

**Chesapeake Bay Local Assistance Board
Northern Area Review Committee
Tuesday, October 31, 2006
Richmond, Virginia**

Northern Area Review Committee Members Present

Donald W. Davis
Gregory C. Evans

William E. Duncanson
Walter J. Sheffield

DCR Staff Present

Russell W. Baxter, Deputy Director
Joan Salvati, Division Director, Chesapeake Bay Local Assistance
Shawn W. Smith, Principal Environmental Planner
Robert Suydam, Senior Environmental Planner
Daniel Moore, Principal Environmental Planner
Nancy L. Miller, Senior Environmental Planner
V'lent Lassiter, Senior Environmental Planner
Carolyn Elliott, Administration Specialist

Local Government Officials Present

Caroline County

Angeline Marsh
David Nunnally

Prince William County

Wade Hugh

Town of Herndon

Michelle O'Hare

Call to Order and Opening Remarks

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

Local Program Review – Compliance Evaluation

Ms. Lassiter gave the report for Caroline County.

Caroline County underwent a compliance evaluation in late 2004, with the Board establishing a compliance deadline of December 31, 2005 to address six conditions. On April 3, 2006, the Board reviewed the compliance conditions and found that four of the six conditions had been addressed. September 30, 2006 was established as the deadline for the remaining two conditions to be met.

The first condition related to the implementation of a 5-year septic pump-out notification and enforcement program. Beginning this November, pump-out notification letters will be sent out with Personal Property tax bills to every property owner in the County. In the future, the County will decide if they want to send subsequent letters on a Magisterial District basis or otherwise. The initial round of letters will have a February 1, 2007 due date, and the county has developed an Excel spreadsheet that will track pump-outs that occur as a result of the program.

The second condition related to the development of a BMP maintenance program. In the past, the County lacked the staff to undertake regular inspections of BMPs, however they have recently hired two environmental inspectors. The County has provided Department staff with a Stormwater Maintenance Agreement and a copy of the Excel spreadsheet that they are now using to track BMPs.

Since Caroline County has addressed the remaining two conditions, it is staff's opinion that the County's implementation of its Bay Act Program fully complies with the Act and Regulations.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that Caroline County's implementation of its Phase I program complies 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

Ms. Miller gave the presentation for the Town of Urbanna.

On September 19, 2005, the Board found the Town's Phase I program not fully compliant with the Act and Regulations and set a deadline of September 30, 2006 for the Town to address three conditions referenced in the staff report. As required by the conditions, the Town has contracted for review services to ensure that new development and redevelopment proposals meet stormwater management requirements, that BMP

agreements are being recorded as required, that BMP installation and maintenance inspections are being conducted, and that WQIAs are being submitted as required. All changes were implemented by the September 30, 2006 deadline, so staff recommends that the Board find the Town's local Bay Act program compliant with the Act and Regulations.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the Town of Urbanna has addressed the three recommendations from the September 19, 2005 compliance evaluation and recommends that the Town of Urbanna's implementation of its Phase I program be found compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Sheffield

DISCUSSION: None

VOTE: Motion carried unanimously

Ms. Lassiter gave the report for the Town of Warsaw.

The Town of Warsaw's initial compliance evaluation was conducted in the summer of 2005, with the Board establishing a compliance deadline of September 30, 2006 to address two conditions.

The first condition required that the Town document that all stormwater management requirements are being met, including stormwater management calculations and submittal of a Stormwater Management Plan. The Town of Warsaw and Richmond County employ a Stormwater Management/BMP Facility Maintenance Agreement. In addition, the Town and County have created a Stormwater Management Regulations Compliance Worksheet that is used to calculate the percent of a lot that will be covered by impervious surfaces. All projects resulting in a percent impervious cover greater than 16% must provide a Stormwater Management Plan certified by an engineer licensed by the Commonwealth of VA.

The second condition called for the Town and Richmond County to execute a formal agreement specifying the responsibilities of each regarding administration and enforcement of the Town's Bay Act Ordinance. The two governments formally established their working agreement on October 1, 2006. This agreement states that the County shall continue to be responsible for the administration of erosion and sediment

control and stormwater management, while the Town shall continue to be responsible for all other aspects of the Town's Chesapeake Bay Preservation Area Overlay District.

Since the Town of Warsaw has addressed the remaining two conditions, it is staff's opinion that the Town's implementation of its Bay Act Program fully complies with the Act and Regulations.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the Town's implementation of its Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Zeugner

DISCUSSION: Mr. Davis questioned the forms used by the Town to establish impervious cover.

Ms. Lassiter responded that she had a copy of the form and would provide a copy of it to Mr. Davis.

VOTE: Motion carried unanimously

Ms. Lassiter gave the report for Northumberland County.

Northumberland County underwent a compliance evaluation in late 2004, with the Board establishing a compliance deadline of September 30, 2005 to address nine conditions. On April 3, 2006, the Board reviewed the compliance conditions and found that seven of the nine conditions had been addressed. September 30, 2006 was established as the deadline for the remaining two conditions to be met.

The first condition related to the implementation of a 5-year septic pump-out notification and enforcement program. The County has now initiated this program. Northumberland is divided into 4 Magisterial Districts; each year property owners in a different district will receive a pump-out notification letter. The first round of letters was sent out on August 25. Property owners who received notification this year must return their Verification and Compliance form to the County by June 30, 2007. The County has provided Department staff with a copy of the database that they are using to track the program.

The second condition related to the development of a BMP maintenance program. The County has finalized a Stormwater Management BMP Maintenance Agreement which

specifies that the landowner shall maintain BMP facilities in good working order and allow the County to inspect whenever it deems necessary. If the landowner does not properly maintain the BMP, the County may enter and take whatever steps necessary to do so. Department staff has provided the County with a BMP Tracking database that they will use to track both inspections and maintenance.

Since Northumberland County has addressed the remaining two conditions, it is staff's opinion that the County's implementation of its Bay Act Program fully complies with the Act and Regulations.

MOTION: Mr. Duncanson motioned that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that Northumberland County's Phase I program implementation fully complies with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Evans

VOTE: Motion carried unanimously

Mr. Moore gave the report for Prince William County. He recognized Mr. Wade Hugh from the County.

On September 20, 2005 the Board conducted a compliance evaluation of Prince William County and found that the County's Phase 1 program was not fully compliant with nine (9) recommendations. The County was given a deadline of December 31, 2005 to address the nine recommendations. In January 2006, County staff provided information regarding their progress toward compliance, however Department staff found that only three (3) of the recommendations had been adequately addressed.

On April 3, 2006 the Board found the County's Phase I program to be inconsistent with Bay Act implementation requirements and gave the County a deadline of June 30, 2006 to address the remaining six (6) recommendations. In addressing the six (6) recommendations, the County has:

- adopted (by County Board of Supervisors action) required ordinance changes on June 6, 2006,
- mailed letters to all septic system owners notifying them of the five-year pump out requirement,
- mailed letters to industrial users concerning utility exemptions conditions. *(The recommendation concerning the utility exemptions conditions required changes to the Prince William County Sanitary Authority Utility Standards Manual. Department staff will follow up within one year of Board action to confirm that*

either the manual revisions have been made, or the County is continuing to implement the policy as stated in the letter to industry.)

Staff finds that these changes and additions to County review policies and procedures have adequately addressed the outstanding conditions; however, several issues have recently been identified regarding policy and practices on the part of County staff. At its August 15, 2006 meeting, the Northern Area Review Committee deferred action on the County's compliance evaluation pending further discussions between County and Department staff regarding the above issues. Recent discussions between County and Department staffs have led to an action plan that requires Bay Act enforcement training of the County Wetlands Board and County staff, and a review of recent WQIAs for adequate mitigation recommendations. In an October 2, 2006 letter, Department staff also made three (3) recommendations regarding the need for County staff to improve the record-keeping and administrative review for RPA encroachments and WQIAs. Staff considers that steps taken by the County in response to the three (3) recommendations adequately address the issues outlined.

Based on the review and analysis provided above, Department staff finds that the six (6) recommendations cited in the April 3, 2006 Board review have been adequately addressed within the required time frame. Accordingly, Department staff recommends that the Northern Area Review Committee find Prince William County's implementation of its Phase I program consistent with §10.1-2109 of the Act and §9 VAC 10-20-60 3 of the Regulations.

Mr. Davis asked Mr. Hugh for comments. Mr. Hugh thanked staff and noted that the items that had been addressed were large and that it had been a two-year effort. He said that he was happy to have a compliant program.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that Prince William County's implementation of its Phase I program compliant with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations. Mr. Evans further moved that the County report back to the Board in one year regarding the implementation of the conditions for utility exemptions and the status of the Utility Standards Manual revisions.

SECOND: Mr. Duncanson

DISCUSSION: Ms. Salvati commented that she appreciated the efforts on behalf of Prince William.

Mr. Baxter asked about the requested report and whether the recommendations would be a part of the report.

Mr. Hugh responded that the report was approximately 40 pages long and would address the recommendations.

Ms. Salvati responded that the County required a review of perennality and that developers were currently providing the review. She went on to say that if the County were to provide this service, the cost would be over a million dollars.

Mr. Baxter asked if there was verification of septic pumpout.

Mr. Hugh responded that the County was working as closely as possible with the Health Department.

Mr. Evans congratulated the County for a compliant program.

VOTE: Motion carried unanimously

Ms. Miller gave the report for the Town of West Point.

Beginning on July 6, 2006, the Department conducted a compliance evaluation of the Town's implementation of its Phase I program. There are three recommendations that must be addressed for full compliance. The recommendations require that the Town must: implement a septic system pump-out notification and enforcement program; track and periodically inspect BMPs; and, secure vegetative mitigation plans for RPA encroachments as required.

Staff recommends that the Board find that the Town's implementation of its Phase I program does not fully comply and further that the Town must undertake and complete the three recommendations in the staff report no later than September 30, 2007.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of the Town'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 Town of West Point will undertake and complete the three recommendations no later than September 30, 2007.

SECOND: Mr. Duncanson

DISCUSSION:

Mr. Evans referenced the Agriculture Memorandum of Understanding between West Point and the Three Rivers SWCD and asked about the respective roles of each.

Ms. Miller responded that due to staff turnover the Town staff were not familiar with the memorandum, but that the active agricultural parcels within West Point are extremely limited.

Mr. Sheffield asked why West Point was being given a September 30, 2007 deadline.

Ms. Miller responded that they were being given this time in order to complete the three recommendations, particularly because they will need to implement a septic pump-out notification program and this is more challenging for a small locality with very few staff members.

Mr. Sheffield then asked for a written interim report from the Town in 6 months, relating the Town's progress.

Mr. Davis commented that he had noticed that under the leadership of Mr. Funkhouser, it appeared that the Town had become more agreeable to becoming compliant.

Mr. Evans inquired about a case now pending before the court where a developer had removed most of the buffer vegetation and whether the developer was being required to replant now or wait until after the case is heard.

Ms. Miller responded the developer is under a stop work order and may not be allowed on the property because of legal action.

Ms. Salvati commented that while they are waiting, native vegetation does start to come back.

Mr. Evans responded that he was concerned about the erosion.

Ms. Smith responded that under E&S requirements the developer is typically required to mulch and seed to stabilize the site and meet all other permit requirements.

Mr. Davis inquired about a buffer restoration plan.

Ms. Salvati noted that she was asking that Alli Baird, a landscape architect, to reach out to localities to assist them with landscaping plans.

VOTE: Motion carried unanimously

Mr. Davis asked that Ms. Miller update the Board regarding the law suit at the December 11, 2007 meeting.

Mr. Moore gave the report for the Town of Herndon. He noted that Michelle O'Hare was present from the Town.

Staff initiated the compliance evaluation process for the Town of Herndon by sending a notification letter and locality checklist to the Town's assigned liaison for the Chesapeake Bay Preservation Act program on October 20, 2005. Department and Town staff met on November 28, 2005, when Town staff provided the information requested in the locality checklist and an overview of their Bay Act program implementation.

A second meeting was held on December 10, 2005 to discuss the site plan review process and to review site plans for completeness and compliance with local program requirements. Field inspections were not completed for this compliance evaluation. Copies of the materials reviewed by the Town and the completed *Checklist for Local Program Compliance Evaluation* are included in the file.

Based on the review and analysis provided above, Department staff recommends that the Northern Area Review Committee find that certain aspects of the Town'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. Staff further recommends that the Town of Herndon undertake and complete the four (4) recommendations contained in the staff report no later than December 31, 2007.

Mr. Davis recognized Ms. Michele O'Hare, Planner for the Town of Herdon, who commented that she has been happy to work with staff updating their subdivision ordinances and believed the deadline could be met.

Mr. Evans commented that he was surprised that these changes were not being made through informal policies rather than the chosen formal procedures.

Ms. O'Hare responded that the Town did not have a lot of development in the RPA and therefore does not get a lot of attention.

Mr. Davis commented that it may have been easier to make policy changes rather than ordinance changes.

Mr. Sheffield asked why the December 31, 2007 deadline had been decided on when it was so far off.

Mr. Moore replied that the compliance deadline was decided by Heather Mackey, his predecessor.

Ms. Salvati responded that changes in ordinances do take considerable time but would definitely consider tightening up that time frame.

Mr. Davis asked Mr. Sheffield if he was thinking about September 2007.

Mr. Sheffield responded affirmatively.

Mr. Evans asked Ms. O'Hare if she believed they could meet a September 2007 deadline.

Ms. O'Hare responded affirmatively.

Mr. Sheffield asked for a progress report to be presented at the June 2007 Board meeting.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of the Town of Herndon'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 further that the Town of Herndon undertake and complete the four (4) recommendations no later than September 30, 2007.

SECOND: Mr. Sheffield

DISCUSSION: None

VOTE: Motion carried unanimously

Other Business

Mr. Sheffield stated that there had been some very good staff work.

Public Comment

There was no public comment.

Adjourn

There being no further business the meeting was adjourned at 10:50.

Respectfully submitted,

Donald W. Davis
Chair

Joseph H. Maroon
Director