

**Chesapeake Bay Local Assistance Board
Monday, April 3, 2006, 10:00 a.m.
Menokin, Historic Home of Frances Lightfoot Lee
4037 Menokin Road
Warsaw, Virginia 22572**

MINUTES

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chair
William E. Duncanson
Beverly Harper

Gregory C. Evans
David C. Froggatt, Jr.
Gale A. Roberts

Chesapeake Bay Local Assistance Board Members Not Present

Amanda T. Macaulay
Walter J. Sheffield

Michael A. Rodriguez

DCR Staff Present

Joseph H. Maroon, Director
Russell W. Baxter, Deputy Director
Joan Salvati, Division Director, Chesapeake Bay Local Assistance
Roger Chaffe, Office of the Attorney General
Shawn Smith, Principal Environmental Planner
Jakob Helmboldt, Principal Environmental Planner
Heather Mackey, Principal Environmental Planner
Nancy Miller, Senior Environmental Planner
Robert Suydam, Senior Environmental Planner
V'lent Lassiter, Senior Environmental Planner
Michael R. Fletcher, Director of Development

Local Officials Present

Wade Hugh, Prince William County
Stewart Platt, City of Richmond
Lee Yolton, King William County

Call to Order – Roll Call

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

Consideration of the Minutes

December 12, 2005 Board Meeting

MOTION: Mr. Duncanson moved that the minutes of the December 12, 2005 Board Meeting be approved as submitted.

SECOND: Mr. Froggatt

DISCUSSION: Mr. Davis noted that his middle initial is “W” not “L” as stated in the draft minutes.

VOTE: The motion carried unanimously and the minutes were approved as amended.

Northern Area Review Committee Meeting, February 14, 2006

MOTION: Ms. Roberts moved that the minutes of the February 14, 2006 meeting of the Northern Area Review Committee be approved as submitted.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Southern Area Review Committee Meeting, February 14, 2006

MOTION: Ms. Roberts moved that the minutes of the February 14, 2006 meeting of the Southern Area Review Committee be approved as submitted.

SECOND: Ms. Harper

DISCUSSION: None

VOTE: Motion carried unanimously

Welcome from Menokin Foundation

Mr. Duncanson introduced Sarah Pope, Director of the Menokin Foundation.

Ms. Pope welcomed members to Menokin and gave a brief history of the estate and the Foundation.

Director's Report

Mr. Maroon gave the Director's report. He reviewed the 2006 legislative actions affecting DCR. A summary of this report is attached as Attachment #1.

He referenced an April 1, 2006 article from the *Richmond Times-Dispatch* entitled, "Report: Cleanup of bay lagging." A copy of this article is attached as Attachment #2.

The report issued by the Environmental Protection Agency says that reports indicate that efforts are not yet sufficient to restore the health of the Chesapeake Bay.

Mr. Maroon said that while there is a long way to go, Bay states have made significant progress.

Mr. Baxter said that it was important to realize how much worse things would be if no action had been taken.

Mr. Evans asked what would happen if Virginia does not meet the 2010 target date with regard to the Bay.

Mr. Baxter said that the Clean Water Act requires that impaired waters must have a prepared TMDL plan. In 1999 the Bay and many tributaries were put on the impaired water list. The goal is to help those water bodies meet water quality standards so that they may be delisted. He noted that the Clean Water Act does not compel the implementation of the plans, however Virginia has made that commitment.

Mr. Baxter said there is some confusion regarding the EPA response if the 2010 goals are not met. He said that there will be improvement shown, but that it will not be all or nothing.

Mr. Maroon asked Ms. Salvati to comment on policy and personnel issues.

Ms. Salvati discussed the new workshop series beginning on June 8. Scheduled workshops are:

June 8, 8:00 a.m. – 4:00 p.m.
Integrating Land Use and Watershed Planning
Lewis Ginter Botanical Gardens, Richmond

August (date tba)
Low Impact Development Workshop
Lewis Ginter Botanical Gardens, Richmond

September 19, 2006
Introduction to Riparian Buffers Workshop
VIMS Auditorium, Gloucester Point

Mr. Davis asked who would be invited to the workshops.

Ms. Salvati said that the invitation list includes local planning staff and engineering staff. This will include localities in the Bay Act area as well as localities in the Bay watershed.

Ms. Salvati said that staff will be bringing four items to the policy committee for discussion. Those include perennial flow determination, accessory structures in the resource protection area, annual report requirements in the regulations and finally we'll talk about the progress the ad hoc committee has been making on the issue of contiguous and connected wetlands.

Ms. Salvati announced that Mr. Helmboldt is leaving DCR to assume a position with VDOT. She introduced new planners V'lent Lassiter and Robert Suydam. She noted that there are four open positions; Assistant Director, Principal Environmental Planner, Senior Planner and Watershed specialist.

Mr. Maroon said that the Soil and Water Conservation Board has begun a regulatory process with regard to stormwater management. The process will deal with program delegation and will develop the minimal criteria for which a locality will receive approval to manage their stormwater management program. In addition the process will review stormwater permit fees that are established statewide. Draft regulations are expected by late summer.

Mr. Baxter gave a presentation regarding Virginia's Nutrient Credit Exchange Program. The text of the presentation is attached as Attachment #3.

Consent Agenda

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board approve the following consent items as recommended by the respective staff reports:

Mathews County
Review of Ordinance Revisions (Phase I) Conditions

Gloucester County

Review of Ordinance Revisions (Phase I) Condition

Town of West Point

Review of Ordinance Revisions (Phase I) Condition

Town of Occoquan

Review of Ordinance Revisions (Phase I) Conditions

Town of Kilmarnock

Review of Comprehensive Plan Revisions (Phase II) Conditions

City of Poquoson

Review of Ordinance Revisions (Phase I) Condition

York County

Review of Compliance Evaluation Condition

Town of Windsor

Compliance Evaluation Deadline Extension Request to 6/30/2006

SECOND: Ms. Roberts

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM, PHASE I

MATHEWS COUNTY - #42

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 § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1(a) map delineating

Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS Mathews County adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on December 16, 2003; and

WHEREAS on June 21, 2004 the Chesapeake Bay Local Assistance Board found Mathew County's amended Phase I program consistent subject to the condition that the County undertake and complete the two recommendations in the staff report no later than September 30, 2005; and

WHEREAS the County did not adopt by the deadline and on December 12, 2005 the Chesapeake Bay Local Assistance Board found Mathew County's amended Phase I program inconsistent and further that the County undertake and complete the two recommendations in the staff report no later than December 31, 2005; and

WHEREAS on December 20, 2005 Mathews County adopted revisions to its local program to address the Board's December 12, 2005 recommendations; and

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

WHEREAS on February 14, 2006 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 Mathews County's revised Phase I program to be consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM, PHASE I
GLOUCESTER COUNTY - # 38

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

WHEREAS Gloucester County adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on December 2, 2003; and

WHEREAS on March 22, 2004 the Chesapeake Bay Local Assistance Board found the County's amended Phase I program consistent with one condition and set a deadline of December 31, 2005 for the County to address the condition; and

WHEREAS Gloucester County adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on August 2, 2005; and

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

WHEREAS on February 14, 2006 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 Chesapeake Bay Local Assistance 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 to be consistent with §10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

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

Determination of Consistency– Consistent

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

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

WHEREAS the Town of West Point adopted an amended Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on June 28, 2004; and

WHEREAS on September 20, 2004 the Chesapeake Bay Local Assistance Board found the Town of West Point's Phase I program consistent with one recommendation for consistency that was to be addressed by the Town and set a compliance date of December 31, 2004; and

WHEREAS the Town Council for the Town of West Point adopted amendments to a Phase I program on February 28, 2005, but failed to fully address the consistency condition; and

WHEREAS on June 20, 2005 the Chesapeake Bay Local Assistance Board granted a deadline extension from December 31, 2004 to June 30, 2005; and

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WHEREAS the Town Council failed to adopt an amended CBPA Map by the deadline and on September 19, 2005 the Chesapeake Bay Local Assistance Board found the Town of West Point inconsistent and set a final deadline of September 30, 2005 for the Town to undertake and complete the one recommendation; and

WHEREAS the Town Council for the Town of West Point adopted an amended CBPA Map on November 28, 2005; and

WHEREAS staff has reviewed Town of West Point's revised Phase I program for consistency with the previous consistency recommendation and the Act and Regulations; and

WHEREAS on February 14, 2006 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 West Point's Phase I program to be consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on April 3, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
April 3, 2006

RESOLUTION

LOCAL PROGRAM, PHASE I

TOWN OF OCCOQUAN - #34

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

WHEREAS the Town of Occoquan adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on February 17, 2004; and

WHEREAS on September 20, 2004 the Chesapeake Bay Local Assistance Board found the Town of Occoquan's amended Phase I program consistent subject to the conditions that the Town undertake and complete the two (2) recommendations contained in the staff report no later than December 31, 2005, and

WHEREAS the Town of Occoquan adopted revisions to its local program on December 14, 2004 to address the Chesapeake Bay Local Assistance Boards recommendations; and

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

WHEREAS on February 14, 2006 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 Chesapeake Bay Local Assistance 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 Occoquan's revised Phase I program to be consistent with §10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on April 3, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM - PHASE II

KILMARNOCK - # 77

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 § 9 VAC 10-20-60 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 the Town of Kilmarnock adopted a Comprehensive Plan in 1999; and

WHEREAS on June 19, 2000 the Chesapeake Bay Local Assistance Board found the Town of Kilmarnock's comprehensive plan consistent with four recommendations for consistency that were to be addressed by the Town and set a compliance date of December 31, 2004; and

WHEREAS on March 21, 2005 the Chesapeake Bay Local Assistance Board extended the compliance deadline for the Town of Kilmarnock from December 31, 2004 to December 31, 2005; and

WHEREAS the Town Council for the Kilmarnock adopted a comprehensive plan on November 21, 2005 to address the four consistency recommendations; and

WHEREAS staff has reviewed the Town of Kilmarnock's comprehensive plan for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on February 14, 2006 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 the Town of Kilmarnock's comprehensive plan to be consistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on April 3, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM, PHASE I
CITY OF POQUOSON - # 50

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

WHEREAS the City of Poquoson adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on May 24, 2004 and June 27, 2005; and

WHEREAS on September 19, 2005, the City's Phase I program was found consistent with one condition by the Chesapeake Bay Local Assistance Board, with a compliance deadline of November 30, 2005; and

WHEREAS the City of Poquoson adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on January 23, 2006; 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 Poquoson's revised program for consistency with the Act and Regulations; and

WHEREAS on February 14, 2006 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 Poquoson's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

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

Local Compliance Evaluation - Compliant

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

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

WHEREAS on March 22, 2004 the Chesapeake Bay Local Assistance Board found that certain aspects of York County's Phase I program did not fully comply with the Act and Regulations and further that the County address the three recommendations in the staff report no later than March 31, 2005; and

WHEREAS on May 17, 2005 York County adopted revisions to its Phase I program and provided staff with information relating to the County's actions to address the three recommendations and Department staff prepared a staff report; and

WHEREAS on June 20, 2005, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of York County's Phase I program did not fully comply with the Act and Regulations and further that the County address the one recommendation in the staff report no later than September 30, 2005; and

WHEREAS on December 20, 2005 York County adopted revisions to its Phase I program; and

WHEREAS in December 2005, York County provided staff with information relating to the County's actions to address the recommendation which was evaluated in a staff report; and

WHEREAS on February 14, 2006 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

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

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

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
April 3, 2006
RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF WINDSOR- #67

Extension of Compliance Deadline – To June 30, 2006

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

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

WHEREAS in December 2004, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Windsor's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS, on December 13, 2004, the Chesapeake Bay Local Assistance Board found that the implementation of certain aspects of the Town of Windsor's Phase I program do not fully comply with the Act and Regulations and set a compliance date of December 31, 2005; and

WHEREAS, the Town of Windsor began work to come into full compliance with the Act and its Regulations but due to extenuating circumstances, the Town requested an extension to the June 30, 2006; and

WHEREAS on February 14, 2006 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 extends the date from December 31, 2005 to June 30, 2006 for the Town of Windsor to come into compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Windsor to undertake and complete three recommendations contained in this staff report no later than June 30, 2006.

1. The Town should develop a program in compliance with § 9VAC 10-20-120.3 of the Regulations to ensure the regular or periodic maintenance of best management practices in order to ensure their continued proper functioning over the long-term. Such a program should include the development of a BMP maintenance plan or the development of a BMP database to track type, installation date, location, inspections and maintenance.
2. As required under Section 106.B of the Town's ordinance, the Town must demonstrate that a process is in place that ensures that all required WQIAs are submitted.
3. For compliance with § 9 VAC 10-20-191, the Town must ensure that all required notations are included on all site plans prior to their approval.

BE IT FINALLY RESOLVED that failure by the Town of Windsor to meet the above established compliance date of June 30, 2006 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Windsor to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Program Ordinance Reviews

Prince William County – Review of Ordinance Revisions (Phase I) conditions

Ms. Mackey presented the report for Prince William County.

On February 18, 2003 the Board found Prince William County's revised ordinances consistent subject to seven recommendations with a deadline of December 31, 2005. County staff has worked with Department staff to ensure the recommendations will be adequately addressed in a comprehensive revision to the Design Construction Standards Manual scheduled for public hearing before the Board of County Supervisors on May 2, 2006. It is staff's opinion that as currently written, the DCSM revisions will address all but one of the recommendations once adopted by the County Board of Supervisors. One of the recommendations requires a Zoning Ordinance text amendment, which the County Board of Supervisors is expected to consider for approval in late April or early May. The Northern Area Review Committee recommends a finding of inconsistent with 7 conditions and a deadline of June 30, 2006.

Mr. Davis recognized Wade Hugh with Prince William County.

Mr. Hugh thanked Ms. Mackey for her assistance with the ordinance language. He said that the County hoped to have everything in place by the first part of May. The County is working on revisions to the utilities and standards manual. The last issue of concern is the septic pump-out notifications letter from the Health Department.

Ms. Mackey noted that those last two issues actually related to the compliance evaluation.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find Prince William County's Phase I program inconsistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations and further that the County be directed to undertake and complete the following seven (7) recommendations no later than June 30, 2006.

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

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
April 3, 2006
RESOLUTION**

**LOCAL PROGRAM, PHASE I
CONSISTENCY CONDITION REVIEW**

PRINCE WILLIAM COUNTY - #28

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

WHEREAS on August 19, 1993, the County's original 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 on December 3, 2002, Prince William County adopted revisions to its Chesapeake Bay Preservation Area Overlay District ordinance and Design Construction Standards Manual to comply with § 9 VAC 10-20-60 1 and 2 of the Regulations; and

WHEREAS on February 18, 2003 the Chesapeake Bay Local Assistance Board found the County's ordinances consistent subject to the condition that the County undertake and complete the seven (7) recommendations contained in the staff report no later than December 31, 2005; and

WHEREAS Prince William County failed to adopt revisions to the ordinance and the DCSM to comply with § 9 VAC 10-20-60 1 and 2 of the Regulations by the deadline of December 31, 2005; 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 William County's Phase I program inconsistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations and further that the County undertake and complete the following seven (7) recommendations no later than June 30, 2006.

Amend Section 740.06.A(5) of the DSCM to clarify that the administrative review of the expansion of non-conforming structures applies only to principal structures, and not to any accessory structure as required under 9 VAC 10-20-150 C 4 of the Regulations.

Amend Section 740.06 of the DSCM by adding an additional subsection (6), which requires administrative review and approval for any requests for an exception to the requirements of 741.01 of the DSCM.

Amend Section 740.06(4) to read: "...or otherwise detrimental to the public welfare or water quality."

Amend Section 740.06.A(1)(b) to read: "Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel."

Amend Section 32-504 of the Overlay District to read: "Silvicultural activities are exempt from the requirements of this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Virginia's Forestry Best Management Practices For Water Quality."

Amend Section 740.05.A to include all criteria for a new or expanded water dependent facility as required under 9 VAC 10-20-130 1 b of the Regulations.

Amend Sections 32-504.14(2) of the Overlay District and Section 740.04.C of the DSCM to reflect the requirements of 9 VAC 10-20-150 B 2 of the Regulations.

BE IT FINALLY RESOLVED that failure by Prince William County to meet the above established compliance date of June 30, 2006 will result in the local program becoming subject to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on April 3, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Surry – Review of Ordinance Revisions (Phase I)

Mr. Helmboldt gave the report for the Town of Surry. He noted that no one was present from the Town.

The Town Council adopted their revised Bay Act ordinance on February 11, 2003. At the time of the revisions to the Regulations there were no Resource Protection Areas within the Town as a result of the previous RPA designation criteria using the USGS maps. As a result, there were a number of elements of the Regulations that were not included in the Town's revised ordinance, relating to RPAs.

In September 2004, Department staff conducted site-specific determinations of RPA in the Town and determined that minimal RPA did exist within the Town limits. As a result, significant changes needed to be made to the Town's Zoning Ordinance to reflect the addition of elements pertaining to RPA that was not previously part of the Town's program.

Staff recently reevaluated the Town's ordinance and the required changes and provided the information to the Town of Surry regarding the required changes.

The majority of the changes pertain to textual requirements and are as follows:

Six recommendations pertain to General Information such as definitions, document references and basic textual amendments;

Two pertain to RPA Criteria;

Three pertain to the requirement for administrative and formal exception review processes.

Though staff has noted a number of conditions required for consistency in the Town of Surry's ordinance, a number of them relate to issues unrelated to enforcement and administration of the Town's local program.

Furthermore, the RPAs are located in areas that are not currently subject to any land use and the buffers are completely intact.

As a result, staff believes that the Town's administration and enforcement of RPA development criteria will not be an issue while the ordinance revisions are being made. Additionally, because the Town of Surry is comprised of minimal staff, Mr. Helmboldt offered to draft the revised ordinance for them in order to expedite the process and reduce the amount of correspondence that would otherwise be required to facilitate a thorough understanding of all of the changes that need to be made.

Staff therefore recommends that the Town of Surry's revised Bay Act Ordinance be found consistent with eleven conditions.

Staff is of the opinion that the eleven items recommended for consistency should not interfere with the Town's program administration and recommends that the Town of Surry makes these required ordinance changes no later than June 30, 2006.

Mr. Davis asked if the Town had a problem with the date.

Mr. Helmboldt said that due to staff limitations of the Town, he offered to drafted the revised ordinance.

Mr. Duncanson asked if the RPA buffer was in tact.

Mr. Helmboldt said that it was. It is adjacent to a farm field, but the area farmed is well outside the buffer. Due to tree and vegetation it is difficult to actually get to the stream.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board Chesapeake Bay Local Assistance Board find the Town of Surry'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 condition that the City undertake and complete the eleven recommendations outlined in the staff report no later than June 30, 2006.

SECOND: Mr. Froggatt

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM, PHASE I

TOWN OF SURRY - #54

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 Surry adopted a local Phase I program on June 9, 1992, and

WHEREAS on July 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 Surry adopted a revised local program to comply with §§ 9VAC10-20-60 1 and 2 of the Regulations on February 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 Town of Surry's revised program for consistency with the Act and Regulations; and

WHEREAS on February 14, 2006 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 Surry'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 City undertake and complete the eleven following recommendations no later than June 30, 2006:

1. For consistency with § 9 VAC 10-20-40 of the Regulations, amend § 1 of the Town's ordinance by adding the definition of Substantial Alteration.
2. Amend § 6-2-1 (5) by deleting the reference to the Regulations (9 VAC 10-20-110 et seq.) and reference the Town's ordinance, such that it reads "The full buffer area shall be designated...in compliance with ~~Part IV (9 VAC 10-20-110 et seq.) of the regulation~~ **the provisions of this article.**"
3. Amend § 6-2-1-1 by striking the reference to the Regulations and replace with the applicable section of the Town's ordinance, § 6-4 and replace the two references to "Local government" with "the Town of Surry".
4. Amend §§ 6-3-2, 6-3-3, and 6-3-4 so that they read, ".. to provide for the **proposed** ~~desired~~ use ~~or~~ of development", ".. consistent with the **proposed use or development** ~~use or development allowed~~", and ".. to the maximum extent ~~possible~~ **practicable** consistent with the **proposed** use ~~and~~ **or** development ~~allowed~~" respectively.
5. Amend § 6-4-4 by referencing the Virginia Stormwater Management Handbook as the source for determining engineering calculations, BMPs, pollutant calculations, and other stormwater management requirements.
6. Amend § 6-7-2 by striking the last sentence pertaining to wetlands permits for silvicultural uses. This is redundant as it is appropriately cited in Section 6-3-7 as part of the general performance criteria to be consistent with § 9 VAC 10-20-120 of the Regulations.
7. For consistency with § 9 VAC 10-20-130 of the Regulations, amend §§ 6-3 and 6-4-6 of the Town's ordinance or insert a new section within the Town's zoning ordinance that includes all development criteria for RPAs, including the requirement for a WQIA when land disturbance occurs within the RPA

and permitted encroachments into buffer areas on pre-1989 lots as well as the three required conditions for administrative approval of development on pre-1989 lots.

8. For consistency with § 9 VAC 10-20-105 of the Regulations, amend § 6-4-2 of the Town's ordinance to require an environmental site assessment for any projects when RPA is located onsite or adjacent to the site, and to require the delineation of RPAs on site plans that are submitted through the Plan of Development process.
9. For consistency with § 9 VAC 10-20-150 C 2 c of the Regulations, amend § 6-8-1 to include the requirement for both public notice and a public hearing when considering exception requests, in accordance with Virginia state law.
10. For consistency with §§ 9 VAC 10-20-150 A, and 9 VAC 10-20-150 C 4 of the Regulations, amend § 6-6-1 by including the requirement for an administrative review process, including the five findings required for expansion of non-conforming principal structures, and to stipulate that expansion does not apply to accessory structures. Additionally, the Town must designate the individual responsible for handling this administrative process.
11. For consistency with §§ 9 VAC 10-20-150 B 1 and 9 VAC 10-20-150 C 2 of the Regulations, amend § 6-7 by striking item (1)b and defining what public roads are exempt. Additionally, the Town needs to include exemptions and the required conditions relating to construction and maintenance of applicable utilities and telecommunications lines that are owned and or permitted by the Town of Surry.

BE IT FINALLY RESOLVED that failure by the Town of Surry to meet the above established compliance date of June 30, 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 the Town of Surry 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 Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Richmond – Review of Ordinance Revisions (Phase I) conditions

Mr. Helmboldt gave the report for the City of Richmond. He recognized Stewart Platt, with the City's Permits & Engineering Services.

The City of Richmond adopted revisions to their Bay Act ordinance on December 13, 2004.

On March 21, 2005 the Board found the City's ordinance consistent with the Act and Regulations subject to the three recommendations for consistency with a deadline of September 30, 2005.

On July 25, 2005, the Richmond City Council adopted amendments to their ordinance to address two of the recommendations of the Board.

Staff is of the opinion that the City has adequately addressed these two recommendations. The third recommendation required that the City add the pump-out requirement for septic systems and was to have been added to the City's Health ordinance since the Health Department oversees the pump-out requirements, but has not yet been completed. This change was not coordinated internally by the City, however, Mr. Suydam was copied on an email last week in which the City is coordinating these changes at this time.

As a result the one remaining recommendation remains that:

The City must amend their Health and Sanitation ordinance to include the requirement for five-year pump-out, or inspection in lieu of pump-out of all remaining on-site septic systems.

Staff is recommending that the remaining condition for pump-out remain in place and that the City be given a deadline of June 30, 2006 to make the required changes.

Mr. Evans asked Mr. Platt if the City expected to meet the deadline.

Mr. Platt said the City hoped to meet the deadline. He thanked the Board for the opportunity to represent the City.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board find the City of Richmond's 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 City undertake and complete the recommendation outlined in the staff report no later than June 30, 2006.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM, PHASE I
CITY OF RICHMOND - #64

Determination of Consistency– 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 City of Richmond adopted an amended Phase I local program to comply with §§ 9VAC10-20-60 1 and 2 on December 13, 2004; and

WHEREAS on March 21, 2005 the Chesapeake Bay Local Assistance Board found the City of Richmond's Phase I program consistent with three recommendations for consistency that were to be addressed by the City and set a compliance date of September 30, 2005; and

WHEREAS the City Council for the City of Richmond adopted amendments to their Bay Act program on July 25, 2005; and

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

WHEREAS on February 14, 2006 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Richmond's 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 City undertake and complete the following recommendation no later than June 30, 2006:

1. The City must amend their Health and Sanitation ordinance to include the requirement for five-year pump-out, or inspection in lieu of pump-out of all remaining on-site septic systems.

BE IT FURTHER RESOLVED that failure by the City of Richmond to meet the above established compliance date of June 30, 2006 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations and subject the City of Richmond to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Program Comprehensive Plan Reviews

City of Petersburg – Review of Comprehensive Plan Revisions (Phase II) conditions

Mr. Helmboldt gave the report for the City of Petersburg. He noted that Leonard Muse, Director of Planning was not present.

On March 19, 2001 the Board found the City of Petersburg's comprehensive plan consistent subject to the condition that the City undertake and complete the four recommendations in the staff report. The Board set a deadline of December 31, 2003 for completion of the recommend changes.

The most recent version of the City of Petersburg's comprehensive plan was adopted on February 13, 2001 shortly before that finding and the four conditions were therefore not addressed at the time of those revisions.

Staff has met to discuss the four conditions on several occasions since then. The four recommendations addressed three sections of the City's Comp Plan; Shoreline & Stream bank Erosion Control, Public & Private Access to Waterfront Areas, and Redevelopment of IDAs and Other Areas Targeted for Redevelopment.

At the February SARC meeting Mr. Muse provided a Request for Qualifications for a consultant to update the City's Comp Plan.

At that time Mr. Muse explained that while they are moving forward with the process they would not be able to complete the revisions by the June 30, 2006 deadline. As a result, staff is of the opinion that the City's comprehensive plan be found inconsistent with the Act and Regulations and that a final deadline of October 30, 2006 be established for full consistency.

Mr. Davis noted a concern about the timing. He requested that staff provide an update at the June Board meeting.

Mr. Evans asked why the City was moving slowly.

Ms. Salvati said that Mr. Helmboldt has worked closely with the staff. This is not a matter of contention, but a matter of limited resources.

Mr. Maroon suggested that the deadline remain, but that it could be amended in June or October if necessary.

Mr. Davis suggested that the Board also use firmer language to point out the important of the deadline.

Mr. Maroon agreed to make this part of the cover letter to the City regarding Board actions.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board find the City of Petersburg's comprehensive plan inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations, and further requires that the City of Petersburg undertake and complete the four recommendations contained in the staff report no later than October 30, 2006.

SECOND: Mr. Evans

DISCUSSION: None

REVISED: 9/20/2006 10:37:27 AM

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM - PHASE II
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 incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9 VAC 10-20-60 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 the City of Petersburg adopted a Comprehensive Plan on December 12, 2000; and

WHEREAS on March 19, 2001 the Chesapeake Bay Local Assistance Board found the City of Petersburg's plan consistent with four recommendations for consistency that were to be addressed by the City and set a compliance date of December 31, 2003; and

WHEREAS the City Council for the City of Petersburg adopted a comprehensive plan on February 13, 2001; and

WHEREAS staff has reviewed the City of Petersburg's comprehensive plan for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on February 14, 2006 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Petersburg's comprehensive plan inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations, and further requires that the City of Petersburg undertake and complete the four recommendations contained in the staff report no later than October 30, 2006.

1. The Plan shall include a comprehensive section addressing shoreline and streambank erosion control in the City. The next Plan revision shall include the proposed shoreline and streambank analysis, the location and extent of shoreline and streambank erosion, associated conditions, stabilization structures, and any appropriate goals, objectives and recommendations.
2. The Plan shall include a detailed inventory of the City's public and private access points and their mapped locations. It shall also include proposed sites, and other parks, recreation facilities, greenways, open space areas, and conservation and wildlife habitat areas that provide public or private access to waterfront areas. It shall include an assessment of water quality impacts from public and private access sites, boating facilities, and incorporate Virginia Marine Resources Commission's criteria in the planning process to identify appropriate locations for marinas and community piers.
3. A more detailed discussion of redevelopment opportunities and policies to improve water quality as redevelopment occurs must be included in the Plan. A map showing redevelopment areas shall be included in the Plan.
4. Although the Plan describes several sources of pollution, some, such as landfills, hazardous waste sites and USTs, receive only limited discussion. In the next revision the Plan shall incorporate an inventory of such sources and provide information on the location, current status, regulatory controls and issues, and the City's policies and provisions for addressing them. A map showing the locations of such potential sources of pollution shall be included. Potential sources of pollution associated with redevelopment sites must be addressed through specific redevelopment policies targeting water quality improvement.

BE IT FURTHER RESOLVED that failure by the City of Petersburg to meet the above established compliance date of October 30, 2006 will subject the City of Petersburg to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on April 3, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Suffolk – Review of Comprehensive Plan Revisions (Phase II) conditions

Mr. Helmboldt presented the report for the City of Suffolk. He noted that Ms. Baldwin conducted the evaluation and prepared the report presented at SARC.

In December 2000, the Board found the City's Comprehensive Plan consistent with five conditions and set a deadline of December 31, 2003.

On September 17, 2003 the City requested an 18-month extension and the Board granted a deadline extension to June 30, 2005.

The City contracted with a consultant and conducted public hearings and meetings in January with possible consideration by City Council at their March meeting.

Mr. Helmboldt said that he had not had contact with the City to determine if that hearing took place.

However, the City anticipates adoption prior to June, but staff recommends a finding of inconsistency given the original 2000 deadline.

The five recommendations relate to:

- Recommendation #1, Assessment of Physical Constraints to Development
- Recommendation #2, Protection of Potable Water Supply
- Recommendation #3, Assessment of Shoreline and Streambank Erosion Control
- Recommendation #4, Public and Private Access to Waterfront Areas
- Recommendation #5, Redevelopment of Intensely Developed Areas and Other Areas Targeted for Redevelopment

Staff therefore recommends a finding of inconsistency and a deadline of June 30, 2006 for the five conditions for full consistency.

Ms. Smith said that at the SARC meeting the City said they were in the process of revising the comprehensive plan and did not anticipate delays.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find the City of Suffolk's comprehensive plan inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations, and further requires that the City of Suffolk undertake and complete the five recommendations contained in the staff report no later than June 30, 2006.

SECOND: Mr. Duncanson

DICUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM - PHASE II

CITY OF SUFFOLK - # 51

Determination of Consistency - Inconsistent

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 § 9 VAC 10-20-60 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 the City of Suffolk adopted a Comprehensive Plan on March 25, 1998; and

WHEREAS, on October 30, 2000 the Local Program Review Committee for the Southern Area reviewed the staff report regarding the response report and considered testimony

and recommended to the Board that the City's Phase II program be found consistent with conditions and with a compliance date of December 31, 2003; and,

WHEREAS on December 8, 2003 the Chesapeake Bay Local Assistance Board extended the City's compliance deadline from December 31, 2003 to June 30, 2005; and

WHEREAS staff has reviewed the City of Suffolk's comprehensive plan for consistency with the previous consistency recommendations and the Act and Regulations and noted that no additional revisions have been adopted by the City; and

WHEREAS on February 14, 2006 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 comprehensive plan inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations, and further requires that the City of Suffolk undertake and complete the five recommendations contained in the staff report no later than June 30, 2006.

1. The City shall strengthen the 2018 Plan in regards to physical constraints, to development, environmental and natural resource protection, suitability for development, and the protection of agricultural lands within the CBPA. Maps that provide greater detail in regard to CBPA features would also be developed and included in the plan update or amendment. In particular, two areas where consideration should be given to providing a more thorough discussion and presentation of information are: 1) development and addition to the plan document of a more "traditional" Environmental Overlay component; and 2) the development of policy and action statements pertaining to improving the preparation, implementation and monitoring of Bay Plans.
2. The City shall strengthen the 2018 Plan pertaining to the protection of potable water supply; particularly in regards to the protection and management of local and regional water supply watersheds. Also, consideration should be given to formally adopting the guiding principles, and policy and action statements therein as a component to the 2018 Plan update; and as needed, additional implementation strategies be proposed therein.
3. The City shall strengthen the Plan as it pertains to the shoreline features and characteristics, and their significant relationship to water quality. In particular, consideration should be given to formally adopting the guidance,

policies and action statements and implementation strategies contained in the HRPDC, Data Package as components of the 2018 Plan. Specific topics for consideration include thorough discussion and mapping of 1) Physical oceanographic shoreline conditions; 2) inventory of natural wetlands, and natural and manmade shoreline features; and policy and guidance statements specifying when and where particular shoreline erosion controls are appropriate.

4. The City shall strengthen the Plan in regards to improving public, private and commercial access to the City's waterways, and shoreline development within the CBPA and its potential impact on water quality. Specifically, consideration should be given to including a more in depth and thorough discussion pertaining to: 1) the prevention of conflicting development patterns and uses with fishing operations; 2) the prevention of conflicting development patterns, uses and activities pertaining to the protection and preservation of important wetlands, spawning and nursery grounds; 3) the development of existing and future points of access; and 4) the development of marinas and boating facilities
5. The City shall strengthen the Plan pertaining to redevelopment in general; and in particular, the redevelopment of the downtown core area. Furthermore, consideration should be given to formally adopting an Environmental Redevelopment Plan. This plan would include an inventory and mapping of RPA features and buffer strip within downtown Suffolk. This Environmental Redevelopment Plan would also include a Buffer Reestablishment Plan and Storm water BMP Plan.

BE IT FURTHER RESOLVED that failure by the City of Suffolk to meet the above established compliance date of June 30, 2006 will subject the City of Suffolk to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on April 3, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

VII. Local Program Compliance Evaluations

Northumberland County – Review of previous conditions

Ms. Lassiter gave the report for Northumberland County.

On September 20, 2004, the Board found the County's Phase I program not fully compliant with the Act and the Regulations and outlined nine recommendations to be addressed by September 30, 2005. The Department has conducted a compliance evaluation condition review, and determined seven of the nine recommendations have been adequately addressed.

The first outstanding condition requires BMP maintenance agreements and developing a means to ensure routine inspection of BMPs into the future. The second condition concerns initiating the septic pump-out notification program. The Northern Area Review Committee recommended that the Board find the County's Phase I program not fully compliant with the Act and Regulations and set a deadline of September 30, 2006 for the County to address the two recommendations.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find the implementation of certain aspects of Northumberland County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, and that Northumberland County be directed to undertake and complete the two recommendations no later than September 30, 2006.

SECOND: Ms. Harper

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

NORTHUMBERLAND COUNTY - #07

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 on September 20, 2004, the Chesapeake Bay Local Assistance Board found that certain aspects of Northumberland County's Phase I program did not fully comply with the Act and Regulations and further that the County address the nine recommendations in the staff report no later than September 30, 2005; and

WHEREAS in the fall of 2005, the County provided staff with information relating to the County's actions to address the nine recommendations and Department staff prepared a staff report; and

WHEREAS on February 14, 2005 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Northumberland County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Northumberland County to undertake and complete the two recommendations no later than September 30, 2006.

For consistency with Section 9 VAC 10-20-120 7 of the Regulations and as required by Section 54-16 B (5) of the County's Bay Act ordinance, the County must develop and implement a 5-year pump-out notification and enforcement program, including any necessary tracking information.

To satisfy Section 9 VAC 10-20-120 3 of the Regulations, the County must develop a standard BMP maintenance agreement that specifies inspection and maintenance procedures and develop a means to track maintenance of BMPs into the future.

BE IT FINALLY RESOLVED that failure by Northumberland County to meet the above established compliance date of September 30, 2006 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 Northumberland County to the compliance provisions as set forth in §10.1-2103 10 of the Act and § 9 VAC10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

King William County – Review of previous conditions

Ms. Miller gave the report for King William County. She recognized Lee Yolton, Director of Community Development for King William County.

On June 21, 2004 the Board found the County's Phase I program not fully compliant with the Act and the Regulations and outlined seven recommendations to be addressed by December 31, 2005. The Department has conducted a compliance evaluation condition review, and determined that County actions have resulted in three of the seven recommendations being adequately addressed.

The remaining four recommendations require implementation of a 5-year septic system pump-out notification/enforcement program, implementation of a BMP tracking and maintenance program, and procurement and review of WQIAs and mitigation plans. The Northern Area Review Committee recommends that the Board find the County's Phase I program not fully compliant with the Act and the Regulations and set a deadline of June 30, 2006 for the County to address the four recommendations.

Mr. Yolton said that the County appreciated the work of staff. He said that the County is under a lot of development pressure and is being flooded with rezoning applications. He said that it would be helpful if the Board could extend the deadline for the septic pumpout requirement to September 30, 2006. He said that the County could meet the other three requirements by the June 30, 2006 deadline.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board finds that implementation of certain aspects of King William County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, and that the County be directed to undertake and complete Recommendation #1 contained in this staff report no later than September 30, 2006, and Recommendations #2, 3 and 4 no later than June 30, 2006.

SECOND: Mr. Duncanson

DISCUSSION: Mr. Davis asked that staff provide a progress report on the County's septic system pump-out notification efforts at the June meeting.

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

KING WILLIAM COUNTY - #29

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

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

WHEREAS on June 21, 2004, the Chesapeake Bay Local Assistance Board found that certain aspects of King William County's Phase I program did not fully comply with the

Act and Regulations and further that the County address the seven recommendations in the staff report no later than December 31, 2005; and

WHEREAS in November of 2005 and January of 2006, the County provided staff with information relating to the County's actions to address the seven recommendations and Department staff prepared a report; and

WHEREAS on February 14, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that implementation of certain aspects of King William County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the County to undertake and complete Recommendation #1 contained in this staff report no later than September 30, 2006, and Recommendations #2, 3 and 4 no later than June 30, 2006.

1. For compliance with § 9 VAC 10-20-120 7 a of the Regulations, the County must implement its 5-year septic system pump-out notification and tracking/enforcement program.
2. For compliance with § 9 VAC 10-20-120 3 of the Regulations, the County must develop and use a BMP tracking system and conduct inspections to ensure that BMPs are properly maintained.
3. For compliance with §§ 9 VAC 10-20-130 1 a and 130 6 of the Regulations, the County must require the submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs.
4. For compliance with § 9 VAC 10-20-130 3 of the Regulations, mitigation plans must be required for projects that propose encroachments into the RPA and to address all RPA buffer violations, and these plans must indicate the planting of RPA buffer vegetation replacement and restoration.

BE IT FINALLY RESOLVED that failure by King William County to meet the above established compliance dates of June 30, 2006 and September 30, 2006 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 King William County to the

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

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Prince William County – Review of previous conditions

Ms. Mackey gave the report for Prince William County.

On September 20, 2004 the Board found that the County's program was not fully compliant and required the County to meet two recommendations by December 31, 2004 and seven recommendations by December 31, 2005. County staff has worked with Department staff to ensure the recommendations requiring ordinance revisions will be adequately addressed in a comprehensive revision to the Design Construction Standards Manual scheduled for public hearing before the Board of County Supervisors on May 2, 2006. It is staff's opinion that as currently written, the DCSM revisions will address all but two of the recommendations once adopted by the County Board of Supervisors. Board Recommendation #2 requires the resumption of active notification of the septic pump-out provisions of the Regulations. The County continues to work with the Health Department to accomplish this requirement. Board Recommendation #5 requires language to be inserted into the utility standards manual regarding conditions for utility exemptions. The County continues to work with the service authority to accomplish this requirement.

The Northern Area Review Committee recommends a finding of not fully compliant with 6 recommendations and a deadline of June 30, 2006.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Prince William County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, that that Prince William County be directed to undertake and complete the six (6) recommendations contained in the staff report no later than June 30, 2006.

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

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
April 3, 2006**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
PRINCE WILLIAM COUNTY - #28**

Local Compliance Evaluation – Non-Compliant

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

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

WHEREAS on September 20, 2004, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of Prince William 's Phase I program did not fully comply with the Act and Regulations and further that the County address the nine recommendations in the staff report no later than December 31, 2005; and

WHEREAS on February 14, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation consistency condition review 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 Prince William County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Prince William County to undertake and complete the six (6) recommendations contained in the staff report no later than June 30, 2006.

For consistency with §9 VAC 10-20-191 A 5 of the Regulations, revise the DCSM to require that the full width of the RPA, a minimum of 100-feet, be shown on all plans and recorded plats, accompanied by a note that the Director of Public Works must approve any land disturbance within the Resource Protection Area.

For consistency with §9 VAC 10-20-120 7 of the Regulations, resume active notification of 5-year septic pump-out requirement.

For consistency with §9 VAC 10-20-130 1 e of the Regulations, ensure that placement of BMPs in the RPA either complies with all criteria enumerated in §9 VAC 10-20-130 1 e, or is reviewed and approved as an exception under §9 VAC 10-20-150 C.

For consistency with §9 VAC 10-20-130 3 of the Regulations, incorporate requirements for buffer mitigation and establishment into the DCSM that focuses on revegetation or vegetative plantings.

For consistency with §9 VAC 10-20-150 B of the Regulations, either cross-reference or incorporate the conditions for utility exemptions as outlined in Regulations into the PWCSA utility standards manual where appropriate.

For consistency with §9 VAC 10-20-80 B 5 of the Regulations, revise Section 742.02.D of the DCSM to require the minimum 100-foot RPA.

BE IT FINALLY RESOLVED that failure by Prince William County to meet the above established compliance date of June 30, 2006 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 Prince William County to the compliance provisions as set forth in §10.1-2103 10 of the Act and §9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director

Department of Conservation and Recreation

Caroline County – Review of previous conditions

Ms. Smith gave the report for Caroline County.

Caroline County underwent a compliance evaluation in late 2004, with the Board establishing a compliance deadline of December 31, 2005 to address 6 conditions. It is staff's opinion that the County has addressed 4 of the 6 conditions.

Two conditions have not been fully addressed. These relate to the septic pump-out and BMP maintenance programs. For the pump-out program, the County has completed development of a database but has not yet set up its program to send out notices. For BMP maintenance, the County has also established a database for BMP information, but has not initiated a program for BMP inspection and maintenance. Both of these conditions remain, and staff recommends that a new deadline of September 30, 2006 be set for these to be met. At their meeting of 2/14/2006, the Northern Area Review Committee concurred with staff's recommendation.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Caroline County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, and that Caroline County be directed to undertake and complete two recommendations contained in this staff report no later than September 30, 2006.

SECOND: Mr. Froggatt

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CAROLINE COUNTY - #62

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 on December 13, 2004, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of Caroline County's Phase I program did not fully comply with the Act and Regulations and further that the County address the six recommendations in the staff report no later than December 31, 2005; and

WHEREAS on February 14, 2006, the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation consistency condition review 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 Caroline County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Caroline County to undertake and complete two recommendations contained in this staff report no later than September 30, 2006.

The County must implement its 5-year pump-out notification, enforcement and tracking program for compliance with § 9VAC 10-20-120.7.a of the Regulations and Section 17.9.B.7 of Caroline County's Chesapeake Bay Preservation Area Overlay District.

To fully comply with § 9 VAC 10-20-120.3 of the Regulations, the County will implement a program to ensure the regular or periodic maintenance and tracking of best management practices (BMPs) in order to ensure their continued proper functioning over the long-term.

BE IT FINALLY RESOLVED that failure by Caroline County to meet the above established compliance date of September 30, 2006 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 Caroline 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 Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Accomack County – Review of previous conditions

Ms. Smith gave the report for Accomack County.

Accomack County underwent a compliance evaluation in 2004, with the Board establishing a compliance deadline of June 30, 2005 to address four conditions, this deadline was extended to December 31, 2005 in June. The County has addressed three of these four conditions. The one condition that has not been fully addressed is the development and implementation of a septic pump-out program. However, grant funds to address this condition were made available to the County and work towards meeting this condition is underway. Given that work on this grant is to end by September, staff recommends setting September 30, 2006 as the deadline for this condition to be addressed. At their meeting of 2/14/06, the Southern Area Review Committee concurred with staff's recommendation.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Accomack County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, and that Accomack County be directed to undertake and complete the one recommendation contained in this staff report no later than September 30, 2006.

SECOND: Ms. Harper

DISCUSSION: None

REVISED: 9/20/2006 10:37:27 AM

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

ACCOMACK COUNTY - #35

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 on June 21, 2004, the Chesapeake Bay Local Assistance Board found that certain aspects of Accomack County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and further that the County undertake and complete the four recommendations for compliance by June 31, 2005; and

WHEREAS on September 19, 2005, the Chesapeake Bay Local Assistance Board extended Accomack County's compliance deadline from June 30, 2005 to December 31, 2005, and

WHEREAS on February 14, 2006 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 Accomack County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Accomack County to undertake and complete the one recommendation contained in this staff report no later than September 30, 2006.

The County must implement and track its onsite septic system options for compliance with §9VAC 10-20-120.7.a.

BE IT FINALLY RESOLVED that failure by Accomack County to meet the above established compliance date of September 30, 2006 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 Accomack 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 Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Henrico County – Review of previous conditions

Mr. Helmboldt gave the report for Henrico County.

On September 20, 2004 the Chesapeake Bay Local Assistance Board set a deadline of September 30, 2005 for the County to undertake and complete the three recommendations included in the staff report.

On December 14, 2005 the Henrico County Board of Supervisors adopted amendments to their Environment section of the County Code, therefore fulfilling their ordinance requirements for a WQIA.

During the compliance evaluation we noted that it appeared that the County's E&S inspection and enforcement activities were inconsistent. Henrico County has created a database of E&SC enforcement activities and any follow-up actions that result. Included in this database is a tracking mechanism for E&SC inspections and enforcement activity.

It is staff's opinion that this recommendation has been adequately addressed. The responsibility for managing the County's pump-out notification process is being transferred from the County's Planning Department to their Public Works Department so that all aspects of the County's Bay Preservation Act program rests with one department. At the SARC meeting County staff informed us that they had budgeted for the position that would handle these duties and anticipate having it staffed at the start of the new fiscal year.

As a result of this time constraint the County requested and extension at that time of the deadline to fulfill the requirements of the recommendation.

Mr. Helmboldt spoke with Keith White last week and he stated that the County has no further comments following the revised deadline that resulted from the February 14, 2006 SARC meeting.

Department staff recommends that the County be given until September 30, 2006 to complete the one remaining recommendation.

Mr. Maroon noted that Henrico is currently having an issue with the Erosion and Sediment program. The program administrator is not currently certified.

Mr. Davis suggested that the resolution remain the same but that the staff report and transmittal letter be amended to address this concern.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Henrico County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, and that Henrico County be directed to undertake and complete the recommendation no later than September 30, 2006.

SECOND: Ms. Roberts

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

April 3, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
HENRICO COUNTY - #23

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

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

WHEREAS on September 20, 2004, the Chesapeake Bay Local Assistance Board found that certain aspects of Henrico County's Phase I program did not fully comply with the Act and Regulations and further that the County address the three recommendations in the staff report no later than September 30, 2005; and

WHEREAS in September and December 2005, the County provided staff with information relating to the County's actions to address the three recommendations and Department staff prepared a staff report; and

WHEREAS on February 14, 2006 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 Henrico County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Henrico County to undertake and complete the recommendation no later than September 30, 2006.

1. The County must complete the development and implementation of a 5-year pump-out notification and enforcement program by June 30, 2006 for compliance with Section 9VAC 10-20-120 7.

BE IT FINALLY RESOLVED that failure by Henrico County to meet the above established compliance date of September 30, 2006 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 Henrico County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on April 3, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Review of Board Sponsored Activities

Mr. Maroon said that there is a possibility of doing some field work and field training in conjunction with the next Board meeting if the Board was interested.

Ms. Salvati said that staff is suggesting a shortened version of perennality training in order that the Board could get a broader understanding of the issues. The Board meeting would be held in the morning with the training in the afternoon.

She said that staff has been receiving questions with regard to the issue of perennial flow when there is a drought or shortage of rainfall.

Mr. Davis said it would be helpful for the Board to again consider a one-day retreat.

The next meeting of the Policy Committee will be Monday, May 22nd or Tuesday, May 23rd.

Public Comment

Mr. Platt asked with regard to stormwater management if there was a way to determine a one-year projected storm intensity frequency.

Mr. Maroon suggested it would be best for Mr. Platt to speak with DCR's stormwater management program.

Closed Meeting: Consultation with Council Regarding legal matters.

Mr. Duncanson offered the following motion:

Mr. Chairman, I move that the Board convene a closed meeting pursuant to § 2.2-3711 (A) (7) of the *Code of Virginia* for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice, namely the pending litigation against the Board by the City of Hampton, styled *City of Hampton v. Commonwealth of Virginia ex rel. Chesapeake Bay Local Assistance Board*, Circuit Court of Hampton, Chancery No. 65CH05000731-00.

This closed meeting will be attended only by members of the Board. However, pursuant to § 2.2-3712 (F) of the *Code*, the Board requests counsel, the Director of the Department of Conservation and Recreation (DCR), the Director of the Division of Chesapeake Bay Local Assistance of DCR and the following DCR staff: Deputy Director Russell Baxter, Ms. Shawn Smith and Mr. Jakob Helmboldt to attend because it believes that their presence will reasonably aid the Board in its consideration of the topic that is the subject of this closed meeting.

Ms. Harper seconded the motion. The vote was as follows:

AYE: Mr. Davis, Mr. Evans, Mr. Duncanson, Mr. Froggatt, Ms. Harper, Ms. Roberts

NO: None

Not Present at the Meeting: Ms. Macaulay, Mr. Rodriguez, Mr. Sheffield

At the conclusion of the closed meeting, Mr. Duncanson offered the following motion:

Certification After Voting to Go Back Into Open Meeting

WHEREAS, THE Board has convened a closed meeting on April 3, 2006 pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712(D) of the *Code* requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Chesapeake Bay Local Assistance Board hereby certifies that, to the best of each member's knowledge, only public business

matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

Ms. Roberts seconded the motion. The vote was as follows:

AYE: Mr. Davis, Mr. Evans, Mr. Duncanson, Mr. Froggatt, Ms. Harper,
Ms. Roberts

NO: None

Not Present at the Meeting: Ms. Macaulay, Mr. Rodriguez, Mr. Sheffield

New Business

The next meeting of the Northern and Southern Area Review Committees will be on May 9, 2006 at the Division offices in Richmond.

Adjourn

Ms. Harper moved that being no further business, the meeting be adjourned. Mr. Duncanson seconded and the meeting was adjourned.

Respectfully submitted,

Donald W. Davis, Chair

Joseph H. Maroon, Director

ATTACHMENT #1

Virginia Department of Conservation and Recreation

Summary of 2006 General Assembly Session

Prepared for the Chesapeake Bay Local Assistance Board April 3 Meeting

CHESAPEAKE BAY CLEAN-UP AND FUNDING

HB 1150 Chesapeake Bay Clean-up Plan. (Delegate Lingamfelter)

As amended, the legislation requires the Secretary of Natural Resources to develop a clean-up plan for the Chesapeake Bay and Virginia waters that have been designated as impaired. The plan will include measurable objectives, a description of the strategies to meet the plan's objectives, time frames for accomplishing the objectives, and a plan for disbursing funds for point and nonpoint pollution projects. The plan will also include an analysis of alternative funding mechanisms. The Secretary is to submit the plan by January 1, 2007, and is to submit a progress report on the clean-up semi-annually.

PASSED BOTH HOUSES

SB 413 Recordation tax; collection to be transferred to Water Quality Improvement Fund. (Senator Hanger)

Provides that \$100 million of recordation taxes collected each year shall be transferred to the Virginia Water Quality Improvement Fund. **CONTINUED TO 2007**

SB 626 Taxes and fees for the Virginia Water Quality Improvement Fund. (Senator Quayle)

Establishes a \$1 per day lodging fee on the sale of hotel, motel, and similar rooms and provides that such revenues plus \$40 million annually in recordation tax revenues shall be deposited into the Virginia Water Quality Improvement Fund for funding of water quality. **CONTINUED TO 2007**

EROSION CONTROL, STORMWATER, BAY ACT

HB 1519 Water bodies with perennial flow (Delegate Marshall (Prince William))

Requires localities under the jurisdiction of the Chesapeake Bay Preservation Act to use the U.S. Geological Survey's designation of water bodies with perennial flow as the basis for delineating (i) the required components of Resource Protection Areas and (ii) the required stream components of Resource Protection Areas. **FAILED TO ADVANCE**

SB 274 Stormwater management amendments. (Senator Whipple)

- Changes the date in current law by which localities located in "Tidewater" (eastern VA) and those that are classified as an MS4 under the federal Clean Water Act to adopt a local

stormwater management program in accordance with a schedule established by the Virginia Soil and Water Conservation Board.

- Under current law these localities are to adopt a program by July 1, 2006. This bill gives required localities between 12 and 18 months to adopt its stormwater program after the effective date of the Board's regulation that establishes local program criteria and delegation procedures.

- Any locality that isn't in Tidewater or classified as an MS4 can choose to administer its own program (seek delegation) within six months following the effective date of the regulation.

- The bill also increases the maximum fine for violation of the provisions of the stormwater law from a civil penalty of \$25,000 to \$32,500. **PASSED BOTH HOUSES**

HB 684 Adequate Channels: Amends E & S Control & Stormwater Mgt Acts

(Delegate Rust)

- Clarifies what are acceptable flow rates from storm runoff at sites where land development projects are occurring.

- Establishes a higher standard for stormwater management than what currently exists. If followed, the land disturbing activities would be exempt from any local requirements for flow rate capacity and velocity for natural or manmade channels.

- DCR worked with the Homebuilders of Virginia (which initiated this bill), the Chesapeake Bay Foundation, local governments and others on this legislation.

APPROVED BY GOVERNOR (effective 7/1/06)

HB1454 Artificial wetlands and stream restoration (Delegate Scott)

-Allows any person who has created and operates an approved wetlands mitigation bank in multiple jurisdictions to annually file erosion and sediment control specifications for wetlands mitigation projects with the Virginia Soil and Water Conservation Board. The Board has 60 days to approve the specifications. If no action is taken within 60 days the specifications are deemed approved. Projects that are not covered by general specifications will have to comply with the local erosion and sediment control program.

- The law shall not take effect unless funding is approved in the budget bill to support the one position requested to support this activity. **PASSED BOTH HOUSES**

HB 14 Silviculture practices; allows local government to regulate for land. (Delegate Cole)

Allows local government to fully regulate silviculture activity for land when the owner, or his agent, submits an application for a rezoning, conditional use permit, special use permit, or preliminary subdivision plan approval to convert from an agricultural or rural to a residential, commercial or industrial use. Currently local governments are limited in the regulation of silviculture practices until after the change in zoning or use occurs.

Initiated by Stafford County. **FAILED TO ADVANCE**

HJ 134 Study of Perennial flow determination. (Delegate Shannon)

Requests DCR to study the development and implementation of perennial flow determination required by the Chesapeake Bay Preservation Act regulations.

FAILED TO ADVANCE (DCR agreed to do review without the bill)

NUTRIENT REDUCTIONS, BEST MANAGEMENT PRACTICES

HB 963 BMP Income tax credit for horse farms. (Delegates Bulova and Wittman)

Adds taxpayers who have horses or “equines” that create needs for agricultural BMPs to those who may qualify for the agricultural best management practices tax credit, for taxable years beginning January 1, 2007. **PASSED BOTH HOUSES**

HJ 107 Study of Urban Best Management Practices Cost-Share and Tax Credit Program. (Delegates Bulova, Eisenberg and Wittman)

Requests DCR to study over the next two years whether an Urban Best Management Practices Cost-Share and Tax Credit Program, modeled after the Agricultural Best Management Practices Cost-Share and Tax Credit Program, would be beneficial and an economically efficient method for meeting the nutrient and sediment reduction goals of the Chesapeake Bay Agreement.

FAILED TO ADVANCE (DCR agreed to do study without the bill)

SB 234 Fertilizer labeling. (Senator Ticer and Delegate Sickles)

Requires that specialty fertilizers include a label with directions for proper fertilizer use and precautionary statements to educate users. Specialty fertilizer means a fertilizer distributed for nonfarm use, including home gardens, lawns, shrubbery, flowers, golf courses, and nurseries. **CARRIED OVER TO 2007**

LAND PRESERVATION INCOME TAX CREDIT

None of the related tax credit bills (HB449, HB450, HB533, SB93, and SB403) passed this Session.

Consequently, the existing land preservation tax credit program remains the same.

However, it is still possible that this matter will be resolved in the on-going budget talks between the House and Senate during the Special Session.

Virginia Department of Conservation and Recreation Summary of Budget Actions Proposed by House and Senate Budgets 2006 General Assembly Session

NOTE: This document reflects proposed House and Senate changes to the Governor’s Introduced Budget. Proposed changes noted below in italics. The 2006 Session finished without completing work on the budget. Governor Kaine has called the General Assembly back into Special Session. Until their work is completed, state agency budgets are not final.

NO CHANGES WERE PROPOSED TO FOLLOWING ITEMS IN THE INTRODUCED BUDGET:

Water Quality Improvement Fund - \$39,608,800 GF to be deposited into the fund during FY 2006 to provide matching grants for controlling nonpoint source pollution resulting from agricultural activities and development. This funding is from Virginia's mandatory deposit of \$56.6 million from the budget surplus, 70 % of which will be used to reduce nonpoint source pollution because the Governor made a separate deposit into the Fund. The expectation is that these funds will be spent in FY 2007 and beyond. Of the total amount deposited, \$5,712,250 shall be held in the reserve account for the Virginia Water Quality Improvement Fund for use in later years.

Stormwater Management Program - \$300,000 GF to cover the anticipated revenue shortfall in FY 2007. This will cover the shortfall for one year while DCR reviews the permit fees associated with the program.

Virginia Land Conservation Fund – The \$2.5 million annual deposit to the Virginia Land Conservation Fund remains in DCR's base budget for each year of the upcoming biennium. A language amendment effective January 2008 has been included to direct the \$6 million currently being deposited into the Virginia 400th Anniversary Fund to be utilized by DMV for computer upgrades. Any collections in excess above this \$6 million would continue to be deposited into the Virginia Land Conservation Fund. (Last year, that amounted to around \$ 350,000.)

CHANGES PROPOSED TO DCR OPERATING BUDGET FOR FY 2006-08

Nonpoint Service Delivery for Soil and Water Conservation Districts- \$500,000 annually was proposed in Governor's Introduced Budget for Districts to provide assistance in implementing the increasing agricultural nonpoint source control activities required to meet state water quality goals. No funding was proposed for DCR. Funding for nonpoint service delivery for DCR and districts is a critical need if nonpoint programs are to be fully and effectively implemented.

Senate: *Adds language to allow DCR to use up to \$ 1 million annually from the WQIF for 15FTE to carry out nonpoint implementation activities including Bay and TMDL related efforts. Funding for the positions is to come from the interest earned on the WQIF and from the principal as necessary in any given year. Also includes total of \$3 million more (\$1.5 million/yr) in GF for soil and water conservation districts' nonpoint service delivery efforts. Also appears to be an additional \$1 million (\$500,000/yr) in NGF proposed. In addition, includes \$400,000 for DCR to contract with private sector for nutrient management plans to be written for half of the state's regulated livestock and poultry operations.*

House: *No change to original.*

State Park Operations and Staffing Needs - \$3,200,000 (\$1,600,000 GF each year) and 21 new positions was proposed in Governor's Introduced Budget to support the expanded operations of parks with bond construction projects that will be completed within the upcoming biennium.

Senate: Adds \$2,000,000 (\$1,000,000 GF each year) and no FTE. If the Senate prevails, DCR would hope that FTEs would be added to enable us to use the additional funds to continue the rebenchmarking of state park staff that began last year.

House: *No change to original.*

Funding Assistance for Dam Safety Loans and Grants

Senate: *No proposal in Senate although a bill by Senator Bell addresses the same need.*

House: *Provides \$400,000 each year to further capitalize the Dam Safety Flood Prevention and Protection Assistance Fund to provide loans and grants for dam repairs, inundation zone mapping and flood protection projects. Delegate Sherwood is the sponsor of related legislation and this amendment request.*

Captain John Smith Water Trail - \$140,000 in FY 2007 was proposed in Governor's Introduced Budget to provide for signage and expenses associated with the completion of the James River and York River segments of the Trail and \$25,000 for Virginia's contribution towards the feasibility Study for designating the entire Bay as a National Water Trail. This is an initiative of Governor Warner's Natural Resources Partnership Agenda.

Senate: *Cut all funds*

House: *Cut all funds*

Wetland Restoration Erosion Review

Senate: *No action*

House: *Provides \$75,000 each year and 1 FTE to DCR for Wetland Restoration Erosion Review. Related to HB 1454.*

Southside Rails to Trails Initiative – The Introduced Budget included \$950,000 in FY 2007 for acquisition of the next segment (approximately 140 miles) of the Tobacco Heritage Trail. This is part of Governor Warner's Virginia Works Initiative.

Senate: *Cuts funds by 50%*

House: *Cuts all funding*

Rappahannock River Basin Commission

Senate: *\$10,000 in the biennium (\$5000 each year)*

House: *Biennium funding of \$30,000 GF and \$30,000 NGF.*

CHANGES PROPOSED TO DCR CAPITAL BUDGET

State Park Construction Support - \$20,370,000 GF for new supplemental funding was proposed in Governor's Introduced Budget to complete General Obligation Bond construction projects as follows:

- Shenandoah River Cabins & Campground - \$7,054,000
- Natural Tunnel Cabins, Campground, and Bathhouse - \$6,133,000
- Occoneechee Cabins - \$4,550,000
- Bear Creek River Cabins - \$2,633,000

Senate: *Senate cuts all \$ 20.3 million.*

House: *Moves this funding to VPBA bonds.*

New State Park Development

Senate: *No Action*

House: *Includes \$1 million – House sources indicate it is for new High Bridge Trail State Park development.*

ATTACHMENT #2

Report: Cleanup of bay lagging

EPA office says steps so far are insufficient to help bay recover

BY LAWRENCE LATANE III

TIMES-DISPATCH STAFF WRITER

Saturday, April 1, 2006

The Chesapeake Bay continues to struggle against pollution, human population growth and other challenges, according to a government report that finds the regional cleanup campaign lagging behind restoration goals.

ONLINE
To see the Chesapeake Bay 2005 Health and Restoration Assessment, or to comment on it, go to:
<http://www.chesapeakebay.net/assess/index.htm>

The Environmental Protection Agency's Chesapeake Bay Program office released the draft report yesterday saying, "actions taken to date have not yet been sufficient to restore the health of the bay."

That means a long road ahead for the recovery of oysters and submerged bay grasses that are crucial to the ecological and economic health of the beloved estuary. Huge problems with sewage treatment and farm waste must be solved before a vast "dead zone" of oxygenless water in the bay can be corrected.

"They're not going to be any shortcuts," said Carlton Haywood, chairman of the program's bay monitoring and analysis subcommittee, which played a leading role in producing the report.

Yesterday's report was notably bleak for an agency that was faulted in Congress last year for sometimes painting too bright a picture of the cleanup plan and its progress on the 64,000-square-mile estuary.

Haywood said the bay program was mindful of that criticism and deliberately tried to present the uphill battle the bay faces. "One of the things we wanted to do was to communicate the enormity of the task."

The report highlights what most bay watchers already knew -- that the bay remains seriously degraded -- and it pointedly seeks feedback. Bay Program director Rebecca Hanmer said the assessment will be reviewed by scientists for accuracy. "At the same time, we're asking watershed residents and other stakeholders to let us know if the report is presented in a way that is easily understandable, has the right amount of information and is in a format they can use."

The EPA is soliciting comments through May.

"It just validates what the Chesapeake Bay Foundation has been saying all along," said Chuck Epes, a spokesman for the environmental group.

He credited the Virginia legislature with considering a record \$257 million in cleanup spending this year and said the federal government needs to ramp up its investments as well.

The report illustrated the gaps between various restoration goals and progress on the estuary. Over the past three years:

- Only 29 percent of the bay's waters met goals for dissolved oxygen needed for aquatic life;
- Water clarity necessary to promote the growth of underwater grasses was only 27 percent of goal;
- The numbers of blue crabs, which support the bay's commercial fishing industry, were below average;
- And the oyster population stood at 7 percent of the restoration goal.

Only striped bass, the beneficiary of catch moratoriums two decades ago, showed notable progress. Their numbers have exceeded the restoration goal by 60 percent.

Controlling nitrogen and phosphorous -- polluting nutrients found in sewage, livestock waste and fertilizers used on farmland and suburban yards -- remain the key to revitalizing the bay, the report said.

Improvements in sewage treatment and farming have curbed the amount of nutrients reaching the bay. But, the report showed the bay still is receiving more than twice the amount of nutrients that a healthy bay can handle.

The bay-area states of Virginia, Maryland, Pennsylvania, West Virginia, New York and Delaware have pledged to get the bay and its tributaries off the EPA's list of "impaired," or polluted waters by 2010.

"Overall, about half of the pollution-reduction efforts needed to achieve the nutrient goals have been undertaken over the past two decades," the report said.

Contact staff writer Lawrence Latané III at llatane@timesdispatch.com or (804) 333-3461.

This story can be found at:

http://www.timesdispatch.com/servlet/Satellite?pagename=RTD%2FMGArticle%2FRTD_BasicArticle&%09s=1045855934842&c=MGArticle&cid=1137835081914&path=%21news

Attachment #3

Virginia's Nutrient Credit Exchange Program

Presentation by Russell W. Baxter, Deputy Director
Chesapeake Bay Local Assistance Board, April 3, 2006

What is Trading ?

Nutrient trading, simply put, is an agreement between two parties that involves payment for additional nutrient removal; the waste load traded is referred to as "credits" or "offsets"

Credits and offsets are both measured in delivered pounds"; i.e., how much of a discharged pound of nitrogen or phosphorus reaches the impacted areas of the Bay or its tributaries. Facilities in different locations on a tributary will most likely have different delivery factors.

NUTRIENT CREDIT EXCHANGE, SB 1275, HB 2862 (2005)

- Authorized CB Watershed Nutrient Credit Exchange Program
- Directed DEQ to issue a watershed general permit for point source discharges of nutrients to the Chesapeake Bay and its Tributaries
- Authorized creation of Nutrient Credit Exchange Association

What were the goals of the legislation?

- Meeting nutrient cap load allocations cost-effectively and as soon as possible
- Accommodating continued growth and economic development in the Bay watershed
- Provide market-based incentives to help achieve nonpoint reduction goals.

Watershed General Permit

- Issued to facilities in addition to individual permits already required
- General permit will supersede some conflicting or redundant conditions in individual permits.

Watershed Permit Contents

- Registration requirements
- Load Limits (already in current regulation)
- Schedule of compliance
- Compliance Plans (submitted individually or through the Association)
- Monitoring and Reporting requirements

Methods of Achieving Compliance

- Mass of discharged nutrient is less than load cap in permit
- Sufficient credits acquired from other permitted point source dischargers in the same watershed
- Payment to the WQIF (last resort only if no credits available, calculated from average unit reduction cost to POTWs in VA)

Requirements for New and Expanded Facilities

- Construction of "State of the Art" treatment
- Offsets of net increase in nutrient loads through:
 1. Acquisition of point source credits
 2. Acquisition of NPS loads (2:1 ratio)
 3. Payment to the WQIF
 4. Other options approved by DEQ

Credit or offset purchases that would result in "hot spots" or exceedance of local water quality standards are not permitted!

REMAINING ISSUES

Means by which new and expanded dischargers offset their loads:

- How are BMPs identified, authenticated and tracked?
- What does "in excess of those required by state and federal laws or the trib. Strategies mean"?
- Offsets must be obtained through a public or private entity "acting on behalf of the landowner". How will this work?
- How will nonpoint reductions funded by payment to the WQIF be administered?