

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

Southern Area Review Committee Members Present

Gale A. Roberts
Richard B. Taylor
John J. Zeugner

Southern Area Review Committee Members Not Present

Michael V. Rodriquez

DCR Staff Present

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

Local Government Officials Present

Henrico County

Cindy Daniels
Jeff Perry

New Kent County

Chris Landgraf

City of Richmond

Stewart Platt
David Sack

Eastern Shore

Beverly Harper

Call to Order and Opening Remarks

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

Local Program Reviews -Phase I

Mr. Suydam gave the report for the Town of Surry.

The Town of Surry's Phase I elements were first found consistent in 1992.

Revisions to the regulations were adopted by the Board and made effective in March of 2003. The Town subsequently amended their ordinance to reflect those revisions. At that time the Town believed there were no RPAs within corporate limits and those newly adopted ordinance revisions were written accordingly.

This however, was found to be incorrect in September of 2004 when local and Division staff determined there were indeed RPAs within the Town limits.

It then became apparent that significant changes to the ordinance would need to be made.

On April 3, 2006 the Board set a deadline of June 30th 2006 for compliance with the 11 recommendations outlined by staff.

On May 12th, staff was contacted by Robert Smallwood of the Town of Surry, requesting an extension to the deadline. Staff was informed that the Town intends to rewrite all of their local ordinances and have requested an extension to address these needs, all at one time.

Due to limited and part time staffing in the Town of Surry, staff recommends the request for extension be granted.

Mr. Davis asked Mr. Suydam if the March deadline had been chosen by the Town.

Mr. Suydam replied that staff had suggested the date in order to provide enough time for staff to work with the Town in providing them assistance with their Phase I program.

Mr. Davis asked if the Town had contracted with any outside firm.

Mr. Suydam replied that the Town was getting assistance from its citizens and perhaps a contractor.

Ms. Salvati responded that in the past the Town had borrowed staff from Chesterfield County.

Mr. Davis requested that an update be given at the December 11, 2007 Board meeting regarding the Town's progress.

MOTION: Ms. Roberts moved that the Southern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board that the Town of Surry extend the deadline for addressing the eleven (11) recommendations for consistency from June 30, 2006 to March 31, 2007.

SECOND: Mr. Richard Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Suydam gave the report for the City of Richmond.

The City's effort to become consistent with their Phase I program has been an on-going process.

In April of this year, the Board found the City had adequately addressed 2 of the 3 recommendations for consistency and set a deadline of June 30, 2006 for the City to address the remaining recommendation, which was to amend the City's General Performance Criteria to require the 5 year septic pump out.

The City did not meet this deadline and it was the intent of staff to recommend the Board find the City inconsistent at the September 26th Board meeting.

However, the City presented new information that morning, which if adopted by City Council, appeared to address the one recommendation.

In light of this new information, the Board then decided to defer its decision to this meeting.

On October 9th, City Council was presented with the 5-year septic pump out ordinance revision and subsequently adopted it on October 23rd.

It is now staff's opinion that the City of Richmond's amended Bay Ordinance has adequately addressed the one recommendation and thus recommends the Board find the City's Phase I program consistent with the Regulations.

MOTION: Mr. Zeugner moved that the Southern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find

the local program amendments adopted by the City of Richmond on October 9, 2006 be found consistent with §§ 10.1-2109 of the Act and §§ 9VAC10-20-60-1 and 2 of the Regulations.

SECOND: Ms. Gale Roberts

DISCUSSION: Mr. Baxter asked if there were other inspections in lieu of pumpout.

Mr. Suydam replied that there were and that Chesterfield County worked with the City in that regard.

Mr. Davis asked who actually performed the inspections.

Mr. Suydam replied, the Health Department.

Mr. Taylor asked if there could possibly be help for individuals in Barton Heights.

Mr. Baxter replied that perhaps the Department of Environmental Quality could assist in that regard.

Mr. Davis commented that assistance would be beyond the Board's focus.

Mr. Sacks thanked staff for their assistance.

VOTE: Motion carried unanimously

Local Program Review – Compliance Evaluation

Mr. Davis recognized Ms. Shawn Smith for staff's presentation for Accomack County.

Staff conducted a compliance evaluation for the County in 2004 and on June 21, 2004 the Board found that certain aspects of the County's implementation of its Phase I program did not fully comply and required the County to address four consistency recommendations and set June 30, 2005 as the compliance deadline. Due to a change in County staff in the spring of 2005, the County requested and received a deadline extension from the Board from June 30, 2005 to December 31, 2005. The County requested this extension in order for the new staff to continue work on addressing the compliance conditions.

On April 3, 2006, the Board reviewed the compliance conditions from the 2004 compliance evaluation review, and found that three of the four compliance conditions had been addressed. However, one condition, relating to the septic pump-out program, had not been adequately addressed and the Board established September 30, 2006 as the deadline for this condition to be met. Staff received information from the County relating to this condition in late September 2006.

Board Recommendation #1

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

The County received a grant through the Bay Program and the Division of Soil and Water Conservation at DCR to develop and implement its septic pump-out program. The County hired a full-time administrative assistant to assist with the County's pump-out program and the County has developed a database of 2,000 verified tax parcels and owner addresses in the Chesapeake Bay watershed. The County prepared a mailing to these 2000 owners which included: a letter describing the program; information brochure on septic systems and water quality; a septic pump-out reporting slip with owner address and parcel information label; and, a postage-paid return envelope. The County also prepared an informational press release on the septic pump-out program which appeared in two local papers; the Eastern Shore News and the Eastern Shore Post. The County plans to update their database as reporting slips are returned, and will be sending out follow-up notices in Spring of 2007. Based on these actions, staff is of the opinion that the County has addressed the compliance condition.

The County has taken appropriate steps in addressing the one remaining deficiency noted in April of 2006. The County has worked hard to develop and implement a septic notification program that addresses the recommendation from the Board's April 3rd resolution and should be commended for their hard work and support of the Bay Act.

MOTION: Ms. Roberts moved that the Southern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find Accomack County's implementation of its Phase I program in compliance with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Suydam gave the report for Henrico County.

The Department initiated the compliance evaluation process for Henrico County in January 2004.

From that evaluation 3 recommendations were made by staff, of which 2 were determined by Board to have been adequately addressed in April of this year.

The remaining recommendation was to resume their 5-year septic pump out notification process and a deadline of September 30th was set.

Subsequently, staff has been provided with new information on Henrico County's septic pump out program and finds that the County has adequately addressed this final recommendation.

Staff now recommends the Board find the County's implementation of its Phase I program compliant with the Regulations.

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

SECOND: Mr. Taylor

DISCUSSION: Ms. Daniels commented that she had enjoyed working with staff.

VOTE: Motion carried unanimously

Mr. Suydam gave the report for New Kent County.

The compliance evaluation for New Kent County was initiated in May 2004 however, the Environmental Programs Manager at that time resigned soon after the initial meeting and it was not until Mr. Chris Landgraf took over that position that the compliance evaluation resumed in September 2005. DCR conducted several meetings over the next few months to complete the checklist, review site plans and perform the fieldwork.

The Department has only minimal concerns regarding the County's administration of their Bay Act program and these are reflected in the recommendations and suggestions noted in the evaluation report. New Kent County exercises significant oversight in administering their Bay Act requirements and they have been diligent in requiring the appropriate mitigation for RPA encroachments or violations. The County is to be commended for taking the initiative to develop policies that allow them to be more proactive in the administration and enforcement of their Bay Act ordinance. This will

undoubtedly be of great benefit in the years to come as growth pressure increases in their community.

It should also be noted that New Kent has nearly 20,000 acres of farmland and is one of the few localities that meets the General Performance requirement of having soil and water quality assessments done on agricultural land. Despite no longer receiving funds from the State, New Kent provides funds to the Colonial Soil and Water Conservation District so that they may conduct these assessments for the County through the production of a Soil and Water Quality Plan.

Nevertheless, based on the staff's review of New Kent County's implementation of its Phase I program, staff has 2 recommendations for compliance:

The first recommendation is for the County to develop and implement the septic pump-out requirement, including the 5-year septic pump out notification, installation of the plastic filter, and/or an annual inspection, including any necessary tracking information.

The second recommendation is that the County require all exception requests on parcels that do not qualify as pre-Bay Act lots to be heard through the formal process before their Chesapeake Bay Preservation Board. The County must also amend their internal process flowchart to eliminate the administrative granting of waivers for lots that have been platted since adoption of the Act and Regulations.

With that, staff recommends that certain aspects of the implementation of the County's Phase I program do not fully comply with the Act and Regulations, and that the Board establish December 31, 2007 as the deadline for the County.

MOTION: Ms. Roberts moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of the County's implementation of its Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations. Further that New Kent County undertake and complete the two recommendations no late than June 30, 2007

SECOND: Mr. Zeugner

DISCUSSION: Mr. Landgraf commented that it had been a pleasure working with Mr. Suydam as well as working toward a grant with DCR for septic pumpout. He said that they have amended their subdivision ordinance and are making other strides.

Mr. Davis asked if the deadline of December 31, 2007 was enough or too much time. Mr. Landgraf responded that he felt it was too

much time. Mr. Davis asked if he was okay with June 30, 2007. Mr. Landgraf responded affirmatively.

Mr. Davis asked about connections to public sewer. Mr. Landgraf responded that there were some but there would be a lot more in the next 5 years.

Ms. Salvati complimented Mr. Landgraf on his efforts for New Kent County. Mr. Landgraf responded that the County had been working really hard to bring its program into compliance.

VOTE: Motion carried unanimously

Other Business

Ms. Salvati noted that an annual report would be provided to the Board at their December 11, 2006 and this report would include data about septic programs as well as other accomplishments of localities.

Mr. Davis asked Ms. Salvati how it worked out that Chesterfield assisted Richmond with the septic issues, and how this assistance was arranged. Ms. Salvati commented that larger localities were often willing to assist smaller localities with staff.

Mr. Suydam briefly explained how the City of Richmond had worked with the Health Department.

Public Comment

There was no public comment.

Adjourn

There being no further business, the meeting was adjourned at 11:45.

Respectfully submitted,

Donald W. Davis
Chair

Joseph H. Maroon
Director