

Chesapeake Bay Local Assistance Board
Monday, March 22, 2004
James Monroe Building
101 N. 14th Street, Conference Room C
Richmond, Virginia

Members Present:

Mr. Colin D. Cowling
Mr. Donald W. Davis
Mr. William E. Duncanson
Ms. Sue H. Fitz-Hugh
Mr. Stuart Mendelsohn
Mr. David C. Froggatt, Jr.
Mr. Daniel B. Nice
Mr. Michael V. Rodriguez
Mr. Walter J. Sheffield

Staff Present:

Acting Executive Director, C. Scott Crafton
Chief of Environmental Planning, Martha Little
Principal Environmental Planner, Shawn Smith
Principal Environmental Planner, Ryan Link
Principal Environmental Planner, Heather Mackey
Senior Environmental Planner, Alex Adams
Senior Environmental Planner, Beth Baldwin
Senior Environmental Planner, Brad Belo
Senior Environmental Planner, Nancy Miller
Senior Environmental Planner, Jakob Helmboldt
Senior Environmental Specialist, Alli Baird
Attorney, Mr. Roger Chaffe

Mr. Davis called the meeting to order at 10:03 a.m. He welcomed guests and asked Ms. Baird to call the role.

Ms. Baird called the role. All members of the Board were present.

Mr. Davis noted that there was a quorum.

Mr. Davis called for the approval of the December 8, 2003 Board meeting minutes. Mr. Froggatt, Jr. motioned and Mr. Mendelsohn seconded. Mr. Davis called for further comments. There were none. He called for the vote. All members voted aye.

Mr. Crafton next presented the Executive Director's Report.

Mr. Crafton noted that the General Assembly had introduced only a few bills that would affect CBLAD; however, a significant issue has arisen through budget amendments that, once again, propose to merge CBLAD with DCR. He said that efforts were being made to get this measure removed from the budget. Three other bills aimed at CBLAD were introduced, of which two were similar bills introduced in both the house and Senate. HB719 (Shannon) and SB104 (Devolites) proposed to require that the Attorney General's office provide legal representation of any Tidewater locality subject to private legal action pertaining to implementation of the Bay Act program. The Town of Vienna requested these bills. HB719 was carried over at the patron's request, and SB104 was defeated in committee.

Mr. Crafton noted that the only other bill related to CBLAD, SB427 (Wagner), proposed an expansion of the Chesapeake Bay Act to the remainder of the Bay watershed in Virginia. Senator Wagner proposed amendments to his bill, at CBLAD's request, to phase in the expansion consistent with recommendations in our study report of 2001. This bill was also defeated in committee.

Mr. Crafton stated that the Stakeholder Advisory Committee met for a second time to discuss Intensely Developed Areas in response to the Hampton Roads localities' request to interpret the language "little of the natural environment remaining." Staff has been working on draft guidance pertaining to IDA designation and implementation, but has been unable to find a solution that addresses the issue yet consistent with the existing regulations.

Mr. Crafton stated that he had sent out a guidance letter to Hanover County pertaining to how local vesting decisions interact with our program based on earlier Attorney General opinions. The letter will go out to the remaining localities.

Mr. Crafton also noted that staff has been very busy with review of amended local Bay Act ordinances and the continuing compliance evaluations.

Mr. Crafton advised that the Department would be conducting a workshop to provide training pertaining on perennial stream determination protocols. The first day will be a class held in the James Monroe building and the following four days will be field training in locations around Tidewater, so local staff can attend a field day in their general area.

Mr. Crafton also indicated that there will be an agency strategic planning exercise during the next several months, and there are plans for a one-day Board training retreat in October.

Mr. Crafton stated that the agenda was full of local program reviews, including one comprehensive plan review and one more Local Program Compliance Evaluation, the rest being reviews of local ordinance revision.

Mr. Crafton advised that Mr. Roger Chaffe would provide training on the Freedom of Information Act and Conflict of Interest Act to the Board members.

Mr. Chaffe thanked Mr. Crafton for helping to get SB104 defeated in committee and HB719 held over in committee, since, he felt that it would be a conflict of interest for him to

defend a locality while also being charged with representing CBLAD in assuring that localities implement the Bay Act.

Mr. Davis asked if Mr. Crafton felt the bill would come back.

Mr. Crafton stated that he believed it would return.

Mr. Crafton concluded his report by asking if there were any questions. There were none.

Mr. Davis thanked Mr. Crafton for his report and called for the presentation of Consent Items. Mr. Davis explained that only a single vote was required and no staff presentations would be made for the following items:

- A. *Town of Bowling Green* – Phase I Revisions,
- B. *Stafford County* – Phase I Revisions,
- C. *Caroline County* – Phase I Revisions,
- D. *Richmond County* – Phase I Revisions,
- E. *Town of Dumfries* – Phase I Revisions,
- F. *Town of Vienna* – Phase I Revisions,
- G. *Fairfax County* – Phase I Revisions,
- H. *Fairfax County* – Phase II Deadline Extension to December 31, 2004,
- I. *City of Alexandria* - Phase I Deadline Extension to June 30, 2004,
- J. *Essex County* – Phase I Revisions,
- K. *Middlesex County* – Phase I Revisions,
- L. *Town of Cape Charles* – Phase I Revisions,
- M. *Town of Parksley* – Phase I Revisions,
- N. *Town of Hallwood* – Phase I Revisions,
- O. *Town of Saxis* – Phase I Revisions,
- P. *Accomack County* – Phase I Revisions,
- Q. *Henrico County* – Phase I Revisions,
- R. *Charles City County* – Phase I Revisions,
- S. *James City County* – Phase I Revisions,
- T. *City of Williamsburg* – Phase I Revisions

Mr. Davis called for a motion to approve the Consent Items. Mr. Froggatt motioned to approve all the localities as recommended in the respective staff reports. Mr. Mendelsohn seconded the motion. Mr. Davis called for further comments. There were none. All members voted aye.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

LOCAL PROGRAM, PHASE I
BOWLING GREEN #77

Modification – 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 § 9VAC10-20-60 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 Town of Bowling Green adopted a local Phase I program on August 4, 1994 and amended this program in 2000, and

WHEREAS on September 18, 2000, the Town of Bowling Green's revised Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Town of Bowling Green adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on October 2, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Town of Bowling Green's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Bowling Green revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
STAFFORD COUNTY #48

Modification – 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 § 9VAC10-20-60 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 Stafford County adopted a local Phase I program on May 21, 1991 and amended on October 15, 1991 and January 5, 1993, and

WHEREAS on March 18, 2002, the Stafford County's revised Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and

Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Stafford County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on December 2, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Stafford County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Stafford County revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
CAROLINE COUNTY #46

Modification – 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 § 9VAC10-20-60 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 Caroline County adopted a local Phase I program on September 24, 1992, and

WHEREAS on February 14, 2001, the Stafford County's revised Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Caroline County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on December 9, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Caroline County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Caroline County revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
RICHMOND COUNTY - #30

Modification – 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 § 9VAC10-20-60 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 Richmond County adopted a local Phase I program on September 20, 1990, and

WHEREAS on January 25, 1991, the Richmond County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and

Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Richmond County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 13, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Richmond County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Richmond County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF DUMFRIES - #40

Modification – 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 § 9VAC10-20-60 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 Dumfries adopted a local Phase I program on November 12, 1991, and

WHEREAS on January 30, 1992, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the Town of Dumfries adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on May 6, 2003 and revisions on January 6, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the Town of Dumfries revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Dumfries' revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF VIENNA - #52

Modification – 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 § 9VAC10-20-60 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 Town of Vienna adopted a local Phase I program on January 6, 1992, and

WHEREAS on June 25, 1993, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Town of Vienna adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on February 24, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board reviewed the program on June 16, 2003 and recommended three conditions for consistency with a deadline of December 31, 2003; and

WHEREAS the Town amended its program a second time to meet the Board's recommendations for consistency and adopted its amended program on December 15, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the final amendments made to the Town of Vienna's program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Vienna's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
FAIRFAX COUNTY - #32

Modification – 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 § 9VAC10-20-60 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 Fairfax County adopted a local Phase I program on March 22, 1993, and

WHEREAS on August 19, 1993, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Fairfax County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on July 7, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Fairfax County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Fairfax County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE II
FAIRFAX COUNTY - #32**

Extension of Compliance Deadline – To December 31, 2004

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9VAC10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsection C shall be adopted by local governments; and

WHEREAS § 10.1-2103.10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS Fairfax County adopted a local comprehensive plan on August 6, 1990, with amendments through November 20, 2000; and

WHEREAS the Chesapeake Bay Local Assistance Board reviewed the comprehensive plan on March 19, 2001 and recommended four conditions for consistency with a deadline of December 31, 2003; and

WHEREAS Fairfax County partnered with the Northern Virginia Regional Commission on development of an FY02/03 local assistance grant proposal to satisfy, and in some cases to exceed, the Board's recommendations; and

WHEREAS in 2002 local assistance grant funds were eliminated which left the County without anticipated funding resources; and

WHEREAS at the same time the County suffered additional reductions in local staff resources and a corresponding increase in Department of Planning and Zoning (DPZ) responsibilities and expectations; and

WHEREAS the DPZ has been directly involved in a number of projects which advance water quality planning and enhance the reduction of non-point source pollution in the County; and

WHEREAS on January 7, 2004 the Director of the Department of Planning and Zoning formally requested an extension of the Phase II compliance deadline in order to complete the recommended studies and mapping; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 extends the date for Fairfax County to comply with § 10.2109 of the Act and § 9VAC10-20-60.C of the Regulations from December 31, 2003 to December 31, 2004.

BE IT FURTHER RESOLVED that the conditions previously imposed and still applicable for a finding of consistency are as follows:

1. The Plan shall include a map of the County's Chesapeake Bay Preservation Area components, or as an alternative, RPAs and RMAs should be depicted on the Area Plan maps with a brief description of CBPAs in the Area Plans.
2. The County shall undertake and complete a shoreline erosion control inventory using available existing resources that will identify areas where erosion is occurring and characterize the rates of erosion along the tidal shorelines. With the completion of this inventory and analysis of the information, the County should develop policies and implementation strategies for use by the County's Wetlands Board in approving shoreline erosion structures.
3. The Plan or a support document shall include a discussion of waterfront access issues that affect the County's shorelines. This should include an inventory of existing and potential public and private access sites, specifically targeted to boat-related facilities. This inventory should be developed using existing information resources such as the 1990 Chesapeake Bay Public Access Plan or other available materials. Maps depicting existing and potential boating access sites should be included in the document. The County should consider inclusion of policies or a policy that outlines the criteria for locating marinas and/or other boating access sites in its Policy Plan.
4. The County shall revise the Plan, where appropriate, to develop policies that address the recommendations that affect water quality as outlined in the "Infill & Residential Development Study." The County shall undertake an inventory, using existing available information sources such as DEQs UST data, the SARA Title III data, etc., of existing pollution sources. With completion of this inventory and an analysis of the information, the County should develop policies, where appropriate, that address redevelopment and the appropriate approach to water quality improvement.

BE IT FINALLY RESOLVED that failure by Fairfax County to meet the above established compliance date of December 31, 2004 would result in the local program becoming inconsistent with § 10.1-2109 of the Act and § 9VAC10-20-60.C of the Regulations and subject Fairfax County to the compliance provisions set forth in §10.1-2103.10 of the Act and § 9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I

CITY OF ALEXANDRIA - #59

Extension of Compliance Deadline – To June 30, 2004

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 § 9VAC10-20-60 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 § 10.1-2103.10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS the City of Alexandria City Council adopted a Phase I local program to comply with §§ 9VAC10-20-60 1 and 2 on December 12, 1992; and

WHEREAS on August 19, 1993 the City of Alexandria's Phase I program was found to be consistent by the Chesapeake Bay Local Assistance Board; and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local government adoption of revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003; and

WHEREAS in the interim the Chesapeake Bay Local Assistance Department has developed and the Chesapeake Bay Local Assistance Department has approved,

numerous guidance documents which assist localities with compliance with the revised Regulations; and

WHEREAS August 2003, the City of Alexandria undertook a jurisdiction-wide stream-mapping study, in part, to answer several policy questions upon which mapping and ordinance revisions were contingent; and

WHEREAS that study was completed in November 2003 and the public review process for the revised map and ordinance was begun; and

WHEREAS on November 3, 2003 the City Manager for Alexandria formally requested an extension of the Phase I compliance deadline in order to incorporate the findings of the stream-mapping study into the revised program; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 extends the date for the City of Alexandria to comply with § 10.1-2109 of the Act and § 9VAC10-20-60.1 and 2 of the Regulations from December 31, 2003 to June 30, 2004.

BE IT FINALLY RESOLVED that failure by the City of Alexandria to meet the above established compliance date of June 30, 2004 would result in the local program becoming inconsistent with § 10-.1-2109 of the Act and § 9VAC10-20-60.1 and 2 of the Regulations and subject the City of Alexandria to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
ESSEX COUNTY - #12

Modification – 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 § 9VAC10-20-60 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 Essex County adopted a local Phase I program on October 22, 1991, and

WHEREAS on December 5, 1991, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Essex County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on September 16, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Essex County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Essex County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

LOCAL PROGRAM, PHASE I
MIDDLESEX COUNTY - #57

Modification – 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 § 9VAC10-20-60 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 Middlesex County adopted a local Phase I program on January 16, 1992 and amended it on April 20, 1993, and

WHEREAS on June 25, 1993, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Middlesex County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on December 17, 2002 and November 18, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Middlesex County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Middlesex County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF CAPE CHARLES #14

Modification – 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 § 9VAC10-20-60 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 Town adopted a local Phase I program on September 11, 1990, and amended on July 11, 1995, and February 26, 1999, and

WHEREAS on April 12, 1999, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the Town of Cape Charles adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 12, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the Town of Cape Charles's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Cape Charles's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF PARKSLEY #72

Modification – 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 § 9VAC10-20-60 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 Town adopted a local Phase I program on April 10, 1995, and

WHEREAS on June 24, 1996 the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the Town of Parksley adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on December 8, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the Town of Parksley's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Parksley's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF HALLWOOD #72

Modification – 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 § 9VAC10-20-60 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 Town adopted a local Phase I program on December 6, 1993, and

WHEREAS on March 3, 1994 the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the Town of Hallwood adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 24, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the Town of Hallwood's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Hallwood's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
TOWN OF SAXIS #71**

Modification – 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 § 9VAC10-20-60 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 Town adopted a local Phase I program on August 2, 1993, and

WHEREAS on December 2, 1993 the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the Town of Saxis adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 3, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the Town of Saxis' revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Saxis' revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
ACCOMACK COUNTY #35

Modification – 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 § 9VAC10-20-60 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 County adopted a local Phase I program in 1992, and

WHEREAS on May 6, 1992, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Accomack County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 19, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Accomack County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Accomack County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
HENRICO COUNTY - #23**

Modification – 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 § 9VAC10-20-60 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 Henrico County adopted a local Phase I program on February 10, 1993, and amended on August 14, 2001, and

WHEREAS on December 10, 2001, the County's Phase I program was found consistent with conditions by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Henrico County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 12, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Henrico County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Henrico County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
CHARLES CITY COUNTY - #61

Modification – 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 § 9VAC10-20-60 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 Charles City County adopted a local Phase I program on November 26, 1991, and amended on February 9, 1993 and September 23, 1993, and

WHEREAS on November 10, 1998, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Charles City County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on September 23, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Charles City County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 Charles City County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
JAMES CITY COUNTY - #1**

Modification – 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 § 9VAC10-20-60 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 County adopted a local Phase I program on August 6, 1990, and

WHEREAS on January 25, 1991, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS James City County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 25, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to James City County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 James City County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
CITY OF WILLIAMSBURG - #5

Modification – 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 § 9VAC10-20-60 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 adopted a local Phase I program on September 20, 1990, and

WHEREAS on January 25, 1991, the City's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the City of Williamsburg adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on December 11, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the City of Williamsburg's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 City of Williamsburg's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Davis called for the presentation of Phase I Local Program Reviews, Phase 1. He recognized Ms. Beth Baldwin for staff's presentation for the Town of Kilmarnock.

Ms. Baldwin stated that the Town of Kilmarnock officially adopted its revised Bay Act ordinance on March 3, 2003.

Ms. Baldwin said that in reviewing the adopted ordinance, Department staff identified five conditions for consistency with the Regulations. The first four include: adding the criteria for redevelopment, adding definitions of "substantial alteration" and "public road", adding the phrase "mitigating the effects of," and including an additional finding when considering exception requests. The last condition is to ensure that a site specific determination is conducted either in accordance with the plan of development or water quality impact assessment, whichever is the relevant the process.

Ms. Baldwin also stated that the Department wanted to note that the Town of Kilmarnock was the first local government in the Northern Neck region to amend its Bay Act ordinance to be consistent with the revised Regulations. While there were several items suggested for clarification, the Town did admirable work of revising its ordinance and addressing most items for consistency, despite adopting the revisions as a separate piece, unincorporated into the entire ordinance. Ms. Baldwin stated that the Department staff recommended and NARC concurred that Kilmarnock's Chesapeake Bay

Preservation Overlay District be found consistent with the Regulations provided that the Town undertake and complete the five recommendations by December 31, 2004.

Mr. Davis called for a motion. Mr. Nice motioned to find the Town of Kilmarnock's amended Phase I program consistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations subject to the condition that the Town undertake and complete the five recommendations by December 31, 2004.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
KILMARNOCK TOWN - #77**

Modification – Conditional

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 § 9VAC10-20-60 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 Kilmarnock adopted a local Phase I program on October 15, 1990, and

WHEREAS on April 27, 1994, Kilmarnock's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Kilmarnock adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on March 3, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Kilmarnock's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 five recommendations in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Kilmarnock's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations subject to the following condition that the Town undertake and complete the five recommendations no later than December 31, 2004.

1. Amend Section 54-481 to provide for definition of "public road" and "substantial alteration" that is consistent with the definitions set forth in § 9 VAC 10-20-40 of the Regulations.
2. Amend Section 54-482 (b) to be consistent with § 9 VAC 10-20-105 of the Regulations.
3. Amend Section 54-486 (d) of the Town's Bay Act overlay district to include criteria consistent with § 9 VAC 10-20-130.1.c of the Regulations.
4. Amend Section 54-487 (e) (2) to be consistent with § 9 VAC 10-20-130.4.a (2) of the Regulations
5. Amend Section 54-493 (c) to be consistent with § 9 VAC 10-20-150.C.1 of the Regulations.

BE IT FINALLY RESOLVED that failure by Kilmarnock to meet the above established compliance date of December 31, 2004 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations and subject Kilmarnock to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Duncanson seconded the motion.

Mr. Davis asked for further comments. There were none.

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Ms. Beth Baldwin for staff's presentation for Colonial Beach.

Ms. Baldwin stated that the Town Council of Colonial Beach officially adopted its revised Bay Act overlay district on December 4, 2003.

Ms Baldwin further stated that while there were several items suggested for clarification, Department staff had identified only one item for consistency. A definition for "substantial alteration" must be added and, though important, this deficiency should not prohibit the Town from proper implementation of its Bay Act ordinance.

Ms. Baldwin advised that the Department staff recommended and NARC concurred that the Colonial Beach's Chesapeake Bay Preservation overlay district be found consistent with the Regulations provided that the Town undertake and complete the one recommendation by December 31, 2006.

Mr. Mendelsohn asked why, if there was only a definition to be changed, the recommendation for extension was for such a long period of time when other programs had sooner completion dates.

Ms. Baldwin explained that the Town would be going through compliance evaluation next year and the deadline was set to coincide with that process.

Mr. Davis called for a motion.

Mr. Duncanson motioned to find the Town of Colonial Beach's amended Phase I program consistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations subject to the condition that The Town undertake and complete the recommendation contained in the staff report no later than December 31, 2006.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
COLONIAL BEACH TOWN - #26

Modification – Conditional

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 § 9VAC10-20-60 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 Colonial Beach adopted a local Phase I program on November 8, 1990, and

WHEREAS on July 24, 1991, Colonial Beach's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Colonial Beach adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on December 4, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Colonial Beach's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Colonial Beach's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations subject to the following condition that the Town undertake and complete the recommendation no later than December 31, 2006.

1. Amend Section 22-4 to provide for a definition of "substantial alteration" that is consistent with the definition set forth in § 9 VAC 10-20-40 of the Regulations.

BE IT FINALLY RESOLVED that failure by Colonial Beach to meet the above established compliance date of December 31, 2006 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations and subject Colonial Beach to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Ms. Fitz-Hugh seconded the motion.

Mr. Davis asked for further comments. There were none.

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Ms. Nancy Miller for staff's presentation for Gloucester County.

Ms. Miller stated that on December 2, 2003 Gloucester County adopted revisions to its CBP Ordinance to address requirements in the Regulations.

Ms. Miller noted that there was one recommendation for consistency regarding the administrative review process for exceptions.

Ms. Miller stated that the Administrative review process should include the same findings as the formal review process; however, the final version of the CBP Ordinance adopted by the County omitted the phrase that made this requirement explicit. As a result, language specifying that the findings must be made as part of the administrative process must be restored for consistency with the Regulations. This must be done through a CBP Ordinance revision.

Ms. Miller advised that, in the meantime, the County would be applying its CBP Ordinance in a manner consistent with the Regulations, because in Gloucester these exception requests are heard by an Administrative Board and the County's forms include the required findings. The form constitutes the report provided to the Board for conducting its review, and for documenting the Board's actions to the applicant and to the public.

Ms. Miller advised that the condition can be addressed with little additional investment of County staff time and can be deferred until such time as other ordinance revisions are being made, subject to a deadline of December 31, 2005. She stated that the NARC and staff recommend that the local program amendments adopted by Gloucester County be found consistent with the Act and the Regulations subject to this condition.

Mr. Davis called for questions. There were none.

Mr. Davis called for a motion.

Mr. Mendelsohn motioned to find Gloucester County's amended Phase I program consistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations subject to the condition that the County undertake and complete the recommendation contained in the staff report no later than December 31, 2005.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
GLOUCESTER COUNTY - #38**

Modification – Conditional

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 § 9VAC10-20-60 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 Gloucester County adopted a local Phase I program on October 15, 1991, and

WHEREAS on December 5, 1991, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Gloucester County adopted a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on December 2, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Gloucester County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Gloucester County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations subject to the following condition that the County undertake and complete the following recommendation no later than December 31, 2005:

1. Section 5.5-12.A. (3) must be revised to read, “The review for waiver is made pursuant to Section 5.5-15 of this Ordinance *and the findings in Section 5.5-14. (1)-(6) are made.*”

BE IT FINALLY RESOLVED that failure by Gloucester County to meet the above established compliance date of December 31, 2005 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations and subject Gloucester County to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Froggatt seconded the motion.

Mr. Davis called for the vote. All members voted aye. Mr. Davis stated that the motion carried.

Mr. Davis recognized Mr. Helmboldt for staff’s presentation for New Kent County.

Mr. Helmboldt explained that New Kent County adopted their local program amendments on March 10, 2003.

Mr. Helmboldt mentioned that the County’s Chesapeake Bay Preservation Area ordinance addresses all but one of the required changes he explained that New Kent County did not amend their definition of “substantial alteration” to reflect the revised regulations prior to adoption; and recognized as written the County’s definition which pertains to expansion or modification of a building or development within any Chesapeake Bay Preservation Area.

Mr. Helmboldt made clear that the revised regulations define “*substantial alteration*” as being applicable only to the Resource Management Area. Unfortunately, staff had thought that the necessary revision could be accomplished administratively but found that it cannot be made administratively.

Mr. Helmboldt explained that the County chose to wait until after the Board’s review before they made this relatively minor revision, in case there are other changes

necessary for full consistency. Additionally, the SARC recommended to allow New Kent County until June 30, 2005 to make the change since staff will be conducting a compliance evaluation of the County's program in the fourth quarter of 2004; and this will allow the County's Board of Supervisors to make all necessary changes and proceed with a single adoption process should additional changes be recommended as a result of the compliance evaluation.

Mr. Davis asked if there were any questions. There were none

Mr. Davis asked for a motion.

Mr. Cowling motioned to find New Kent County's amended Phase I program consistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations subject to the condition that the County undertake and complete the recommendation contained in the staff report no later than June 30, 2005.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I **NEW KENT COUNTY - #60**

Modification – Conditional

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 § 9VAC10-20-60 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 New Kent County adopted a local Phase I program on November 25, 1991, and amended on February 12, 1996, and April 14, 1997, and

WHEREAS on December 15, 1997, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and

Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS New Kent County adopted a revised local program to comply with §§ 9VAC10-20-60.1 and 2 of the Regulations on March 10, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to New Kent County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 New Kent County's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations subject to the following condition that the County undertake and complete the following recommendation no later than June 30, 2005:

1. Amend the definition of "*Substantial Alteration*" to be applicable only to the RMA, not the CBPA as currently written so as to read as follows: The expansion or modification of a building or development that would result in a disturbance of land exceeding 2,500 square feet in the Resource Management Area only.

BE IT FINALLY RESOLVED that failure by New Kent County to meet the above established compliance date of June 30, 2005 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations and subject New Kent County to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Duncanson seconded the motion.

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Mr. Link for staff's presentation of Suffolk.

Mr. Link Stated that the City of Suffolk adopted their revised Chesapeake Bay Preservation Overlay District on November 19, 2003, as a component of their Uniform Development Ordinance.

Mr. Link also noted that on February 17, 2004 staff recommended and the Southern Area Review Committee concurred that the local program amendments adopted by the City of Suffolk on November 19, 2003 be found consistent with the act and regulations subject to the condition that the City adequately address the six conditions contained in the staff report.

Mr. Link then noted that three of the six conditions consisted of definition and or reference revisions; additionally the City was required to remove any reference to modification or reductions to the buffer within the overlay language. Include performance criteria limiting impervious cover in the overlay language; and revise a graphic included in the document that refers to an area of allowable BMP construction within the buffer. Based on these conditions, staff recommended and the SARC concurred that the City's ordinance be approved as being consistent with the stipulation that the above six conditions be completed no later than September 30, 2004.

Upon being notified of these findings Cindy Taylor, Assistant Director of Planning for the City, assured the Department that the City did not have a problem with any of the findings and that they would have them completed by the given deadline.

Mr. Davis asked for a motion.

Ms. Fitz-Hugh motioned to find the City of Suffolk's amended Phase I program be found consistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations subject to the condition that the City undertake and complete the recommendations contained in the staff report no later than September 30, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
CITY OF SUFFOLK - #51

Modification – Consistent with Conditions

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 § 9VAC10-20-60 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 Suffolk adopted a local Phase I program on September 19, 1990, and

WHEREAS on June 4, 1992, the City's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the City of Suffolk adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on November 19, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to the City of Suffolk's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 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 City of Suffolk's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations provided the City adequately address the following six conditions by September 30, 2004:

1. The current definition of "Highly Permeable Soils" in the City's UDO refers to the 1983 National Soils Handbook. The correct reference, per the Regulations, is the National Soil Survey Handbook of 1996.
2. The definition for "Silvicultural Activity" must be amended to reflect the definition included in the Regulations.
3. The last line in the City's definition of RPA should be amended as follows:
"...100 feet in width located adjacent to and landward of any of these components and along both sides of any ~~tributary stream~~ water body with perennial flow."
4. Amend Section 31-415.c to include the performance criteria that limits impervious cover as required in Section 9 VAC 10-20-120.5 of the Regulations.
5. Revise the graphic in Section 31-415.D.ii to show only the 100-foot buffer area limits or delete the graphic altogether.
6. Section B-13.b and Section B-13.c must be amended to read, "...and requires any ~~modification or reductions of encroachment into~~ encroachment into the landward..."

BE IT FINALLY RESOLVED that failure by the City of Suffolk to meet the above established compliance date of September 30, 2004 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations and subject the City of Suffolk to the compliance provisions as set forth in § 10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton

Executive Director
Chesapeake Bay Local Assistance Department

Mr. Cowling seconded the motion.

Mr. Davis called for the vote. All members voted aye. Mr. Davis commented that the motion carried.

Mr. Davis recognized Ms. Baldwin for staff's presentation for Lancaster County.

Ms. Baldwin first stated that Mr. Larson had planned on attending this meeting but had become ill over the weekend and expressed his apologies for not being able to make this meeting. She also noted that to the best of her knowledge, no other Lancaster County official would be attending. She then began the summary of the staff report on Lancaster County Phase I revision stating that as noted in report, Department staff believes that no other recourse exists at this time but to recommend that Lancaster County's revised Phase I program be found inconsistent. This recommendation was also agreed to at the NARC meeting with the directive that the Department and the County continue to work together to resolve consistency issues.

As general background, Lancaster County adopted its original Bay Act ordinance on September 20, 1990 and a revised program on March 28, 1991. Its program was found consistent on by Chesapeake Bay Local Assistance Board on May 9, 1991. For its revised program, Lancaster County's Planning Commission met on August 21, 2003 to discuss the proposed revisions and then on October 30, 2003, the Board of Supervisors adopted its revised Bay Act ordinance in a public hearing.

Because there was considerable communication between Lancaster County and Department staff regarding the proposed revisions to their Bay Act ordinance, Ms. Baldwin first summarized those exchanges before discussing the details of the proposed finding of inconsistency.

She noted that three letters were sent and two meetings were held with Lancaster County regarding the proposed revisions to its Bay Act ordinance. The first letter was sent in May 2003 and included suggested revisions and a mark up of the County's current ordinance. In August, Department staff met with Planning Director Mr. Larson to discuss what Lancaster County was proposing to present at the upcoming Planning Commission meeting. A second letter was sent to Mr. Larson as follow up and a request was made to include this second letter as part of the legal record of the Planning Commission meeting. The letter outlined those sections of the County's Bay Act ordinance that did not appear to be consistent with the revised Regulations. In September, after the Planning Commission recommended the ordinance as proposed, without incorporating the changes recommended by the Department, a third letter was sent to Mr. Larson. This letter outlined the conditions for consistency that would be included in a staff report should the County proceed with adopting its proposed document. A total of eight conditions were

identified with a note stating that others might be identified after a more formal review. In October, Department staff met with Mr. Larson and Mr. Simmons, then the Chair of Lancaster's Board of Supervisors. Mr. Pennell, the County Administrator was supposed to have attended but a more pressing matter requiring his attention came up. The more substantial consistency items were discussed at this meeting and though a lively exchange of concerns and issues occurred, ultimately, the County and the Department reached a stalemate and the County proceeded to adopt the revisions it had proposed.

With respect to the staff report, the ten conditions noted in it may be divided into four categories: certain development criteria in Resource Protection, septic pump-out requirements, exemptions, and the County's exceptions process.

With respect to development criteria in Resource Protection Areas, Lancaster County did not include criteria for redevelopment as outlined in the Regulations. Besides compliance with stormwater and erosion control, these criteria include no increase in the area of impervious cover and no further encroachment into the RPA. The County also did not include the requirement that buffers must be re-established when agricultural and silvicultural land use ceases and the lands are proposed to be converted to other uses.

Next, Lancaster chose to retain its buffer policies for lots recorded prior to September 1, 1990 and these policies are not consistent with the Regulations since they allow an encroachment into the landward 50' for structures regardless of buildable area outside of the RPA.

With respect to the second category, Lancaster County did not include the septic tank pump-out requirement as required by the Regulations.

The third category concerns exemptions. Lancaster did not include the erosion and sediment control requirement for exempt activities such as boardwalks and trails. And when exemption public roads, Lancaster chose to use the phrase "all activities of Virginia Department of Transportation" in place of public roads. However, since not all such activities of this Department are exempt, this terms must be struck and replaced with the appropriate phrase "public roads"

The fourth category concerns administrative waivers for nonconforming structures and exceptions process. For waivers, the County did not include the required findings for permitting an expansion of a nonconforming structure, nor did they make clear that this administrative process may only be applied to the expansion of a principal structure and not an accessory one.

Finally, the County chose to retain its previous exception policy that is not consistent with the revised Regulations. This policy only requires a formal process when considering a request that would impact the seaward 50 ft and not the entire 100 ft buffer. In addition, the County did not include the required findings when considering such requests.

Ms. Baldwin reiterated that as stated previously, as part of the recommendation agreed to at the NARC meeting, Department staff and the County were directed to continue to work together to try to resolve the issues of consistency. She said that Mr. Larson presented the information that was discussed at the NARC meeting to Lancaster's Board of Supervisors at their February 26th meeting. He relayed the information that while his Board is amenable towards making some of the required changes, they do not want to make the required changes on three of the more substantial issues: septic pump-out, encroachments on lots recorded prior to Sept 1, 1990, and formal exception process. She ended by mentioning that she had sent Mr. Larson a letter summarizing their discussions to date and that Mr. Larson, upon receiving the letter, had agreed with its content.

Ms. Baldwin offered two comments before closing. First she stated that communications and interactions with the County have always been professional and courteous and that the County does appear to implement certain aspects of its program in a manner consistent with the Regulations. For example, the County does not allow encroachments on lots recorded after Sept 1, 1990.

Second, she noted that 6 letters had been received from Lancaster County residents who are concerned that the County has not revised its Bay Act ordinance to be consistent with the Bay Act and its Regulations. She mentioned that the primary concern of these residents appears to be with the County's buffer policies.

Ms. Baldwin concluded that because of these conditions, Department staff recommend and NARC concurs that Lancaster County's Phase I program be found inconsistent and further require the County to undertake and complete the ten recommendations for consistency no later than June 30, 2004.

Once Ms. Baldwin had completed her summary of the staff report, Mr. Davis asked if any Board members had questions for Ms. Baldwin.

Mr. Mendelsohn asked if the County was agreeable to revising its ordinance to address some of the consistency items as Mr. Larson had indicated at the NARC meeting.

Ms. Baldwin responded that Mr. Larson had presented the information from the NARC meeting to Lancaster's Board of Supervisors and thought his Board seemed willing to revise certain aspects of its ordinance but not the three that substantial issues: septic-pump out, encroachments on lots recorded prior to the Bay Act, and the exception process.

Mr. Cowling asked about changing the date from June 30, 2004 to May 15, 2004 since all other programs that would be found inconsistent had that date.

Ms. Smith responded that the initial date of June 30 had been given to provide the County adequate time to make the necessary changes and proceed with the lengthy adoption process. However, since the County appears to be unwilling to address some of

the consistency items, the deadline proposed in the staff report could be changed to May 15, 2004 as the others were.

Mr. Davis asked for a motion.

Mr. Cowling motioned to find Lancaster County's amended Phase I program inconsistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations and further require the County to undertake and complete the recommendation contained in the staff report no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I **LANCASTER COUNTY - #09**

Modification – Inconsistent

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 § 9VAC10-20-60 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 Lancaster County adopted a local Phase I program on September 20, 1990, and a revised program on March 28, 1991; and

WHEREAS on May 9, 1991, the Lancaster County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Lancaster County adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on October 30, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Lancaster County's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Lancaster County's revised Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that Lancaster County undertake and complete the ten recommendations contained in the staff report no later than May 15, 2004.

1. Amend Section 1 to provide for definition of "public road" and "substantial alteration" that is consistent with the definitions set forth in § 9 VAC 10-20-40 of the Regulations.
2. Amend Section 3-3 (c) of Lancaster's Bay Act ordinance to include criteria consistent with §9 VAC 10-20-130.1.c of the Regulations.
3. Amend Section 3-4 to include buffer reestablishment when silvicultural or agricultural land use ceases to be consistent with § 9 VAC 10-20-130.3.b of the Regulations.
4. Amend Section 3-4 (d) (4) to be consistent with § 9 VAC 10-20-130.5.a (3) of the Regulations.
5. Amend Section 3-4 (e) to be consistent with § 9 VAC 10-20-130.4.a of the Regulations.
6. Amend Section 4-5 to be consistent with § 9 VAC 10-20-120.7 of the Regulations.
7. Amend Section 7-1 (a) to be consistent with § 9 VAC 10-20-150.B.1 of the Regulations.
8. Amend Section 7-1 (e) to be consistent with § 9 VAC 10-20-130.2 of the Regulations.
9. Amend Section 10-1 to be consistent with §§ 9 VAC 10-20-150.A and 9 VAC 10-20-150.C.4 of the Regulations.

10. Amend Sections 10-2 and 10-3 to be consistent with § 9 VAC 10-20-150.C of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Sheffield seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Shawn Smith for staff's report on the Town of Exmore

She noted that staff is recommending that the Town of Exmore's revised Bay Act program be found inconsistent, and further that the fifteen recommendations for consistency be addressed by the town no later than September 30, 2004. She continued by stating that the Southern Area Review Committee concurred with this recommendation at their meeting of February 17, 2004. She said that the consistency recommendations relate to the town's revised CBPA boundary, the town's attempt to require certain performance criteria town-wide to compensate for a very small CBPA, and within its Bay overlay district, definitions, RPA requirements and criteria, and administrative waivers and exception requirements and that Since the Department is recommending that the Board find the town inconsistent, more information on the town's program is necessary.

Ms. Smith provided a background of the Town's program, stating that the Town of Exmore's Bay Act program was originally found consistent in 1996, after meeting one outstanding condition from a previous review in 1994. She explained that in October 2000, the Town expanded its land area through a boundary adjustment, and the Department began notifying the town that it needed to revise its CBPA designation and ordinance to include the additional land area, since the new area included 2 stream segments and a considerable amount of additional land. She said that Department staff corresponded with the Town about the required revisions to address the new land area on a number of occasions, first working through the ANPDC and then, after funding for the Regional Planner position was cut, to the town itself. Once the Regulations were revised,

staff continued to attempt to work with the Town as it revised its zoning ordinance to address the required Regulatory revisions.

She noted that the Town finally adopted its revised Phase I program on March 5, 2003, and included in this revision a significant reduction in its CBPA. She explained that the Town's previous CBPA covered the entire Bay watershed of the Town, roughly ½ of the town area, while the new CBPA includes the RPA adjacent to the two stream segments, and an RMA that is 100-foot wide adjacent to the RPA in the extreme western corner of the Town and further that this CBPA essentially applies to one parcel, Broadwater Academy, a private school.

Ms. Smith continued her presentation by saying that during development of the Town's revised ordinance and CBPA map, Department staff noted that the Regulations require an RMA to be based on the presence of RMA land types (9 VAC 10-20-90) and that nearly the entire eastern shore is characterized by highly permeable soils, and RMA land type. She said that the Town's consultant stated his belief to the Town and to Department staff that the town was under no compunction to adopt a CBPA that would encompass the entire Bay watershed, despite the presence of RMA land types. She said that a number of discussions between Department staff and the consultant occurred and Department staff did note that the Board, in the previous reviews of local Bay Act programs, had approved smaller RMAs for several towns on the Eastern shore when these towns added provisions to apply certain of the performance criteria to their entire jurisdiction. She explained that among those previously approved are Parksley, Onancock, Melfa, Painter, Eastville and Onley and that based on conversations with the consultant, and the fact that other towns on the Shore had small RMAs with performance criteria town-wide, she had offered this approach as a compromise to requiring a watershed-wide RMA. She also stated that she would like to point out that each of the other towns with this approach have CBPAs that cover larger portions of their areas, and that Exmore's is by far, the smallest CBPA to be adopted.

Ms. Smith noted that the Town's revised ordinance does appear to include requirements for erosion and sediment control, 5-year pump-out, reserve drain field, stormwater management as well as the general criteria to limit land disturbance and impervious cover in Section XII-8 General Performance Standards for Development and Redevelopment). She said that this section is contained within the Town's site plan section, and it appears that site plans are required for any use and development in town in all zoning districts except for single-family detached dwelling units where a separate plat is submitted under the Town's Subdivision Ordinance. However, she stated that it is unclear how the Town intends to implement these standards, as there is no other reference to Section XII-8 in the site plan requirements. Furthermore she said, "that the reference to erosion and sediment control needs to be corrected so it refers to Northampton County's ESC program", since the Town does not have an ESC ordinance. She explained that the first 2 recommendations relate to ensuring that the performance criteria listed under Section XII-8 are indeed required for all site plans, and that the proper reference to Northampton County's erosion and sediment control program is included.

She continued her presentation by noting that the Town's revisions to its Bay Act overlay district fall short of consistency in many areas. She briefly explained that, "in the definitions section, the town needs to include the definition of "substantial alteration" and revise the definition of "water body with perennial flow" as the current definition excludes all farm ponds", which is not appropriate. She noted that the town also needs to revise its RPA development criteria to specifically note that WQIAs are required for land disturbances as well as development activities in the RPA, to appropriately list the types of development activities that are permitted by right in the RPA, including all required conditions that must be met for those development types. Furthermore, she explained that the town needs to name its formal RPA exception board, include all required conditions for formal exceptions, and clarify that the permitted expansion of nonconforming structures in RPAs is limited to principal structures.

She completed her presentation by saying that given the number of recommendations for consistency, coupled with the significant change in the Town's CBPA and the problems noted with this change, the Department is recommending that the Town's Bay Act program be found inconsistent, with a consistency deadline of September 30, 2004.

Mr. Davis asked for a motion.

Mr. Sheffield motioned to find the Town of Exmore's amended Phase I program inconsistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations and subject to the requirement that the Town undertake and complete the fifteen recommendations contained in the staff report no later than September 30, 2004.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
TOWN OF EXMORE #76**

Modification – Inconsistent

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 § 9VAC10-20-60 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 Town adopted a local Phase I program on August 3, 1994, with revisions in 1995, and

WHEREAS on March 26, 1996, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS Town of Exmore adopted a revised local program to comply with § 9VAC10-20-60.1 and 2 of the Regulations on March 5, 2003; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs; and

WHEREAS staff reviewed the amendments made to Town of Exmore's revised program for consistency with the Act and Regulations; and

WHEREAS on February 17, 2004, 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 Town of Exmore's revised Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town undertake and complete the following fifteen conditions for consistency no later than September 30, 2004:

1. The Town should provide information to the Department that will indicate how the Town intends to ensure that the General Performance Standards for Development and Redevelopment will be implemented. It is recommended that the Town accomplish this by amending Section XII-8 to add a requirement that reads: "All site plans and subdivision plats shall provide information showing compliance with the provisions noted under XII-8 (1) – (6) of this ordinance.

2. Amend Section XII-8 (1) to read: “All development activities exceeding two thousand five hundred square feet of land disturbance shall be subject to Northampton County’s Erosion and Sediment Control Ordinance.”
3. Amend Article II to include the definition of “substantial alteration” as Section II-27 to read as follows: “Substantial alteration means the expansion or modification of a building or development that would result in a disturbance of land exceeding 2,500 square feet in the Resource Management Area only.”
Renumber subsequent subsections accordingly.
4. Revise Section II-134 (to be renumbered as Section II-135 as noted in Recommendation #3) as follows: “Water body with perennial flow: A well defined water body...conditions; ~~provided however, that farm ponds used for agricultural purposes shall not be deemed to be water bodies with perennial flow.~~”
5. Amend Section II-11.10.A to read as follows: “A water quality impact assessment shall be required for any proposed **land disturbance**, development or redevelopment within RPAs...”
6. Amend Section II-11.10.C to read as follows: “Development in RPAs may be allowed only if it: (1) is water dependent; (2) constitutes redevelopment; or is a road or driveway crossing satisfying the conditions set forth in Section II-11.10.C.3 below.
7. Add Section II-11.10.C.1 to read: “A new water dependent facility may be allowed provided that:
 - a. It does not conflict with the Exmore Comprehensive Plan;
 - b. It complies with the performance criteria set forth in Section II-12 of this Article;
 - c. Any non-water dependent component is located outside of the RPA;
 - d. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.
8. Add a new Section II-11.10.C.2 that reads: “Redevelopment shall be permitted within RPAs only if there is no increase in the amount of impervious cover and no further encroachment within the RPA, and it shall conform to the requirements of Section II-11.12.B (4) and Section II-11.12 (7) of this Article.
9. Add new Section II-11.10.C.3 that reads: “Roads and drives not exempt under Section II-11.15.1 may be constructed in or across RPAs if each of the following conditions is met:
 - a. The Zoning Administrator makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;

- b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality;
 - c. The design and construction of the road or driveway satisfies all applicable criteria in the Article, including the submission of a water quality impact assessment as required under Section II-11.13;
 - d. The Town of Exmore reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development process as outlined under Section II-11.14 of this Article.”
10. Amend Section II-16.B to name the appropriate local body, board or commission to consider the formal RPA exception requests. Since the CBPAOD is contained within the Town’s Zoning Ordinance, it is suggested that the Board of Zoning Appeals be named as the local legislative body for consideration of such requests.
 11. Amend Section II-16.B (5) to read: “Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.”
 12. Add a Section II-16.F to outline a process for administratively considering requests for exceptions to Section II-11.10.B of the CBPAOD, to include the requirement that such requests are considered using the same findings a currently noted under Section II-10.16.B (1)-(5).
 13. Amend Section VI-4.1 to read: “An application for the expansion of a nonconforming **principal** structure within a Resource Protection Area may be approved by the Zoning Administrator provided the following findings are made:”
 14. Amend Section VI-4.1 to add subsection E that reads: “Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.”
 15. Amend Section VI-4.1 to add subsection F that reads: “In no case shall this provision apply to accessory structures.”

BE IT FINALLY RESOLVED that failure by the Town of Exmore to meet the above established final compliance date of June 30, 2004 will result in the Town of Exmore to be subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Acting Executive Director
Chesapeake Bay Local Assistance Department

Mr. Cowling seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis then asked Ms. Smith to provide an overview of the Town of Belle Haven.

Ms. Smith stated that the Town had not yet adopted a revised Bay Act program, and that staff had provided assistance to the town on a number of occasions, and had also notified the Town of the December 31, 2003 deadline on a number of occasions. She completed her overview by stating that, to her knowledge, the Town had not yet adopted a revised Bay Act program.

Mr. Davis asked for a motion.

Mr. Mendelsohn motioned to find the Town of Belle Haven's Phase I program inconsistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations and subject the Town to the condition that the Town adopt a revised Bay Act program no later than May 15, 2004

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF BELLE HAVEN - #68

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Town adopted a local Phase I program on November 3, 1992, with amendments on July 27, 1995, and

WHEREAS on May 2, 1996, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the Town of Belle Haven to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, the Town of Belle Haven failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Belle Haven's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the Town of Belle Haven to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject the Town of Belle Haven to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton

Executive Director
Chesapeake Bay Local Assistance Department

Mr. Nice seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis then asked Ms. Smith to provide an overview of the Town of Bloxom.

Ms. Smith continued by stating that the Town of Bloxom had not yet adopted a revised Bay Act program, and that staff had provided assistance to the town on a number of occasions, and had also notified the Town of the December 31, 2003 deadline on a number of occasions. She completed her overview by stating that, to her knowledge, the Town had not yet adopted a revised Bay Act program.

Mr. Davis asked for a motion.

Mr. Mendelsohn motioned to find the Town of Bloxom's Phase I program inconsistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations and subject the Town to the condition that the Town adopt a revised Bay Act program no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF BLOXOM - #47

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Town adopted a local Phase I program on December 23, 1992, and

WHEREAS on March 25, 1993, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the Town of Bloxom to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, the Town of Bloxom failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Bloxom's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the Town of Bloxom to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject the Town of Bloxom to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Ms. Fitz-Hugh seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis then asked Ms. Smith to provide an overview of the Town of Onley.

Ms. Smith stated that the Town had not yet adopted a revised Bay Act program, and that staff had provided assistance to the town on a number of occasions, and had also notified the Town of the December 31, 2003 deadline on a number of occasions. She noted that, unlike the towns of Belle Haven and Bloxom, she has been contacted by the Town mayor and Town Attorney, and regarding the Town's Bay Act program and hoped to be able to work with the Town to help them revise their program. She completed her overview by stating that, to her knowledge, the Town had not yet adopted a revised Bay Act program.

Mr. Davis asked for a motion.

Mr. Duncanson motioned to find the Town of Onley's Phase I program inconsistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations and subject the Town to the condition that the Town adopt a revised Bay Act program no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I

TOWN OF ONLEY - #83

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Town adopted a local Phase I program on May 6, 1996, and

WHEREAS on December 16, 1996, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the Town of Onley to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, the Town of Onley failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Onley's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the Town of Onley to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject the Town of Onley to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Froggatt seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis asked for Mr. Alex Adams to continue with the Phase I program modification for the Town of Port Royal.

Mr. Adams stated, that the Town of Port Royal adopted their local Phase I program on October 17, 1995 and their program was found consistent on December 12, 1995. Mr. Adams stated he had met with the Town's Planning Commission in November and provided comments on the ordinance that needed to be amended for consistency with the regulations. The Rappahannock Area Development Commission is revising the Town's ordinance and he had spoken with Mr. Steven Manster on Friday March 19th. Mr. Manster explained that he had been working on other projects and was now reviewing the ordinance revisions once again. Mr. Manster stated that he would have the necessary revisions ready for the public comment period in April and the Town's Board of Supervisors meeting on May 17, 2004. Mr. Adams explained that the Town would be receiving a notice from the Department if they did not meet the May 15, 2004 final deadline before the next CBLAB meeting however, the town could come to the Board meeting on June 4, 2004 and explain when they had adopted an ordinance.

Mr. Adams stated that at this time it was staff's recommendation supported by the NARC committee to find the Town of Port Royal inconsistent and establish a date of May 15, 2004 for compliance with the regulations.

Mr. Davis asked for a motion regarding the Town of Prot Royal

Mr. Sheffield motioned that the Chesapeake Bay Local Assistance Board find the Town of Port Royal's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town must adopt a consistent Phase I program no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF PORT ROYAL - 82

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Town of Port Royal adopted a local Phase I program on October 17, 1995, and

WHEREAS on December 12, 1995, the Town of Port Royal's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the Town of Port Royal to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, Town of Port Royal failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Town of Port Royal's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by Town of Port Royal to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Cowling seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis asked for Mr. Alex Adams to continue with the Phase I program modification for the City of Fredericksburg.

Mr. Adams stated, that the City of Fredericksburg adopted their local Phase I program on August 24, 1993 and their program was found consistent on September 23, 2004. Mr. Adams stated he had met with the City's Planning Director in November and again on February 10, 2004 to provide comments on the City's ordinance. The City currently has language in their ordinance referencing the CBPA maps as approved by the City Council. The regulation revision to add individual stream determinations will create a larger workload than the City initially thought it would require. The City has informed me that they will be adopting their revised regulations at the March 23, 2004 City Council meeting.

Mr. Adams explained to the City that it would be receiving a notice from the Department if they did not meet the May 15, 2004 final deadline before the next CBLAB meeting.

Mr. Adams stated that at this time it was staff's recommendation supported by the NARC committee to find the City of Fredericksburg inconsistent and establish a date of May 15, 2004 for compliance with the regulations.

Mr. Davis asked for a motion.

Mr. Nice motioned that the Chesapeake Bay Local Assistance Board find the City of Fredericksburg's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
CITY OF FREDERICKSBURG - 05

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 City of Fredericksburg adopted a local Phase I program on August 24, 1993, and

WHEREAS on September 23, 2004, the City of Fredericksburg Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the City of Fredericksburg to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS City of Fredericksburg has provided a schedule that the City of Fredericksburg will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on March 23, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds City of Fredericksburg Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City of Fredericksburg adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by City of Fredericksburg to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Duncanson seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. The motion passed 8-0, with Mr. Sheffield abstaining. Mr. Davis noted that the motion carried.

Mr. Davis recognized Mr. Brad Belo for staff's presentation for the City of Hampton.

Mr. Belo stated that in addition to several letters sent to by the Department's Executive Director warning the City about the December 31, 2003 deadline, staff reviewed and commented on the City's existing ordinance and on very rough drafts of the City's revised Phase I program during the summer and fall of 2003.

Mr. Belo informed the Board that City staff had notified the Department that it is intending to submit a revised ordinance, consistent with Department comments, to the City's planning commission on April 12, 2004 and the City Council on May 12, 2004 for its first reading and again on May 26, 2004 for its second reading, at which time the ordinance will be adopted.

Mr. Belo recommended that the Resolution in the Board's packet be amended in the following way to reflect the deadline that was provided by the City late last week, after the existing resolution was drafted and distributed. The second to the last paragraph on the first page of the City of Hampton's resolution should be changed to read as follows:

“WHEREAS the City of Hampton has provided a schedule that the City will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on May 26, 2004.”

Mr. Belo also recommended that the Board continue to require the May 15, 2004 deadline to ensure consistency in the compliance deadline for inconsistent localities. Mr. Belo also felt that the City's proposed first reading to the City Council on May 12, 2004 would allow staff enough time to judge the City's progress towards adopting the necessary Phase I program revisions. Provided that the City stays on its proposed adoption schedule, staff will be able to report this fact to the Board during its June meeting. I believe that sticking with the May 15, 2004 deadline helps to clarify the Board's intent to require timely Phase I program revision changes and will encourage the City to stay on schedule.

Mr. Belo concluded that as the City failed to adopt a revised Phase I program consistent with the Regulations by the December 31, 2003 deadline set by the Board, the Southern Area Review Committee and Staff recommended that the City's Phase I program be found inconsistent with the Bay Act and Regulations and the Board set a compliance deadline of May 15, 2004.

Mr. Mendelsohn motioned that the Chesapeake Bay Local Assistance Board find the City of Hampton's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004 and that the Resolution should be amended to reflect Mr. Belo's recommended.

Ms. Tayla Madison, of Richmond, Virginia, asked to provide public comment related to the City of Hampton's Phase I program. Ms. Madison expressed concern that the City was allowing encroachments into the RPA and wanted to know what the Board could do to stop the City from allowing proposed developments that were inconsistent with the Regulations.

Mr. Belo summarized the findings of the Staff's complaint investigation that had recently been conducted and which was directly related to Ms. Madison's concerns.

Mr. Cowling replied that the Board's enforcement power was related to the locality's overall Phase I program and that the Board did not get involved in mediating conflicts between local government's and citizens.

Mr. Crafton noted that the Board had some authority to intervene in certain egregious situations through the Attorney General's office. Mr. Belo confirmed that he had Ms. Madison's contact information.

Mr. Davis for a second on Mr. Mendelsohn's motion, which was still on the floor.

Mr. Cowling seconded the motion.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I

CITY OF HAMPTON - #37

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 a local Phase I program on November 14, 1990 and an amendment on August 11, 1993, and

WHEREAS on December 2, 1993, the City's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the City of Hampton to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS the City of Hampton has provided a schedule that the City will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on May 26, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Hampton's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the City of Hampton to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Mr. Brad Belo for staff's presentation for the City of Poquoson.

Mr. Belo stated that in addition to several letters sent to by the Department's Executive Director warning the City about the December 31, 2003 deadline, Staff had reviewed and commented on multiple drafts of the City's revised Bay Act ordinance during the Fall of 2002, Fall of 2003, and January 2004. City staff had notified the Department that it is intending to submit a revised ordinance, consistent with previous

Department comments, to the City's planning commission on April 19, 2004 and the City Council on April 26, 2004.

Mr. Belo continued stating that since the City had failed to adopt a revised Phase I program consistent with the Regulations by the December 31, 2003 deadline set by the Board, the Southern Area Review Committee and Staff recommended that the City's Phase I program be found inconsistent with the Bay Act and Regulations and that Staff recommended the Board set a compliance deadline of May 15, 2004.

Mr. Davis asked for a motion.

Mr. Duncanson motioned that the Chesapeake Bay Local Assistance Board find the City of Poquoson's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
CITY OF POQUOSON - #50**

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 adopted a local Phase I program on October 15, 1991, and

WHEREAS on February 25, 1993, the City's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the City of Poquoson to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS the City of Poquoson has provided a schedule that the City will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on April 26, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Poquoson's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the City of Poquoson to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Ms. Fitz-Hugh seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Mr. Helmboldt for staff's presentation of Chesterfield County.

Mr. Helmboldt stated that the Department has provided comments to the County on their proposed revisions and has met to discuss recommended ordinance revisions with County staff. Mr. Helmboldt further stated that the County Board of Supervisors has indicated its unwillingness to adopt the revised program due to the requirement of site-specific determination of water bodies with perennial flow and the uncertainty of where these features may exist.

Mr. Helmboldt informed the Board that Mr. Crafton has met with the County Board of Supervisors on a couple of occasions without resolution of this issue. Mr. Helmboldt proceeded to inform the Board that CBLAB had received correspondence the week prior indicating that the Board of Supervisors had voted to extend until May 26, 2004, the time to allow for additional review of the revised Regulations and the implications that it may have on their ability to proceed with development along the 288 corridor. Mr. Helmboldt stated that the County has scheduled a public hearing for that date at, which time they will again consider the issue of adoption.

Mr. Davis asked for a motion.

Mr. Mendelsohn motioned that the Chesapeake Bay Local Assistance Board find Chesterfield County's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the County must adopt a consistent Phase I program no later than May 15, 2004.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
CHESTERFIELD COUNTY - #72**

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Chesterfield County adopted a local Phase I program on October 10, 1990, and

WHEREAS on March 27, 1997, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to Chesterfield County to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, Chesterfield County failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Chesterfield County's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the County adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by Chesterfield County to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Duncanson seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis asked Mr. Helmboldt to proceed with Staff's presentation for the City of Richmond.

Mr. Helmboldt informed the Board that the City, as a result of long-running litigation over a case stemming from their administration of their Bay Act ordinance, has not adopted the revisions to the regulations. Mr. Helmboldt stated that this stems from the fact that, at the heart of the legal matter of this case, site-specific determination was being used by the City prior to that same requirement in the regulations, and the manner in which the City administered that element of their previous ordinance is now being contested.

Mr. Helmboldt informed the Board that the City has come to an agreement with CBLAD to move forward with the adoption of all revised elements with the exception of site-specific determination, to be accomplished in the next few months. Mr. Helmboldt also states that once the legal case is completed the City plans to adopt the site-specific elements as well.

Mr. Davis asked for a motion.

Mr. Mendelsohn motioned that the Chesapeake Bay Local Assistance Board find the City of Richmond's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
CITY OF RICHMOND - #48**

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Richmond adopted a local Phase I program on November 11, 1991, and

WHEREAS on June 25, 1993, the City's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the City of Richmond to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, the City of Richmond failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Richmond's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the City of Richmond to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Duncanson seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis asked Mr. Helmboldt to proceed with Staff's presentation for the City of Petersburg.

Mr. Helmboldt stated that during phone correspondence in November of 2003, the City stated that they would likely adopt a revised ordinance in January 2004. Mr. Helmboldt informed the Board that the City's stated intent was to go before City Council for adoption in January, but that they were still attempting to schedule it for December.

Mr. Helmboldt stated that after a recent discussion with the City in February 2004, they informed staff that they are still in the process of selecting a consultant to update all of the City's land use ordinances, including their Bay Preservation ordinance. Further, Mr. Helmboldt stated that the City is now projecting a completion date of end of fiscal year (June 2004), but that the City has provided no firm schedule for this process.

Mr. Davis asked for a motion.

Ms. Fitz-Hugh motioned that the Chesapeake Bay Local Assistance Board find the City of Petersburg's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City must adopt a consistent Phase I program no later than May 15, 2004.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM, PHASE I
CITY OF PETERSBURG - #79**

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Petersburg adopted a local Phase I program on September 19, 1990, and

WHEREAS on March 25, 1993, the City's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the City of Petersburg to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, City of Petersburg failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds City of Petersburg's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the City adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the City of Petersburg to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Mendelsohn seconded the motion

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis asked Mr. Helmboldt to proceed with Staff's presentation for Prince George County.

Mr. Helmboldt state that during phone correspondence in November of 2003, the County stated that they were in the process of having MuniCode recodify their ordinance revisions and that they would likely adopt a revised ordinance in January 2004.

Mr. Helmboldt further stated that at this time the County has not submitted a revised, adopted ordinance. Mr. Helmboldt informed the Board that the Director of Planning, Leon Hughes informed CBLAD in writing on March 16, 2004 that they are still in the same process and that they do not have a definitive date for receipt of the revised ordinance or its adoption.

Mr. Davis asked for a motion.

Mr. Duncanson motioned that the Chesapeake Bay Local Assistance Board find Prince George County's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the County must adopt a consistent Phase I program no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
PRINCE GEORGE COUNTY - #31

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Prince George County adopted a local Phase I program on November 19, 1991, and

WHEREAS on June 22, 1995, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to Prince George County to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS despite the assistance provided by staff, Prince George County failed to adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations by the December 31, 2003 deadline; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Prince George County's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the County adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by Prince George County to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Froggatt seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis asked Mr. Helmboldt to proceed with Staff's presentation for Surry County.

Mr. Helmboldt informed the Board that the County is moving forward in their adoption process and intends to have the Board of Supervisors adopt their revisions at their April meeting (April 15). Mr. Helmboldt stated that the County has an entirely new Board of Supervisors, which has resulted in delaying proceedings.

Mr. Helmboldt stated that the County Planning Commission has a public hearing scheduled for today, March 22, 2004, to amend the ordinance with a recommendation to forward the ordinance to the Board of Supervisors for adoption. Mr. Helmboldt further stated that at this time all revisions have been made to the ordinance that were required for consistency, they and have been reviewed by CBLAD staff and that the only remaining changes that were submitted by CBLAD Staff to the County were suggestions for clarification and all were merely editorial in nature.

Mr. Davis asked for a motion.

Mr. Cowling motioned that the Chesapeake Bay Local Assistance Board find Surry County's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the County must adopt a consistent Phase I program no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
SURRY COUNTY - #39

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Surry County adopted a local Phase I program on December 19, 1991, and

WHEREAS on May 6, 1992, the County's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to Surry County to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS Surry County has provided a schedule that the County will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on April 15, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Surry County's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the County adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by Surry County to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Mendelsohn seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis then asked Mr. Link to provide an overview of the Town of Smithfield.

Mr. Link stated that the Town of Smithfield adopted its local Phase I program on September 4, 1990. On March 7, 1991 the Board found that program consistent. Since the adoption of the revised regulations staff has provided technical assistance to the Town in revising its local program.

He further noted that the Department commented on the draft and provided recommendations in writing on January 26, 2004. Since that time the Town has provided a schedule for adoption that indicates that the Town will adopt their revised local program on April 6, 2004.

Mr. Link concluded stating, "based on the failure of the Town to meet the extended deadline of December 31, 2003, it is staff's recommendation that the Town be found inconsistent and further that the Town adopts a consistent Phase I program no later than May 15, 2004."

Mr. Davis asked for a motion.

Mr. Mendelsohn motioned to find the Town of Smithfield's amended Phase I program inconsistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations and further that the Town adopt a consistent Phase I program no later than May 15, 2004

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I
Town of Smithfield - #12

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 Smithfield adopted a local Phase I program on September 4, 1990, and

WHEREAS on March 7, 1991, the Town's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the Town of Smithfield to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS the Town of Smithfield has provided a schedule that the Town will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on April 6, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Smithfield's Phase I program inconsistent with §10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the Town of Smithfield to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Duncanson seconded the motion.

Mr. Davis called for the vote. All members voted aye. Mr. Davis commented that the motion carried

Mr. Davis recognized Mr. Link for staff's presentation of Norfolk.

Mr. Link stated that the City of Norfolk adopted their original Phase I Program on August 28, 1990.

Mr. Link noted that after numerous revision, amendments and completion of consistency items the City's program was found consistent by the Board on March 27, 1997.

Mr. Link stated that the City provided the Department with an initial draft of their ordinance on December 15, 2003 with the stipulation that language would most likely change based on the findings of the IDA AD Hoc Committee which could have considerable impacts on the City's ordinance language and program.

Mr. Link added that considering the fact that the IDA committee still has not made a finding the City submitted a request for an extension to adopt their revised Phase I ordinance by May 11, 2004. Given the fact that this notice was received by the Department on March 19, 2004, staff recommends that the item be deferred until the next Board meeting.

Mr. Cowling motioned to defer consideration regarding the City of Norfolk, as recommended by staff..

Mr. Mendelsohn seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Ms. Nancy Miller for staff's presentation for the Town of West Point.

Ms. Miller introduced her comments as a supplement to the chronology in the Board Members' packets, and continued, saying, "Town staff have been conscientious in their assistance to the local Planning Commission and Town Council throughout the revision process and have worked with the Department to address the requirements in the Regulations. The Planning Commission held its public hearing on December 3, 2003, and forwarded the draft CBPA revisions to the Town Council for review. In the latter part of December, with the Town Manager's position temporarily vacant, the Town Council deferred action when they realized the new Town Manager would be on staff soon and could participate in the final stages of the adoption process."

Ms. Miller completed her remarks by saying, "Department staff met with the Town Manager on March 2, and he has advised that they are reviewing final changes. The Town Manager provided a projected schedule indicating adoption of the revisions by Town Council is likely on April 26, 2004. Based on recent discussions with Town staff, they are currently proceeding on schedule."

Mr. Davis asked for a motion.

Mr. Nice motioned to find the Town of West Point's amended Phase I program consistent with §10.1-2109 of the Act and §§9VAC10-20-60 1 and 2 of the Regulations subject to the condition that the County undertake and complete the recommendation contained in the staff report no later than May 15, 2004.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM, PHASE I TOWN OF WEST POINT - #44

Determination of Consistency– Inconsistent

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 § 9VAC10-20-60 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 West Point adopted a local Phase I program on November 6, 1991, and amended it on October 26, 1992, and February 27, 1995, and

WHEREAS on June 22, 1995, the Town of West Point's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS staff provided technical assistance to the Town of West Point to help facilitate the adoption of a revised program for consistency with the Act and Regulations; and

WHEREAS the Town of West Point has provided a schedule that the Town will adopt a revised local program to comply with § 9VAC10-20-60 1 and 2 of the Regulations on April 26, 2004; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of local programs; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of West Point's Phase I program inconsistent with §10.1-2109 of

the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations and further that the Town of West Point adopt a consistent Phase I program no later than May 15, 2004.

BE IT FINALLY RESOLVED that failure by the Town of West Point to meet the above established compliance date of May 15, 2004 will result in the local program becoming subject to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Froggatt seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Nancy Miller for staff's presentation for the Phase II Review of Essex County's Comprehensive Plan Revision to address a consistency condition.

Ms. Miller delivered the following remarks, "On September 16, 2003, Essex County adopted amendments to its Comprehensive Plan to address a Board recommendation with a December 31, 2003 deadline. The revisions incorporated additional shoreline and stream bank erosion information, analysis and strategies, based on the VIMS Shoreline Situation Report completed in June of 2001. With the addition of this material, it is staff's opinion that the Board recommendation has been fully addressed, and staff recommends that the amended Comprehensive Plan be found consistent with the Act and Regulations."

Mr. Davis called for the motion. Ms. Fitz-Hugh motioned that the Chesapeake Bay Local Assistance Board find the Essex County's Phase II program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60.3 of the Regulations.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004

RESOLUTION

LOCAL PROGRAM - PHASE II
ESSEX COUNTY - # 12

Determination of Consistency - Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9VAC10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the element in subsection 3 shall be adopted by local governments; and

WHEREAS § 10.1-2103.10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS Essex County adopted a Comprehensive Plan in November 1991; and

WHEREAS on March 16, 1995 the Chesapeake Bay Local Assistance Board found Essex County's plan consistent with five recommendations for consistency that were to be addressed by the County and set a compliance date of July 1, 1997; and

WHEREAS the Board of Supervisors for Essex County adopted a comprehensive plan update on June 16, 1998; and

WHEREAS on April 12, 1999 the Chesapeake Bay Local Assistance Board found Essex County's plan consistent with one recommendation for consistency that was to be addressed by the County and set a compliance date of December 31, 2003; and

WHEREAS the Board of Supervisors for Essex County adopted a comprehensive plan amendment on September 16, 2003; and

WHEREAS staff has reviewed Essex County's comprehensive plan for consistency with the previous consistency recommendation and the Act and Regulations; and

WHEREAS on February 17, 2004 the Local Program Review Committee for the Northern 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 Essex County's comprehensive plan consistent with § 10.1-2109 of the Act and § 9VAC10-20-60.3 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on March 22, 2004.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Mendelsohn seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

Mr. Davis recognized Mr. Brad Belo for staff's presentation on York County's compliance evaluation.

Mr. Belo stated introduced Ms. Anna Drake, York County's Environmental Program Manager and the County's Bay Act coordinator, who was in attendance.

Mr. Belo said that the Department met with County staff in August 2003 during which staff reviewed a copious amount of materials provided by Ms. Drake. A second meeting was held at the County's office in September 2003 to allow Department staff to review 14 Bay Act related site plans. Three site plans were selected for site visits that were conducted in November 2003.

Mr. Belo continued stating that the County's strong water quality stewardship ethic is characterized by the effective implementation of not only the Chesapeake Bay Preservation Act requirements but also the enforcement of additional water quality protection requirements found in the County's subdivision, zoning, erosion and sediment control and wetland ordinances, all of which are enabled through enabling legislation other than the Bay Act. The County works with applicants in pre-application meetings to minimize potential CBPA conflict at the earliest stages of development possible. The County is also making great strides in CBPA public education as was recently demonstrated with the completion of the video entitled *Vegetated Buffers: Protecting a Vital Resource*, which was shown at the last Board meeting.

Mr. Belo said that despite the County's conscientious implementation of the Chesapeake Bay Preservation Act requirements, Department staff identified three elements of the local program that do not appear to fully comply with the Act and Regulations.

First, the Department recommended that the those portions of the County's subdivision ordinance that address Chesapeake Bay Preservation Act requirements be amended to ensure consistency with the most recent changes in the both the Chesapeake Bay Preservation Area Regulations and the County's recently amended environmental management overlay area zoning district.

Second, the Department recommended that the County document the submission of all Water Quality Impact Assessments submitted for any land disturbance, development and redevelopment in Resource Protection Areas and for development in Resource Management Areas when required. The Department acknowledges that the County staff has been conscientious in requiring that WQIA elements be included in the various site-planning documents, which are submitted as part of the plan of development review process. However, an organized WQIA submission process will facilitate not only the formal exception process, which is dependant on the findings of a WQIA, but also the Department's ability to effectively assess the County's implementation of this important element of the Regulations.

Finally, the Department recommended that the County develop a program to ensure the regular or periodic maintenance of stormwater best management practices in order to ensure their continued proper functioning over the long-term. While the County requires BMP maintenance agreements for all BMPs it is currently unable to ensure their proper function except through complaint calls. Because the water quality protection benefits of stormwater BMPs is dependent on the BMPs proper function, regular maintenance of these facilities is essential for ensuring the continued long-term benefits of these facilities.

Mr. Belo said that in addition to these three recommendations the Department made several suggestions intended to facilitate the County's implementation of its Bay Act program. Although the implementation of the Department's suggestions is voluntary, the Department staff feels that these suggestions will help improve an already highly effective Bay Act program.

In conclusion, Mr. Belo said that the County is to be commended for the implementation of its Bay Act program. County staff have proven themselves open minded and willing to recognize and address the concerns of the Department. In fact, the County has already made progress on some of the Department's recommendations and suggestions made during the compliance evaluation meetings. Despite the effective implementation of the local Bay Act program, the Department staff and Southern 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 the Act and Regulations. The Department staff and Southern Area Review Committee recommend that the Board

require the County to fully address the three recommendations included in the staff report no later than March 31, 2005.

Mr. Davis asked for any comments from Ms. Drake. Ms. Drake said that funding for a BMP inspector had been requested, but it was not sure if such funds would be made available. Ms. Drake also said that she feels that the County's BMP management program is not yet what she has envisioned and more work is needed. Ms. Drake thanked the Department for its assistance and cooperation in the enforcement of the local program.

Mr. Davis asked for a motion.

Mr. Duncanson motioned that that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of York County's Phase I program do 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 these deficiencies, direct York County to undertake and complete three (3) recommendations contained in the staff report no later than March 31, 2005.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 22, 2004**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
YORK COUNTY - #3**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that 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 §9VAC 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 the Fall of 2003, the Chesapeake Bay Local Assistance Department conducted a compliance evaluation of York County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 17, 2004 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 York County's Phase I program do 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 these deficiencies, directs York County to undertake and complete three (3) recommendations contained in this staff report no later than March 31, 2005.

1. Amend the County's subdivision ordinance to ensure consistency with the most recent changes in the Chesapeake Bay Preservation Area Regulations and Sec. 24.1-372 of the County's zoning ordinance.
2. As required by Sec. 24.1-372(h)(3) of the County's EMA Ordinance, the County must document submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs, and for development in RMAs when required by the Zoning Administrator.
3. To fully comply with 9 VAC 10-20-120.3 of the Regulations, the County will develop a program to ensure the regular or periodic maintenance of best management practices in order to ensure their continued proper functioning over the long-term.

BE IT FINALLY RESOLVED that failure by York County to meet the above established compliance date of March 31, 2005 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 York County to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on March 22, 2004 by the Chesapeake Bay Local Assistance Board.

C. Scott Crafton
Executive Director
Chesapeake Bay Local Assistance Department

Mr. Froggatt seconded the motion.

Mr. Davis called for further comments. There were none

Mr. Davis called for the vote. All members voted aye. Mr. Davis noted that the motion carried.

There being no further business, the meeting was adjourned at 12:45 p.m.

Donald W. Davis
Chairman

C. Scott Crafton
Acting Executive Director