virginia Administrative Code (VAC) as well as the current political climate. It was found that there only a three policy tools that will not work in Virginia, including moratoriums, exactions, and contract zoning. In conjunction with consulting with Virginia counsel, MPPDC staff received feedback from Working Waterfront stakeholders within Tidewater Virginia.

Based on the gathered information, MPPDC staff developed this Virginia Working Waterfront Policy Toolkit. It defines the each policy tool, and in some cases references VAC and/or provides examples of the tool already being implemented in Virginia. Through the development of this working waterfronts toolkit, Virginia localities will have an opportunity to flip through the pages to gain an understanding of the available working waterfront policies and select those policies and tools that may fit their locality needs.

II. WORKING WATERFRONT TOOLKIT:

Below are a variety of tools that may be utilized by local and/or regional governments to improve working waterfronts within their jurisdiction. These tools are defined and arranged into nine broad categories. Included within some of the definitions there are example of projects or efforts that have been implemented in Virginia. Please note that the text in red indicates the tools that are not recommended or appropriate to be implemented within the Commonwealth of Virginia.

Policy and Regulation

Examples of policy and regulations relevant to working waterfronts in Virginia:

Building Code, Coastal Zone Management Program, Design Standards, Historic Preservation, Litigation, No Net Loss Policy, Police Power, Public Trust Doctrine, Real Estate Disclosure, Special Purpose Political Subdivision, User Fee, Visual Access

As it relates to Decision and Policymakers.....

Decision and Policymakers may adopt formal policies or regulations to address discrete working waterfront issues. Building and development codes, for example, may impose water-dependent use requirements. Permitting programs can be designed to require consideration and mitigation of the impact of a working waterfront conversion on water-dependent business or uses.

As it relates to Waterfront Landowners.....

Although waterfront landowners do not have the authority to enact laws, regulations, or policies, they are key stakeholders directly impacted by such enactments. As such, they are in a position to influence the decision and policymaking process. The public support of waterfront landowners is often essential to securing the passage of legislation to provide incentives to maintain the working status of waterfront lands.

As it relates to Waterfront Users.....

Working waterfront users can have considerable influence on local and state policies and regulations like tax or policy incentives for waterfront landowners that grant preferences to working waterfronts. In addition, many waterfront users are businesses that require access to the water, and often make important contributions to the local economy and character of coastal communities.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Building Code

The Virginia Uniform Statewide Building Code (USBC) is a state regulation promulgated by the Virginia Board of Housing and Community Development. The purpose of this code is to establish minimum regulations to govern the construction and maintenance of buildings and structures. This will impact working waterfront structures that need maintenance, or if a new structure is constructed this with influence how the structure is developed.

Coastal Zone Management Program

The CZM program is a voluntary partnership between the federal government and U.S. coastal and Great Lakes states and territories authorized by the Coastal Zone Management Act (CZMA) of 1972 to address national coastal issues. The program is administered by NOAA. The act provided the basis for protecting, restoring and reasonably developing our nation's coastal communities and resources. The CZM Program is not only an advocate for coastal management, but funds local projects, policy development, and land acquisition as it relates to working waterfronts. With section 309 funds, CZM develops strategies to develop and promote adoption of new enforceable policies.

Design Standards

Design Standards are guidelines regarding the aesthetics and architectural appearance of a building or improvement to property (i.e. alteration, construction, demolition, or relocation of a building or improvement). This includes building and site design elements such as exterior modifications and additions, accessory buildings, fences, walls, landscaping, architectural styles, building materials, colors, right-of-way, easements, setbacks, scale, density and maintenance of character. Design Standards are generally established when a community is interested in preserving various attributes of a community included aesthetics, architecture, visual access, etc. While there are not specific design standards for working waterfronts in Virginia, the City of Ft. Myers, Florida provides comprehensive design standards for waterfront properties in its

Code of Ordinances. For instance, in Division 5, Waterfront Development Districts sets the policy of the city to protect and preserve the special attributes of the waterfront, including minimum setbacks as well as variance to the setback incorporate a public access easement along the waterfront to preserve and view or enhance the aesthetics of the area. The division also establishes that no building, parking, solid fence shall be permitted in order to preserve the unobstructed view of the waterfront and that all waterfront development and redevelopment requires a ten foot river walk easement along river's edge to preserve public access to the river.

Historic Preservation

Historical preservation is a tool that local governments can use to recognize and protect the historical significance of working waterfronts within the locality. Local governments by restrict new development and encourage restoration of the structure to its original condition. This could provide a locality with a way to maintain structures that are a part of their coastal cultural heritage.

Litigation

Litigation is an action brought in court to enforce a particular right. For instance, in some coastal localities there are private land owners that claim ownership of a road ending with access to water. Therefore litigation may be necessary to prove and gain public access.

No Net Loss Policy

A No Net Loss Policy could require the primarily use of a current working waterfront facility to remain a working waterfront facility and would specifically exclude permanent residential use. The intention of this policy would be to protect the conversation of working waterfront infrastructure to residential use and to preserve a coastal heritage. Developing a No Net Loss Ordinance could ensure that waterfront residential development will not displace working waterfront infrastructure and services.

Police Power

Police Power is the basic right of a government to make necessary laws. State police powers within the US comes from the Tenth Amendment to the Constitution, which give states the power to establish and enforce laws protecting the welfare, safety and health of the public.

Public Trust Doctrine

This is the principle that the government holds title to submerged land under navigable waters in trust for the benefit of the public. Thus, any use or sale of the land under water must be in the public interest. In Virginia, mean low water is used to delineate the boundary between upland private land and state-owned submerged land. Also within the Commonwealth, Virginia Marine Resource Commission (VMRC) manages the submerged lands and works to approve projects such as boat docks, piers and seawall.

Real Estate Disclosure

Real estate disclosure refers to the legal requirement of sellers to disclose all known facts that materially affect the value of the real property and are not readily observable to the buyer.

With respect to waterfront property, real estate disclosure requirements can inform potential buyers of unique aspects of coastal property rights, common coastal hazards, and community values. The Virginia Residential Property Disclosure Act (Title 55, Chapter 27 of the Code of Virginia) governs the information owners must disclose to prospective purchasers of real property (Appendix 1).

Special Purpose Political Subdivision

A Special Purpose Political subdivision is any county, municipality, or other public body of the Commonwealth that has a primary focus. For instance in 2002, the Virginia General Assembly created the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA) (§ 15.2-6600). Ratified by participating localities on June 13, 2003 the MPCBPAA is a special purpose political subdivision focused on public access within the Middle Peninsula Virginia. The MPCBPAA recognizes that shorelines are high priority natural areas and that it is critical to set aside sites for all types of recreational activities important to the local economy and local citizens. To date the Authority has acquired approximately 867 acres of land for public access to waters of the Commonwealth.

User Fee

A user fee is a sum of money paid by an individual or group to access a service or facility. The collected user fees have the ability to fund management of working waterfront sites as well as improvement projects to maintain infrastructure. For instance, to help the MPCBPAA supplement land management costs, the Authority in partnership with Virginia Interactive developed a reservation system for the public to utilize prior to visiting MPCBPAA lands. While uses on the MPCBPAA lands differ, citizens can reserve hunting zones, boat slips or a hunting blind and remit a user fee. For the reservation site please visit: <https://mppaa.virginiainteractive.org/>.

Visual Access

Visual access is the ability to view the beach or shore from a location that can be physically accessed. It may be an element of a local government's design standards. View access ordinances and land development codes have the potential to protect views of historic value or dominant structures and buildings, including working waterfront infrastructure in coastal Virginia.

Moratorium

Moratoriums are temporary prohibitions of certain activities. With regards to land use moratoriums could consist of temporary suspension of a landowner's rights to obtain development approvals. Based on feedback from Counsel, in Virginia moratoriums are prohibited. The term moratorium also causes negative political connotations.

Exaction

Exactions are burdens of requirements a local government place on a developer to dedicate land or construct or pay for all or a portion of the costs of capital improvements needed for public facilities as a condition of development approval. Exactions come in the many forms – they may be called conditions or impact fees and may be in the form of infrastructure building,

cash payment to the local government, dedications of land for public uses, conditions on future land use, restrictions on alienation or other restrictions or burdens on the permit applicant. According to the Citizen's Guide to Planning and Zoning in Virginia, *exactions are usually part of the site plan or subdivision plat approval process*. Exactions can be called "takings". Based on feedback from Counsel, this term is seriously frowned upon politically in Virginia and, therefore, while certain "exactions" may be legally sustainable, they are problematic as a "tool".

Financing

Examples of financing relevant to working waterfronts in Virginia:

Appropriation, Bond Financing, Dedicated Revenue, Economic Development Entity, Foundation, Grant, Loan, Loan Guarantee Subsidy, Tax Increment Financing, Trade Association

As it relates to Decision and Policymakers.....

Many states have created special funding programs to preserve working waterfront access. Money for such programs can come from a variety of sources, including grants, general fund revenue, and the issuance of state and municipal bonds. Indirectly, taxes can also be used by a government entity as a means of raising funds the public can invest in the acquisition of public access or working waterfronts. A land gains tax, real estate transfer tax, impact fees, or tax increment financing can all be explored for these purposes.

As it relates to Waterfront Landowners.....

Waterfront landowners can take advantage of grant programs and loan funds dedicated to preserving their lands as working waterfronts, or for specific waterfront uses, such as commercial fisheries.

As it relates to Waterfront Users.....

For many users of working waterfront infrastructure, tools for financing capital improvements or ongoing operations and maintenance costs are not directly applicable. Users, for instance, cannot get a loan or a grant to make an investment on somebody else's property. Working waterfront users, however, frequently help finance the ongoing viability of the infrastructure they use through the payments of taxes, fees, and rent. By entering into leases or other business arrangements, waterfront users may be able to help provide the financing needed to keep the infrastructure operational. In addition, many public financing programs require a commitment from the waterfront landowner to support water-dependent uses for a specific period of time. Users may also influence the funding for public financing through the provision of stakeholder input, or by advocating for a specific appropriation, bond financing, or dedicated revenue.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Appropriation

The act of selecting, devoting, or setting apart land for a particular use or purpose, as where land is appropriated for public buildings, military reservations, or other public uses.

Bond Financing

Bond financing is a type of long-term borrowing that state and local governments frequently use to raise money, primarily for long-lived infrastructure assets. They obtain this money by selling bonds to investors. In exchange, they promise to repay this money, with interest, according to specified schedules. The interest the state has to pay investors on the bonds it issues for public infrastructure is exempt from their federal and state income taxes, which makes the state's interest cost on the bonds less than it otherwise would be. As noted above, the state often uses bonds to finance its major capital outlay projects such as educational facilities, prisons, parks, water projects, and office buildings. This is done mainly because these facilities provide services over many years, their large dollar costs can be difficult to pay for all at once, and different generations of taxpayers benefit from the facilities.

Dedicated Revenue

Dedicated revenue is set aside for the specific purpose. Dedicated revenue proposals commonly emerge in reaction to a public perception that a government is not appropriating sufficient revenues for a given function. The Chesapeake Bay Restoration Fund Division of Legislative Services for instance has dedicated funds available to applicants that submit proposals focused on environmental education or restoration and conservation of the Chesapeake Bay.

Economic Development Entity

An economic development entity may be a government entity or public private partnership that focuses on the improving the local and /or regional economies. For instance within the Commonwealth, the Virginia Economic Development Partnership was developed in 1995 by the Virginia General Assembly to better serve those seeking a prime business location and increased trade opportunities and, therefore, to foster increased expansion of the Commonwealth's economy. As a state authority, the Partnership is governed by a 25 member Board of Directors comprised of businesspersons from around Virginia, each of whom is appointed by the Governor and the General Assembly. Our President & Chief Executive Officer is employed by the Board to oversee the fulfillment of our mission: "To enhance the quality of life and raise the standard of living for all Virginians, in collaboration with Virginia communities, through aggressive business recruitment, expansion assistance, and trade development, thereby expanding the tax base and creating higher-income employment opportunities."

Foundation

A foundation is permanent fund established and maintained by contributions for charitable, educational, religious, research, or other benevolent purposes. For instance, in 1997 the Virginia Maritime Heritage Foundation was created with the goal to build and operate a reproduction vessel that would represent Virginia's vast maritime history. The schooner

VIRGINIA was built on the banks off the Elizabeth River’s Eastern Branch between 2002 and 2004 and now sails thousands of nautical miles each year while conducting education programs for youth and adults.

Grants

Grants are an amount of money that is given to entity by a government, a company, etc., to be used for a particular purpose. According to the National Working Waterfront Network there are multiple grant funds within the Commonwealth that may be applied for with regards to working waterfronts:

- 1. Virginia Coastal Zone Management Program** The Virginia CZM Program is a network of state agencies and local governments that work to manage Virginia’s Coastal Resources. It relied on this network to administer the enforceable laws and regulations that protect wetlands, dunes, subaqueous lands, fisheries, and air and water quality within the Virginia “Coastal Zone”. Since 1986, Virginia has received over \$61 million in federal Coastal Zone Management Act funding, matched by over \$51 million in state and local funds, to implement its Coastal Zone Management Program. As a "maximum-funded state" Virginia receives about \$2.5 million annually.
- 2. Virginia Environmental Endowment** The mission of Virginia Environmental Endowment is to improve the quality of the environment by using its capital to encourage all sectors to work together to prevent pollution, conserve natural resources, and promote environmental literacy. Grant making priorities in the Virginia Program are focused on water quality research and monitoring of water quality conditions; land and open space conservation; Chesapeake Bay fisheries conservation, research, and education; and environmental education. Currently the Endowment limits awards to eligible nonprofit organizations for programs conducted in the state of Virginia and in the Kanawha and Ohio River Valleys of Kentucky and West Virginia.
- 3. Virginia Land Conservation Foundation - Department of Conservation and Recreation** The Virginia Land Conservation Foundation was established to help fund permanent conservation easements and to purchase open spaces and parklands, lands of historic or cultural significance, farmlands and forests, and natural areas. State agencies, local governments, public bodies and registered (tax-exempt) nonprofit groups are eligible to receive matching grants from the foundation.
- 4. Business Incentives Economic Development Partnership** Virginia works with new and expanding employers that create a higher standard of living for Virginians, enhance the local and state economies, and increase revenues to state and local governments. Incentives are Virginia's investment in its economic future and a business decision for both the Commonwealth and the company. This program is designed to target the needs of the company and the development plans of localities and the state, Virginia offers a variety of performance-based incentives.
- 5. Open Space Lands Preservation Trust Fund - Virginia Outdoors Foundation** A fund to help landowners cover costs of conveying conservation easements and the purchase of all or part of the value of the easements. Conservation easements preserve farmland, forestland, and natural and recreational areas by restricting intensive uses, such as development and mining, which would alter the conservation values of the land.

Loan

Since 1987, the Virginia Clean Water Revolving Loan Fund (Fund) has provided low interest loan funding for water quality improvement projects throughout the Commonwealth. Funds are currently provided to local governments, public service authorities, agricultural producers, partnerships, and corporations for a variety of project types. Loan repayments are circulated back into the Fund to create a dedicated source of revenue available for future clean water projects. The Virginia Small Business Financing Authority at the Virginia Department of Business Assistance is the Commonwealth of Virginia's economic development and small business financing arm. This Authority helps existing businesses and those businesses that are seeking to come to Virginia through an extensive portfolio of financing programs.

Loan Guarantee

A loan guaranteed by a third party in the event that the borrower defaults. The loan is quite often guaranteed by a government agency which will purchase the debt from the lending financial institution and take on responsibility for the loan.

Subsidy

A subsidy is money that is paid usually by government to keep the price of a product or service low or to help a business or organization to continue to function.

Tax Increment Financing

Tax Increment Financing (TIF) is a public financing method that is used as a subsidy for redevelopment, infrastructure and other community-improvement projects. According to Virginia Code §58.1-3245.2, *The governing body of any county, city or town may adopt tax increment financing by passing an ordinance designating a development project area and providing that real estate taxes in the development project area shall be assessed, collected and allocated in the following manner for so long as any obligations or development project cost commitments secured by the Tax Increment Financing Fund, hereafter authorized, are outstanding and unpaid.* In Virginia City of Alexandria, the City Council approved the Waterfront Plan in January 2012, and then a Landscape and Flood Mitigation Design in June 2014. To fund ten-year, \$61.5 million implementation cost of these projects, contributions came from the developer (\$5.0 million) and City funds (\$56.5 million) which were covered in part by incremental tax revenues created by the planned private sector redevelopment projects.

Trade Association

Trade associations are industry stakeholders (i.e. trade groups, business associations or sector associations) that are founded and funded by businesses that operate in a specific industry. Within the Commonwealth there are variety of trade association relating to working waterfronts and/or maritime history including the Virginia Watermen Association, Virginia Marine Trades Association, Tidewater Oyster Gardeners Association (TOGA), Shellfish Growers of Virginia, Virginia Charter Boat Association, and more.

Planning

Examples of planning relevant to working waterfronts in Virginia:

Action Planning, Business Recruitment Plan, Comprehensive Plan, Disaster Recovery Planning, Growth Management, Harbor Management Plans, Historic Resources Survey, Land Use Planning, Marine Spatial Planning, Six Hats Exercise, Smart Growth, Special Area Management Plan, SWOT Analysis; Waterfront Master Plan

As it relates to Decision and Policymakers.....

Local governments can use comprehensive plans, including waterfront master plans, harbor management plans, and special area management plans, to incorporate provisions to preserve and plan for the needs of working waterfronts.

As it relates to Waterfront Landowners.....

Planning processes are dependent on the input of stakeholders and waterfront landowners, who have an important stake in the outcome of comprehensive plans, harbor management plans, marine spatial plans, and other plans. Although decision-making authority resides with governmental bodies, waterfront landowners can raise issues of concern and offer potential solutions by actively participating in planning processes.

As it relates to Waterfront Users.....

Waterfront users can be important participants in planning processes. This is true whether policymakers are developing comprehensive land use plans, harbor management plans, special area management plans, or engaging in marine spatial planning. Some strategies, like development of business recruitment and growth management plans, can be quite focused on the needs of working waterfront users. Concerns about losing a historic industry often drive these planning processes. For example, in Gloucester, Massachusetts, the comprehensive planning process helped identify issues facing waterfront users and provided a forum for negotiating compromises that allow continued access to the working waterfront.

Source: National Working Waterfront Network, 2013



The Tools in Detail **Action Planning**

Action Planning is a process that helps to focus ideas and decide the specific steps needed to achieve particular goals (Figure 1)

Business Recruitment Plan

To grow a business having an understanding the ideal candidates to employ is a vital importance. With the proper plan in place, business can find proper candidates that fit the positions without wasting resources.

Comprehensive Plan

According to Virginia Code §15.2-2223, *The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.* As a planning document for localities, this document is to guide future development, policy and land use goals for the community as well as probable future needs and resources to best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants. Therefore within this document, a locality may address their position about working waterfronts within this document. By expressing interest in preserving working waterfronts within the comprehensive plan this would not only would this provide direction for future policy within the locality regarding working waterfronts, but it may make the locality eligible for future funding/grant opportunities.

Disaster Recovery Planning

According to FEMA, disaster recovery planning enables effective recovery support that provides a flexible structure that allows disaster recovery managers to operate in a unified and collaborative manner. Generally speaking it is focused on how best restore, redevelop and revitalize the health, social, economic, natural and environmental fabric of the community and build a more resilient community.

Growth Management

This is a planning tool that refers to the control of the location, timing, pattern, and amount of growth (ie. development) within a community. As the Virginia Supreme Court has recognized, Virginia localities possess the authority to manage growth. While local comprehensive plans, zoning ordinances, and subdivision ordinances help manage land use, growth management occurs when these policy tools combine to (1) direct growth within specified boundaries, (2) promote efficient use of land and public facilities, and (3) protect open space.



Figure 1: Action planning the questions to ask and consider.

Harbor Management Plans

In response to increasing pressures and multiple conflicts over existing water resource uses, communities develop comprehensive harbor master plans to help coordinate and guide policy development, projects and activities. The purposes of harbor master plans are to: 1) Provide a comprehensive and continuous evaluation of harbor activities; 2) Provide a detailed assessment of current and/or proposed harbor management programs, ordinances or regulations; and, 3) provide for the primary management authority and responsibilities. For instance in 2014, the MPPDC, with funding through the Virginia CZM Program (Grant # NA11NOS4190122 Task 56), developed a harbor master plan for Aberdeen Creek in Gloucester County. While most of the waterfront properties around Aberdeen Creek consist of privately owned single family residences, there is a small public landing and a deteriorating commercial seafood processing facility formerly known as Gloucester Seafood, Inc. Therefore with a need to preserve this access site for working watermen, a harbor master plan was developed to offer recommendations aimed at maintaining a viable working waterfront in Aberdeen Creek for current and future generations.

Historic Resources Survey

Developing an accurate and comprehensive inventory of historic resources is the foundation of developing a preservation program. Within the survey individual properties are photographed, mapped on U.S. Geological Survey topographic maps, the building style is described, construction date, and who built the structure is noted. This information is accompanied by a detailed architectural description and an evaluation of the relative significance of the property.

Land Use Planning

Land-use planning is the systematic assessment of land and water potential, alternatives for land use and economic and social conditions in order to select and adopt the best land-use options. Its purpose is to select and put into practice those land uses that will best meet the needs of the people while safeguarding resources for the future. The driving force in planning is the need for change, the need for improved management or the need for a quite different pattern of land use dictated by changing circumstances. County supervisors or city/town councils adopt long-term visions in “comprehensive” land use plans, plus more-detailed zone ordinances that limit development potential and define acceptable uses (residential, industrial, commercial, etc.) for each parcel of land.

Marine Spatial Planning

According NOAA, coastal and marine spatial planning is a, “tool that regions can use to address specific ocean management challenges and advance their goals for economic development and conservation.” This tool is used to coordinate activities among all coastal and ocean interests and provide the opportunity to share information. This process is designed to decrease user conflict, improve planning and regulatory efficiencies, decrease associated costs and delays, engage affected communities and stakeholders, and preserve critical ecosystem functions and services.

Six Hats Exercise

The Six Hats Exercise is a structured brain-storming session that provides direction for group thinking and decision-making by building off the common notion of “putting on your thinking cap.” Within this exercise there are six different “hats” and each focuses on thinking in a particular manner (i.e. feeling, judgment, creativity, process, optimism, and facts). Each participant will try each hat which helps the participants examine differing points of view. Figure 2 provides a visual of this exercise.

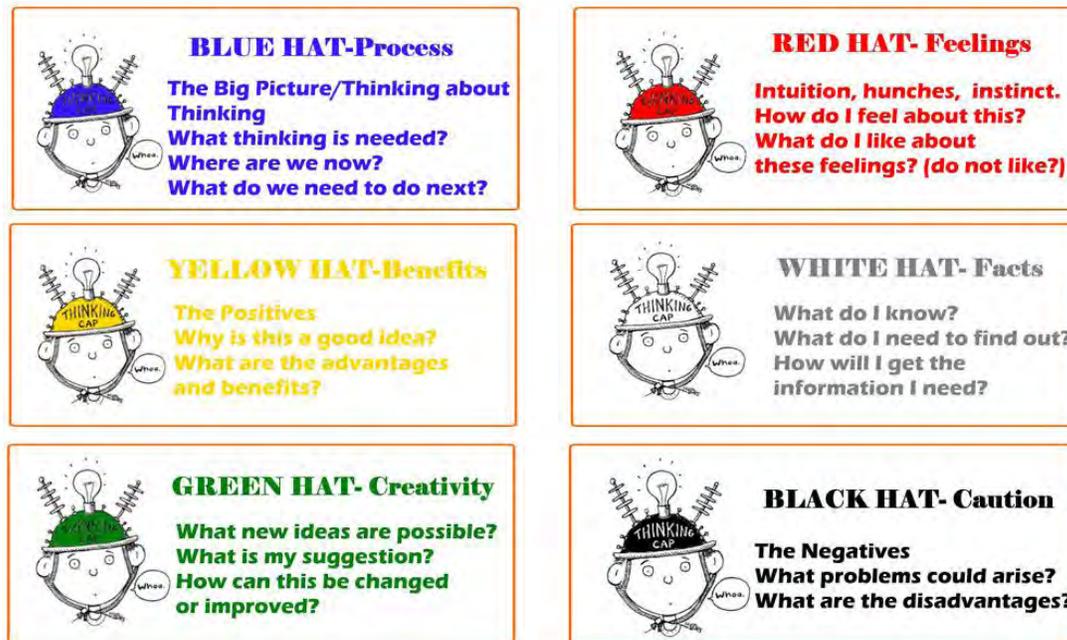


Figure 2: Six Thinking Hats and the roles of each hat (www.smartthinker.com).

Smart Growth

Developed in 1996, smart growth is based on 10 principles that provide a framework for managing growth and development decisions to improve the local economy, environment, community, and public health. To relate smart growth principles to working waterfront specific challenges and opportunities, NOAA created descriptions of each. Please see Appendix 2 to see how they relate.

Special Area Management Plan (SAMP)

According to NOAA, a SAMP is a resource management plan and implementation programs developed to better manage specific geographic area, including waterfront (urban or rural). In 2002 the Virginia CZM Program initiated the Virginia Seaside Heritage Program. The program goals were to restore the coastal habitats of the seaside of Virginia’s Eastern Shore and to promote, in a sustainable fashion, economic activities such as ecotourism and aquaculture. Therefore beginning in 2006 Accomack-Northampton Planning District Commission received funding to assist with the development of a Seaside SAMP.

SWOT Analysis

This analysis is used to measure the strengths, weakness, opportunities and threats involved in a project or a decision. Figure 3 projects the layout of the analysis and the questions to consider.

Waterfront Master Plan

Developing a master plan for the waterfront is a planning effort to establish a vision and provide recommendations to guide public and private investments on the waterfront. As waterfront master plans focus on the coast, such plans coincide with the locality's comprehensive plan to reinforce policies and provide for continuity. For instance in 2009, the City of Portsmouth developed a Downtown Master Plan and Waterfront Strategy that focused on specific implementation strategies to "guide the next wave of new investment that will take downtown and the waterfront to the next level as a vibrant, diversified and memorable urban destination"¹.



Figure 3: SWOT analysis diagram.

Zoning

Examples of zoning relevant to working waterfronts in Virginia:

Contract Zoning, Form-based Code, Impact Fees, Incentive Zoning, Overlay Zoning, Shoreland Zoning, Water Dependent Use, Water Dependent Use Zoning, Zoning, Zoning Ordinance

As it relates to Decision and Policymakers.....

Zoning may be used to help fully realize any working waterfront goals, especially if those goals have been clearly articulated in local comprehensive plans. For example, zoning may help ensure that water-dependent uses, such as marinas, maintain priority and that other authorized uses, such as commercial spaces, are compatible. For example, Portland, Maine has worked hard to preserve its working waterfronts through zoning that ensures compatibility of uses located on the piers and the city waterfront, while being sensitive to the long-term operation and maintenance needs of pier owners as fishing in the Gulf of Maine has declined. (www.wateraccessus.case_study.cfm?ID=32)

As it relates to Waterfront Landowners.....

The ability of waterfront landowners to adapt to changing conditions is often constrained by zoning laws. Some constraints, such as water-dependent use requirements, might be viewed as positive from a working waterfront perspective. Other constraints can work at cross-

¹ The City of Portsmouth. (2015). *Downtown Master Plan and Waterfront Strategy*. Received from: <http://www.portsmouthva.gov/planning/destinationptown2.aspx>

purposes with working waterfront initiatives, for example, when property is zoned residential and commercial activities are considered non-conforming uses. Although decision-making authority rests with governmental entities, working waterfront landowners can seek changes in zoning laws that negatively impact their ability to maintain their businesses. For example, waterfront, marine use, and other forms of zoning have been used in many communities to ensure that certain sections of a community are specifically identified as working waterfront areas. This approach encourages new waterfront landowners to locate their water-dependent businesses in appropriate districts, and protects existing businesses from conversion.

As it relates to Waterfront Users.....

Waterfront users are often impacted by zoning decisions. Changes in the economic condition of the working waterfront can cause waterfront landowners to seek changes to or exemptions from zoning ordinances that may shift or displace traditional uses. The public process around zoning decisions gives waterfront users a chance to participate in the decision-making process and contribute to the development of solutions that work for the community, users, and landowners.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Form-based Code

Form-based codes include specification of what uses are permitted in a building or place, but focus on the physical character of development, particularly how it relates to the public realm that everyone shares. The code addresses relationships between buildings and the street, pedestrians and vehicles, and public and private spaces and regulates site design, circulation, and overall building form.

Impact Fees

According to the American Planning Association, “Impact fees are payments required by local governments of new development for the purpose of providing new or expanded public capital facilities required to serve that development. The fees typically require cash payments in advance of the completion of development, are based on a methodology and calculation derived from the cost of the facility and the nature and size of the development, and are used to finance improvements offsite of, but to the benefit of the development.”

Zoning

According to an APA Virginia Chapter’s report titled *Managing Growth and Development in Virginia*², zoning divides a locality into specific districts and establishes regulations concerning the use, placement, spacing and size of land and buildings within the respective districts. This tool is intended to avoid disruptive land use patterns by preventing activities on one property from generating external effects that are detrimental to other properties. At the local

² The Virginia Chapter of the American Planning Association. *Managing Growth and Development in Virginia: A review of the Tools Available to Localities*. The Virginia Chapter of the American Planning Association, 2014.

government level these regulations are formulated into a zoning ordinance. Additionally based on the Virginia Code (§15.2-280) any locality may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof, into districts of such number, size and shape as deemed important to needs of the community and the purposes of zoning as defined by the code. Accordingly, zoning is a discretionary tool of plan implementation:

Water Dependent Use Zoning is a tool utilized to ensure that water dependent uses on or adjacent to coastal remain and these uses are not pushed away from the water.

Shoreline/Shoreland Zoning is a tool that can be used to regulate land use activities on the shoreline/shoreland. This zone can comprise of land areas within a certain distance from the shoreline. This can be used to prevent and control water pollution, protect spawning grounds for aquatic life as well as bird and wildlife habitat; control building site, placement of structures and land uses, to anticipate and respond to the impacts of development.

Incentive Zoning allows developers more density in exchange for community improvements. An increase in density encourages high density development supportive of compact development. In exchange, the developer would be encouraged to include some community improvements in their projects. Community improvements may include additional open space, affordable housing, special building features, or public art.

Overlay Zoning is a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone. The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area.

Taxation

Examples of taxation relevant to working waterfronts in Virginia:

Ad Valorem Tax, Current Use Taxation, Excise Tax, Income Tax, Property Tax, Real Estate Transfer Tax, Sales Tax; Special Assessment, Special Taxing Districts Tax, Tax Abatement/Deferral, Tax Incentives

As it relates to Decision and Policymakers.....

Impacts of high waterfront taxes can be mitigated through changes in tax policy that provide incentives for maintaining working waterfront access or protection. For example, a change in tax policy to an ad valorem, or "current use," tax that assesses working waterfront property based on the value of land as it is currently being used can help communities retain water-dependent business that may be struggling to pay property taxes assessed on the fair market

value or “highest and best use” of the property.

As it relates to Waterfront Landowners.....

Waterfront landowners may be able to reduce their tax burden by allowing access (working waterfront and otherwise) to their land. Tax incentives may include income tax deductions, reduced property taxes, reduced estate taxes, avoidance of capital gains taxes, and gained investment interest. In some states, incentives might also include a current use taxation structure for open space, or for working waterfronts that provide access for commercial fishing activities. Landowners also stand to gain income and receive tax reductions when land trusts or public entities purchase easements on their lands (such as if a land trust or other entity purchases a parcel’s working waterfront access rights from a landowner). Tax incentives may also be available to help waterfront landowners cope with rising property values.

As it relates to Waterfront Users.....

Waterfront users often indirectly benefit from tax incentives for working waterfronts. Tax programs, including current use taxation, property tax abatement and other tax incentives, can help landowners maintain working waterfronts on their property. This in turn ensures continued access for water-dependent uses. Waterfront users also support working waterfronts through tax payments, which are often the revenue source for public financing of working waterfront initiatives.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Ad Valorem Tax

Ad valorem tax is a tax based on the assessed value of a taxable item, including real estate, personal property or imported items. This can be a major source of revenue for local governments. Ad valorem taxes are incurred through ownership of an asset, in contrast to transactional taxes, such as sales taxes, which are incurred only at the time of transaction.

Current Use Taxation

In Virginia, current use taxation is called use value taxation. According to §58.1 – 3229 of the Code of Virginia, “the preservation of real estate for agricultural, horticultural, forest and open space use is in the public interest and ... the classification, special assessment and taxation of such property in a manner that promotes its preservation help foster long term public benefits.” Virginia law allows eligible land in agriculture, horticultural, forest, or open space to be taxed upon the land’s value in use (use value) as opposed to the market value. Therefore if working waterfronts were taxed at a lower rate based on land’s use then working waterfront property owners may find relief on rising taxes.

Excise Tax

Excise taxes are taxes paid when purchases are made on a specific good, such as gasoline. Excise taxes are often included in the price of the product. There are also excise taxes on

activities, such as on wagering or on highway usage by trucks. One of the major components of the excise program is motor fuel.

Income Tax

Citizens of Virginia have their income(s) taxed by the Commonwealth. The income tax consists of four tax brackets:

- 2% on the first \$3,000 of taxable income.
- 3% on taxable income between \$3,001 and \$5,000.
- 5% on taxable income between \$5,001 and \$17,000.
- 5.75% on taxable income of \$17,001 and above.

The rates above rank 25th highest among states levying an individual income tax.

Personal Property Tax

A personal property tax is a tax on tangible property - i.e. property that can be touched and moved, such as a car, boat, or piece of equipment. It is an ad valorem tax, meaning the tax amount is set according to the value of the property. A higher-valued property pays more tax than a lower-valued property. All jurisdictions throughout Virginia have the authority to levy a personal property tax.

Real Estate Transfer Tax

Real estate transfer taxes are taxes imposed by states, counties and municipalities on the transfer of the title of real property within the jurisdiction. Real estate transfer taxes can also be used for specific purposes, such as affordable housing and open space development. The real estate transfer tax in Virginia is \$0.50/\$500.

Sales Tax

In Virginia the current sales tax rate is 5.3% and revenue generated at the time of sale. Not only can the Commonwealth establish sale tax rates, but local jurisdiction can add sales taxes on top of the state rate.

Special Assessment

Special assessment is a term used to designate a unique charge that government entities have to assess against real estate parcels for certain public projects. This assessment can be levied in a specific geographic area known as a special assessment district (SAD). A special assessment may only be levied against parcels of real estate which have been identified as having received a direct and unique "benefit" from the public project.

Special Taxing Districts Tax

Virginia law permits certain localities to form various kinds of special tax districts in order to fund public improvements that generally benefit properties located within each particular district, using revenues raised by property taxes and/or fees.

Tax Abatement/Deferral

Tax abatement is a reduction in the level of taxation faced by an individual or company. Depending on the goals of a locality, this could provide incentives to conduct current actions (i.e. rehabilitate properties or replace structures).

Tax Incentives

The Virginia Department of Conservation and Recreation's Land Preservation Tax Credit Program allows an income tax credit for 40 percent of the value of donated land or conservation easements. For tax years 2002 through 2008, taxpayers may use up to \$100,000 per year for the year of sale and the ten subsequent tax years. For tax years 2009 and 2010, taxpayers may use up to \$50,000 per year for the year of the sale, and then 12 subsequent tax years for taxpayers affected by the credit reduction for those years. Unused credits may be sold, allowing individuals with little or no Virginia income tax burden to take advantage of this benefit. Based on these Virginia tax incentives, and other contributing factors, MPCBPAA has been gifted over 174 acres of land in the Middle Peninsula valued at \$3,969,560 to be used for public access sites.

Community/Stakeholder Engagement

Examples of Community/Stakeholder Engagement relevant to working waterfronts in Virginia:

Branding, Coalition, Conflict Resolution, Focus Group, Initiative, Partnerships, Stakeholder Analysis, Technical Assistance, Visioning Exercise

As it relates to Decision and Policymakers.....

Working waterfront stakeholders in any given community are those who are most affected by changes to the waterfront. As such, their engagement and participation is critical in visioning, planning, and implementing actions along the waterfront. Without the stakeholders at the table, initiatives are much less likely to succeed. The Middle Peninsula Planning District Commission in Virginia, for example, established the York River Use Conflict Committee to gain a better understanding of existing uses and conflicts along the York River and inform the development of policy recommendations.

As it relates to Waterfront Landowners.....

Waterfront landowners are critical stakeholders in discussions related to the protection of working waterfronts, including planning efforts, zoning decisions, mapping and inventory efforts, and other projects. Decisions made as a result of these discussions can affect property values and tax rates, the viability of business, traditional way of life, and other high-stakes issues. Waterfront landowners should be encouraged to actively engage in the policy process.

As it relates to Waterfront Users.....

Waterfront users are often the most identifiable stakeholder in a community's working waterfront. Users can influence the local and state decision-making and policy processes by utilizing community and stakeholder engagement tools like coalition-building and forming

partnerships.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Branding

Branding is a marketing practice of creating a name, symbol or design that identifies and differentiates a product from other products. Branding could be used to highlight Virginia working waterfront and the importance to heritage. In re

Coalition

A coalition is an alliance for combined action. In 2013, the National Working Waterfront Network was created to increase the capacity of coastal communities and stakeholders to make informed decisions, balance diverse uses, ensure access and plan for the future of working waterfronts and waterways.

Conflict Resolution

This is way for two or more parties to find a peaceful solution to a disagreement.

Focus Group

A focus group is a diverse small group of people whose response to a specific topic is studied to determine the response that can be expected from a larger population.

Initiative

An initiative is an electoral process by which a percentage of voters can propose legislation and compel a vote on it by the legislature or by the full electorate. Recognized in some state constitutions, the initiative is one of the few methods of direct democracy in an otherwise representative system (e.g., Ballot Initiative). (Source: Black's Law Dictionary).

Partnerships

Partnerships are relationships between two or more persons who join together for purpose or project. Coordination amongst partners may assist in obtaining the necessary funding for projects, but each partner can bring a different set of skills and expertise in order to complete a project. For instance in Virginia, the Tidewater Planning District Commissions (PDC), including the Northern Neck PDC, Hampton Roads PDC, Middle Peninsula PDC, and Accomack-Northampton PDC, have partnered together since 2007 to work on the topic of working waterfronts.

Stakeholder Analysis

This is a technique used to identify key people within a community that may contribute to a project. Stakeholders may provide opinions to shape your projects at an early stage. Not only does this make it more likely that they will support a project, their input can also improve the

quality of the project. They can also help gauge and/or anticipate reactions from the public which helps a project's overall success.

Technical Assistance

Technical assistance is an aid given to local governments, community groups, and citizens to order to build on their knowledge and move them closer to their needs. Not only do funding agencies provide technical assistance as part of grants, but regional governments may provide localities with technical assistance in order to move policy or projects along. For instance, the Middle Peninsula Planning District Commission is funded through the Virginia Coastal Zone Management Program to provide Middle Peninsula localities (ie. Essex, Gloucester, King & Queen, King William, Mathews and Middlesex Counties as well as the Towns of Tappahannock, West Point and Urbanna) with technical assistance in order to work on or resolve coastal land use or policy issues.

Visioning Exercise

Visioning is a process in which local governments or community members discuss past and present issues, determine positive qualities and assets, identify future goals, design a plan for the community, carry out a series of actions, and evaluate the outcomes. A strategic visioning process (Figure 4) provides a framework to identify community core values and assets, describe overall goals, and determine specific objectives and strategies that assist with community decision making. Through collective dialogue and reflection, strategic visioning has the potential to lead to community action by creating a "road map" to the future.



Figure 4: The visioning process.

Mapping, Inventory, & Study

Examples of mapping, inventory, and study relevant to working waterfronts in Virginia:

Build Out Analysis, Coastal Access Site Inventory, Community Assets, Mapping/Inventory, Economic Analysis/Assessment, Force Field Analysis, Legal Tools Inventory, Legislative Task Force, Marketing Study, Natural Resource Inventory, Needs Assessment Repository, Visual Preference Survey, Working Waterfront Inventory

As it relates to Decision and Policymakers.....

To clearly delineate their programs and policies, Decision and Policymakers must gather information about their working waterfronts. North Carolina and Alabama, for example, established legislative study committees in response to public concerns regarding loss of traditional working waterfronts. Maine and other states have inventoried and mapped working waterfront land (including ownership patterns), providing for the first time a comprehensive understanding of the status of working waterfront access and a baseline for tracking change.

As it relates to Waterfront Landowners.....

Although private waterfront landowners generally do not conduct mapping inventories or studies of waterfront property, they and their property feature prominently on maps and in studies. Having an understanding of the scale of private waterfront ownership in a region gives owners clout, and helps municipalities plan for potential conversions. Waterfront landowners can therefore benefit from actively participating and cooperating in data collection efforts.

As it relates to Waterfront Users.....

Some inventories, mapping projects, or studies may come from and be conducted by users or groups working closely with working waterfront users. Others may emerge as part of a public process. Participation in mapping, working waterfront inventories, and other studies can be an extremely important way to influence decisions being made by others about working waterfronts.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Build Out Analysis

A build out analysis is an exercise that focuses on anticipating the impacts of future development in order to project the amount and location of growth allowed under existing community development policies.

Inventorying Coastal Assets

Inventorying Coastal Assets is an effort to record and/or map assets (i.e. Coastal Access Sites, working waterfronts, natural resources, etc.).

Community Assets

Community Assets can be described as anything that improves the quality of community life. This may include a person, a physical structure or place, or a community service. Knowing the community assets, may help a locality build on what already exists or it can get an understand asset gaps and needs.

Mapping/Inventory

Mapping/Inventory provides a visual of community or coastal assets throughout a given jurisdiction.

Economic Analysis/Assessment

Economic Analysis/Assessment this tool can calculate the potential costs and value the anticipated benefits of a proposed program, policy or regulatory initiative, and reflect trade-offs inherent in alternatives.

Force Field Analysis

Force Field Analysis is a method of listing, discussing and evaluating the various forces for the and against a proposed change.

Legal Tools Inventory

Legal Tools Inventory provides an understanding of the legal tools that are implemented within a given locality. This inventory can also account for available tools that are not currently utilized.

Legislative Task Force

A group or committee, usually of experts or specialists, appointed by a legislature to analyze, investigate, or solve a specific problem within a set period of time.

Marketing Study

A marketing study is the gathering and evaluation of data regarding consumers' preference for products or services. This data is gathered through a combination of techniques which can include surveys, polls, and focus groups.

Natural Resource Inventory

Natural Resource Inventory is the identification, description and compilation of existing natural resources data.

Needs Assessment

Needs Assessment is a process for determining and addressing needs, or “gaps” between current conditions and desired conditions.

Visual Preference Survey

A technique that helps a community determine what attributes they value in overall community design. As the name implies, the technique is based on the development of one or more visual

concepts of a proposed plan or project. The actual technique may rely on sketches, photographs, computer images, or similar techniques to provide the basis for participants to rate or assess each visual depiction. As a result, participants can express judgments and possibly reach a consensus about a visual design, architecture, site layout, landscape, and similar design features, which may be incorporated in the goals, objectives, design guidelines, enhancement/mitigation measures, or recommended standards for a study, plan, or project. Visual preference surveys can also be used at the beginning of a planning process to help participants identify what they value most about their community. In this application, a series of photographs are used, usually from the community itself but they can be from elsewhere, to help people identify what it is they like, and dislike, about various aspects of community design, including roads, buildings, and open space. (Source: Coastal and Waterfront Smart Growth).

Working Waterfront Inventory

A working waterfront inventory can provide a count, description and location of working waterfront infrastructure within a locality. It can provide an understanding of the location and spatial relationship between working waterfront infrastructure or water access locations. It also provides an understanding of the types of working water assets as well as needs.

Land Conservation, Transfers, & Acquisitions

Examples of land conservation Transfers, and acquisitions relevant to working waterfronts in Virginia:

Acquisition; Compensation, Conservation Easement, Conveyance, Covenant, Deed Restriction, Easement, Eminent Domain, Land Bank, Land Trust, Lease, Liability Waiver, Purchase of Development Rights, Right-of-Way, Transferable Development Rights, Transferable Slip Rights, Working Waterfront Conservancy

As it relates to Decision and Policymakers.....

Sometimes the most effective means of protecting or enhancing a working waterfront is to buy the property. A local government, for instance, may choose to purchase a dock or marina to ensure continued public use and access. Private owners, nonprofit organizations, and government agencies can form public/private partnerships to pursue the purchase and acquisition of working waterfront property and interests.

As it relates to Waterfront Landowners.....

Waterfront landowners can place easements on their land that provide for working waterfront access; they can transfer access rights to specific user groups; or they can engage in acquisition of new lands, specifically for working waterfront uses. Waterfront landowners and developers can utilize financial incentives built into permitting programs that transfer access rights to users or other waterfront developments. In some states, like Maine, landowners have used conservation easements to maintain docks and prevent conversion to non-water-dependent uses.

As it relates to Waterfront Users.....

Waterfront users in some communities have purchased development rights, easements, covenants, or otherwise placed restrictions on properties they rely on to increase the likelihood of continued water access. Waterfront users are at a high risk for displacement around the time a working waterfront is being transferred or sold. They can work with the sellers, land trusts, and the community to acquire the property for the benefit of the broader community.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Acquisition

Gaining land through donation or by purchasing waterfront property to either preserve existing working waterfront infrastructure property or land that provide access to the water.

Compensation

Compensation is a payment for use of a public access site, or to utilize working waterfront infrastructure.

Conservation Easement

A conservation easement is a legal agreement between a landowner and qualified easement holder, such as Virginia Outdoor Foundation (VOF). The easement limits present and future property development rights. It allows landowners to live on the property and use it for compatible purposes, such as farming, forestry and recreation, but protects it as well. The easement is legally recorded and bound to the deed of the property permanently. VOF may hold easements in perpetuity that protect a wide variety of natural and cultural resources, including watershed areas, the setting for historic homes, scenic views, lands adjacent to public parks and game preserves, community lands, and more.

Conveyance

Conveyance is the act of transferring titles to real estate from one man to another. Transfer of title (official ownership) to real property (or an interest in real property) from one (grantor) to another (grantee) by a written deed (or an equivalent document). It only applies to real property. Conveyance can include granting title to the entire parcel of land and retaining none; or it can include granting a lesser property interest that allows only partial use of the land.

(Source: Accessing the Maine Coast)

Covenant

An agreement, contract, or written promise between two individuals that frequently constitutes a pledge to do or refrain from doing something. Covenants are really a type of contractual arrangement that, if validly reached, is enforceable by a court.

Deed Restriction

A provision placed in a deed restricting or limiting the use of the property in some manner. A limitation (especially in a deed) placed on the use or enjoyment of property. Similar to a restrictive covenant, which is a private agreement, usually in a deed or lease that restricts the use or occupancy of real property, especially by specifying lot sizes, building lines, architectural styles, and the uses to which the property may be put. (Source: Black's Law Dictionary).

Easement

An easement is a liberty, privilege, or advantage in another's property. It is nonpossessory but may be valid for perpetuity. (Note: Nonpossessory land interests are those that give their holders certain definite and clear-cut rights that always fall short of possession of the land. These nonpossessory interests might be labeled privileges, liberties, or advantages.)

Eminent Domain

Eminent domain is the right of a government to force the sale of real estate by a private individual or corporation in certain cases. Based on feedback from Counsel, in Virginia eminent domain is legal but strongly discourage and carries a negative political connotation.

Land Bank

A land bank consists of land purchased and held for future development. A land bank program created to acquire, hold, and manage important open space resources and endangered landscapes for the use and enjoyment of the general public. The land bank competes in the open market to acquire land which provides the public a wide range of opportunities. It can hold beaches, wetlands, ocean frontage, and harbor frontage, and use properties for passive and active recreation. (Source: Accessing the Maine Coast)

Land Trust

A land trust is a government or private nonprofit organization responsible for managing and conserving real estate. A land ownership arrangement by which a trustee holds both legal and equitable title to land while the beneficiary retains the power to direct the trustee, manage the property, and draw income from the trust. (Source: Black's Law Dictionary)

Lease

A lease is an agreement between two parties whereby one party allows the other to use his/her property for a certain period of time in exchange for a periodic fee. The lease can cover a real estate or equipment.

Liability Waiver

A liability waiver is a legal document that one participating in an activity would sign to acknowledge the risks involved in his/her participation.

Purchase of Development Rights

This involves payment by a private entity (such as a land trust) or a public entity (such as a town, city, or county) in exchange for an easement or covenant that limits future development

on the identified property. Usually has a minimum required effective lifetime of twenty years, and is often designed to be permanent, reversible only by the court. (Source: Accessing the Maine Coast).

Right-of-Way

A right-of-way is the right to pass over property owned by another party or the path on which such passage is made.

Transferable Development Rights

Transfer of Development Rights (TDR) is a market based technique to encourage higher density development in growth areas while reducing the development potential of rural areas. Rural areas identified for protection are designated as "sending areas" and growth areas where density is encouraged are designated as "receiving areas." Landowners in the sending areas can sell development rights to developers who plan to build in the receiving areas. Some jurisdictions establish banks for development rights they purchase from land owners. Developers may go either to landowners directly to ask to purchase development rights or buy them from the bank. But unless a locality decides to establish a bank for TDRs, the transactions do not require public monies.

Transferable Slip Rights

Transferable Slip Rights (TSRs) are regulatory tools which allow property owners or developers to transfer their slip "right" in the sending area to the "receiving" area – another shoreline property. Where the underlying zoning allows more slips than the environmental or land use regulations allow, TSRs can be valuable to both the local government and the land owner.

Working Waterfront Conservancy

A working waterfront conservancy could purchase lands outright for holding, purchasing the development rights to properties holds, or accept donations of either land or restrictive easements.

Private Agreements

Examples of private agreements relevant to working waterfronts in Virginia:

Consideration, Contracting for Access, Installment Contract, Lease-Option Contract, Private Use Agreements, Use Permitting

As it relates to Decision and Policymakers.....

Although a government decision-making body cannot require private entities to enter into contracts, policy can be crafted providing incentives for agreements that support working waterfronts. These can be implemented through other tools identified above, such as zoning. Additionally, local and state governments also own working waterfront infrastructure and can enter into private agreements like any other private land owner.

As it relates to Waterfront Landowners.....

Private waterfront landowners can enter into various kinds of agreements with water-dependent users to provide access. Through such agreements users secure rights of access, while the landowner gains some kind of benefit or compensation. These arrangements can take the form of informal agreements, (e.g., when a clammer is granted a verbal agreement by a waterfront landowner to cross private land to access clam flats), or through written contracts, (e.g., where the agreement is stipulated in a lease). The landowner may receive a financial benefit or simply enjoy a feeling of goodwill.

As it relates to Waterfront Users.....

Private arrangements between the landowner and user can help ensure that specific users or a community of working waterfront users maintains water access. Formal private agreements like leases, private use agreements, or other contracts, can provide revenue for the landowner and certainty for the user. Informal arrangements that allow access across private property can also be important; however, many coastal communities have seen that, as pressures on landowners increase, users of working waterfronts are likely to see changes to or the ending of these informal arrangements. Users with informal agreements are particularly at risk for displacement when a property is transferred, particularly if the new owner does not have a connection to those working waterfront users. In any private agreement, a tangible benefit to the landowner will help fortify the agreement, should it need to go before the court.

Source: National Working Waterfront Network, 2013



The Tools in Detail

Consideration

A consideration is value paid for a promise. Considerations are necessary elements for a valid noncompeting agreement, a contract that requires certain legal formalities to be valid and enforceable.

Contracting for Access

Virginia citizens can work with waterfront property owners to develop a legal contract to access the water.

Installment Land Contract

An installment land contract is a method of seller financing for land sales. The land contract sometimes referred to as a “contract for deed” or “longer contract,” functions as a substitute for a mortgage or deed of trust.

Lease-Option Contract

A lease-option contract can consist of two things – a lease and purchase option. A lease is contract for the use the possession of land, creating a landlord/tenant relationship. A purchase option is an agreement wherein the seller agrees to give the buyer the exclusive right to the purchase the leased premises. A lease with option arrangement is not a sale, but rather a land or-tenant relationship.

Private Use Agreements

Virginia citizens can work with waterfront property owners to develop a private agreement to access the water. This agreement could be a written or verbal agreement.

Use Permitting

As an official document giving authorization to do something (i.e. A local document could develop and require a permit that allows access to public locations).

III. THE PUBLIC PROCESS & GETTING INVOLVED:

In order to implement the policy tools listed above at the state or local government level there is a need to understand how policy and legislative changes work. This will assist newly elected officials as well citizen groups (i.e. trade associations, etc.) to be initiate policy changes and be engaged in the process.

Therefore Figures 5 and 6 on pages 29 and 30 provide step-by-step instruction about how local policies and state legislation are created.

Contributing to Public Policy Changes

FOCUS: LOCAL POLICY

With a need for citizens and citizen groups to understand how they can turn their ideas into new and/or amended local policy the diagram below provides a step-by-step process to accomplish this.



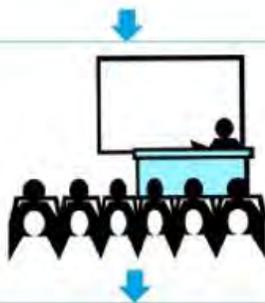
- 1 Individuals or groups of citizens should organize ideas. What change are you trying to achieve? Why? Who/what will the change impact?



- 2 Meet with a community leader / topic expert to review and solidify thoughts and objectives. Gain local citizen support or stakeholder support along the way.

- 3 Meet with local government staff and present thoughts and objectives regarding local policy changes. Policy is pin pointed.

- 4 With enough local constituent support, work with local government staff to refine language of new/amended policy



- 5 Present or request local staff to present new/amended policy changes to County Board of Supervisors or Town Council.

- 6 The Board of Supervisors or Town Council will hear the new/amended policy and inform the board/council that the public notice will be advertised.



- 7 The public notice will inform the citizens of the locality that new/amended policy has been proposed and that public comments are requested.

- 8 Once the public comment period is complete, County/Town Staff will review the public comments, make necessary changes, and then revisit the Board of Supervisors or Town Council. Public Comments will be shared and staff will make a recommendation to either pass or not pass the policy.



- 9 The Board of Supervisors and Town Council will vote.

- 10 If passed the new/amended policy will go into effect on a proposed date.

- 11 If the policy is not passed then revisit #2 and seek additional support.

Figure 5

Contributing to Public Policy Changes

FOCUS: LEGISLATION

With a need for citizens and citizen groups to understand how they can turn their ideas into new and/or amended legislation the diagram below provides a step-by-step process to accomplish this.



- 1 Individuals or groups of citizens should organize ideas. What change are you trying to achieve? Why? Who/what will the change impact?



- 2 Meet with a community leader / topic expert to review and solidify thoughts and objectives. Gain local citizen support or stakeholder support along the way.
- 3 Meet with local government, planning district commission staff or the Delegate to present suggested amendments or new legislation. Amount of support should be identified and regulation will be pin pointed.



- 4 With enough regional or district wide support, work with the Delegate to refine language of new/amended legislation.



- 5 The Delegate will introduce the bill to the General Assembly and present to the appropriate committee.



- 6 If the bill is passed the new/amended legislation will go into effect on a proposed date.
- 7 If the bill is not passed then revisit #2 and seek addition support.

Figure 6

IV. CONCLUSION:

Doug Meredith of Virginia’s Gloucester County Economic Development Department notes, “Working watermen are an integral part of this economy and community. You want balanced development in your community, and that includes this important industry that has been a major part of our history.” Therefore as Tidewater Planning District Commissions continue to work toward developing a Working Waterfronts Plan for Virginia, this toolkit provides a variety of options for localities to consider. Each locality will have a differing degree of interest in acknowledging, protecting, restoring and/or enhancing their working waterfront, and yet this toolkit offers something for every community.

V. Appendix 1 –
Required Real Estate Disclosures in Virginia
(VAC § 55-519)

§ 55-519 Required disclosures.

A. With regard to transfers described in § [55-517](#), the owner of the residential real property shall furnish to a purchaser a residential property disclosure statement in a form provided by the Real Estate Board stating that the owner makes the following representations as to the real property:

1. The owner makes no representations with respect to the matters set forth and described at a website maintained by the Real Estate Board and that the purchaser is advised to consult this website for important information about the real property; and
2. The owner represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code (§ [36-97](#) et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, except as disclosed on the disclosure statement, nor any pending violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as disclosed on the disclosure statement.

B. At the website referenced in subdivision A 1, the Real Estate Board shall include language providing notice to the purchaser that by delivering the residential property disclosure statement:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary including obtaining a certified home inspection, as defined in § [54.1-500](#), in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;
2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;
3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § [15.2-2306](#), including review of any local ordinance creating such district or any official map adopted by the locality depicting historic districts, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;
4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ [62.1-44.15:67](#) et seq.) adopted by the locality where the property is located pursuant to § [62.1-44.15:74](#) and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be

contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ [19.2-387](#) et seq.) of Title 19.2 and that purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;
6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;
7. The owner makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;
8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;
9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property; and
10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.

C. Any purchaser who is a party to a real estate purchase contract subject to this section may provide in such contract that the disclosures provided on the Real Estate Board website be printed off and provided to such purchaser.

Appendix 2 – Smart Growth and the Coast & Waterfront

Smart Growth Principals and how it relates to the Coast and Waterfront

This information is from the NOAA's Coastal and Waterfront Smart Growth website. For more information please visit: <http://coastalsmartgrowth.noaa.gov/approaches.html>

1. Mix land uses:

Smart Growth Principle

In contrast to conventional development approaches that isolate residential, commercial, and civic uses from one another, mixing these land uses creates vibrant, sustainable communities. Putting homes, stores, offices, schools, and other uses close to one another makes it easier for residents to walk or bike to their daily destinations instead of driving. Communities can use existing infrastructure more efficiently, with the same sidewalks, streets, and utility systems serving homes, commercial centers, and civic places. Having these diverse uses in the same neighborhood generates vibrancy from active, pedestrian-friendly streets, sidewalks, and public spaces.

Coastal and Waterfront Context

In coastal and waterfront communities, thoughtfully integrating a mix of land uses with the waterfront can deliver these same benefits. This approach can also incorporate the area's distinctive visual, historical, and natural features into the daily life of residents and visitors, giving people a strong connection to the water. On the coast or waterfront, a mixed-use approach to development may mean weaving water-dependent uses with those not dependent on the water. While some uses may complement one another, others may require buffers, such as warehouses, research facilities, or open space, to separate ports and heavy industry from homes, schools, shops, and other incompatible uses. Integrating compatible, non-water-related uses with the water-dependent ones that have traditionally defined the identity of coasts and waterfronts can provide a more stable economic base. If water-dependent activities slow down because of economic conditions, weather, or seasonal fluctuations, the compatible non-water-dependent uses can help sustain the local economy and continue to serve the daily needs of those who live, work, and play in the community.

The challenge in many waterfront and coastal communities is to provide and protect this mix of uses when faced with changing development conditions. Population growth, demographic changes, and declining natural resources like fish stocks will affect the value and use of waterfront land. In communities experiencing rapid growth and high demand for land, as well as those with slower growth or economic decline, a mixed-use approach to development provides a way to plan for growth that protects the environment and strengthens the economy. In all cases, preserving working waterfronts and public access to the water requires communities to plan ahead and create a vision for future growth that retains this mix of uses.

2. Take advantage of compact design

Smart Growth Principle

Compact design of buildings and neighborhoods can help communities use land more efficiently, which has several advantages. Well-designed, appropriately scaled compact development accommodates more uses on less land, which preserves natural areas and requires less funding for building and maintaining infrastructure. Compact communities can provide a wide range of housing choices, from single-family homes to apartments and townhouses, allowing people of different incomes and at different stages of life to live in the same neighborhood. As mentioned in Element 1, when a variety of uses are close together, people are more likely to walk, public places are livelier, and a civic identity develops more readily than in a conventionally planned development. Compact communities also help achieve the population density needed to support more transportation choices, including public transit. The form and density of compact design will vary with its context, with urbanized settings being generally appropriate for more units per acre than rural ones.

Coastal and Waterfront Context

Coastal and waterfront communities have a natural boundary—the water—that makes efficient land use critical. Not only is development physically limited within this boundary, but proximity to the water is often of highest value and at greatest risk from natural hazards, requiring an approach to community and building design that provides high structural integrity and the greatest benefit on the least amount of land. Compact community design accommodates increased development in waterfront districts through higher densities and narrower streets. Through smaller building footprints for new construction, reuse of existing buildings, and creative solutions to parking (discussed in Element 8), compact building design can leave undeveloped land to absorb rainwater, thereby reducing the overall level of impervious surface in the watershed. Together, compact community and building design techniques reduce runoff, flooding, and stormwater drainage needs, contributing to better watershed health. For waterfront communities dependent on the health and beauty of neighboring waters, these outcomes are vital.

3. Provide a range of housing choices

Smart Growth Principle

As individuals pass through various stages of their lives, their housing needs, as well as what they can afford, vary. Young adults just starting out, families, and retired people all need different types of housing, but because of the way housing is built in many communities, they may not be able to stay in the same neighborhood as their needs and income levels change. Communities with smart growth policies meet these challenges by providing a broad range of housing types, with easy access to jobs, schools, shops, and recreation, to meet the needs of households at varying income levels. Implementing this approach lets communities use infrastructure more efficiently, accommodate the housing needs of all residents, and help everyone, from aging citizens to young people getting their first home, remain in the community.

Coastal and Waterfront Context

Waterfront communities face the additional challenge of providing housing for permanent and seasonal residents and workers. Seasonal influxes of visitors and demand for second homes can overwhelm the existing housing supply in resort towns or vacation destinations, driving prices up and adding to the cost premium already associated with land near water. The result is that housing is unaffordable for much of the workforce, such as police officers, teachers, and retail employees that communities need to grow and thrive. These employees may choose to endure long and costly commutes from less expensive inland locations, generating congestion and pollution. In the long term, affordable housing choices help protect the environment and keep the local economy viable.

4. Create walkable communities

Smart Growth Principle

In a walkable community, trips by bicycle or on foot are viable transportation alternatives to the car. Walkable communities locate a mix of uses, such as homes, shops, and schools, close to each other. They provide sidewalks, crosswalks, and bike lanes that create safe passage for walkers and bikers, and they offer convenient, well-designed parking that encourages people to park and walk to their destination. Walkable communities offer more transportation choices, higher levels of social interaction, greater opportunities for physical activity, and reduced emissions from automobile travel.

Coastal and Waterfront Context

For waterfront communities, improving the connection between pedestrians and the water can increase interest in walking and biking and help to decrease the pressures of seasonal traffic. The pedestrian connection to the water can be improved physically, with better street, path, and trail connections, and with access points to the water that are open to the public. The connection also can be approached visually, by designing the built environment in ways that preserve the view of the water and encourage residents and visitors to access the waterfront on foot. Orienting the built environment to the water can improve public access to it and encourage a better appreciation of this precious asset.

5. Foster distinctive, attractive communities

Smart Growth Principle

Vibrant streets and attractive public spaces are hallmarks of healthy communities. Distinctive features such as tree-lined boulevards, historic buildings, or rows of shops and cafes make neighborhoods and downtown centers places where people want to be. Old buildings lend themselves to reuse as housing, businesses, and cultural centers; new building designs can blend with the character of surrounding structures and the environment. Smart growth approaches reflect the varied interests of community residents, creating a more cohesive community fabric that helps maintain economic vitality.

Coastal and Waterfront Context

Many of the techniques that inland communities use to ensure that new growth and development enhance the character of a place also apply to communities along the water. Waterfront and coastal communities are defined by the sights, sounds, and smells of the water; the activity on the docks or wharves; and the opportunity to boat, swim, and fish nearby. While historically these communities took advantage of their location for industries such as shipbuilding, fish processing, and warehousing, over time many of the buildings and docks that supported those activities have fallen into disrepair. But communities can adapt neglected historic buildings and structures for reuse. Protected and restored lighthouses, harbors, and public piers can affirm historical connections and draw both visitors and residents. These features not only represent physical assets that illustrate the community's sense of place, but they can also be the center point for redevelopment that strengthens the local economy.

6. Preserve open space and critical environmental areas

Smart Growth Principle

Natural and working lands play an essential role in the economic, environmental, and social well-being of communities. Natural areas and parks increase neighboring property values, attract businesses and residents, support tourism, offer opportunities for recreation, and provide scenic value. Farmlands provide food; working forests provide timber. Wetlands, forests, stream buffers, and other critical environmental areas provide many additional benefits, including water and air filtration, recharge of precious groundwater resources, protection of drinking water supplies, and habitat for plants, animals, and beneficial insects. Conserving these resources is important to the environmental health and well-being of any community as it grows or redevelops.

Coastal and Waterfront Context

Coastal and waterfront communities depend on their working lands, waterscapes, and ecological systems. The dynamic natural processes that characterize the shifting boundary between the land and the water create beautiful landscapes that are essential to both local ecology and economy. Freshwater and tidal creeks, marshes, cliffs, dunes, estuaries, and beaches intertwine to support complex ecological systems that provide invaluable services. Wetlands provide critical habitat, mitigate flooding, and capture and retain sediments, helping to keep pollutants from reaching downstream waters. Estuaries provide essential nurseries for commercial and recreational fish species. And beach and dune systems protect the shoreline against the natural hazards of erosion, storms, and sea-level rise. Local economies fueled by such activities as sport and commercial fishing, recreation, tourism, and retiree and artist communities rely on the natural assets that support them.

7. Direct development toward existing communities

Smart Growth Principle

Infill development in existing communities, where roads, utilities, and transportation connections are already in place, is a preferred growth strategy because of the many environmental and economic benefits it provides. When communities convert underused infill sites, such as parking lots or vacant properties, into vibrant mixed-use developments, they strengthen their local tax base, concentrate growth, and reduce pressure to

convert undeveloped land, yielding significant air and water quality benefits. Redevelopment of brownfields-sites where reuse is complicated by real or perceived contamination-removes environmental hazards from communities and provides new investment opportunities in areas already well served by infrastructure. New development and investment in these infill locations can re-energize lagging commercial corridors, providing new stimulus to preserve traditional uses and promote recreational opportunities that strengthen the local economy.

Coastal and Waterfront Context

In many coastal and waterfront areas, properties at the water's edge are prime redevelopment targets, since they are in or near the historic center of the community, are well connected to land- and water-based modes of transportation, and are close to jobs, services, and tourist sites. Waterfront revitalization can enhance historic, cultural, and scenic resources, supporting community efforts to maintain a strong sense of place while protecting the water and other natural resources.

However, redevelopment of waterfront properties can pose challenges as well as opportunities. Historic buildings are distinctive, potentially profitable opportunities for reuse. But to encourage their renovation, communities may have to adopt "rehab" codes to offset the unintended barriers to redevelopment that standard building codes for new construction may contain. Brownfield revitalization efforts along the water also may be complicated because of the presence of protected, threatened, and endangered species and the possibility of contaminant runoff. Furthermore, the redevelopment of buildings to support non-water-dependent uses in areas traditionally dominated by water-dependent uses can result in displacement and gentrification (see Element 1 for further discussion of mixing uses). Finally, all coastal and waterfront communities need to consider their vulnerability to natural hazards such as storms and flooding, and, for those on the coast, the risks from sea level rise, so that revitalizing the waterfront does not make the community more vulnerable to natural disasters.

8. Provide a variety of Transportation Options

Smart Growth Principle

Giving people more options for getting around meets many community goals. When people find it easy and safe to walk, bike, or take transit, they no longer have to rely exclusively on cars to get to shops, work, and school, reducing air pollution and traffic congestion. Walking and biking also help people include physical activity in their daily routines, give more freedom to those unable or unwilling to drive, and can reduce household transportation costs.

Coastal and Waterfront Context

While waterfront and coastal communities share many of the transportation-related concerns faced by inland communities, their proximity to water creates distinct transportation challenges as well as opportunities. All communities wrestle with traffic congestion; in waterfront communities, this congestion can be exacerbated by local topography, bridges, surges in seasonal visitors and part-year residents, and the hub-and-spoke nature of marine-based freight movement. Parking can be a challenge in any vibrant economic center; seasonal and weekend waterfront visitors or part-year residents compound that challenge.

9. Make development decisions predictable and fair

Smart Growth Principle

In most communities across the country, the private sector is responsible for the overwhelming majority of new development. New development has many costs. Most of them-land, materials, and labor, for instance-can be accurately identified and accounted for by a developer. However, the costs for permitting, zoning variances, site reviews, and compliance with applicable regulations are often less clear and can be compounded by the time each process takes. Because compact, mixed-use projects diverge from conventional plans for single-use projects, they are more likely to need extra reviews in communities that do not have smart growth-supportive zoning codes. For development projects to succeed, they must be buildable within a reasonable timeframe, with a likely profit commensurate with their risk. The public sector can support

environmentally responsible development by reducing barriers to smart growth, ensuring that the development process for all projects is efficient, fair, and transparent.

Coastal and Waterfront Context

In waterfront and coastal communities, strong and often competing demands between development, recreational uses, and protection of the environment must be balanced. The uncertainty in development can be magnified by the extra layers of local, state, and federal regulations that apply along the water. Often, planning and permitting agencies have different roles and responsibilities that must be reconciled. By creating an easily understood, predictable development process, waterfront and coastal communities can create a climate that is more likely to produce projects that meet multiple community goals. This can be achieved by effectively coordinating across regulatory agencies, providing non-regulatory incentives, and allowing flexibility in local development policies.

10. Encourage community and stakeholder collaboration

Smart Growth Principle

One of smart growth's signature characteristics is a meaningful public involvement process that ensures that the needs and concerns of all affected stakeholders are identified and addressed. Successful development requires inclusive planning processes that give community members and other stakeholders a clear voice in the development process. Growth can create great places to live, work, and play-if it responds to the community's vision of how and where it wants to grow.

Coastal and Waterfront Context

An inclusive planning process is critical for waterfront and coastal communities because of the complex regulatory environment, the diversity of stakeholders, the demand for public access to the water, and the competing interests for use of waterfront resources. What happens on and near the water can enhance property values, support businesses, enhance community resilience to natural hazards, and greatly affect a community's overall quality of life.

Appendix G:

Memo to Tidewater Localities Addressing Identified Stressors



COMMISSIONERS

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Hon. Margaret H. Davis
Mr. A. Reese Peck
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Town of Urbanna

Hon. Steve Hollberg

Secretary/Director

Mr. Lewis L. Lawrence

DATE: December 14, 2015

TO : Middle Peninsula, Northern Neck and Eastern Shore Local Government Administrators

FROM: Lewie Lawrence, Executive Director MPPDC 

RE: Local Government Working Waterfronts Toolkit

During the summer and fall of 2015, Mr Bill Pruitt met with stakeholders across the Middle Peninsula, Northern Neck and Eastern Shore to discuss historic and current uses of working waterfront space, the economic value of working waterfronts, and legal, policy, and financing tools that can be used to preserve, enhance, and protect these valuable areas.

Across the three PDCs, Mr. Pruitt convened well over 200 meetings with local Boards of Supervisors, individual Board of Supervisor members, local government administrators, and local working waterfront business leaders. Through these meetings, 12 working waterfront issue areas or “stressors” were consistently expressed by each region.

A brief summary of the twelve (12) issues or “stressors” identified is attached along with suggested planning and policy tools that are available to local governments to address working waterfront needs. Specifics on the planning and policy tools identified can be further explored in the National Working Waterfront Toolkit (<http://www.wateraccessus.com/toolkit.html>). The Toolkit also features case studies of successful working waterfronts initiatives from communities around the country. We encourage your local planning staff to explore this toolkit to increase local knowledge, awareness, and implementation strategies to ensure the preservation of working waterfronts in the Tidewater region.

Lastly, these stressors and tools will be referenced in the development of a Virginia Working Waterfronts Master Plan, including recommendations and strategies specific to the Middle Peninsula, Northern Neck and Eastern Shore. This plan should be available for local review later this summer.

MIDDLE PENINSULA, NORTHERN NECK AND EASTERN SHORE WORKING WATERFRONT STRESSORS

During 2015, local focus meetings were held by Mr Bill Pruitt to gain a sense of what local and state policy actions are needed to protect, enhance and expand Virginia coastal working waterfronts. Mr Pruitt focused on what is politically achievable and locally accepted. The results of these meetings will be synthesized and used as part of a Virginia Working Waterfronts Policy Tool Kit. The tool kit will be integrated into a final 2016 Virginia Working Waterfronts Plan and will help provide the basis for the plan's action items designed to protect and enhance working waterfronts throughout the coastal zone, including enforceable policy actions needed. Many of the items listed below can be addressed through modifications and clarifications of existing land use policies. Some suggestions will require more substantive discussion with your planning commissions and local stake holders. Please visit <http://www.wateraccessus.com/toolkit.html> for more specific

As the 2016 Virginia Working Waterfronts Plan is developed, each participating PDC will be responsible for coordinating with your local staff should you have questions about any of the suggested strategies or tools suggested below and to be included in the statewide plan. As future funding is tied to the local considerations of recommendations, please see that your planning staff and planning commission is made aware of the below.

1. *Shifting Development Patterns*

Policies and Regulations may be drafted and adopted to address working waterfront issues. Building and development codes, for example, may impose water-dependent use requirements. Permitting can be designed to require consideration and mitigation of the impact of a working waterfront conversion on water-dependent business or uses. Local zoning code is a regulatory tool also commonly used to preserve and protect desired uses such as working waterfronts from changes in development patterns.

2. *Land Use Change*

Zoning- Zoning may be used to help fully realize any working waterfront goals, especially if those goals have been clearly articulated in local comprehensive plans. For example, zoning may help ensure that water-dependent uses, such as marinas, maintain priority and that other authorized uses, such as commercial spaces, are compatible.

3. *Appropriate use of Zoning to ensure that the waterfront is managed in a harmonious way*
Zoning and development codes may be used to protect working waterfront uses and surrounding uses that may impact working waterfront properties.

4. *Additional comprehensive plan language needed*

Planning- Comprehensive Plans are strategic planning tools that help to guide and manage development to meet anticipated goals of a community. Local governments can use comprehensive plans, including waterfront master plans, harbor management plans, and special area management plans, to incorporate provisions to preserve and plan for the needs of working waterfronts.

Saluda Professional Center ♦ 125 Bowden Street ♦ PO Box 286 ♦ Saluda, Virginia 23149
(Phone) 804 758-2311 ♦ (Fax) 804 758-3221 ♦ (Email) pdinfo@mppdc.com
<http://www.mppdc.com>

5. *Loss of Commercial Processing Facilities*

Sometimes the most effective means of protecting or enhancing a working waterfront is to buy the property. For instance, a local government may choose to purchase a dock or marina to ensure continued public use and access. Up to date Working Waterfront Mapping and Inventory - inventoried and mapped working waterfront land (including ownership patterns), provides a comprehensive understanding of the status of working waterfront access and a baseline for tracking changes. Zoning and development code, specifically as it pertains to redevelopment or reuse, has been used to preserve commercial processing facilities that may be classified as nonconforming.

Other tools that may be utilized:

- Policies and regulations
- Zoning
- Land Conservation, Transfers & Acquisitions

6. *Loss of Commercial Fishing Facilities*

Land Conservation, Transfers & Acquisitions -Several tools may be used to preserve working waterfront infrastructure including property rights transfers and acquisitions. Local governments may purchase a dock or marina to ensure continued public use and access. Private owners, nonprofit organizations, and government agencies can form public/private partnerships or agreements to pursue the purchase and acquisition of working waterfront property and interests for public use.

Other tools that may be utilized:

- Policies and regulations
- Zoning
- Mapping and Inventory

7. *Maintain a network of public tie up facilities*

Financing- Government funding and appropriation set asides for private businesses to assist with acquisition and maintenance of private infrastructure for public use may can come from a variety of sources, including grants, general fund revenue, and the issuance of state and municipal bonds.

Other tools that may be utilized:

- Land Conservation, Transfers & Acquisitions
- Private Agreements

8. *Private WWF business owners (marina owners, dock owners, fish and oyster houses etc) need preservation of commercial slips that are spatially correct (i.e. located in places that work for the watermen) and seasonally correct (i.e. open for use by watermen when they need them)*

Private Agreement- Local and state governments also own working waterfront infrastructure and can enter into private agreements like any other landowner.

9. *Tools to expand oyster farming*

Grants, Taxation and Incentives – Virginia’s watermen harvest 50 commercially valuable species from some 620,000 acres of water. In order of economic value, these traditional species include sea scallops, clams, blue crabs, flounder, croaker, striped bass, oysters, black sea bass, conch and catfish. Continued growth of the shellfish aquaculture industry in Virginia has added significant value to the state’s seafood marketplace. Virginia’s watermen-farmers are providing consumers with a growing quantity of hard clams and oysters that represent \$36.9 million in dockside value. The Virginia Legislature ratified House Bill 1634 in 1999, creating the Fishery Resource Grant Trust Fund to "protect and enhance the state's coastal fishery resources" through the awarding of grants. Local Governments could consider matching on a one to one basis any qualified local oyster business expansion proposal submitted to the Fishery Resource Grant Trust Fund.

Taxation burdens can also be mitigated through changes in local and state tax policy that provide incentives for maintaining working waterfront businesses, access or protection. Reductions in taxes and other incentives provide financial benefits to encourage and assist with business expansion. Recommendations will be included in the State Working Waterfront Master Plan for specific changes to state tax policy.

10. *Tools for Business Legacy Planning and Transition Planning*

Community/ Stakeholder Workshops Working waterfront stakeholders in any given community are those who are most affected by changes to the waterfront to include both public and private stakeholders. Limited public waterfront land exists across the Chesapeake Bay regions that could be used for transition planning; the majority of waterfront property is under private ownership. As such, private stakeholder engagement and participation is critical in visioning, planning, and implementing actions along the waterfront. Outreach and education is necessary to provide stakeholders with the tools necessary to assist local governments with working waterfront preservation.

Covenants are private tools, described as a formal agreement or promise, usually written into a contract or deed, to do or not do a particular act. A land trust, for example, might place a covenant on land it purchased to require that a working waterfront business be maintained for a certain period of time. Mutual covenants among members of a homeowners association are promises to respect the rules of conduct or restrictions on use of property. Covenants which run with the land, such as permanent easement of access or restrictions on use, are binding on future title holders of the property.

11. *Improved Understanding of Existing and New Tools to Protect Water Quality*

Clarity and transparency in updating policies and regulations may be necessary to enhance public understanding of water quality protection tools that are available. Public input in the planning and adoption of regulations also plays an intricate part in helping the community understand what options are available and why.

Other tools that may be utilized:

- Community/ Stakeholder Workshops

- 15.2-1200 General Powers of Counties provide local government with the ability to protect water quality by adopting specific regulations for the prevention of the pollution of water which is dangerous to the health or lives of persons residing in the county.
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12. *Dedicated State Funding for existing public Working Waterfront infrastructure*

Financing- State funding and set asides for public waterfront infrastructure use could include grant and loan programs. The Commonwealth of Virginia should reinstate 58.1-2289 Disposition of Tax revenue generally sub section “D”, which is specific to funding construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft

- 58.1-2289 Disposition of Tax revenue generally (D) ... one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft.