

**Chesapeake Bay Local Assistance Board
December 10, 2007
Dorey Recreation Center
Richmond, Virginia**

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chair	William E. Duncanson
Gregory C. Evans	Rebecca L. Reed
Gale Abbott Roberts	Richard B. Taylor
Charles B. Whitehurst, Sr.	John J. Zeugner

Chesapeake Bay Local Assistance Board Members Not Present

Beverly D. Harper

DCR Staff Present

Joseph H. Maroon, Director
Russell W. Baxter, Deputy Director
Joan Salvati, Director, Division of Chesapeake Bay Local Assistance
David Sacks, Assistant Director, Division of Chesapeake Bay Local Assistance
Michael R. Fletcher, Board and Constituent Services Liaison
Shawn Smith, Principal Environmental Planner
Adrienne Kotula, Principal Environmental Planner
Daniel Moore, Principal Environmental Planner
Elizabeth Andrews, Office of the Attorney General

Others Present

Gene Swearingen, Town of Haymarket
Sharon Williams, Mathews County
John Shaw, Town of Dumfries
Lee Rosenburg, City of Norfolk
Tarron Richardson, City of Richmond
Scott Meyer, City of Chesapeake
Karen Shaffer, City of Chesapeake
Kelly Mills, City of Chesapeake

Call to Order

Chairman Davis called the meeting to order. A quorum was declared present.

Mr. Davis welcomed Mr. Charles B. Whitehurst, Sr. as the newest Board member.

Mr. Davis said that staff had prepared two certificates of appreciation for past Board members, Mr. Michael Rodriguez and Mr. Walter Sheffield. The resolutions were distributed for Board member review and will be forwarded to Mr. Rodriguez and Mr. Sheffield.

Consideration of the Minutes

MOTION: Mr. Evans moved that the minutes for the following meetings be approved as submitted:

September 17, 2007 Board Meeting
October 30, 2007 Northern Area Review Committee Meeting
October 30, 2007 Southern Area Review Committee Meeting

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report.

Mr. Maroon said that he and Mr. Baxter had traveled the preceding week to Annapolis, Maryland for a meeting of the Executive Council of the Chesapeake Bay States. The Maryland Governor hosted this meeting that is an annual meeting of the region's leaders.

Mr. Maroon said that the most significant statement from the meeting was the acknowledgement that the states will not achieve the 2010 Water Quality Goal contained in the Chesapeake Bay 2000 Agreement. Of the numerous goals, water quality is the most prominent. He said that it had been realized for quite some time that it would be very difficult to de-list the Chesapeake Bay from the list of impaired waters.

The Executive Council did pledge to accelerate efforts towards other goals. The hope is that by 2010 the states will have in place the programs necessary to reach the targeted restoration levels.

Mr. Maroon said that Governor Kaine reported that Virginia is on track to meet the 2010 point source reductions. The focus will shift to nonpoint sources.

Mr. Maroon said that he hoped the Governor's budget being announced on December 17 would include substantial funding for nonpoint source pollution reductions.

Mr. Maroon said that Governor Kaine announced his desire to champion agricultural initiatives in the coming years. He has expressed support for DCR's programs. The

priority will be on five agricultural BMP practices. If these are successfully implemented the reductions would be equal to the reductions the Commonwealth could get from the upgrade of sewage treatment plants. The focus will be on targeted conservation practices such as cover crops, nutrient management and riparian buffers.

Mr. Maroon said that, in anticipation of the Bay Summit, the Chesapeake Bay Foundation issued their annual state of the Bay report. They summarize the progress on thirteen different indicators. A score of 100 would be roughly equivalent to when Captain John Smith was here 400 years ago and the state of the Bay at the time. The goal is to reach a score of 70 for the restored Bay. As of this report, CBF downgraded the health of the Bay from a 29 to a 28. Mr. Maroon said that the blue crab harvest is anticipated to be the lowest since the 1940s.

Mr. Maroon said another topic that would have potential impacts would be a surge in the production of ethanol. Corn is one type of bio-fuel being considered for the region.

Mr. Maroon said a coalition of conservation and agricultural groups was leading an initiative to identify \$100 million in funding for the Bay in the next 10 years. He said this was ambitious in light of the budget shortfall.

Mr. Taylor asked where the funding was anticipated to come from.

Mr. Maroon said that the hope would be to allot 1/10 of 1 percent of the state sales tax.

Mr. Maroon said there are two programs within DCR that are closely related to Bay issues. The Soil and Water Conservation Board oversees the Erosion and Sediment Control Program. In 2005 the General Assembly added additional penalties for local programs that fail to operate. At this point about half of the 166 programs are now consistent. DCR hopes to reach 90% consistency in the next two years.

Mr. Maroon said much is also happening on the issue of stormwater management. He said that both the Erosion and Sediment Control program and the Stormwater Management program deal with water quality and quantity. He said there were a number of regulatory issues underway with regard to stormwater management.

Mr. Maroon said another related program was a very substantial land conservation goal. In 2000 Virginia made a commitment to protect 20% of the open space in the Chesapeake Bay Watershed by the year 2010. In addition Virginia has been working towards the Governor's 400,000-acre land conservation goal.

Mr. Maroon noted that Virginia is further behind than initially thought. An error in 2000 with the development of the base line documents was discovered and there are 116,000 fewer acres preserved than previously indicated.

Nearly 360,000 acres need to be protected by 2010 to meet the goal.

Mr. Maroon said that DCR was holding a series of workshops on the RPA and Nontidal Wetlands Guidance. The first was held on November 15 at Gloucester Point. Workshops will be held in March in the southern Hampton Roads area and in May in the Fredericksburg/Stafford area.

Mr. Maroon acknowledged Ms. Andrews from the Office of the Attorney General. He said that in 2006 the Attorney General began a regulatory reform task force that is making recommendations back to the agencies. The task force has already taken up nutrient management, dam safety and state parks. Ms. Andrews is the point of contact for DCR.

At this point the task force has dealt with all of the DCR regulations with the exception of the regulations for the Chesapeake Bay Act.

Mr. Maroon informed the Board that Rob Suydam had resigned and had taken a position with the Department of Forestry.

Mr. Davis asked if there had been any discussion with the Governor regarding the effectiveness of the Bay Program.

Mr. Maroon said that was the intent of the Executive Council meeting. He said there had been widespread recognition that not as much progress had been made toward the 2000 Agreement as had been hoped.

Mr. Evans asked if there was a regulatory impact of the acknowledgement that Virginia will not meet the 2010 goals.

Mr. Maroon said that the potential exists for EPA to place a TMDL on the Chesapeake Bay.

Mr. Evans asked if EPA had given any indication that they would proceed with that.

Mr. Maroon said that the hope remains that by 2010 Virginia will have in place the programs that will significantly move forward towards the goal.

Mr. Evans asked if the programs were voluntary or regulatory.

Mr. Maroon said that some areas had been moving towards regulations, particularly the poultry industry in dealing with litter transport and a feed management initiative.

Mr. Maroon said that DEQ is also initiating a regulatory change to address what happens to litter when moved from the farm to another site. This will address whether a nutrient management plan is necessary to make sure it is properly managed.

Mr. Baxter said that both Pennsylvania and Maryland require a large percentage of agricultural operations to have nutrient management plans. He said that language comes from the Clean Water Act.

He said DCR is basically doing that through the tributary strategies.

Mr. Maroon said that EPA is very clearly interested in stormwater management.

Mr. Zeugner said it was good to hear that Virginia is making progress on point source pollution. He asked where most of the nonpoint pollution came from.

Mr. Maroon said that there is actually more nitrogen coming from sewage treatment plants than agricultural operations.

Quarterly Performance Indicators

Mr. Sacks gave an update on the quarterly performance indicators.

As of September 30, 2007:

Localities Found Compliant: 35

Localities Addressing Compliance Conditions: 12

Expected Status as of December 31, 2007:

Localities Phase I Consistent: 82

(2 others expect to adopt ordinances soon.)

Phase II Consistent: 84

Compliance Reviews Completed: 58

Localities Compliant: 40

Localities Noncompliant: 0

Localities Addressing Compliance Conditions: 18

Compliance Reviews in Progress: 19

Consent Agenda

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board approve the Consent Agenda items as presented by staff for the following localities:

- Town of West Point, Review of previous conditions
- King and Queen County, Review of previous conditions
- Town of Bowling Green, Initial Compliance Evaluation
- City of Falls Church, Initial Compliance Evaluation
- Town of Clifton, Initial Compliance Evaluation

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Sacks noted that the resolutions provided in member packets relating to two of the Consent Agenda items had typographical errors. For Falls Church and Clifton, the dates for Board action were listed as October 30, but should properly be December 10, 2007.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board approve as amended to show the correct date.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF WEST POINT**

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 December 11, 2006, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the Town of West Point's Phase I program did not fully comply with the Act and Regulations and further that the Town address the three recommended conditions in the staff report no later than September 30, 2007; and

WHEREAS in September 2007 the Town provided staff with information relating to the Town's actions to address the three recommended conditions which was evaluated in a staff report; and

WHEREAS on October 30, 2007 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 the implementation of the Town of West Point's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
KING AND QUEEN COUNTY

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 17, 2007, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of King and Queen County's Phase I program did not fully comply with the Act and Regulations and further that the County address the one recommended condition in the staff report no later than September 30, 2008; and

WHEREAS in September 2007, the County provided staff with information relating to the County's actions to address the one recommended condition which was evaluated in a staff report; and

WHEREAS on October 30, 2007 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 the implementation of King and Queen County's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007

RESOLUTION

REVISED: 3/14/2008 10:37:48 AM

LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF BOWLING GREEN

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 August, 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of Bowling Green's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the implementation of the Bowling Green's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 10, 2007

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CITY OF FALLS CHURCH

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 August 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the City of Falls Church's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the implementation of the City of Falls Church's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF CLIFTON**

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 August 2007, the Chesapeake Bay Local Assistance Department conducted a compliance evaluation of the Town of Clifton Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the implementation of the Town of Clifton's Phase I program to be in compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Programs Compliance Evaluation

Mr. Sacks reviewed the evaluation process:

“Phase I Consistent” means the required local ordinances (zoning, subdivision, maps, etc.) are in place to designate CBPAs and to require that the performance criteria are met.

“Phase II Consistent” means the required comprehensive plan components have been adopted.

“Compliant” means the locality is properly implementing the required Phase I components of the local Bay Act Program.

Mathews County – Review of previous conditions

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

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

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

The County has taken action to adequately address all recommended conditions except the septic system pump-out notification requirement. The County has recently secured a WQIF grant to help implement a septic system notification and maintenance program.

The grant will help fund enhanced GIS capacity to support the County in this effort. County staff recently submitted a schedule under the grant requirements, indicating that the first mailing of septic pump-out notices will be accomplished by early January 2008,

Mr. Sacks said the committee and staff recommendation was that certain aspects of the county's program be found to not fully comply with the Act and Regulations with a recommended deadline of March 31, 2008 for compliance with the remaining issue.

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

Ms. Williams said that the County would send out notices over the next five years. The County has developed an information brochure that will go to the public within the next month. Ms. Williams said she wanted to thank the DCR staff for working with the County to meet the deadline.

Mr. Maroon noted that Mathews County applied for and received the grant funding to help with the septic pump-out program notifications.

Mr. Evans noted that previously the Board of Supervisors did not seem concerned with the requirements of the Bay Act.

Ms. Williams said that assistance and the grant from DCR were most helpful.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of Mathews 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 Mathews County to undertake and complete one recommended condition contained in the staff report no later than March 31, 2008.

SECOND: Mr. Whitehurst

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 10, 2007

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
MATHEWS COUNTY

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 26, 2006, the Chesapeake Bay Local Assistance Board found that certain aspects of Mathews County's Phase I program did not fully comply with the Act and Regulations and further that the County address the five recommended conditions in the staff report no later than September 30, 2007; and

WHEREAS in the period between August 2007 and October 2007 the County provided staff with information relating to the County's actions to address the five recommendations and Department staff prepared a report; and

WHEREAS on October 30, 2007 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 Mathews 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 Mathews County to undertake and complete one recommended condition contained in the staff report no later than March 31, 2008.

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

BE IT FINALLY RESOLVED that failure by Mathews County to meet the above established compliance date of March 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Mathews 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Essex County – Initial Compliance Evaluation

Mr. Sacks gave the report for Essex County. Ms. Miller is the staff liaison for Essex County. No one was present from the County.

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

- implementation of a notification and maintenance program to meet the 5-year on-site septic system pump-out requirement (approximately 4,100 on-site systems); The county had a program at one time, but it was discontinued due to staffing issues.
- the use of BMP maintenance agreements and periodic maintenance and tracking of all water quality BMPs.

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

Mr. Zeugner asked if the Board should request a review in six months.

Mr. Sacks said that staff would monitor the progress.

Mr. Maroon noted that this was one of the counties brought before the Soil and Water Conservation Board because of inconsistencies found in their Erosion and Sediment Control Program.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of Essex 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 Essex County to undertake and complete the two recommended conditions contained in the staff report no later than December 31, 2008. Further, the Board requests a status report be provided at the June 2008 Board meeting.

SECOND: Mr. Taylor

DISCUSSION: Mr. Taylor asked if the County was aware of the grant availability.

Ms. Salvati said that the local contacts for each of the localities have been notified.

Mr. Maroon said that with the Water Quality Improvement Fund the request must be at least \$25,000. The typical costs for setting up a notification program do not always reach that level.

Mr. Taylor asked if consideration had been given to reducing the amount.

Mr. Maroon said that could be looked at in the future, but noted that over 40 grants were made in the last round.

Mr. Whitehurst asked at what point the local governing bodies were informed of the process.

Ms. Salvati said that the chief administrative officers are informed of the compliance evaluation process.

Mr. Evans expressed a concern that dates for compliance with the septic pump-out program kept getting extended.

Mr. Davis said that the Policy Committee is aware of this issue. He noted that Ms. Salvati would be briefing the Board at the end of the meeting.

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
ESSEX COUNTY**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 July 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of Essex County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 10, 2007 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 Essex 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 Essex County to undertake and complete the two recommended conditions contained in the staff report no later than December 31, 2008.

1. For compliance with § 9 VAC 10-20-120 7 a of the Regulations and Section 15-1.10.B.5 of the County's CBPA Overlay District, the County must reestablish its septic pump-out program.
2. To fully comply with § 9 VAC 10-20-120 3 of the Regulations and Section 15-1.10.B.7 of the County's CBPA Overlay District, the County must require BMP maintenance agreements for all water quality BMPs and must develop a program to ensure the regular or periodic maintenance and tracking of all water quality BMPs.

BE IT FINALLY RESOLVED that failure by Essex County to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Essex 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

King George County – Initial Compliance Evaluation

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

The compliance evaluation was completed in the spring and summer of this year. Although the evaluation revealed several issues, the County took steps to address many of these issues and therefore there are only two aspects of their program that are not fully compliant at this time.

1. The County must require a WQIA for any land disturbance, development or redevelopment in the RPA.

The County has been requiring certain elements of a WQIA during the development process, but in order to ensure consistency and meet the intent of the regulations, it is necessary for them to develop a more-documented approach.

2. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 8.13.5.d of the King George County Zoning Ordinance, the County must ensure signed BMP maintenance agreements for all water quality BMPs and develop a program to ensure the regular and periodic maintenance of all water quality BMPs.

The County has been requiring and tracking BMP Maintenance agreements for commercial properties, but must extend their operations to include residential BMPs.

Ms. Kotula showed the Board an example of proper implementation of the Bay Act and Regulations within King George. They were shown a violation site where proper restoration of the 100' buffer had occurred.

Mr. Davis asked if the restoration was in accordance with the buffer manual.

Ms. Kotula said that it was.

Ms. Salvati said that a lot of the localities were making significant use of the buffer manual.

Ms. Reed said that a favorable article regarding the King George pump-out program had appeared in the *Fredericksburg Freelance-Star*.

MOTION: Ms. Reed moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the King George County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the County of King George to undertake and complete the two recommended conditions contained in the staff report no later than December 31, 2008.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 10, 2007

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
KING GEORGE COUNTY

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 the Summer of 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of King George County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the King George County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the County of King George to undertake and complete the two recommended conditions contained in the staff report no later than December 31, 2008.

1. For compliance with §§ 9 VAC 10-20-130 1 a and 9 VAC 10-20-130 6 of the Regulations and Section 8.12.2 of the King George County Zoning Ordinance, the County must require a WQIA for any land disturbance, development or redevelopment in the RPA.
2. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 8.13.5.d of the King George County Zoning Ordinance, the County must ensure signed BMP maintenance agreements for all water quality BMPs and develop a

program to ensure the regular and periodic maintenance of all water quality BMPs.

BE IT FINALLY RESOLVED that failure by King George County to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject King George 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Haymarket – Initial Compliance Evaluation

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

The compliance evaluation, completed in the summer of this year, identified one issue with the Town's implementation of the Bay Act. Staff's and the committee's recommendation is to find that a certain aspect of the Town's Bay Act program is not fully compliant with the Act and Regulations.

Recommended Condition

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

Mr. Sacks said that it was the staff and committee recommendation that that the Town be given a deadline of June 30, 2008 to adequately address the recommended condition.

Mr. Moore thanked Mr. Swearingen and noted that, in spite of a small staff, the Town was very cooperative.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find that the implementation of a certain aspect of the Town of Haymarket's Phase I program does 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 the deficiency, directs the Town of Haymarket to undertake and complete the one recommended condition contained in the staff report no later than June 30, 2008.

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

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF HAYMARKET**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 September 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Haymarket's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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

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THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of a certain aspect of the Town of Haymarket's Phase I program does 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 the deficiency, directs the Town of Haymarket to undertake and complete the one recommended condition contained in the staff report no later than June 30, 2008.

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

BE IT FINALLY RESOLVED that failure by the Town of Haymarket to meet the above established compliance date of June 30, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Haymarket to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Dumfries – Initial Compliance Evaluation

Mr. Sacks gave the report for the Town of Dumfries. He recognized John Shaw, Zoning Administrator for the Town. Mr. Moore is the staff liaison for the Town of Dumfries.

The compliance evaluation, completed in the summer of this year, identified two issues with the Town's implementation of the Bay Act. Mr. Sacks said the staff and committee recommendation was to find that certain aspects of the Town's Bay Act program do not fully comply with the Act and Regulations.

Recommended Conditions

1. As required by Section § 9 VAC 10-20-105 of the Regulations and Section 70-450 of the Town's Chesapeake Bay Preservation Ordinance, the Town must confirm that site-specific RPA delineations have been conducted prior to the issuance of land disturbance permits, building permits and/or the approval by the Town Zoning Administrator of all environmental site assessments and water

quality impact assessments. The Town must require that the full width of the RPA (a minimum of 100-feet) be shown on all plans and recorded plats, accompanied by a note that the Zoning Administrator must approve any land disturbance within the RPA.

2. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 70-451 (7) (3) of the Town Code, the Town must complete the development of a BMP database to track type, installation date, location, inspections, and maintenance of BMPs. As part of this requirement, the Town must also develop a standard BMP maintenance agreement that specifies inspection and maintenance procedures.

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

Mr. Moore thanked Mr. Shaw for his cooperation during the review process. He said that review of the Town of Dumfries' Bay Act program was similar to the review for the Town of Haymarket, in that both are small localities in periods of transition.

Mr. Shaw said that the Town has had to deal with a lack of staff. He noted that, at present he was the only Town staff person certified in erosion and sediment control inspections. He said the Director of Public Works would soon have certification as well. He went on to say that the Town is in the process of developing a database to adequately address the BMP tracking requirement.

Mr. Evans suggested that the Town might benefit from working with the Prince William Soil and Water Conservation District in order to more effectively address the administration of its' erosion and sediment control program.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find that implementation of certain aspects of the Town of Dumfries' 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 Town of Dumfries to undertake and complete the two recommended conditions contained in the staff report no later than September 30, 2008.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 10, 2007

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF DUMFRIES

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 August 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Dumfries' Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the Town of Dumfries' 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 Town of Dumfries to undertake and complete the two recommended conditions contained in the staff report no later than September 30, 2008.

1. As required by Section § 9 VAC 10-20-105 of the Regulations and Section 70-450 of the Town's Chesapeake Bay Preservation Ordinance, the Town must confirm that site-specific RPA delineations have been conducted prior to the issuance of land disturbance permits, building permits and/or the approval by the

Town Zoning Administrator of all environmental site assessments and water quality impact assessments. The Town must require that the full width of the RPA (a minimum of 100-feet) be shown on all plans and recorded plats, accompanied by a note that the Zoning Administrator must approve any land disturbance within the RPA.

2. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 70-451 (7) (3) of the Town Code, the Town must complete the development of a BMP database to track type, installation date, location, inspections, and maintenance of BMPs. As part of this requirement, the Town must also develop a standard BMP maintenance agreement that specifies inspection and maintenance procedures.

BE IT FINALLY RESOLVED that failure by the Town of Dumfries to meet the above established compliance date of September 30, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Dumfries to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Norfolk – Initial Compliance Evaluation

Mr. Sacks gave the report for the City of Norfolk. He recognized Lee Rosenberg, Manger of the Bureau of Environmental Services. Ms. Smith is the staff liaison for the City of Norfolk.

The Department initiated a compliance evaluation for the City of Norfolk in January 2006, with a delay in completing the evaluation due to Department staff turnover, and the evaluation was restarted in Spring 2007. Norfolk has IDAs along 95% of its RPAs, and its Preservation Areas include around 12% of the City's land area. The City does implement a water quality stormwater management program citywide, which includes an exemption of many single-family lots and a 53% impervious cover threshold as its pre-existing development load. The City also has a good wetlands program, focusing on the living shorelines concept in approving shoreline projects and including a wetlands education program for violators that is a model for other localities.

In undertaking this evaluation, the Department provided a number of draft staff reports to the City for comment and staff made revisions based on City input. Furthermore, Department staff met with City staff at their offices to discuss the compliance evaluation on July 19, 2007 and discussed it again in a conference call on October 18th. The compliance evaluation revealed that there are program elements that require improvement.

Mr. Sacks said that the staff and committee recommendation was that the Board find that “certain aspects of the City of Norfolk’s Phase I program be found to not fully comply with the Act and regulations” and that the Board require the city to address three conditions necessary for full compliance by December 31, 2008.

1. Provide documentation that its citywide stormwater management program implements the 10 percent pollution reduction requirement for all development and redevelopment activities in the IDA.

This condition relates to the fact that within the IDA, many projects appear to be redevelopment of single-family lots, and since many single-family lots are exempted under the City’s stormwater management program, it is not clear if the 10% reduction within the IDA is being met. The city will need to demonstrate that given that this exemption is in place, they are still meeting the required 10% reduction overall.

2. Revise the *Norfolk Storm Water Design Criteria* to include water quality calculations and BMP design standards and efficiencies consistent with the Virginia Stormwater Management Handbook.

This document uses calculations and worksheets from the previous CBLAD Local Assistance Manual which is no longer valid.

3. Require a WQIA for any land disturbance, development or redevelopment in the RPA, even when such projects occur in the IDA overlay.

In reviewing the files, WQIAs were not found for shoreline projects or many of the residential projects.

The City understands these three conditions, and has indicated their intent to address them. The Department will continue to work with the City to assist them in addressing these conditions.

Mr. Rosenberg said that the City had been working with DCR staff. He said that the City has been on board with the Bay Act program for some time. He said that the City meets the stormwater requirements even though some single-family homes are exempt from the process.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board find that that the implementation of certain aspects of the City of Norfolk'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 City of Norfolk to undertake and complete the three Recommended Conditions contained in the staff report no later than December 31, 2008.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
CITY OF NORFOLK**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 Spring 2006 through Summer 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the City of Norfolk's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the City of Norfolk'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 City of Norfolk to undertake and complete the three Recommended Conditions contained in the staff report no later than December 31, 2008.

1. For compliance with §§ 9 VAC 10-20-120 A and 9 VAC 10-20-120 8 of the Regulations and Section 11.2-9 of the City's Chesapeake Bay Preservation Overlay District, the City must provide documentation that shows its citywide Stormwater Management program implements the 10 percent nonpoint source pollution reduction requirement for development and redevelopment activities in the IDA.
2. For compliance with § 9 VAC 10-20-120 8 of the Regulations, the City must revise the *Norfolk Storm Water Design Criteria* to include water quality calculations and BMP design standards and efficiencies consistent with the *Virginia Stormwater Management Handbook*.
3. For compliance with §§ 9 VAC 10-20-130 1 a and 9 VAC 10-20-130 6 of the Regulations and Sections 11-2.6(c) and 26-13.6 of the City Code, the City must require a WQIA for any land disturbance, development or redevelopment in the RPA, including shoreline erosion control projects, single-family home construction, and any other development projects even when such projects occur in the IDA overlay.

BE IT FINALLY RESOLVED that failure by the City of Norfolk to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the City of Norfolk 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon

Director
Department of Conservation and Recreation

Town of Smithfield – Initial Compliance Evaluation

Mr. Sacks gave the report for the Town of Smithfield. No one was present from the town. Ms. Smith is the staff liaison for the Town of Smithfield.

The Department initiated the compliance evaluation for the Town in Summer of 2007 and included three meetings to collect information, review project files and visit selected sites. The compliance evaluation revealed that there are program elements that require improvement.

Mr. Sacks said that it was the staff and committee recommendation that the Board find that “certain aspects of the Town of Smithfield’s Phase I program be found to not fully comply with the Act and regulations” and that the Board require the Town to address three conditions necessary for full compliance by December 31, 2008.

1. Develop and implement a septic pump-out program.

There are approximately 100 onsite systems in the Town and the Town has not developed a pump-out program. The town has already contacted Isle of Wight County to work with them to develop and implement a pump-out program.

2. Require BMP maintenance agreements for water quality BMPs and ensure BMP maintenance and tracking.

There are an estimated 18 BMPs in the Town, and they have not developed a program to ensure ongoing maintenance, nor have they required maintenance agreements.

3. The Town must consider requests to encroach into the 100-foot RPA buffer on a case-by-case basis and must require as much undisturbed buffer as possible on all previously recorded lots.

Ms. Smith explained that within the Town there is one subdivision, Cypress Creek, that was approved by Isle of Wight County in the 1990s with 50-foot buffers, and there are still sections of this development that have not yet been built. The Town needs to ensure that when approving building on these pre-existing lots, that they are working to locate structures out of the full 100-foot RPA buffer when possible and preserving as much of the 100-foot RPA buffer when encroachment for buildings must occur.

The Town has indicated their willingness to address these three conditions in by the proposed December 31, 2008 deadline.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Town of Smithfield'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 Town of Smithfield to undertake and complete three recommended conditions contained in the staff report no later than December 31, 2008.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF SMITHFIELD**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 late summer and early fall of 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Smithfield's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the Town of Smithfield'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 Town of Smithfield to undertake and complete three recommended conditions contained in the staff report no later than December 31, 2008.

1. For compliance with § 9 VAC 10-20-120 7 a of the Regulations and Section 11.I.9 of the Town's Site Plan Ordinance, the Town must develop and implement a septic pump-out program.
2. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 3.P.G.2.e of the Town's Chesapeake Bay Preservation Overlay District, the Town must require BMP maintenance agreements for all water quality BMPs and develop a program to ensure the regular or periodic maintenance and tracking of water quality BMPs.
3. For compliance with § 9 VAC 10-20-130 4 b of the Regulations and 03.P.G.3.c.2(b) of the Town's Chesapeake Bay Preservation Overlay District, the Town must consider requests to encroach into the 100-foot RPA buffer on a case-by-case basis and must require as much undisturbed buffer as possible on all previously recorded lots.

BE IT FINALLY RESOLVED that failure by the Town of Smithfield to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Smithfield 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Chesapeake – Initial Compliance Evaluation

Mr. Sacks gave the report for the City of Chesapeake. Attending from Chesapeake were Mr. Scott Meyer, Senior Planner, Karen Shaffer, Assistant Planning Director and Kelly Mills, Engineer with DPW. Ms. Smith is the liaison for the City of Chesapeake.

The Department initiated the compliance evaluation for the City in summer of 2007 and included three meetings to collect information, review project files and visit selected sites. In addition to these three meetings, Department and City staff met on October 4th to discuss the draft report and minor modifications to the report were made as a result of this meeting. The compliance evaluation revealed that there are program elements that require improvement.

Mr. Sacks said that the staff and committee recommendation was that the Board find that “certain aspects of the City of Chesapeake’s Phase I program be found to not fully comply with the Act and regulations” and that the Board require the county to address five conditions necessary for full compliance by December 31, 2008.

1. Develop and implement a septic maintenance program.

There are approximately 500-600 onsite systems in the City’s CBPA and the City needs to restart its maintenance program. The City’s Planning Department has already started discussions with the Chesapeake Health Department to restart their program.

2. Require BMP maintenance agreements for water quality BMPs and ensure BMP maintenance and tracking.

The City does a good job with maintenance agreements for most sites, except for single-family sites. Although they do discourage BMPs on single-family sites, they still occur and need maintenance agreements. The City acknowledges it needs BMP tracking for maintenance on all water quality BMPs, they currently do not inspect private BMPs.

3. Amend its CBPA ordinance to include the requirement that the Board (CBLAB) must approve a local SWM program as a Phase I modification as a condition for allowing BMPs in the RPA by right.

The City’s ordinance includes all requirements for BMPs in the RPA, except for the over-riding one that a SWM program be approved by CBLAB. In at least one instance, the City’s CBPA Review Committee (an internal committee comprised of staff from Planning, Neighborhood Services, Public Works, Economic Development, and Public Utilities) approved a BMP in the RPA without requiring a formal exception under this provision of their ordinance.

4. Consistently implement its CBPA ordinance so that only one detached structure within six feet is allowed. Any additional detached structures in the RPA must go through the formal encroachment process. It is clear that principal structures are not to include any detached structures when administratively approving expansions to existing principal structures.

The City's ordinance refers to definitions of principal structure and accessory structure which were evidently not evaluated as part of their CBPA ordinance review in 2005. The definitions are based on the building code requirements and include as part of a principal structure, anything that is within 6 feet of the house, even if detached. The implementation of this provision is clearly contrary to the intent of the Regs (9 VAC 10-20-150 4) which allows additions and modifications to existing legal principal structures through an administrative review process, providing the exception findings are made.

5. Require a WQIA for any proposed land disturbance, development or redevelopment in the RPA.

The City was "waiving" the WQIA requirement for certain types of RPA encroachment requests, and they need to make sure that a WQIA is required when RPA impacts are proposed.

The City understands the five conditions and they appear willing to address them by the proposed deadline.

Ms. Salvati distributed a letter received from City manager William Harrell stating that the City concurs with all five conditions in the staff report.

Ms. Shaffer said that the City fully concurred with the conditions and had already begun working towards them.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the City of Chesapeake's Phase I program do fully not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the City of Chesapeake to undertake and complete five recommended conditions contained in the staff report no later than December 31, 2008.

SECOND: Mr. Whitehurst

DISCUSSION: None

VOTE: Motion carried unanimously

REVISED: 3/14/2008 10:37:48 AM

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
December 10, 2007**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
CITY OF CHESAPEAKE**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 late summer to early fall of 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the City of Chesapeake's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the City of Chesapeake's Phase I program do fully not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the City of Chesapeake to undertake and complete five recommended conditions contained in the staff report no later than December 31, 2008.

1. For compliance with § 9 VAC 10-20-120 7 a of the Regulations and Section 26-520.B 5 of the Chesapeake Bay Preservation Area District, the City must re-establish and implement a septic tank maintenance and/or inspection program.
2. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Volume 1-Chapter 6, Part IV.C of the City's Drainage Design-Stormwater Quality Best Management Practices Policy and Criteria, the City must require BMP maintenance agreements for all structural water quality BMPs and further, that the City must develop a program to ensure the regular or periodic maintenance and tracking of all structural water quality BMPs.
3. For compliance with § 9 VAC 10-20-130 1 e of the Regulations, the City must amend Section 26-519.F of its CBPA District to include the requirement that the Chesapeake Bay Local Assistance Board must have approved a stormwater management program as a Phase I modification to the City of Chesapeake's Bay Act program as a condition for allowing BMPs to be placed in the RPA through an administrative process.
4. For compliance with § 9 VAC 10-20-150 C 4 of the Regulations, the City must implement Section 26-525.B.7 of its CBPA District so that only one detached structure within six feet is permitted on any lot when administratively approving expansions to existing principal structures. Furthermore, the City must revise its CBPA Review Committee Application so that it is clear that only one detached structure can be located within 6 feet and be considered part of a principal building.
5. For compliance with §§ 9 VAC 10-20-130 1 a and 9 VAC 10-20-130 6 of the Regulations and Section 26-523.B of the City's CBPA District, the City must require a WQIA for any proposed land disturbance, development or redevelopment within the RPA.

BE IT FINALLY RESOLVED that failure by the City of Chesapeake to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the City of Chesapeake 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director

Department of Conservation and Recreation

City of Richmond – Initial Compliance Evaluation

Mr. Sacks gave the report for the City of Richmond. Tarron Richardson from the City was present. Mr. Suydam was the staff liaison for the City.

DCR conducted a compliance review in 2004, however because the City's Phase I program was not yet consistent, the Board decided to table the compliance evaluation at that time.

The City became Phase I consistent in December 2006 (with amendment to the health code regarding septic systems) and as a result DCR initiated a new compliance evaluation in May of this year.

The Department initiated the compliance evaluation for the City in Summer of 2007 and included several meetings to collect information, review project files and visit selected sites. The compliance evaluation revealed that there are program elements that require improvement.

1. For compliance with the §§ 9 VAC 10-20-120 and 130 of the Regulations and Sections 50-331 and 332 of the City's Chesapeake Bay Preservation Area ordinance, the *Public Information Manual*, must be revised to be consistent with the City's Chesapeake Bay Preservation Area Ordinance and processes.
2. For compliance with § 9 VAC 10-20-120 4 of the Regulations, and Section 50-331 (d) of the City's Chesapeake Bay Preservation Area ordinance, the City must ensure all CBPAs are depicted on plats and site plans.
3. For compliance with § 9 VAC 10-20-130 5 a 4, and Section 50-332 (e) (4) of the City's Chesapeake Bay Preservation Area ordinance, the City must review shoreline erosion control projects and require a water quality impact assessment (WQIA) whenever land disturbance in the RPA buffer is proposed. In addition, shoreline erosion control projects must use necessary control techniques, and the appropriate vegetation must be established to protect or stabilize the shoreline and restore the buffer, in accordance with the best technical advice and applicable permit conditions or requirements.
4. For compliance with § 9 VAC 10-20-120 6 of the Regulations, and Section 50-331 (f) of the City's Chesapeake Bay Preservation Area ordinance, the City's erosion and sediment control program must address the issues identified in the Corrective Action Agreement.

5. For compliance with § 9 VAC 10-20-120 7 of the Regulations, the City must adopt the 100 percent reserve requirement, or approved alternative, in the City ordinance, and further develop a mechanism to ensure lots with septic systems in CBPAs have met this requirement.
6. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 50-331 (c) of the City's CBPA ordinance, the City must develop a program to ensure the regular or periodic maintenance and tracking of all water quality best management practices, including those serving single-family home lots.
7. For compliance with § 9 VAC 10-20-120 8 of the Regulations, and Section 50-331 (g) of the City's Chesapeake Bay Preservation Area ordinance, the City must ensure that all BMP designs, siting requirements, and allowable pollutant removal efficiencies are in accordance with those prescribed in the Virginia Stormwater Management Handbook.
8. The City must consistently require an on-site evaluation to identify water bodies with perennial flow as required in § 9 VAC 10-20-105 of the Regulations, and Section 50-324 of the City's Chesapeake Bay Preservation Area ordinance.

Mr. Sacks said as a result of this compliance evaluation, the staff and committee recommendation was that the Board find that certain aspects of the City's implementation of its Phase I program do not fully comply with the Act and the Regulations and require the City to complete the eight recommended conditions no later than December 31, 2008.

Mr. Evans said that this seemed like a long time for a municipality to still have eight conditions.

Ms. Salvati explained that the initial compliance evaluation was tabled. A lawsuit filed in the City caused changes to be made. The City did not have control over those events.

Mr. Richardson said the City had been working through the transition and will aggressively track the eight conditions for compliance.

Mr. Davis asked if the City was comfortable with the deadline.

Mr. Richardson said that if that is the required date, the City would comply.

Mr. Whitehurst asked how City officials were informed.

Mr. Sacks explained that the draft compliance evaluations are provided to local staff to review and that final staff reports and notifications of Board and Committee meetings are sent to the chief administrative officer in each locality.

Some further discussion was conducted as to whether or not the elected officials of the localities being reviewed for compliance should be informed of those reviews.

Mr. Davis suggested that the Policy Committee might wish to have further discussions regarding how business is conducted with localities.

Mr. Zeugner said that as a resident of the City, he knew the City was aware of the problems.

Mr. Evans suggested the City provide an update at the August SARC meeting.

Mr. Maroon asked if Stormwater and Erosion and Sediment Control were also under Mr. Richardson's division.

Mr. Richardson said they were.

Mr. Davis suggested that on item 2, the word "recorded" be added before the word "plat."

MOTION: Mr. Zeugner moved that the implementation of certain aspects of the City of Richmond'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 City of Richmond to undertake and complete the eight recommended conditions contained in the staff report no later than December 31, 2008. Further that the word "recorded" be added before the word "plat" in item #2 and that the City provide a progress report at the August 12, 2008 SARC Meeting.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 10, 2007

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CITY OF RICHMOND

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that the 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 May, 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the City of Richmond's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on October 30, 2007 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 the City of Richmond'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 City of Richmond to undertake and complete the eight recommended conditions contained in the staff report no later than December 31, 2008.

1. For compliance with the §§ 9 VAC 10-20-120 and 130 of the Regulations and Sections 50-331 and 332 of the City's Chesapeake Bay Preservation Area ordinance, the *Public Information Manual*, must be revised to be consistent with the City's Chesapeake Bay Preservation Area Ordinance and processes.
2. For compliance with § 9 VAC 10-20-120 4 of the Regulations, and Section 50-331 (d) of the City's Chesapeake Bay Preservation Area ordinance, the City must ensure all CBPAs are depicted on recorded plats and site plans.
3. For compliance with § 9 VAC 10-20-130 5 a 4, and Section 50-332 (e) (4) of the City's Chesapeake Bay Preservation Area ordinance, the City must review shoreline erosion control projects and require a water quality impact assessment (WQIA) whenever land disturbance in the RPA buffer is proposed. In addition, shoreline erosion control projects must use necessary control techniques, and the appropriate vegetation must be established to

protect or stabilize the shoreline and restore the buffer, in accordance with the best technical advice and applicable permit conditions or requirements.

4. For compliance with § 9 VAC 10-20-120 6 of the Regulations, and Section 50-331 (f) of the City's Chesapeake Bay Preservation Area ordinance, the City's erosion and sediment control program must address the issues identified in the Corrective Action Agreement.
5. For compliance with § 9 VAC 10-20-120 7 of the Regulations, the City must adopt the 100 percent reserve requirement, or approved alternative, in the City ordinance, and further develop a mechanism to ensure lots with septic systems in CBPAs have met this requirement.
6. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 50-331 (c) of the City's CBPA ordinance, the City must develop a program to ensure the regular or periodic maintenance and tracking of all water quality best management practices, including those serving single-family home lots.
7. For compliance with § 9 VAC 10-20-120 8 of the Regulations, and Section 50-331 (g) of the City's Chesapeake Bay Preservation Area ordinance, the City must ensure that all BMP designs, siting requirements, and allowable pollutant removal efficiencies are in accordance with those prescribed in the Virginia Stormwater Management Handbook.
8. The City must consistently require an on-site evaluation to identify water bodies with perennial flow as required in § 9 VAC 10-20-105 of the Regulations, and Section 50-324 of the City's Chesapeake Bay Preservation Area ordinance.

BE IT FINALLY RESOLVED that failure by the City of Richmond to meet the above established compliance date of December 31, 2008 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the 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 December 10, 2007 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Program Updates

City of Newport News

Mr. Sacks gave the update for the City of Newport News. He said that the program was reviewed by the Board in June and the City was given a deadline of December 31, 2007 in order that the program could be on the March agenda.

There are three conditions being required of the City of Newport News. He said that the City is in the process of executing a memorandum of understanding to address the plan of development process issue and that the other issues include septic pump-out and site plan documentation.

Mr. Sacks said that staff expects to recommend that the City be found fully compliant.

Closed Meeting: Consultation with Council Regarding Legal Matters

Mr. Duncanson made 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 County of Chesterfield, styled *County of Chesterfield v. Commonwealth of Virginia ex rel. Chesapeake Bay Local Assistance Board*, Circuit Court of Chesterfield.

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 Mr. Baxter and Mr. Sacks 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.

Mr. Taylor seconded the motion:

The vote was as follows:

Aye: Davis, Evans, Duncanson, Reed, Roberts, Taylor, Whitehurst, Zeugner

No: none

Not voting at the meeting: none

Not present at the meeting: Harper

At this time the Board convened in closed session. Following the closed session, Mr. Duncanson moved the following:

WHEREAS, the Board has convened a closed meeting on December 10, 2007 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.

The vote was as follows:

Aye: Davis, Evans, Duncanson, Reed, Roberts, Taylor, Whitehurst, Zeugner

No: none

Not voting at the meeting: none

Not present at the meeting: Harper

Chairman Davis asked that the record show that the vote was unanimous.

Other Business

Sewage Treatment Plant Capacity - Northern Neck

Ms. Salvati gave an update on the issue of the capacity of treatment plants and other facilities to treat septage resulting from the septic tank pumpout requirements. As previously reported to the Board and as a result of the compliance evaluation process, 51 Bay Act localities have compliant pump out programs. In response to the increase in septage generated and concerns regarding the capacity of existing treatment plants and other facilities to accept and treat this septage, then-Del. Rob Wittman asked the Directors of Conservation & Recreation, Health, and Environmental Quality to investigate this issue. A workgroup was formed from these three agencies to analyze the issue and develop recommended solutions. She said that the work group has met several times and performed the requested analysis..

Ms. Salvati distributed a document showing the treatment facilities that may be able to accept septic pump out. The following is a summary of that analysis.

-

Assessment of Issues

- Officials from VDH feel that there are an adequate number of septic haulers
- VDH compiled a listing of all sewage treatment plants and highlighted those with potential for treating pumped septage - there are 4 such facilities in the Northern Neck area
- Several of those facilities would require funding for upgrades in order to treat the septage

The workgroup also identified several potential solutions to the capacity issue and cited several impediments to implementing those solutions.

Optional solutions currently identified	Impediments
<ul style="list-style-type: none"> • Encouraging use of plastic filter in lieu of 5-year pump out • Work with existing plants to build capacity to treat septage • Build a central septage receiving and treatment facility. 	<ul style="list-style-type: none"> • Funding for central receiving and treatment facility • Existing plants with existing nutrient caps are concerned about impacts of septage on those caps

Mr. Whitehurst asked how important septic pump-out was as an issue.

Ms. Salvati said that while it was not the sole solution to the overall reduction of pollutants, it is one of several best management practices that work to reduce the pollutants in the Bay. On the local level, there have been direct impacts to streams related to septic tank failure.

Mr. Whitehurst said that his concern was that the Board tends not to be aggressive. He said that the Board needs work to make localities understand the importance of the issue. He said that he would send a letter to the City Manger of Portsmouth and ask for a report.

Chesapeake Bay Preservation Act Phase III Program Update

Mr. Sacks gave the following update.

Phases of Local Government Chesapeake Bay Program Implementation

- Phase I: Mapping of Chesapeake Bay Preservation Areas and adoption of management program in local ordinances
- Phase II: Adoption of Comprehensive Plan components
- Phase III: Review & revision of local codes for inclusion of water quality performance criteria

Phase III Legal Authority

Chesapeake Bay Preservation Area Designation and Management Regulations

9 VAC 10-20-231.3:

“Phase III shall consist of local governments reviewing and revising their land development regulations and processes, which include but are not limited to zoning ordinances, subdivision ordinances, erosion and sediment control ordinances and the plan of development review process, as necessary to comply with § 10.1-2109 of the Act and to be consistent with the provisions set forth in Part VI of this chapter.”

Phase III Advisory Committee

- Convened in September 2007 to provide guidance on Phase III program development. Met monthly.
- Provided specific suggestions on content of Phase III review process/strategy
- Recommended opportunities/venues for CBLA staff to educate localities and seek input about Phase III
- Provided guidance on schedule

Local Government Phase III Requirements

1. Six specific provisions are required to be in local land development ordinances
2. Provisions to address the three general performance criteria must be incorporated into local land development ordinances

To accomplish the above, localities must:

- a. Undertake an ordinance review process to ensure that provisions are in place
- b. Revise ordinances as if such provisions are not in place

Phase III Components

Specific Provisions

- I. CBPA Land Development Ordinance Requirements

Sections 9 VAC 10-20-191 A 4 & 5 of the Regulations

Ordinances must require plats and plans to have the following:

1. a notation regarding the requirement for pump-out for on-site sewage treatment systems
2. a notation for the requirement to retain an undisturbed and vegetated 100-foot wide buffer area
3. a notation regarding the requirement for pump-out for on-site sewage treatment systems
4. a notation regarding the requirements for 100\$ reserve drainfield
5. a notation that development in the RPA is limited to water dependent facilities or redevelopment
6. a delineation of the buildable areas on each lot

II. Evaluation of Water Quality Protection in Land Development Ordinances

Review local land development ordinances for specific development standards that implement the general performance criteria in the Regulations.

A checklist will be used to identify ordinance provisions to meet general performance criteria and a minimum threshold established.

Minimize Land Disturbance - 57 questions

- Open Space Requirements
- Clearing and Grading Requirements
- Utility and Easement Requirements
- Low Impact Development Concepts
- Better Site Design Concepts

Preserve Indigenous Vegetation - 35 questions

- Sensitive Land Protection/Preservation
- Vegetation and Tree Protection Requirements
- Better Site Design Concepts

Minimize Impervious Cover - 45 questions

- Parking Requirements
- Low Impact Development Concepts
- Redevelopment and Infill Development Concepts
- Road Design Requirements
- Pedestrian Pathways and Driveways

Phase III Proposed Schedule

Sept. - Nov. 2007	Development of Checklist questions with Advisory Committee
November 27, 2007	Update provided to CBLAB Policy Committee
Nov./Dec. 2007	Meeting with locality staff at PDC's
Dec. 10, 2007	Update provided to CBLAB
Dec.-Feb. 2008	Test checklists on 3 local programs - modify as needed
March 2008	Policy Committee Recommendation and Board adoption of Phase III review process, review materials, and locality deadlines
April 2008	Official Notification to Localities; Initiate Advisory Reviews
January 2010	Local Program Adoption Deadline; Begin Formal Reviews
Ongoing	Local Government Outreach

Outreach Process Elements

Planning District Commission Meetings with Local Government Staff

- Accomack and Northampton Counties: November 29, 2007
- Crater PDC: December 14, 2007
- George Washington Regional Commission: TBD
- Hampton Roads PDC: June/Dec. 13, 2007
- Middle Peninsula PDC: November 28, 2007
- Northern Neck PDC: December 3, 2007
- Northern Virginia Regional Commission: November 29, 2007
- Richmond Regional PDC: October 23, 2007

Jan./Feb./March 2008:

- Continuation of locality discussions using PDC's
- VML/VACO
- VAPA and other professional organizations

Guidance Amendments

Mr. Davis said that there was a need to amend the Nontidal Wetlands Guidance adopted at the June meeting.

Ms. Salvati outlined the proposed amendments:

Resource Protection Area: Nontidal Wetlands

1. Remove the section entitled “Nontidal Wetlands Associated with Lakes, Ponds and Other Impoundments” in its entirety.
2. Add reference to Board guidance document entitled *Determinations of Water Bodies with Perennial Flow* in first paragraph on page 1.

Determinations of Water Bodies with Perennial Flow

1. Revise the definition of “water body with perennial flow” on page 2 to add language making it clear that lake and ponds with perennial streams flowing into, out of, or through them are considered to be part of the perennial stream and therefore required to be protected by the RPA.
2. Add a section on page 3 entitled “Lake, Ponds and Other Impoundments as RPAs.” This section includes verbiage that provides that stormwater quality and quantity BMPs may be exempt from the RPA requirement.

Ms. Salvati said that the Director’s office as well as the Policy Committee had reviewed and approved these recommended changes. A full discussion of the issue is available in the Policy Committee minutes of November 29, 2007.

Mr. Davis said this was the culmination of several large issues that the Board has dealt with. He said that nothing in the amendments was a change in the regulations, but that this was guidance being provided to assist localities.

MOTION: Mr. Duncanson moved that the proposed amendments to the Resource Protection Area: Nontidal Wetlands and Determination of Water Bodies with Perennial Flow as presented by staff and recommended by the Policy Committee be approved as submitted.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried with Mr. Whitehurst abstaining.

2008 Meeting Schedule

MOTION: Ms. Reed moved that the Board adopt the following meeting schedule for Calendar Year 2008.

Southern Area Review Committee

February 15, 2008 at 2:00 p.m.

May 6, 2008 at 2:00 p.m.

August 12, 2008 at 2:00 p.m.

October 28, 2008 at 2:00 p.m.

Northern Area Review Committee

February 15, 2008 at 10:00 a.m.

May 6, 2008 at 10:00 a.m.

August 12, 2008 at 10:00 a.m.

October 28, 2008 at 10:00 a.m..

Chesapeake Bay Local Assistance Board

March 17, 2008 at 10:00 a.m.

June 16, 2008 at 10:00 a.m.

September 15, 2008 at 10:00 a.m.

December 15, 2008 at 10:00 a.m.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

Policy Committee Appointment

Mr. Davis said that with Mr. Sheffield's departure from the Board there was a vacancy on the Policy Committee. He said that the By-laws require that the Chair bring this appointment before the full Board for approval.

Mr. Davis said that, with Board concurrence, he would like to appoint Mr. John Zeugner to the Policy Committee.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board approve the appointment of Mr. John Zeugner to the Board Policy Committee.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

Public Comment

There was no additional public comment.

Adjourn

Being no further business, the meeting was adjourned.

Respectfully submitted,

Donald W. Davis
Chair

Joseph H. Maroon
Director