

**Chesapeake Bay Local Assistance Board
Monday, September 15, 2008
Department of Forestry New Kent Conference Center
Providence Forge, Virginia**

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chairman	William E. Duncanson, Vice Chairman
Gregory C. Evans	Barry L. Marten
Rebecca Reed	Richard B. Taylor
John J. Zeugner	

Chesapeake Bay Local Assistance Board Members Not Present

Beverly D. Harper	Charles B. Whitehurst, Sr.
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DCR Staff

Joseph H. Maroon, Director
Russell W. Baxter, Deputy Director
Joan Salvati, Director, Division of Chesapeake Bay Local Assistance
David Sacks, Assistant Director, Division of Chesapeake Bay Local Assistance
Amy Doss, Senior Environmental Planner
Nathan Hughes, Watershed Specialist
Adrienne Kotula, Principal Environmental Planner
V'lent Lassiter, Senior Environmental Planner
Daniel Moore, Principal Environmental Planner
Shawn Smith, Principal Environmental Planner
Michael R. Fletcher, Board and Constituent Services Liaison
Elizabeth Andrews, Office of the Attorney General

Others Present

Clay Bernick, City of Virginia Beach
Jeff Gore, Surry County
Rhonda Mack, Surry County
Marshall Sebra, Town of Kilmarnock
Lynn Straughan, Wetland Studies and Solutions

Call to Order

Mr. Davis called the meeting to order and asked for the calling of the roll. A quorum was declared present.

Mr. Davis welcomed Mr. Barry Marten as the newest member of the Board. Mr. Marten represents the Peninsula portion of the Hampton Roads PDC.

Consideration of the Minutes

MOTION: Mr. Evans moved that the minutes of the following meetings be approved as submitted by staff:

- July 16 Board
- July 16 Policy
- August 12 NARC
- August 12 SARC
- August 12 Policy

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report. He expressed appreciation to the Department of Forestry for the use of the New Kent Conference Center.

Mr. Maroon welcomed Mr. Marten and noted that Mr. Evans had been reappointed to a four-year term. He said that staff had prepared a commending resolution to Gale Abbott Roberts for her service to the Board, and with the concurrence of the Board that would be forwarded to Ms. Roberts. The resolution read as follows:

DEPARTMENT OF CONSERVATION & RECREATION

COMMENDING RESOLUTION

Presented to

GALE ABBOTT ROBERTS

At a regular meeting of the Chesapeake Bay Local Assistance Board held on Monday, September 15, 2008, at the Department of Forestry New Kent Conference Center, Providence Forge, Virginia the following resolution was unanimously adopted.

WHEREAS, Gale A. Roberts of Williamsburg, Virginia, represented the Citizens of the Commonwealth and the Southeastern portion of the Hampton Roads Planning District on the Chesapeake Bay Local Assistance Board; and

WHEREAS, bringing her experience and commitment to the protection of the water quality of the Chesapeake Bay and its tributaries, Ms. Roberts served on the Chesapeake Bay Local Assistance Board from July 1, 2004 to June 30, 2008; and

WHEREAS, Ms. Roberts brought private sector experience and perspective on Chesapeake Bay Preservation Act issues to this Board, thereby exhibiting a unique understanding of how the Act and its implementing Regulations affect development activities; and

THEREFORE BE IT RESOLVED, that on behalf of the citizens of the Commonwealth, The Chesapeake Bay Local Assistance Board and the Virginia Department of Conservation and Recreation extend sincerest appreciation to Gale Abbott Roberts for her service to this Board, recognizing with gratitude, her contributions, and dedication to protecting the water quality of the Chesapeake Bay through the review of Chesapeake Bay Preservation Act Programs.

Mr. Maroon said that, without objection, Mr. Davis and he would sign the resolution and it would be forwarded to Ms. Roberts.

Mr. Maroon said that CBLA staff is expected to relocate to the Pocahontas Building which is located on Main Street and across from the Capital. The move will likely take place by spring of 2009. The move was precipitated by the Virginia Community College System, which is in need of more space and will be moving to the 17th floor. DCR is working with the Department of General Services to ensure the space at Pocahontas is equivalent to what the staff has now.

Mr. Maroon said that DCR like all agencies is in the midst of preparing budget reduction strategies for 5, 10, and 15% reductions of general fund support. He said that could mean cuts as high as \$ 6 or \$ 7 million. This is very significant and could mean cutbacks in service, staff and programs. An internal budget team is working on the DCR submission which is due in three weeks. He said that DCR hoped to protect full time employees. He indicated he would have a better picture of the budget at the December meeting.

Mr. Evans asked if there was the possibility that there would be offsets toward the Chesapeake Bay program based on the funding levels in the new federal farm bill.

Mr. Maroon noted that the 2008 Farm Bill had recently passed Congress. He said there was a provision that dealt specifically with the Chesapeake Bay. Traditionally when this money is authorized, 80% is at the federal level. He said that with those calculations Virginia could expect \$5-8 million per year. He said that the money would be directed through the Natural Resources Conservation Service.

Mr. Maroon said that revisions to the Stormwater Management Regulations were moving forward. He suggested that it would be helpful to brief the Board on those actions at the

December meeting. He said that the Soil and Water Conservation Board would be considering the regulations at their September 24-25 meeting. The hope is that the regulations would be finalized before the end of calendar year 2009.

Mr. Maroon said that Ms. Salvati has established an agency workgroup across four divisions. The workgroup is coordinating across division lines to establish a team to provide assistance to localities.

Ms. Salvati said that there are four divisions that provide specific types of assistance to localities. The idea was to develop a matrix or document that identifies the topic areas where localities may need assistance. This will assist localities in knowing whom they call or where they go on the DCR website for the information they need. Because there is some degree of overlap the hope is that this will provide a better coordination.

Mr. Maroon said that this came from initial discussions regarding the Governor's upcoming year of the environment.

Mr. Evans said that because of the work on the new stormwater regulations that this type of forum might be a good way to surface policy considerations that a joint board meeting might address.

Mr. Maroon said many of the concepts will become clearer once the Board is briefed on the stormwater regulations. The Board has previously met in session with the Soil and Water Conservation Board and the State Water Control Board.

Mr. Davis said that he had discussed the possibility of a joint Board meeting with Secretary Bryant. The hope is that such a meeting could take place by March of 2009.

Mr. Davis asked if there would be public hearings on the stormwater regulations.

Mr. Maroon said that several public hearings would be scheduled, most likely in the spring.

Mr. Maroon said that the stormwater regulations are a statewide program and not just specific to the Bay watershed. He said that for many localities in the western part of the state this program was new to them.

Mr. Maroon said that DCR, in conjunction with VIMS, will be conducting a Perennial Flow Workshop on September 23 and 24 at VIMS in Gloucester Point. This will be the fifth consecutive year this training has been provided.

Annual Performance Indicators

Mr. Sacks presented the annual performance indicators.

FY 2007-08 Compliance Evaluations

- Localities Determined Compliant prior to FY 2008: **29**
- Determined Compliant during FY 2008: **19**
- Determined “Noncompliant”: **0**
- Determined by Board to “not fully comply” and given conditions necessary for full compliance: **23**
- Localities found compliant during FY 2007-08:

Cities

Falls Church, Alexandria, Fairfax City, Hopewell, Newport News

Towns

Quantico, Clifton, Bowling Green, Herndon, West Point, Tappahannock

Counties

Fairfax County, King William, Middlesex, King and Queen, Caroline, Arlington, Mathews, Spotsylvania

Performance Indicators

FY 2007-08
(July 1, 2007 – June 30, 2008)

- On-site Technical Assistance: 66 (increase of 89% from FY 07)
- Education and Outreach Activities: 31 (increase of 94% from FY 07)
- Training Seminars and Workshops Conducted: 32 (increase of 100% from FY 07)
- Federal/State EIR’s reviewed: 352 (increase of 53% from FY 07)
- Site Plans reviewed for local gov’ts: 65 (decrease of 43% from FY 07)

Quarterly Performance Indicators

Consistency and Compliance Review Status

“Phase I Consistent” means the required local ordinances (zoning, subdivision, maps, etc.) are in place to designate CBPA’s and to require that the performance criteria are met.

“Phase II Consistent” means the required comprehensive plan components have been adopted.

“Compliant” means the locality is properly implementing the required Phase I components of the local Bay Act program.

As of June 16, 2008:

Localities Found Compliant: 48

Localities Addressing Compliance Conditions: 25

Expected Status as of September, 2008:

Localities Phase I Consistent: 84

Phase II Consistent: 84

Compliance Reviews Completed: 80

Localities Compliant: 53

Localities Noncompliant: 0

Localities Addressing Compliance Conditions: 27

Compliance Reviews in Progress: 4

Annual Implementation Report

- Required pursuant to 9 VAC 10-20-250 1
- CBLAB adopted March 2008
- For FY 2007-08, 35 localities required to submit report; others optional
- Information used to annually gauge changes and progress in local programs
- 34 required localities responded; 1 more expected
- 6 optional localities responded
- Ability to respond to questions varied considerably
- Follow-up on unclear responses is underway

Policy Updates*Guidance Amendment: Administrative Procedures for the Designation and Refinement of Chesapeake Bay Preservation Area Boundaries*

Ms. Smith said that an amendment was needed to the Administrative Procedures for the Designation and Refinement of Chesapeake Bay Preservation Area Boundaries guidance document which was adopted by the Board in 2003. She noted that staff had initiated this revision because there was an inconsistency between the body of the document and the appendix. The following revisions were recommended:

- Minor changes to clarify that Section 9 VAC-10-20-105 (plan of development review and WQIA processes) apply to areas within CBPAs
- Affects those few localities with linear width RMAs
- Clarifies how to evaluate sites within CBPAs which have water bodies, but which are not mapped as RPAs

Mr. Davis noted that the Policy Committee did consider this change. He noted that the guidance document with suggested revisions was provided in member packets. A copy of the document is available from DCR.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board adopt the staff recommended changes to the Board Guidance entitled "Administrative Procedures for the Designation and Refinement of Chesapeake Bay Preservation Area Boundaries."

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

Statewide Revisions to Regulatory Public Participation Guidelines

Mr. Baxter addressed necessary revisions to the Board's Regulatory Public Participation Guidelines. He noted that the revisions were part of an effort to streamline public participation guidelines throughout the Commonwealth.

Mr. Baxter noted that this action must be completed by December 1, 2008 or otherwise would require the full APA process.

Mr. Baxter said that the revisions address a series of provisions regarding public notice and public comment. He said that the revisions do not make a substantive change in the way the Board and the Department currently operate.

Mr. Davis asked if there were questions from the Board.

Mr. Evans asked for a clarification as to whether the revisions would constitute a change in what is considered a public meeting.

Mr. Baxter said that public meetings for the Board would continue to operate in the same manner.

Mr. Maroon noted that all DCR Boards have been asked to take similar action.

Mr. Davis opened the floor for public comment regarding this issue. There was no public comment.

MOTION: Mr. Taylor moved the following:

Motion to approve, authorize and direct through an exempt action the repeal of existing regulations and the filing of the final regulations related to the Board's Regulatory Public Participation Procedures (§ 9 VAC 10-10)

The Board authorizes the repeal of its existing Regulatory Public Participation Procedures Regulations (§ 9 VAC 10-10), adopts the Department of Planning and Budget's recommended model Public Participation Guidelines Regulations (§ 9 VAC 10-11), and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to submit through an exempt action these regulations and any other required documents to the Virginia TownHall and to the Registrar of Virginia.

This authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Attorney General, the Administration, and the Virginia Registrar of Regulations for the final regulatory action publication.

The Board requests that the Director of the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

SECOND: Ms. Reed
DISCUSSION: None
VOTE: Motion carried unanimously

Nontidal Wetlands Guidance

Ms. Salvati said that at the August 12 meeting of the Policy Committee, staff provided an update with regard to the Nontidal Wetlands Guidance. She said that there remain three localities that have chosen not to implement the guidance. She said that staff has met with the three localities in an attempt to better understand their specific concerns and to ensure that the localities understand what their option are with respect to the guidance.

The localities have been advised that they can either adopt the guidance or demonstrate to the Board how their program is consistent with the regulations while not being consistent with the guidance. Staff has also asked the localities to submit any recommended changes to the guidance.

Ms. Salvati said that at least one locality may bring a request to the December meeting for the Board to approve a different procedure.

Mr. Davis asked when the Board would be able to review that request.

Ms. Salvati said that the locality has adopted a policy document that will be provided to the Board along with the staff report. She said the Board would be asked to render a decision regarding the policy document.

Mr. Evans expressed a concern that the Board had spent 18 months developing the guidance and noted that it would be difficult to make such a determination at one meeting.

Ms. Salvati said that DCR had made it clear to the locality that staff would not recommend the locality policy to be consistent. She said that the proposal would be available at the SARC meeting in October.

Ms. Salvati said that two other localities are not applying the guidance.

Mr. Davis indicated that another option available to the localities is to recommend changes to the guidance for consideration by the Board.

Mr. Maroon noted that this was guidance and not regulations. He said that the revision to the guidance was a significant improvement. However, he noted that it would be helpful to hear the concerns of the localities.

Mr. Zeugner noted that two citizens spoke at the SARC meeting encouraging the Board to enforce the guidance within their locality.

Mr. Maroon noted that a consultant offered the same concerns at the SARC meeting.

No action was needed from the Board.

Consent Agenda

Mr. Sacks presented the consent agenda items. He noted that the Review Committee recommendations for both City of Hampton reviews were contingent upon the City adopting a minor amendment to their ordinance and that the City Council adopted that amendment on September 10. He also noted that the Review Committee recommendation for the Town of Haymarket was contingent upon the Town Council adopting an ordinance amendment on August 18, and that action did occur. He pointed out that the Town of Painter had been previously required by the Board to address one condition for consistency. At this point, staff and the Review Committee are recommending that the Town be found consistent given that the issue identified in the ordinance represents an activity undertaken by the County on behalf of the Town that the absence of the ordinance language has no effect on the implementation of the Town's program.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board approve the Consent Agenda items as presented by staff for the following localities:

City of Hampton – Phase I Condition Review

SARC recommends a finding of consistent

City of Hampton – Initial Compliance Evaluation

SARC recommends a finding of compliant

Town of Painter – Phase I Condition Review

SARC recommends a finding of consistent

Town of Ashland – Compliance Evaluation condition review

SARC recommends a finding of compliant

Town of Haymarket – Compliance Evaluation condition review

NARC recommends a finding of compliant

Town of Tangier – Initial Compliance Evaluation

SARC recommends a finding of compliant

Town of Exmore – Initial Compliance Evaluation

SARC recommends a finding of compliant

SECOND: Mr. Duncanson

DISCUSSOIN: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 15, 2008

RESOLUTION

LOCAL PROGRAM, PHASE I

CITY OF HAMPTON

Determination of Consistency– Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1 (a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS the City of Hampton adopted an amended Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on January 9, 2008; and

WHEREAS on June 16, 2008 the Chesapeake Bay Local Assistance Board found the City of Hampton's Phase I program consistent with one recommendation for consistency that was to be addressed by the City and set a compliance date of September 30, 2008; and

WHEREAS the City Council for the City of Hampton adopted amendments to the Phase I program on September 10, 2008; and

WHEREAS staff has reviewed the City of Hampton's revised Phase I program for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Hampton's Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on September 15, 2008.

Joseph H. Maroon

Director

Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
CITY OF HAMPTON*

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in June 2008, the Department of Conservation and Recreation conducted a compliance evaluation of the City of Hampton's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the City of Hampton's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

*LOCAL PROGRAM, PHASE I
TOWN OF PAINTER*

Determination of Consistency– Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1 (a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS the Town of Painter adopted an amended Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on February 13, 2003; and

WHEREAS on June 16, 2003, the Chesapeake Bay Local Assistance Board found the Town of Painter's Phase I program consistent with one recommendation for consistency that was to be addressed by the Town and set a compliance date of June 30, 2006; and

WHEREAS staff has reviewed the Town of Painter's Phase I program in light of additional information from a compliance evaluation conducted by the Department and approved by the Board on December 12, 2005; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Painter's Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on September 15, 2008.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF ASHLAND*

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on September 17, 2007, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the Town of Ashland's Phase I program did not fully comply with the Act and Regulations and further that the Town address the one recommended condition in the staff report no later than June 30, 2008; and

WHEREAS in June 2008, the Town provided staff with information relating to the Town's actions to address the one recommended condition which was evaluated in a staff report; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Ashland's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF HAYMARKET*

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake

Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on December 10, 2007, the Chesapeake Bay Local Assistance Board found that implementation of a certain aspect of the Town of Haymarket's Phase I program did not fully comply with the Act and Regulations and further that the Town address the one recommended condition in the staff report no later than June 30, 2008; and

WHEREAS in May 2008, the Town provided staff with information relating to the Town's actions to address the one recommended condition which was evaluated in a staff report; and

WHEREAS on August 12, 2008, the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Haymarket's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 15, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF TANGIER

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in Summer of 2008, the Department of Conservation and Recreation conducted a compliance evaluation of The Town of Tangier's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Tangier's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF EXMORE*

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in Summer of 2008, the Department of Conservation and Recreation conducted a compliance evaluation of The Town of Exmore's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Exmore's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Program Compliance Evaluation

Town of Kilmarnock

Ms. Lassiter gave the report for the Town of Kilmarnock. She noted that Marshall Sebra was present, representing the Town.

The Town of Kilmarnock is located in Lancaster County in the Northern Neck of Virginia. The Town is about 2.7 square miles in size with a population of approximately 1,250. The Town contains a balance of commercial and residential development and faces the Chesapeake Bay, with the Rappahannock River to the west.

The Department initiated a compliance evaluation for the Town of Kilmarnock on May 23, 2007. The compliance evaluation revealed that although the Town is striving to implement its local Bay Act program effectively, there are program elements that require improvement.

The first recommended condition stipulates that all references to "reduced buffer width" must be removed from the Town's Bay Act ordinance. In several places, the Town's ordinance refers to "reduced buffer width". Although encroachments to the RPA may be allowed if certain findings are met, the overall width of the buffer is never reduced.

The second recommended condition requires that the Town develop and implement a 5-year septic pump-out program. Lancaster County has indicated that they do not intend to manage the Town's program, so it will be the responsibility of the Town to do so. The

Town's ordinance does not provide for the inspection or plastic filter options, and the Department has recommended that they should consider adopting these options.

The third recommended condition states that the Town must require signed BMP Maintenance Agreements for all BMPs. No Maintenance Agreements were found in the files during the site plan review, although the commercial development that was reviewed had a large detention basin. The Assistant Town Manager is currently customizing Lancaster County's agreement for use by the Town.

The fourth recommended condition requires that the Town develop a methodology to determine which areas are within the RMA and create a map to accurately depict them. The Town's current map depicts RPAs, but not RMAs, which is problematic because the Town has only designated certain features as RMA rather than applying it jurisdiction-wide.

The fifth recommended condition states that Section 54-487 (c) of the Town's Bay Act ordinance must be deleted because it allows buffer equivalency calculations. The Department no longer allows the use of buffer equivalency calculations and instead recommends that local governments consult the Buffer Manual to ensure that all required buffer functions are met when development projects impact the 100-foot RPA.

Ms. Lassiter said that the staff recommendation was that the Board find that certain aspects of the Town of Kilmarnock's Phase I program do not fully comply with the Act and Regulations and that the Town address the 5 conditions contained in the staff report by September 30, 2009.

Mr. Sebra said that the Town will also be implementing and tracking WQIAs. He noted that was not a recommended condition, but that the Town would be doing that. He said the Town was well on the way to implementing the conditions. He said that the Town was comfortable with the deadline.

Mr. Maroon asked if the Town felt they needed the full year to meet the conditions for compliance.

Mr. Sebra said that they would prefer the year, but anticipated that the work would be done in less time. He said that the Town should be able to meet the conditions in 6 or 8 months.

Mr. Davis suggested that the Board review the program at the March meeting. If the Town has been able to meet the conditions the program could be deemed compliant at that time.

MOTION: Mr. Taylor moved that the Chesapeake Bay Local Assistance Board commend the diligent work of the Town of Kilmarnock to meet and comply with the conditions of the Act but that the Board find that the implementation of certain aspects of the Town of

Kilmarnock's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Kilmarnock to undertake and complete five recommended conditions contained in the staff report no later than September 30, 2009. Furthermore, the Board request that an interim report be provided at the March 2009 meeting.

SECOND: Mr. Zeugner
DISCUSSION: None
VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF KILMARNOCK*

Local Compliance Evaluation – Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in May, 2007, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Kilmarnock's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Town of Kilmarnock's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Kilmarnock to undertake and complete five recommended conditions contained in the staff report no later than September 30, 2009.

1. For compliance with Section 9 VAC 10-20-130 3 of the Regulations, all references to "reduced buffer width" must be removed from the Town's Chesapeake Bay Preservation Overlay District ordinance.
2. For compliance with Section 9 VAC 10-20-120 7 a of the Regulations and Section 54-485 (g) (1) of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must develop and implement a five-year septic pump-out program.
3. For compliance with Section 9 VAC 10-20-120 3 of the Regulations and Section 54-489 (e) (4) of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must require signed BMP Maintenance Agreements for all BMPs.
4. For compliance with Section 9 VAC 10-20-60 1 of the Regulations and Section 54-482 (b) of the Town's Chesapeake Bay Preservation Overlay District Ordinance, the Town must develop a methodology to determine which areas are within the RMA and create a map to accurately depict them.
5. For compliance with Section 9 VAC 10-20-130 3 of the Regulations, Section 54-487 (c) of the Town's Chesapeake Bay Preservation Overlay District Ordinance must be deleted and the Town must cease accepting buffer equivalency calculations for determining buffer mitigation requirements.

BE IT FINALLY RESOLVED that failure by the Town of Kilmarnock to meet the above established compliance date of September 30, 2009 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Kilmarnock to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Irvington

Ms. Lassiter gave the report for the Town of Irvington. There was no one present from the Town.

The Town of Irvington is located in Lancaster County in the Northern Neck of Virginia. The Town is about 2 square miles in size with a little less than 9 miles of shoreline. It sits on the shore of Carter's Creek, a tributary to the Rappahannock River, and once thrived as a steamboat town. It is primarily a residential community with a population of approximately 600 people. New development within the Town is limited, consisting mainly of redevelopment and additions or expansions to existing residential development.

The Department initiated a compliance evaluation for the Town of Irvington on April 4, 2008. Although the compliance evaluation revealed that there are program elements that require improvement, the Town has expressed eagerness to apply what they have learned during the compliance evaluation process to improve the Town's program.

The first recommended condition concerns the submission of WQIAs for any proposed land disturbance, development, or redevelopment within RPAs. Four of the projects evaluated during the compliance evaluation process requiring a WQIA did not contain one in the file.

The second recommended condition requires that the Town develop and implement a 5-year septic pump-out notification and enforcement program. Lancaster County has indicated that they do not intend to manage the Town's program, so it will be the responsibility of the Town to do so. The Town's Bay Act ordinance allows flexibility in that the installation of a plastic filter or documentation of inspection is allowed as an alternative to the pump-out requirement.

The third recommended condition states that the Town must ensure that all development and redevelopment within Chesapeake Bay Preservation Areas properly address nonpoint source pollution in accordance with the water quality provisions of the VA SWM Regulations. During site plan review, with the exception of one application, impervious

cover calculations were not included with the plans. Likewise, one site visited contained a water quality BMP, yet no documentation was provided in the file regarding this BMP.

The fourth recommended condition states that the Town must require signed BMP Maintenance Agreements for all BMPs and that they track BMP installation, inspection, and maintenance. Department staff has provided the Town with a BMP tracking database.

The fifth recommended condition requires that the Town properly depict Chesapeake Bay Preservation Areas on all development plans and WQIAs. During the evaluation, it was noted that in 3 of the 5 plans reviewed the RPA was not shown.

The sixth recommended condition concerns the administration of exceptions. One of the files reviewed involved an encroachment into the RPA but did not contain any documentation showing that the project went through the formal exception process, so it's unclear if the appropriate process was followed. The Town must administer exceptions consistent with Town code requirements and retain adequate documentation in support of its decisions on such exceptions.

Ms. Lassiter said that the staff recommendation was that the Board find that certain aspects of the Town of Irvington's Phase I program do not fully comply with the Act and Regulations and that the Town address the 6 conditions contained in the staff report by September 30, 2009.

Mr. Taylor asked how the Town had responded.

Ms. Lassiter said that the Town had been receptive. She said that the Town had been uncertain regarding necessary actions, but in that regard the compliance evaluation was very helpful.

Mr. Duncanson noted that three towns in Lancaster County had similar issues. He asked Mr. Sebra what had been the role of the County.

Mr. Sebra said that in the past the Town would request that the County provide review of large commercial sites.

Mr. Duncanson said that he did not see the need to have a separate BMP maintenance agreement for each town.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Town of Irvington's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Irvington to undertake and complete six recommended

conditions contained in the staff report no later than September 30, 2009.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF IRVINGTON*

Local Compliance Evaluation – Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in April, 2008, the Department of Conservation and Recreation conducted a compliance evaluation of Irvington's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Town of Irvington's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Irvington to undertake and complete six recommended conditions contained in the staff report no later than September 30, 2009.

1. For compliance with Section 9 VAC 10-20-130 6 of the Regulations and Section 3A-7 B of the Town's Chesapeake Bay Preservation Overlay District, the Town must document submission of a WQIA for any proposed land disturbance, development, or redevelopment within RPAs.
2. For compliance with Section 9 VAC 10-20-120 7 a of the Regulations and Section 3A-9 B(5) of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must develop and implement a five-year septic pump-out and inspection program.
3. For compliance with Section 9 VAC 10-20-120 8 of the Regulations and Section 3A-9 B(7) of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must ensure that all development and redevelopment within the Chesapeake Bay Preservation Overlay District properly addresses nonpoint source pollution in accordance with the water quality provisions of the Virginia Stormwater Management Regulations.
4. For compliance with Section 9 VAC 10-20-120 3 of the Regulations and Section 3A-11 D(3) of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must require signed BMP Maintenance Agreements for all BMPs and must track BMP installation, inspection, and maintenance.
5. For compliance with Sections 9 VAC 10-20-105 of the Regulations and Section 3A-10 and 3A-11 B of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must require that Chesapeake Bay Preservation Areas are properly delineated on all development plans and WQIAs.
6. For compliance with Section 9 VAC 10-20-150 C of the Regulations and Sections 3A-9 C(2), 3A-12 B and 3A-14 of the Town's Chesapeake Bay Preservation Overlay District ordinance, the Town must administer exceptions

consistent with Town code requirements and retain adequate documentation of any actions.

BE IT FINALLY RESOLVED that failure by the Town of Irvington to meet the above established compliance date of September 30, 2009 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Irvington to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Charles City County

Ms. Smith gave the report for Charles City County. She recognized John Bragg, Environmental Development Planner for the County.

Charles City County lies just west of Henrico and Chesterfield counties, south of New Kent County and east of James City County. It is bordered by the James River to the south and the Pamunkey and Chickahominy rivers to the north. It has a rich history with a number of preserved plantations along the James River. The County remains rural in nature, with an estimated population of just under 7,000 persons and a land area of 204 square miles. The County continues to grow slowly, with a grow rate of around 2.8 percent a year. Growth in the County is scattered around the existing road network.

The compliance evaluation for Charles City County was begun in the fall of 2007, with staff changes delaying its completion until summer of 2008. The initial meeting was held on September 26, 2007. Project files were reviewed on February 27, 2008 and site visits to selected project sites occurred on June 9, 2008.

The Southern Area Review Committee recommended that certain aspects of the implementation of the County's Phase I program did not fully comply and that the County address the following two conditions by September 30, 2009.

1. The County must develop and implement a 5-year pump-out/inspection program.

The County has taken steps to begin program development, working with RRPDC to develop a septic database.

2. The County must require a WQIA for any proposed land disturbance, development or redevelopment within the RPA.

The County has developed WQIA forms to address this condition, but will need to demonstrate over time that these forms are used consistently.

Ms. Smith said that County staff have been very cooperative, and have already taken steps to address the two recommended conditions.

Mr. Bragg thanked staff for their efforts in working with the County. He said that the County is looking at 3,000 sites regarding septic pumpout. He said that the County has addressed the requirements for WQIA, but has not had the appropriate documentation.

MOTION: Mr. Duncanson moved that Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of Charles City County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Charles City County to undertake and complete two recommended conditions contained in the staff report no later than September 30, 2009.

SECOND: Mr. Marten

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 15, 2008

RESOLUTION

***LOCAL PROGRAM COMPLIANCE EVALUATION
CHARLES CITY COUNTY***

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake

Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in Winter 2007 through Summer 2008, the Department of Conservation and Recreation conducted a compliance evaluation of Charles City County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Charles City County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Charles City County to undertake and complete two recommended conditions contained in the staff report no later than September 30, 2009.

1. For compliance with Section 9 VAC 10-20-120 7 a of the Regulations, Section 110.B(5) of the County's Bay Ordinance and Section 4.3 of the County's Septic System Control Ordinance, the County must develop and implement a septic pump-out/inspection program.
2. For compliance with §§ 9 VAC 10-20-130 1 a and 9 VAC 10-20-130 6 of the Regulations and Section 31-415(d)(1)A(ii)1 and Section 110.C.2(10) of the County's Bay Ordinance, the County must require a WQIA for any proposed land disturbance, development or redevelopment within the RPA.

BE IT FINALLY RESOLVED that failure by Charles City County to meet the above established compliance date of September 30, 2009 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231

and 250 of the Regulations and subject Charles City County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Surry County

Mr. Sacks gave the report for Surry County. He noted that Rhonda Mack and Jeff Gore from the County were present.

Department staff initiated the Compliance Evaluation process for the Surry County in January 2008. Surry County is a rural locality of 310 square miles located in the South Hampton Roads region of the state. It is a member of the Crater Planning District Commission and is affiliated with the Hampton Roads Planning District Commission as well. It is bound to the north by the James River, by Isle of Wight County to the east, Prince George County to the west, and Sussex County to the south. The 2000 census lists the County's population at 6,829, with a density of 23 persons per square mile. New development in the County is generally limited to single family homes on large lots in select areas on or near the James River, or along tributary streams of the James. Approximately 25 percent of the County's land mass is located in the Chesapeake Bay (James River) watershed. The remaining land area of the County is located in the Chowan River Watershed, which generally includes all areas south of Route 10.

The staff report recommended that the Committee find that certain aspects of the County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations. The County was asked to address six conditions outlined in the staff report.

Mr. Sacks said that the staff recommendation was that conditions 2 and 6 be addressed beginning on September 16, 2008 and the remaining four conditions be addressed by September 30, 2009.

Ms. Mack thanked the Board for the opportunity to address the recommended conditions referenced in the staff report. She noted that the County's Compliance Evaluation review began in March 2008 but said that it was not until after the August 12, 2008 SARC

meeting that County staff and DCR staff came to an agreement regarding the specific concerns.

Ms. Mack said that, although there was a five month window it appeared that the County concerns were not addressed until the SARC meeting.

Ms. Mack said that the County is in agreement with the conditions referenced in the staff report and has already begun the process of addressing these concerns.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Surry County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Surry County to undertake immediate action on condition numbers two and six by September 16, 2008 and to address the remaining four conditions contained in the staff report no later than September 30, 2009.

SECOND: Mr. Taylor

DISCUSSION: Mr. Zeugner said that he wanted to express appreciation that Surry County had been working with DCR staff. He said he would strongly encourage the County to complete revisions to their CBPA map.

Ms. Salvati said that staff would provide Board members with an update on the County's progress in resolving the six conditions at the March, 2009 Board meeting.

Mr. Davis asked that staff provide an update at the December meeting and allow the Board the option of removing these conditions if they are met satisfactorily.

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
SURRY COUNTY*

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in July 2008, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of Surry County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Surry County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Surry County to undertake immediate action on two of the six recommended conditions beginning September 16, 2008 and to address the remaining four conditions contained in the staff report no later than September 30, 2009.

1. For consistency with 9 VAC 10-20-60 1 and 9 VAC 10-20-90 B of the Regulations and Section 10.3.2 of the County's Chesapeake Bay Preservation District Ordinance, the County must revise its current Resource Protection Area and Resource Management Areas map to accurately depict the RMA as described in Section 10.3.2 of the County's Chesapeake Bay Preservation District Ordinance.

2. For consistency with 9 VAC 10-20-60 1 and 9 VAC 10-20-90 B of the Regulations and Section 10.3.2 of the County's Chesapeake Bay Preservation District Ordinance, the County must begin reviewing development projects within the James River Watershed for compliance with the Chesapeake Bay Preservation District Ordinance, as of September 16, 2008.
3. For consistency with Section 9 VAC 10-20-120 7 A of the Regulations and Section 10.5.5 of the Chesapeake Bay Preservation District Ordinance, the County must develop and implement a 5-year septic system pump-out and/or inspection program.
4. For consistency with Section 9 VAC 10-20-120.3 of the Regulations, the County must develop and implement a BMP database to track the type, installation date, location, and the inspections and maintenance records of all BMPs within those areas of the County subject to Chesapeake Bay regulations.
5. For compliance with Section 9 VAC 10-20-130 6 of the Regulations and Section 10.6.6 of the County's Chesapeake Bay Preservation District Ordinance, the County must ensure WQIAs contain all elements sufficient to demonstrate compliance with the County's Bay Act program.
6. For compliance with 9 VAC 10-20-150 C of the Regulations and Section 10.10 C of the County's Chesapeake Bay Preservation District Ordinance, the County must ensure, starting on September 16, 2008, that the five required findings necessary for review of exceptions are adequately addressed, and that exceptions are required only when necessary and only for proposed encroachments into designated Resource Protection Areas.

BE IT FINALLY RESOLVED that failure by Surry County to meet the above established compliance date of September 30, 2009 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Surry County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Virginia Beach

Ms. Smith gave the report for the City of Virginia Beach. She recognized Mr. Clay Bernick who was present from the City.

On June 18, 2007, the Board found that certain aspects of the City's implementation of its Phase I program did not fully comply, and that the City should address 9 conditions for compliance. The deadline was set as June 30, 2008. The conditions can be organized into two broad categories: Stormwater Management and RPA Issues.

On June 24, 2008, the City Council adopted ordinance revisions to address the three of the four stormwater management related conditions:

1. Maintenance agreements for all BMPs
2. Require findings for reviewing and granting stormwater waivers
3. Correct the pre-development phosphorus load

For the five RPA related conditions, the City has addressed all of them.

1. Require buffer re-vegetation for permitted tidal wetland activities.
The City has developed an approach that at a minimum will replace any trees removed for shoreline erosion projects.
2. Require on-site evaluation of water bodies and RPA boundaries.
The City has provided written documentation of their evaluation of water bodies and onsite RPA delineation.
3. Provide training and staff analysis to City Bay Board.
The City undertook a number of training sessions beginning in June of 2007 to review various aspects of the Bay Board's responsibilities.
4. Cease approving multiple variance requests.
The City's Bay Board has begun adding a condition that reads "It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support" to notify owners that the Board feels that the site cannot support additional development.
5. Establish a formal system of long-term oversight for all mitigation.
The City provided additional clarification on its current building permit, site plan, wetlands project and/or zoning permit review process that includes review by the City's CBPA staff to ensure that all prior variance conditions have been met on a given site.

The City has not yet addressed the condition related to:

1. Include the surface area of pools in stormwater calculations.

The City has requested an extension to December 31, 2008 to address this condition, intending to continue working with Department staff and interested parties in the City to

develop a solution to address this condition. Ms. Smith provided a copy of a letter from the City outlining this request.

Mr. Bernick said that the City appreciated the assistance from the Department. He said that the City hopes to accomplish the required condition by the end of the year.

Mr. Davis said that the request for the extension was reasonable.

MOTION: Mr. Duncanson moved Chesapeake Bay Local Assistance Board find that the implementation of a certain aspect of the City of Virginia Beach's Phase I program does not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and in order to correct this deficiency, directs the City of Virginia Beach to undertake and complete the one recommended conditions contained in this staff report no later than December 31, 2008.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008**

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
CITY OF VIRGINIA BEACH*

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on June 18, 2007, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the City of Virginia Beach's Phase I program did not fully comply with the Act and Regulations and further that the City address the nine recommended conditions in the staff report no later than June 30, 2008; and

WHEREAS in Summer, 2008, City provided staff with information relating to the City's actions to address eight of the nine recommended conditions which was evaluated in a staff report; and

WHEREAS the City has not yet taken action to address one condition from the June 18, 2007 compliance evaluation; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of a certain aspect of the City of Virginia Beach's Phase I program does not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and in order to correct this deficiency, directs the City of Virginia Beach to undertake and complete the one recommended condition contained in this staff report no later than December 31, 2008.

1. For consistency with Section 9 VAC 10-20-120 8, the City must ensure that all impervious surfaces are calculated for development and redevelopment projects, to include the surface area of all pools.

BE IT FINALLY RESOLVED that failure by the City of Virginia Beach to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the City of Virginia Beach to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Surry

Mr. Moore presented the report for the Town of Surry. No one was present from the Town.

Department staff initiated the Compliance Evaluation process for the Town of Surry in January 2008. Surry is a small town with a population of about 260 people over 4/5ths of a square mile located at the intersection of Routes 10 and 31 in the north central part of Surry County. The Town serves as the County seat for Surry County as is a member of the Crater Planning District.

In 2007, Surry County began providing limited assistance to the Town in the implementation of its Bay Act program. The County issues building permits for development projects in the Town and inspects sites during construction for erosion and sediment control requirements. The Town has only two paid part-time staff members, a Town Clerk and a Zoning Administrator.

Mr. Moore said that staff recommended that the Committee find that certain aspects of the Town's implementation of its Phase I program do not fully comply with of the Act and the Regulations and that the Town addresses the following three recommended conditions no later than September 30, 2009:

1. develop an revised map showing all CBPA features in the Town, including RPA, and the jurisdiction-wide RMA as a basis for its plan of development review process;
2. develop a standard BMP maintenance agreement, with specific inspection and maintenance procedures, and develop and use a BMP tracking system to ensure BMPs are being properly maintained, or develop an agreement with the Town to undertake this responsibility;
3. ensure that all water bodies with perennial flow are evaluated and site-specific RPA limits are accurately determined and mapped where necessary.

Mr. Moore noted that relative to Recommended Condition #1, staff of the Crater Planning District Commission have provided DCR staff with a revised map showing the Town's RPA and jurisdiction-wide RMA. He said DCR staff has reviewed the map and find it sufficient to meet the requirements of the Recommended Condition.

During the compliance evaluation, Department staff identified the need for the development of a memorandum of understanding that would serve to clearly define those development review processes that Surry County would be willing to perform on behalf of the Town. Accordingly, the staff report includes the following suggestion:

- The Town should develop, in collaboration with Surry County, a formal agreement specifically setting forth the plan of development review elements that the County is willing to perform on behalf of the Town.

MOTION: Mr. Evans moved the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Town of Surry's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Surry to undertake and complete the three recommended conditions contained in the staff report no later than September 30, 2009.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF SURRY

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in July 2008, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Surry's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Town of Surry's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Surry to undertake and complete the three recommended conditions contained in the staff report no later than September 30, 2009.

1. For compliance with § 9 VAC 10-20-60 of the Regulations and 6-2 of the Town of Surry Zoning Ordinance, the Town must develop an accurate map showing all CBPA features in the Town, including RPA, and the jurisdiction-wide RMA as a basis for its plan of development review process.
2. For compliance with § 9 VAC 10-20-120.3 of the Regulations, and Section 6-3-6 (3) of the Town of Surry Zoning Ordinance, the Town must develop a standard BMP maintenance agreement, with specific inspection and maintenance procedures included as an attachment, and must develop and use a BMP tracking system to ensure BMPs are being properly maintained, or develop an agreement with the County to undertake this responsibility.
3. For compliance with § 9 VAC 10-20-105 and Section 6-2-1-1 of the Town of Surry Zoning Ordinance the Town must ensure that all water bodies with perennial flow are evaluated and site-specific RPA limits are accurately determined and mapped where necessary.

BE IT FINALLY RESOLVED that failure by the Town of Surry to meet the above established compliance date of September 30, 2009 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231

and 250 of the Regulations and subject the Town of Surry to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Claremont

Mr. Moore gave the report for the Town of Claremont. No one was present from the Town.

Department staff initiated the Compliance Evaluation process for the Town of Claremont in January 2008. Claremont is a small town with a population of about 390 people over 2.5 square miles along the James River in the northwest corner of Surry County.

Recent development in Claremont has been extremely limited, with only one pending development with implications for Chesapeake Bay regulations. The Town's RPA includes shoreline along the James River and lands adjacent to water bodies on the west and east sides of Town. The Town's RMA is jurisdiction-wide and the Town's Bay Act Ordinance includes a whole-lot inclusion provision for all properties located in a CBPA.

Surry County provides limited assistance to the Town in the implementation of its Bay Act program. The County issues building permits for development projects in the Town and inspects sites during construction for erosion and sediment control requirements. The Town has only two paid part-time staff members, a Town Clerk and a Zoning Administrator.

The staff recommends that the Board find that certain aspects of the Town's implementation of its Phase I program do not fully comply with the Act and the Regulations and that the Town address no later than September 30, 2009 the following three recommended conditions:

1. develop and implement a 5-year pump-out notification and enforcement program, including any necessary tracking information;
2. ensure proper review of development proposals and maintain adequate records documenting that review. The Town can assume this responsibility itself or enter into a formal agreement with Surry County whereby the County can perform these duties for the Town;

3. require the submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs.

During the compliance evaluation, Department staff identified the need for the development of a memorandum of understanding or a similar formal agreement (referenced in Recommended Condition #2) that would serve to clearly define those development review processes that Surry County would be willing to perform on behalf of the Town. Accordingly, the staff report includes the following suggestion:

- The Town should develop, in collaboration with Surry County, a formal agreement specifically setting forth the plan of development review elements that the County is willing to perform on behalf of the Town.

Mr. Evans asked if the Town would receive any assistance from Surry County to address these requirements.

Mr. Moore said that he had not been privy to conversations regarding any proposed assistance to the Town by the County, but that Department staff had been told by County staff that such discussions had taken place within the last several years.

Mr. Davis requested that staff provide an update regarding the working relationship between the Town and the County at the December meeting.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Town of Claremont's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Claremont to undertake and complete the three recommended conditions contained in the staff report no later than September 30, 2009.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 15, 2008**

RESOLUTION

*LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF CLAREMONT*

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in July 2008, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Claremont's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 12, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Town of Claremont's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Claremont to undertake and complete the three recommended conditions contained in the staff report no later than September 30, 2009.

1. For consistency with Section 9 VAC 10-20-120 7 a of the Regulations and Section 110 B 6 of the Town's CBPA Overlay District Ordinance, the Town must develop and implement a five-year septic pump-out notification and enforcement program, including any necessary tracking information.
2. For consistency with Section 9 VAC 10-20-105 of the Regulations and Section 104 2 of the Town's Chesapeake Bay Preservation Ordinance, the Town must ensure proper review of development proposals and maintain

adequate records documenting that review. The Town can assume this responsibility itself or enter into a formal agreement with Surry County whereby the County can perform these duties for the Town.

3. For consistency with Section 9 VAC 10-20-105 of the Regulations and Section 108 B of the Town's Chesapeake Bay Preservation District Ordinance, the Town must require the submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs.

BE IT FINALLY RESOLVED that failure by the Town of Claremont to meet the above established compliance date of September 30, 2009 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Claremont to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 15, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Program Updates

Westmoreland County

Ms. Lassiter gave the program update for Westmoreland County.

On March 17, 2008, the CBLAB found that Westmoreland County's implementation of its Phase I program did not comply with the Act and Regulations, and established a deadline of March 31, 2009 for the County to address 5 conditions. This report serves as a 6-month update to inform the Board on progress made by the County in meeting these conditions.

The first condition requires that the County document submission of WQIAs. The information that the County often requires in association with their plan of development review process includes many of the elements called for in a WQIA, and the County requires an engineered site plan for any proposed land disturbance within the 100' RPA, however given that both the County's Bay Act ordinance and the Regulations clearly require a WQIA, the County must ensure that one is submitted in conjunction with site

plans. The Department has provided the County with sample WQIA forms that can be modified to meet the County's needs.

The second condition states that the County's erosion and sediment control program address the issues identified in the 2008 Corrective Action Agreement. The County has adopted an E & S ordinance with the changes recommended by DCR, and recently met with erosion and sediment control staff to review the County's Corrective Action Agreement. E & S staff found 4 outstanding items and will ask the Erosion and Sediment Control Board for a 6-month extension for the County to address the items.

The third condition requires that the County develop and implement a five-year septic system pump-out and inspection program. The County has begun mailing pump-out notices, and the first mailing will total 4,200 letters. About half of these notices have been mailed at this time. Westmoreland consists of 5 magisterial districts and the County intends to mail pump-out notices to one district per year so the entire County will have been notified within 5 years. Then the whole process will begin again.

The fourth condition states that the County develop a program to track BMP installation, inspection, and maintenance. The County has created a BMP Tracking database which is populated with 19 BMPs so far.

The fifth condition concerns the removal of vegetation in the RPA buffer. For all new home construction, every tree must be shown on the site plan, trees to be removed must be marked, and a revegetation schedule must be included with the plan. Furthermore, the County is requiring that any property owner with an already-impacted RPA install woody vegetation within the RPA as a condition of the granting of a building permit for any activity, whether the activity is proposed in the 100' RPA buffer or not. This is especially effective in helping to re-establish woody vegetation in the 100' RPA of pre-Bay Act lots, which are often entirely grassed.

Ms. Lassiter said that staff opinion was that Westmoreland County is demonstrating excellent progress toward meeting the five conditions identified during their Compliance Evaluation, and the County should be commended for their cooperation.

City of Fredericksburg

Ms. Kotula gave the program update for the City of Fredericksburg.

On March 17, 2008, the CBLAB found that the City of Fredericksburg's implementation of its Phase I program did not fully comply with the Act and Regulations, and established a deadline of March 31, 2009 for the City to address 6 conditions.

- The first Condition relates to compliance with erosion and sediment control regulations. The Compliance Evaluation revealed several E&S violations of concern. The City has a Corrective Action Agreement with the Soil & Water

Conservation Board in order to bring their E&S program into compliance. The City has made significant progress towards addressing this agreement, DCR staff will make recommendation to the Soil and Water Conservation Board that the City of Fredericksburg's ESC program be found consistent with the requirements of the Erosion and Sediment Control Law and Regulations at its meeting on September 24, 2008.

- The second condition required the City to revise their ordinance to include the requirement for a 100% reserve drainfield for septic systems within CBPAs. On May 27, 2008 City Council approved an ordinance revision that incorporated the required language.
- Conditions 3, 4 & 5 all relate to stormwater and BMP requirements. The Compliance Evaluation plan reviews and site visits revealed that proper stormwater calculations, 'proper BMP design and siting' and 'proper BMP tracking and maintenance' were not being consistently required for all development within the City. The City is addressing these conditions by requiring stormwater calculations and BMP information on all plan submittals. The City has also established a BMP maintenance agreement program that tracks all information.
- The final condition relates to the requirement for site-specific evaluations to identify water bodies with perennial flow. The original plan reviews and site visits revealed that the City had not been consistently requiring these evaluations. The City now has staff on board that will be able to assist with these issues in the future and City staff has started to use the assistance of Division staff in making site specific determinations. The City will be monitored over the next year to ensure compliance.

Ms. Kotula said that staff opinion was that the City has made significant progress in addressing the six conditions and will continue working with City staff to ensure that all of the conditions are sufficiently addressed by the March 31, 2009 deadline.

Closed Meeting: Consultation with Counsel Regarding Legal Matters

MOTION: Mr. Duncanson moved the following motion:

Mr. Chairman, I move that the Chesapeake Bay Local Assistance Board convene a closed meeting pursuant to §2.2-3711(A)(7) of the Code of Virginia for the purpose of consulting with legal counsel regarding specific legal matters requiring the provision of legal advice, namely the lawsuit filed by Chesterfield County against CBLAB.

This closed meeting will be attended only by members of the Board. However pursuant to § 2.2-3712(F) of the Code, the board requests counsel, the Director of the Department of Conservation and Recreation and Recreation (DCR), the Director of the Division of Chesapeake Bay Local Assistance of DCR, Mr. Baxter, Mr. Sacks and Ms. Kotula to attend because it believes that their presence will reasonably aid the Board in its consultation of the topic that is the subject of this closed hearing.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Duncanson moved that the Board approve the following certification to go back into open meeting.

WHEREAS, the Chesapeake Bay Local Assistance Board has convened a closed meeting on September 15, 2008 pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3172 (D) of the Code requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Chesapeake Bay Local Assistance Board hereby certifies that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and only such public business matters as were discussed or considered by the Board.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Aye: Davis, Evans, Duncanson, Marten, Reed, Taylor, Zeugner

No: None

Not present at the meeting: Harper, Whitehurst

Mr. Davis asked Ms. Andrews to review the agreement.

Ms. Andrews said that the Board had agreed to accept the draft settlement agreement with regard to the lawsuit filed by Chesterfield County.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board accept the DCR's draft settlement agreement between the Department of Conservation and Recreation and Chesterfield County and authorize the Director to proceed accordingly with the implementation of this agreement.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Maroon expressed appreciation to Ms. Andrews for her work in this regard.

Election of Officers

Mr. Davis turned the meeting over to Mr. Maroon.

Mr. Duncanson nominated Mr. Davis to serve as Chairman. Ms. Reed seconded. There were no other nominations and Mr. Davis was elected unanimously.

Mr. Maroon turned the meeting back to Mr. Davis.

Mr. Evans nominated Mr. Duncanson to serve as Vice Chairman. Mr. Zeugner seconded. There were no further nominations and Mr. Duncanson was elected unanimously.

Public Comment

There was no additional public comment.

Next Meetings

The next meeting of the Northern Area Review Committee and Southern Area Review Committee will be October 28, 2008.

The next meeting of the Chesapeake Bay Local Assistance Board will be Monday, December 15, 2008.

Adjourn

There was no further business and the meeting was adjourned.

Respectfully submitted,

Donald W. Davis
Chairman

Joseph H. Maroon
Director