

**Northern Area Review Committee Meeting
Tuesday, October 30, 2007 – 10:00 a.m.
101 N. 14th St. – James Monroe Building
Richmond, Virginia**

Northern Area Review Committee Members Present

Donald W. Davis, Chairman
Gregory C. Evans
Walter J. Sheffield

William E. Duncanson
Rebecca L. Reed

DCR Staff Present

Russell W. Baxter, Deputy Director

Joan Salvati, Director, Division of Chesapeake Bay Local Assistance
David Sacks, Assistant Director, Division of Chesapeake Bay Local Assistance
Daniel Moore, Principal Environmental Planner
V'lent Lassister, Senior Environmental Planner
Adrienne Kotula, Principal Environmental Planner
Nancy Miller, Senior Environmental Planner
Michael R. Fletcher, Board and Constituent Services Liaison
Elizabeth Andrews, Office of the Attorney General

Local Government Officials Present

Gary Allen, Essex County
Christine Breddy, King and Queen County
Elizabeth Friel, City of Falls Church
Debra Gee, City of Falls Church
Steve Manster, Town of Bowling Green
Wendy Block Sanford, City of Falls Church
Sharon Williams, Mathews County

Call to Order and Opening Remarks

Chairman Davis called the meeting to order and ask for the roll call. A quorum was declared present.

Ms. Salvati said that staff had been receiving input regarding the new non-tidal guidance from two localities in the central area that have significant issues with the guidance. Staff is working with these localities to address the issues.

Ms. Salvati said a Non-Tidal Wetlands Workshop was scheduled for November 15 at VIMS in Gloucester. This is the first of three regional workshops.

Ms. Salvati said the full Board would be briefed on additional policy issues at the December 10th meeting.

Local Program Reviews:

Compliance Evaluation

Mr. Sacks reviewed the three types of review of Local Bay Act Programs.

- “Phase I Consistent” means the required local ordinances (zoning, subdivision, maps, etc) are in place to designate CBPAs 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

Mr. Sacks reviewed the locality Compliance Evaluation Review Process.

- Evaluation Process Steps:
 1. Initial meeting to collect information and discuss program
 2. Review of sample of approved plans
 3. Site visits of developments in-progress and completed
- Board conducts initial compliance evaluation; determines “compliant” or identifies conditions necessary for compliance
- Board conducts compliance evaluation condition review

Mathews County - Review of previous conditions

Mr. Sacks gave the report for Mathews County. He recognized Sharon Williams, Planning Director for the County. Ms. Miller is the staff liaison for Mathews County.

The Board completed an initial compliance evaluation of Mathews County’s Phase I program in September 2006, which included five recommended conditions to be addressed by September 30, 2007.

- document that all Bay Act Plan of Development requirements are met;
- implement a septic system pump-out notification and enforcement program;
- track and periodically inspect BMPs;
- secure WQIAs as required; and,
- enforce RPA buffer modification limitations

The County has taken action to adequately address all recommended conditions except the septic system pump-out notification requirement. The County has recently secured a WQIF grant to help implement a septic system notification and maintenance program. The grant will help fund enhanced GIS capacity to support the County in this effort. County staff recently submitted a schedule under the grant requirements, including that the first mailing of septic pump-out notices will be accomplished by early January 2008.

Mr. Sacks said that the staff recommendation was that the Board find that certain aspects of the county's program be found to not fully comply with the Act and Regulations and that the County be directed to address the following recommendation by March 31, 2008:

For compliance with § 9 VAC 10-20-120 7 a of the Regulations and Section 22.10.7 of the County's CBPA Overlay District, the County must develop and implement a five-year septic system pump-out and/or inspection program.

Mr. Evans noted that several localities have difficulty meeting this requirement. He asked if the County felt comfortable with the March 31, 2008 deadline.

Ms. Williams said that she believed the County could meet this deadline. She said the County has produced a map showing the RPA/RMA areas along with the road names. The County is in the process of identifying some parcels. The intent is to be able to extract all of the parcels into one database.

Mr. Evans asked if there were concerns with the County Board of Supervisors.

Ms. Williams said the intent is to divide the County into four or five target areas and send out mailings to each address.

Mr. Davis asked if the County Health Department was assisting.

Ms. Williams said that the Health Department said their records were not adequate enough.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of Mathews County's program do not fully comply with the Act and Regulations and that the County be directed to address the condition outlined in the staff report no later than March 31, 2008.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

Town of West Point - Review of previous conditions

Mr. Sacks gave the report for the Town of West Point. No one was present from the Town. Ms. Miller is the staff liaison for the Town of West Point.

Mr. Sacks said that in December 2006, the Board found that certain aspects of the Town of West Point's Phase I program were not fully compliant and identified three conditions to be addressed by September 30, 2007.

Mr. Sacks said that based on staff review, staff was recommending that the Town of West Point be found compliant.

Mr. Davis noted that the Town had made considerable improvement.

Ms. Salvati said that there had been a significant RPA violation and the Town had followed the judicial process and a fine was assessed.

Ms. Miller said that while the Town has had no planner on staff since November 2006, they still met the deadline.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find the Town of West Point'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.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Davis asked a question regarding BMPs and noted that a company had indicated to him that the Division of Chesapeake Bay Local Assistance had approved a new BMP that was 75% efficient.

Ms. Salvati said that the Division does not enter into conversations regarding BMPs. She noted that the Division of Soil and Water Conservation is reviewing the regulations and the BMP manual.

Mr. Baxter said that he would look into the matter.

King and Queen County - Review of previous conditions

Mr. Sacks gave the report for King and Queen County. He recognized Christine Breddy from the County. Ms. Miller is the staff liaison for the County.

Mr. Sacks said that at the September meeting, the Board set a deadline of September 30, 2008 for the County to address the septic pump-out requirement.

The County addressed the issue promptly and mailed notices to 2,581 property owners on October 15, 2007. The County has also developed a system to track responses. This mailing represents approximately 2/3 of the systems in the county. The County anticipates the next round of mailings will go out in June 2008.

Mr. Sacks said that the staff recommendation was that the County be found compliant.

Ms. Breddy said that notices were sent to residents in each of the magisterial districts. She said that one problem is that owners do not have the receipt for the work done. She noted that the response was more positive than anticipated.

Ms. Miller noted that King and Queen is a rural county. She noted that part of the difficulty is identifying where systems are located. The notices have indicated that homeowners are to respond by May 1, 2008. The remaining notifications will go out on August 1, 2008.

Mr. Evans asked if there was a provision for a follow up on the mailing.

Ms. Breddy said that at this point, the County would see how many responses are received and determine if a reminder needs to be sent out.

Ms. Miller said that it is standard for localities to allow a year for owners to comply.

Mr. Davis asked if there were enough haulers to handle the work in the County.

Ms. Breddy said there were only two local haulers.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find the implementation of King and Queen County'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.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Essex County - Initial Compliance Evaluation

Mr. Sacks gave the report for Essex County. He recognized Gary Allen, County Administrator. Ms. Miller is the staff liaison for Essex County.

The Department conducted the compliance evaluation for the County during May-July 2007. The compliance evaluation revealed that the County's local Bay Act program is being implemented effectively in most respects, although there are two program elements that are not being met.

- implementation of a notification and maintenance program to meet the 5-year on-site septic system pump-out requirement (approximately 4,100 on-site systems);
- the use of BMP maintenance agreements and periodic maintenance and tracking of all water quality BMPs.

Mr. Sacks said that the staff recommendation was that the Board find that these aspects of the County's local Bay Act program do not fully comply with the Act and the Regulations and that the County address the recommended condition in the staff report by December 31, 2008.

Ms. Miller said that the staff was very responsive and helpful.

Mr. Davis asked why the date was so far away.

Mr. Sacks said that typically, one year is allowed from the date of the Board meeting. He said there are a lot of conditions that need to be addressed and that the program needs to be established.

Ms. Miller said the primary reason was a very limited staff.

Mr. Allen said there were not enough haulers to pump all of the septic systems. He said that the same providers are serving Richmond County and King and Queen as well as Essex.

Mr. Evans said it seems that the Board and staff are encountering the same issues over and over. He asked if anything could be done to bring these issues forward.

Mr. Allen said that the problem is not so much with notification and tracking, but whether the free market will supply the services.

Ms. Salvati said that at the September Board meeting there had been discussion regarding an interagency work group to discuss the treatment plant issue with a particular focus on the Northern Neck.

Ms. Salvati said that, based on those discussions, DEQ and the Health Department seem to be fairly confident that the physical capacity is there. However, there is the issue of discharge permits for the treatment plants. The group is working with DEQ to see if there is any flexibility.

Mr. Davis said this remains the biggest issue for compliance. He said he would like to keep Essex County on the agenda for the September 2008 meeting to review the progress made. He asked Mr. Baxter if there were grant funds available.

Mr. Baxter said that there were funds for low and moderate-income families. However, he noted that there were currently no funds available in the WQIF.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Board 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 and that Essex County undertake and complete the two Recommended Conditions contained in this staff report no later than December 31, 2008.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

King George County - Initial Compliance Evaluation

Mr. Sacks gave the report for King George County. Ms. Kotula is the staff liaison for King George. There was no one present from the County.

The compliance evaluation was completed in the spring and summer of 2007. Although the evaluation revealed several issues, the County took steps to address many of those issues. The following two conditions remain:

- The County must require a WQIA for any land disturbance, development or redevelopment in the RPA.
- For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 8.13.5.d. of the King George County Zoning Ordinance, the County must ensure signed BMP maintenance agreements for all water quality BMPs and develop a program to ensure the regular and periodic maintenance of all water quality BMPs.

Ms. Kotula has worked with staff to address these issues. Mr. Sacks noted that the County does have a very effective program.

Mr. Evans asked if there was an appropriate way to phrase the suggestions to carry more emphasis.

Mr. Sacks said there is a fairly clear distinction between suggestions and recommendations.

Mr. Evans said that he would like to go on record as supporting the staff suggestions.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the King George 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 the County of King George to undertake and complete the two recommended conditions contained in the staff report no later than December 31, 2008.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously.

Town of Bowling Green - Initial Compliance Evaluation

Mr. Sacks gave the report for the Town of Bowling Green. He recognized Steve Manster, Town Manager. Ms. Kotula is the staff liaison for the Town of Bowling Green.

The compliance evaluation, completed in the summer of this year, identified no issues with the Town's implementation of the Bay Act. The Town relies heavily upon Caroline County for oversight of development activity, however, the County has not implemented a septic pump out program within the town. Mr. Sacks said that the Town had addressed the septic pump-out program on its own.

Mr. Manster said that the Town anticipated implementing the Town pump-out program by the end of November, with the compliance deadline for residents of January, but after contacting the haulers that deadline has been extended to February.

MOTION: Ms. Reed moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find the implementation of the Bowling Green'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.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

City of Falls Church - Initial Compliance Evaluation

Mr. Sacks gave the report for the City of Falls Church. Elizabeth Friel, Wendy Block Sanford, and Debra Gee were present from the City. Mr. Moore is the staff liaison for the City of Falls Church.

The compliance evaluation, completed in the summer of 2007 identified no issues with the City's implementation of its Bay Act program. Mr. Sacks said that the staff recommendation was to find the City of Falls Church compliant. He noted that the staff report included one suggestion to help improve the manner in which the City staff, under the auspices of its Chesapeake Bay Interdisciplinary Review Team (CBIRT), review applications for encroachments into the RPA.

Mr. Moore said this review team is a proactive way for the City to address the Bay Act requirements. Ms Friel said that most developers are receptive to the CBIRT.

Mr. Evans said that the Falls Church model is exceptional.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find the implementation of the City of Falls Church'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.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Town of Haymarket - Initial Compliance Evaluation

Mr. Sacks gave the report for the Town of Haymarket. He recognized Gene Swearingen, Town Manager. Mr. Moore is the staff liaison for the Town of Haymarket.

The compliance evaluation, completed in the summer of 2007, identified one issue with the Town's implementation of the Bay Act. Mr. Sacks said the staff recommendation was that the Board find a certain aspect of the Town's Bay Act program to be not fully compliant with the Act and Regulations.

The recommended condition is as follows:

To fully comply with § 9 VAC 10-20-120 3 of the Regulations, the Town must consistently use standard BMP maintenance agreements, with provisions for inspection and maintenance procedures, and must develop and use a BMP tracking system to ensure BMPs are being properly maintained.

The staff recommendation was that the Town be given until June 30, 2008 to adequately address the recommended condition.

Mr. Swearingen said that the Town would use the templates provided and would comply by the deadline.

Mr. Davis asked about the phrase “consistently use the standard BMP maintenance agreements”

Mr. Moore said that staff reviewed a list submitted by the Town of known BMPs, but was not certain that the tracking standards were being applied across the board.

Ms. Salvati said introduction of a recommended condition such as this often occurs when staff cannot verify consistency.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that failure by the Town of Haymarket to meet the above established compliance date of June 30, 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 Town of Haymarket to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

Town of Clifton - Initial Compliance Evaluation

Mr. Sacks gave the report for the Town of Clifton. Mr. Moore is the liaison for the Town.

Mr. Sacks said there is very little development in the Town. The Town hires a consultant to review site plans and has reviewed a total of three development plans and one grading plan in the Town's RMA within the last five years, with none of these plans occurring within the last 12 months.

The compliance evaluation, completed in the summer of 2007, identified no issues with the Town's implementation of the Bay Act.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find the implementation

of the Town of Clifton'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.

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

Town of Dumfries - Initial Compliance Evaluation

Mr. Sacks gave the report for the Town of Dumfries. There was no one present from the Town. Mr. Moore is the staff liaison.

The compliance evaluation was completed in the summer of 2007 and identified two issues with the Town's implementation of the Bay Act. Staff's recommendation is to find that certain aspects of the Town's Bay Act program do not fully comply with the Act and Regulations.

Mr. Sacks said staff recommended the following:

- As required by Section § 9 VAC 10-20-105 of the Regulations and Section 70-450 of the Town's Chesapeake Bay Preservation Ordinance, the Town must confirm that site-specific RPA delineations have been conducted prior to the issuance of land disturbance permits, building permits and/or the approval by the Town Zoning Administrator of all environmental site assessments and water quality impact assessments. The Town must require that the full width of the RPA (a minimum of 100-feet) be shown on all plans and recorded plats, accompanied by a note that the Zoning Administrator must approve any land disturbance within the RPA.
- For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 70-451 (7) (3) of the Town Code, the Town must complete the development of a BMP database to track the type, location, installation date, and inspection and maintenance dates of all BMPs. As part of this requirement, the Town must also develop a standard BMP maintenance agreement that specifies inspection and maintenance procedures.

Mr. Sacks said that staff recommended that the Town be given a deadline of September 30, 2008 to adequately address the recommended conditions.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that failure by the Town of Dumfries to meet the above established compliance date of September 30, 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 Town of Dumfries to

the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations. Further, the Town is requested to provide an update at the June Board meeting.

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

Update

Caroline County - Update on progress

Ms. Kotula said that Caroline County had sent out septic pump-out notices jurisdiction-wide earlier in the year. That caused a significant amount of concern among residents. As a result, the County sent out notices to halt until further notice.

The current status of the program is that the County has received approximately a fifty percent compliance rate from their residents and also received a WQIF grant to delineate their specific RPA areas.

Mr. Davis asked the basis for the confusion.

Ms. Kotula said that initially notices were sent to people outside of the Chesapeake Bay Area. She noted that not enough educational materials were included in the packet.

Other Business

Ms. Salvati noted that the Policy Committee would meet on November 27, 2007.

Mr. Duncanson suggested that septic capacity be added to the discussion topics for that meeting. He asked if staff could invite a representative from the Health Department for that discussion.

Public Comment

There was no further public comment.

Adjourn

Being no further business, the meeting was adjourned.

Respectfully submitted,

Donald W. Davis, Chair

Joseph H. Maroon, Director