

**Chesapeake Bay Local Assistance Board
Monday, March 17, 2008, 10:00 a.m.
Patrick Henry Building, Conference Room 1
1111 E. Broad Street
Richmond, Virginia**

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chairman
Richard B. Taylor
John J. Zeugner

Rebecca L. Reed
Charles B. Whitehurst, Sr.

Chesapeake Bay Local Assistance Board Members Not Present

William E. Duncanson
Beverly D. Harper

Gregory C. Evans
Gale A. Roberts

DCR Staff Present

Joseph H. Maroon, Director
Russell W. Baxter, Deputy Director
David C. Dowling, Director of Policy, Planning and Budget
Joan Salvati, Director, Division of Chesapeake Bay Local Assistance
Ryan J. Brown, Assistant Policy and Planning Director
Michael R. Fletcher, Board and Constituent Services Liaison
David Sacks, Assistant Director, Division of Chesapeake Bay Local Assistance
Shawn Smith, Principal Environmental Planner
V'lent Lassiter, Senior Environmental Planner
Daniel Moore, Principal Environmental Planner
Nancy Miller, Senior Environmental Planner
Nathan Hughes, Watershed Specialist
Joshua M. Molnar, Policy and Planning Intern
Elizabeth Andrews, Office of the Attorney General

Others Present

The Honorable L. Preston Bryant, Jr., Secretary of Natural Resources
Michael Finchum, Caroline County
Barrett Hardiman, Homebuilder's Association of Virginia
Katrina Hickman, Town of Onley
Kevin Utt, City of Fredericksburg

Call to Order

Mr. Davis called the meeting to order at 10:08. There was not yet a quorum present.

Director's Report

Mr. Maroon gave the Director's report. He gave an overview of the Patrick Henry Building, noting that the building was formerly the Library of Virginia but had undergone renovations and now housed the Governor's office as well as the Cabinet offices. Mr. Maroon said that Secretary of Natural Resources Preston Bryant would join the Board later in the meeting.

At this time Mr. Whitehurst arrived and a quorum was declared. Mr. Maroon continued with the Director's Report.

Mr. Maroon distributed a legislative update providing information regarding the bills impacting the Department of Conservation and Recreation in the recent General Assembly Session. A copy of that handout is included as Attachment #1.

Mr. Maroon noted two bills that would directly impact the Chesapeake Bay Preservation Act program.

Senate Bill 386 was stricken by the patron, but would have redefined the localities that are under the jurisdiction of the Chesapeake Bay Act. A total of 22 localities would have been removed from Bay Act compliance, including such counties as Chesterfield, Henrico and Fairfax.

House Bill 528, which passed, authorizes those localities that have "stand alone" Chesapeake Bay Preservation Ordinances to establish procedures for the appeal of Chesapeake Bay or Wetlands Boards to the Circuit Court, provided that the deadline for appeal is at least 30 days. This bill was submitted at the request of James City County. Ms. Salvati noted that the Department took no position on this bill.

Mr. Maroon distributed a summary of the current budget situation. A copy of that summary is included as Attachment #2.

Mr. Maroon noted that Land Conservation is one of Governor Kaine's top priorities. The Governor's Budget had called for \$50 million in bonds for land acquisition by the Department of Conservation and Recreation, the Department of Historic Resources, the Department of Forestry and the Virginia Outdoors Foundation.

The legislature amended that to \$30 million in bonds for land acquisition with at least \$5 million dedicated to Civil War battlefields.

Mr. Maroon said that the Non-General Fund Interest will not accrue to the agency as it has in the past, but will be returned to the General Fund.

Mr. Maroon said that in addition to these revisions, the Governor has been asked to identify an additional \$17.5 million in budget reductions. DCR's share is unknown at this time.

Mr. Maroon gave an update regarding the status of the Chesapeake Bay Implementation Grant. He said that the grant amount is about \$2.2 million per year. With that the Department funds the salaries of 26 state employees. He noted that \$200,000 would be going to grant projects in the upcoming round.

DCR allocated \$150,000 from the 2006 Chesapeake Bay Implementation Grant to localities, PDCs, and one non-profit organization to conduct septic tank pump-outs for low and moderate income homeowners. Seven of the eight entities that received funding are successfully implementing the pump-outs. The one private organization, Elder Homes, has offered pump-out services to low/moderate income individuals but has only received a small number of requests.

In the 2007 Chesapeake Bay Implementation Grant, James City County has been awarded a grant of \$45,000 to field test the revised perennial flow determination protocol that the County developed in 2007. The County plans on initiating work on the field-testing in April. A total of 15 streams will be tested both within the County and other counties in the Hampton Roads and Middle Peninsula areas. The testing will be concluded in March of 2009.

CBLA Division staff is proposing to utilize 2008 Bay Grant monies for Phase III work in the localities as well as continue funding of septic pump-out initiatives. EPA has not yet approved the work program for the 2008 grant. Also, due to reduced allocations from EPA and the need to fund staff positions with these monies, the Division's share of the 2008 grant is expected to be \$50,000.

Ms. Salvati said that there are leftover funds from the 2006 grants because some localities did not fully expend those grants. The intent is to provide funding for Accomack County and five small towns on the Eastern Shore that have been recommended by the Southern Area Review Committee to establish a memorandum of understanding with the County for septic pump-out.

Mr. Taylor asked if there was a required match for these grants.

Ms. Salvati said that the Bay Implementation Grant has no requirement for matching funds.

Mr. Maroon said that DCR staff have been involved with a number of different workshops.

Department staff participated in a Riparian Buffer Workshop at VIMS on March 4, 2007. The workshop was geared toward local Bay Act staff as well as some stakeholder groups. Approximately 50 people attended.

Mr. Maroon said that DCR would be sponsoring the second of three workshops on the Nontidal Wetland Guidance document at the Hampton Roads PDC headquarters on March 28. The third one will be held in May in the Fredericksburg area.

Mr. Maroon said that on April 21, the Department would co-sponsor with VIMS another perennial flow training workshop. These workshops have been held annually since 2005 and staff from localities find the information provided to be very beneficial in helping them gain a greater understanding of the various perennial flow protocols.

Mr. Maroon asked Mr. Baxter to address the pilot tributary strategy project going on in Richmond County.

Mr. Baxter said that a grant from the National Fish and Wildlife Foundation will allow DCR and Richmond County to undertake a county-scale, tributary strategy planning effort that evaluates nutrient and sediment reduction approaches to achieve a locally based water quality goal. In preparation for the first meeting of a local stakeholder advisory committee for the project, meetings and conversations have been held with the County Administrator, the Planning District Commission, and the Soil and Water Conservation District. The Richmond County Board of Supervisors was briefed on the project by the County Administrator, and the Board selected a member to participate on the advisory committee.

Consideration of the Minutes

November 27, 2007 Policy Committee Meeting

MOTION: Ms. Reed moved that the minutes of the November 27, 2007 Policy Committee meeting be approved as submitted.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Davis asked that staff work with the Attorney General's office to determine whether the Bylaws allow for the Chair to appoint the Director to serve on either the SARC or the NARC for the purposes of obtaining a quorum at the respective meetings.

December 10, 2007 CBLAB Meeting

MOTION: Mr. Zeugner moved that the minutes of the December 10, 2007 Board meeting be approved as submitted.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

February 15, 2008 Northern Area Review Committee Meeting

February 15, 2008 Southern Area Review Committee Meeting

MOTION: Mr. Whitehurst moved that the minutes of the February 15, 2008 Northern Area Review Committee and Southern Area Review Committee be approved as submitted.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

February 15, 2008 Policy Committee Meeting

MOTION: Mr. Zeugner moved that the minutes from the February 15, 2008 Policy Committee meeting be approved as submitted.

SECOND: Mr. Davis

DISCUSSION: None

VOTE: Motion carried unanimously

Quarterly Performance Indicators

Mr. Sacks reviewed the Quarterly Performance Indicators.

Consistency and Compliance Review Status

Phase I Consistent means the required local ordinances (zoning, subdivision, maps, etc.) are in place to designate CBPA's 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.

As of December 31, 2007:

Localities Found Compliant: 40

Localities Addressing Compliance Conditions: 18

Expected Status as of March 31, 2008

Localities Phase I Consistent: 83

Phase II Consistent: 84

Compliance Reviews Completed: 68

Localities Compliant: 46

Localities Noncompliant: 0

Localities Addressing Compliance Conditions: 22

Compliance Reviews in Progress: 10

Locality Compliance Evaluation Review Process

Evaluation Process Steps:

1. Initial meeting to collect information and discuss program
2. Review of sample of approved plans
3. Site visits of developments in-progress and completed

Board conducts initial compliance evaluation; determines “compliant” or identifies conditions necessary for compliance

Board conducts compliance evaluation condition review

Consent Agenda

MOTION: Mr. Taylor moved that the Chesapeake Bay Local Assistance Board approve the Consent Agenda items as presented by staff,

with the exception of the item for Caroline County, for the following localities:

- Town of Tangier, Review of previous Phase I conditions
- City of Newport News, Review of previous conditions
- Spotsylvania County, Review of previous conditions
- City of Fairfax, Initial Compliance Evaluation
- Town of Quantico, Initial Compliance Evaluation
- Town of Tappahannock, Initial Compliance Evaluation

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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF TANGIER

Modification – Consistent

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

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

WHEREAS the Town of Tangier adopted a revised local Phase I program on January 26, 2004, and

WHEREAS on June 21, 2004, the Chesapeake Bay Local Assistance Board found the Town of Tangier to be consistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations subject to one condition and established June 30, 2007 as the consistency deadline, and

WHEREAS the Town of Tangier adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on January 4, 2008; and

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

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

WHEREAS on February 15, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and,

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Tangier's revised Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CITY OF NEWPORT NEWS

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 June 18, 2007, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the City's Phase I program did not fully comply with the Act and Regulations and further that the City address the three recommended conditions in the staff report no later than December 31, 2007; and

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

WHEREAS on February 15, 2008 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the City of Newport News'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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

SPOTSYLVANIA 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 26, 2006, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of Spotsylvania County's Phase I program did not fully comply with the Act and Regulations and further that the County undertake and complete recommended conditions number two and three contained in the staff report no later than March 31, 2007 and recommended condition number one contained in the staff report no later than September 30, 2007; and

WHEREAS in the Fall and Winter of 2007, the County provided staff with information relating to the County's actions to address the three conditions which were evaluated in a staff report; and

WHEREAS on February 15, 2008 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 Spotsylvania 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CITY OF FAIRFAX

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 Fall 2007, the Chesapeake Bay Local Assistance Department conducted a compliance evaluation of the City of Fairfax's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 Fairfax'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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF QUANTICO

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 Fall 2007, the Chesapeake Bay Local Assistance Department conducted a compliance evaluation of the Town of Quantico's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 Quantico'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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF TAPPAHANNOCK

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 the Fall of 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the Town of Tappahannock's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 Tappahannock'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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Mr. Sacks gave an update for Caroline County.

Mr. Sacks said that Caroline County was originally found compliant. However, there was an issue with the septic tank pump-out notifications with regard to a notice the County had sent to all homeowners. Because of that issue, the County stopped the program and under Board review was found to be not fully compliant.

Mr. Sacks said the County has been working to reestablish the pump-out program including working on the GIS to more effectively identify properties in the Resource

Management Area. The County is now staggering notices to property owners in the RMA. Mr. Sacks said that it was reported at the review committee that the notices were ready to go, and that was the basis for the review committee's recommendation. He added that conversations with County staff over the previous day indicated that notices had not been mailed. DCR staff had had, however, just been notified that the first round of notices was sent out that morning.

Caroline County Planning Director, Mike Finchum confirmed that the County has begun sending out the notices. He said the County had surveyed the RPA features of the structures. The County has worked with the wastewater treatment plant to determine the number of pump-outs they can receive over a certain period of time. The RMA notices will go out on a quarterly basis. He said that for 2008 the notices would be sent only in the RPA. In subsequent years the notices will be sent out for the RMA according to magisterial districts.

MOTION: Ms. Reed moved that the Chesapeake Bay Local Assistance Board approve the Consent Agenda item for Caroline County.

SECOND: Mr. Whitehurst

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CAROLINE 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 June 18, 2007, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of Caroline County's Phase I program did not fully comply with the Act and Regulations and further that the County address the one recommended condition in the staff report no later than January 31, 2008; and

WHEREAS in the Fall and Winter of 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 February 15, 2008 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 Caroline 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Program Compliance Evaluations

Westmoreland County – Initial Compliance Evaluation

Ms. Lassiter gave the report for Westmoreland County. No one was present from the County.

The Department initiated a compliance evaluation for Westmoreland County on September 26, 2007. The compliance evaluation revealed that although the County is striving to implement its local Bay Act program effectively, there are program elements that require improvement.

Ms. Lassiter reviewed the five recommended conditions:

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

During the review, staff noticed that most of the site plan files did not contain WQIAs as required.

2. Address ESC issues from 2008 Corrective Action Agreement.

The County has until July 30, 2008 to address these issues.

3. Develop and implement a septic pump-out and inspection program.

Although the County does not have a formalized pump-out program, no zoning permits for any expansion of a structure, additional structures, or a change in use are issued until after the applicant supplies proof of septic tank pump-out.

4. Develop a program to track BMP installation, inspection and maintenance.

Department staff has provided the County with a BMP tracking database.

5. Ensure that a permitted removal of RPA buffer vegetation is done in accordance with requirements of the Regulations and County code.

The County must recognize that while limited removal of vegetation in the RPA is permitted, it must be done selectively by hand and that leaf litter, ground cover, and understory vegetation should be left intact.

Ms. Lassiter said it was the recommendation of staff that the Board find that certain aspects of Westmoreland County's Phase I program do not fully comply with the Act and Regulations and the County address the 5 conditions contained in the staff report by March 31, 2009.

MOTION: Mr. Taylor moved that Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Westmoreland County's Phase I program do not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, direct Westmoreland County to undertake and complete five

recommended conditions contained in the staff report no later than March 31, 2009.

SECOND: Mr. Zeugner

DISCUSSION: None

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

WESTMORELAND 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 September, 2007 the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of Westmoreland County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 Westmoreland County's Phase I program do not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Westmoreland County to undertake and complete five recommended conditions contained in the staff report no later than March 31, 2009.

1. As required by § 9 VAC 10-20-130 6 of the Regulations and § 3-1-11 of the County's Chesapeake Bay Preservation Area Ordinance, the County must document submission of a WQIA for any proposed land disturbance, development, or redevelopment within RPAs.
2. For compliance with § 9 VAC 10-20-120 6 of the Regulations, the County's erosion and sediment control program must address the issues identified in the 2008 Corrective Action Agreement.
3. For compliance with § 9 VAC 10-20-120 7 a of the Regulations and § 3-1.10 B (5) of the County's Chesapeake Bay Preservation Ordinance, the County must develop and implement a five-year septic system pump-out and inspection program.
4. For compliance with § 9 VAC 10-20-120 3 of the Regulations and § 3-1.10 B (7) of the County's Chesapeake Bay Preservation Ordinance, the County must develop a program to track BMP installation, inspection, and maintenance.
5. The County must ensure that when vegetation is permitted to be removed from the RPA buffer, it is done in accordance with the requirements of §§ 9 VAC 10-20-130 3 and 9 VAC 10-20-130 5 (a) of the Regulations, and § 3-1.10 C (1) of the County's Chesapeake Bay Preservation Ordinance.

BE IT FINALLY RESOLVED that failure by Westmoreland County to meet the above established compliance date of March 31, 2009 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 Westmoreland 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Fredericksburg – Initial Compliance Evaluation

Mr. Sacks gave the report for the City of Fredericksburg. He recognized Kevin Utt from the City. He noted that Ms. Kotula completed the review but was not present at the meeting.

The Compliance Evaluation was conducted throughout the second half of 2007 and the process revealed six program elements that were not fully compliant with the Act and the Regulations.

1. The City must address Erosion and Sediment Control issues from 2007 Corrective Action Agreement (CAA).

Mr. Sacks explained that the City has a Corrective Action Agreement with the Soil & Water Conservation Board in order to bring their E&S program into compliance, and that he understood the City has made significant progress towards addressing this agreement, with three of the four elements identified within the CAA having been addressed. They have received an extension until July to address the remaining condition of the CAA. Since the City has not obtained full compliance and staff is still recommending the condition as noted within the staff report.

2. Add 100 percent reserve drainfield requirement in to City Ordinance.

Mr. Sacks explained that at the time the original Bay Act ordinance was adopted, the City believed that no more septic systems would be approved, and therefore there was no need for the reserve drainfield requirement in the ordinance. However, there have been septic systems approved in the City, thereby creating the need for this ordinance provision. . Although the City has indicated they have a policy in place that will not allow the installation of any further septic systems since the Code still permits the activity, they are required to include this verbiage.

3. Ensure development and redevelopment in CBPAs meets water quality provisions of Virginia Stormwater Management Regulations.
4. Ensure that all water quality BMPs meet standards of the Virginia Stormwater Management Handbook.
5. Develop a program to track BMP installation, inspection and maintenance.

Mr. Sacks noted that Conditions 3, 4 and 5 all relate to stormwater and BMP requirements. The Compliance Evaluation plan reviews and site visits revealed that proper stormwater calculations, proper BMP design and siting and proper BMP tracking and maintenance were not being consistently required for all development within the City. He said that the City is working to address these conditions and has

already established a BMP maintenance agreement program, which will be monitored over the next year to ensure compliance.

6. Consistently require site-specific evaluation for water bodies with perennial flow and RPA boundaries.

Mr. Sacks explained that plan reviews and site visits revealed that the City has not been consistently requiring these evaluations. He referenced a slide of a stream within the Kensington Hills development and noted that a site visit by Division staff revealed that this stream has strong perennial indicators, meaning that a definitive study should have been required. He added that the City understands this is requirement and now has staff on board that will be able to assist with these issues in the future. The City will be monitored over the next year to ensure compliance.

Mr. Sacks said that the staff recommendation was that the City of Fredericksburg be found to not fully comply with the Act and Regulations and be given until March 31, 2009 to address the six conditions discussed.

Mr. Davis noted that the Northern Area Review Committee had asked for an update by the December meeting. He noted that the update is usually addressed in the motion.

Kevin Utt, Site Development Manager with the City of Fredericksburg, said that under the CAA with DCR Erosion and Sediment Control the program would be reviewed in April. He noted that the amendment to the City Ordinance is on the agenda for the next Town Council meeting.

Mr. Utt said that regarding Condition 5, the City has implemented a tracking program.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the City of Fredericksburg'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, direct the City of Fredericksburg to undertake and complete the six recommended conditions contained in the staff report no later than March 31, 2009, and further that the Board request an update at the September meeting.

SECOND: Ms. Reed

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
CITY OF FREDERICKSBURG

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 and Fall of 2007, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of the City of Fredericksburg's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 City of Fredericksburg'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 Fredericksburg to undertake and complete the six recommended conditions contained in the staff report no later than March 31, 2009.

1. For compliance with § 9 VAC 10-20-120 6 of the Regulations, the City's erosion and sediment control program must address the issues identified in the 2007 Corrective Action Agreement.
2. For consistency with Section 9 VAC 10-20-120 7 of the Regulations, the City must adopt the 100 percent reserve drainfield 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.
3. For compliance with § 9 VAC 10-20-120 8 of the Regulations, and Section 78-1067(4) of the City's Zoning Ordinance, the City must ensure that all development and redevelopment within the Chesapeake Bay Preservation Overlay District properly addresses nonpoint source pollution in accordance with the water quality provisions of the Virginia Stormwater Management Regulations.
4. For compliance with § 9 VAC 10-20-120 8 of the Regulations, and Section 78-1067(4) of the City's Zoning 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*.
5. For compliance with § 9 VAC 10-20-120 3 of the Regulations and Section 78-1063(21) of the City's Zoning 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.
6. For compliance with § 9 VAC 10-20-105 and Section 78-850(a) of the City's Zoning Ordinance, the City must consistently require site-specific evaluations to identify water bodies with perennial flow and ensure that the boundaries of Resource Protection Areas are adjusted as necessary.

BE IT FINALLY RESOLVED that failure by the City of Fredericksburg to meet the above established compliance date of March 31, 2009 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 Fredericksburg 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Bloxom – Initial Compliance Evaluation
Town of Melfa – Initial Compliance Evaluation
Town of Onley – Initial Compliance Evaluation
Town of Parksley – Initial Compliance Evaluation
Town of Saxis – Initial Compliance Evaluation

Ms. Smith gave the report for the five towns located in Accomack County. She introduced Katrina Hickman, Town Manager and Zoning Administrator for the Town of Onley. Ms. Smith noted that all five towns have the same recommendation.

Compliance evaluations for Bloxom, Melfa, Onley, Parksley and Saxis were begun in November 2007. These towns are five of the nine small towns in Accomack County. All five towns have traditionally relied heavily on Accomack County to implement their Bay Act programs including: ESC and SWM reviews, building permits, onsite RPA delineations and the septic pump-outs. Recently, the County ceased providing notification for town properties, due in part to the cost of providing such a service.

Ms. Smith said staff is currently working with Accomack County to provide them with funds to help with town property notification. These five towns currently do not have a formal agreement with the county to provide for onsite RPA delineations and septic pump-outs, although the county does issue building permits, review and inspect for ESC compliance, and through this process, review stormwater management requirements. The one recommendation for all five towns is that they develop formal agreements between the County and themselves that outlines who does what. The Southern Area Review Committee's recommended deadline is December 31, 2008.

Ms. Hickman said that a new subdivision was being built with drainage away from the RMA and the existing subdivision. She said that a pump-out program had been developed for the County and one will be established for the Town as well.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board find that the implementation of a certain aspect of the Phase I program of the Towns of Bloxom, Melfa, Onley, Parksley and Saxis 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 this deficiency, direct the Towns to undertake and complete the one Recommended Condition contained in the staff reports no later than December 31, 2008.

SECOND: Mr. Taylor

REVISED: 6/11/2008 10:10:23 AM

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF BLOXOM

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

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

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

WHEREAS in Winter of 2007, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Bloxom's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 a certain aspect of the Town of Bloxom'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 this deficiency, directs the Town of Bloxom to undertake and complete the one Recommended Condition contained in the staff report no later than December 31, 2008.

1. To ensure continued compliance with the Town of Bloxom's Bay Act requirements, the Town of Bloxom and Accomack County must develop and adopt a formal agreement that outlines the responsibilities of each party with respect to Bay Act implementation.

BE IT FINALLY RESOLVED that failure by the Town of Bloxom 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 Bloxom 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF MELFA

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

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

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

WHEREAS in Winter of 2007, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Melfa's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 a certain aspect of the Town of Melfa'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 this deficiency, directs the Town of Melfa to undertake and complete the one Recommended Condition contained in the staff report no later than December 31, 2008.

1. To ensure continued compliance with the Town of Melfa's Bay Act requirements, the Town of Melfa and Accomack County must develop and adopt a formal agreement that outlines the responsibilities of each party with respect to Bay Act implementation.

BE IT FINALLY RESOLVED that failure by the Town of Melfa 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 Melfa 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF ONLEY

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

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

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

WHEREAS in Winter of 2007, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Onley's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 a certain aspect of the Town of Onley'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 this deficiency, directs the Town of Onley to undertake and complete the one Recommended Condition contained in the staff report no later than December 31, 2008.

1. To ensure continued compliance with the Town of Onley's Bay Act requirements, the Town of Onley and Accomack County must develop and adopt a formal

agreement that outlines the responsibilities of each party with respect to Bay Act implementation.

BE IT FINALLY RESOLVED that failure by the Town of Onley 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 Onley 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF PARKSLEY

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

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

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

WHEREAS in Winter of 2007, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Parksley's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 a certain aspect of the Town of Parksley'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 this deficiency, directs the Town of Parksley to undertake and complete the one Recommended Condition contained in the staff report no later than December 31, 2008.

1. To ensure continued compliance with the Town of Parksley's Bay Act requirements, the Town of Parksley and Accomack County must develop and adopt a formal agreement that outlines the responsibilities of each party with respect to Bay Act implementation.

BE IT FINALLY RESOLVED that failure by the Town of Parksley 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 Parksley 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
March 17, 2008

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF SAXIS

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

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

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

WHEREAS in Winter of 2007, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Saxis' Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on February 15, 2008 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 a certain aspect of the Town of Saxis' 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 this deficiency, directs the Town of Saxis to undertake and complete the one Recommended Condition contained in the staff report no later than December 31, 2008.

2. To ensure continued compliance with the Town of Saxis' Bay Act requirements, the Town of Saxis and Accomack County must develop and adopt a formal agreement that outlines the responsibilities of each party with respect to Bay Act implementation.

BE IT FINALLY RESOLVED that failure by the Town of Saxis 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 Saxis 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 March 17, 2008 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Program Updates

Arlington County

Mr. Moore gave the update for Arlington County. Arlington County has one condition with a deadline of June 30, 2008.

“For compliance with 9 VAC 10-20-120 7 a of the Regulations, the County must develop and implement a 5-year septic pump-out program.”

Mr. Moore said that on March 4, 2008, Arlington County Department of Environmental Services staff (in the Environmental Planning Office) reported that they are working with the County’s Public Health Department (Environmental Health Bureau) to meet the septic pump-out requirement.

On September 28, 2007 the Public Health Department sent out letters to approximately 80 property owners with on-site septic systems informing them of the requirement to have their tanks pumped, and to either provide the County proof of pump-out or that their property has been hooked up to the County’s public sewer system. The 80 properties represent all the remaining known on-site septic systems in the County.

As of March 10, 2008, roughly 55 of those property owners notified have responded with proof of pump-out or of public sewer hook-up. A second, follow-up letter is scheduled to be sent out the week of March 10, 2008 to the approximately 25 property owners who have yet to respond to the initial notification. After providing a reasonable response time to these 25 property owners, Public Health staff plan to visit the properties of any remaining non-responsive owners and speak directly with the owners or to post official

notification that a response to the initial request for pump-out/hook-up documentation has not been met.

Public Health staff requested technical assistance from Fairfax County regarding the tracking of septic pump-out issues. Fairfax County has provided software to Arlington County to track pump-out information and helped County staff set their system up.

CBLA staff has contacted Arlington County DES staff and requested to be informed of continued progress on this issue as it occurs. CBLA staff does not anticipate a problem with the County meeting the condition imposed by the Board by the deadline of June 30, 2008.

Town of Ashland

Mr. Moore gave the report for the Town of Ashland.

In its September 17, 2007 review of the Town's Phase I program, the Chesapeake Bay Local Assistance Board found the Town not fully compliant and required that the Town: *must demonstrate that CBPAs are properly delineated on all development plans as determined by a follow-up plan review prior to June 30, 2008.*

The Town was also required to provide site plans of current development projects to CBLA staff for review.

Ashland staff submitted five commercial site plans with copies of Town staff comments to the applicants to CBLA staff early February 2008. CBLA staff reviewed the plans submitted and provided written comments to Town staff on February 19, 2008. CBLA staff requested Town staff to notify them of follow-up communications with the developer applicants regarding the comments provided.

Mathews County

Ms. Miller gave the update for Mathews County.

The Department completed a compliance evaluation condition review of Mathews County in December 2007, which included five recommended conditions to be addressed by September 30, 2007. All but one was adequately addressed, and that was the requirement to implement a septic system pump-out notification and enforcement program. The Board found the County's Phase I program not fully compliant again, and established a new deadline, March 31, 2008, by which the recommended condition must be met.

The County secured a WQIF grant in the fall of 2007 to enhance its GIS capacity and to help implement a septic system pump-out notification and enforcement program. All parcels within the County's designated CBPAs were identified and County staff created a database to track notices, responses and the status of the on-site septic systems on these parcels. Using this database notices were sent to 1,000 property owners on January 9, 2008. The County used tax parcel numbers to create five such mailing groups, and will notify one group each year for five years, with each group having one year from the time of notice to meet the requirement and document compliance to the County. Violators will be given a second notice and 30 days to comply, after which they will be turned over to the Commonwealth Attorney for further action.

The County provided the Department with a letter on January 10, 2008 documenting the implementation of its on-site septic pump-out notification and enforcement program. Based on these actions it is staff's opinion that the recommended condition has been adequately addressed.

Isle of Wight County

Ms. Smith gave the update for Isle of Wight County.

The County is in the process of refining the draft 5-year pump-out program, and County Planning Commission has held a public hearing on the proposed program. The Planning Commission held a work session on March 11, 2008, to continue discussions of the program and the County intends to have a program adopted and implemented by the September 30, 2008 deadline.

On December 13, 2007, the County adopted a Stormwater Management Program that requires all SWM facilities to be inspected on an annual basis by the County Engineering Division. In addition to the annual inspection, the Engineering Division will periodically inspect BMPs, and receive monitoring reports from the applicant, certification that the facility is completed in accordance with the approved plans, and the submittal of "as built."

County staff conducts site visits for all development proposals on sites that contain or are likely to contain RPAs. RPA evaluations are conducted using all available information, as well as field checks.

The County fully intends to have met the three conditions by September deadline.

Lancaster County

Ms. Lassiter gave the update for Lancaster County.

On September 17, 2007, the CBLAB found Lancaster County's implementation of its Phase I program did not comply with the Act and Regulations, and established a deadline of September 30, 2008 for the County to address 5 conditions.

The first condition requires that the County document submission of WQIAs. Lancaster now requires the submission of a WQIA for any proposed land disturbance, development, or redevelopment within RPAs.

The second condition states that the County must develop and implement a five-year septic system pump-out program. This program is currently under development. Notification letters and related materials are being created, and once a mailing company is hired notifications will be sent out in two cycles. The first cycle of notices will be sent to waterfront property owners, and the second cycle will be sent to the remainder of the County. The County intends to send the first cycle of notices before the September 30, 2008 deadline for compliance.

The third condition concerns BMP Maintenance Agreements and the tracking of BMPs. The County is now requiring BMP Maintenance Agreements for all new BMPs and has created a database for tracking this information. Previously approved BMPs are also being entered into the database as time allows.

The fourth condition states that the County must stop accepting buffer equivalency calculations for determining buffer mitigation. Lancaster now consults the Riparian Buffers Modification and Mitigation Manual for determining appropriate mitigation.

The fifth condition concerns the County's practice of allowing vegetation 6" diameter and smaller to be removed from the buffer. The County now encourages the retention of all trophic layers that exist in a fully functioning buffer and has modified a guidance document that stated that small vegetation could be removed.

Ms. Lassiter said it was the staff opinion that Lancaster County is demonstrating excellent progress toward meeting the five conditions identified during their Compliance Evaluation, and the County should be commended for their cooperation.

At this time Secretary of Natural Resources L. Preston Bryant, Jr. joined the meeting and gave greetings to the Board. He gave an overview of the recent legislative session.

Proposed 2008 Annual Implementation Report

Mr. Sacks briefed the Board on the Annual Implementation Report by showing a PowerPoint presentation describing the process and recommended approach. He summarized the development of the annual report process to date. He described the Board's legal authority, outlined the 13 specific information items in the *2008 Annual Assessment of Local Government Chesapeake Bay Preservation Area Activity* form to be submitted by each Bay Act locality, and reviewed the proposed implementation schedule.

He identified the 35 localities that have been Phase I compliant for at least nine months and indicated that these localities will be required to submit the required information first (by July 31, 2008) for the 2008 reporting cycle. He emphasized that the reporting process had been developed in such a way as to try to minimize the amount of local staff time required to complete the survey form, and to prompt localities to develop efficient data tracking processes in order to meet future reporting cycles. He went on to say that Department staff, with the cooperation and assistance of the majority of Bay Act Planning District Commissions, had spent a considerable amount of time meeting with local government staff members throughout the Tidewater area to explain the annual implementation report process. He said the process of education and outreach was designed as a means to facilitate greater awareness of, and full participation in the reporting process. This outreach process was very beneficial, as a number of local government staff were able to provide Department staff with important feedback that was used to improve the survey form and the overall reporting process.

Mr. Sacks explained that the Policy Committee had reviewed the information at its February 15, 2008 meeting and requested two minor changes to the survey form presented by staff. He said the Policy Committee developed the following recommendation for the Board's consideration:

“...the Chesapeake Bay Local Assistance Board adopt the annual implementation report survey and implementation schedule as described by staff and as amended by discussion for the 35 localities required to submit a 2008 annual report and that the survey and schedule be effective upon full Board approval.”

Mr. Sacks indicated that, if approved by the Board, staff would finalize plans for locality mailings, post the survey and information about the annual report process on the DCR/CBLA website and generally proceed with the schedule as outlined.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board adopt the annual implementation report survey and implementation schedule as described by staff and for the 35 localities required to submit a 2008 annual report and that the survey and schedule be effective upon full Board approval.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

Other Business

Virginia Outdoors Plan

Mr. Davy presented an overview of the Virginia Outdoors Plan. He distributed copies of the 2007 Virginia Outdoors Plan to members and reviewed the highlights of the study and the plan. A copy of Mr. Davy's report and the Virginia Outdoors Plan are available from DCR.

Update on Phase III Schedule

Mr. Sacks presented an update on the Phase III Schedule.

Phased 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 specific standards that implement the water quality performance criteria

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.”

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. Revised ordinances if such provisions are not in place

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 depiction of RPA and RMA boundaries
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 requirement for 100% reserve drainfield
5. a notation that the 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

Sections 9 VA 10-20-191 A 2 and B 2 of the Regulations

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 and a minimum threshold established for inclusion of to meet general performance criteria.

General Performance Criteria (9 VAC 10-20-120 1, 2 and 5)

Minimize impervious cover

Minimize land disturbance

Protect indigenous vegetation

Minimize Land Disturbance

Open Space Requirements

Clearing and Grading Requirements

Utility and Easement Requirements

LID/Better Site Design Concepts

Preserve Indigenous Vegetation

Sensitive Land Protection/Preservation

Vegetation and Tree Protection Requirements

LID/Better Site Design Concepts

Minimize Impervious Cover

Parking Requirements

LID/Better Site Design Concepts

Redevelopment and Infill Development Concepts

Road Design Requirements

Pedestrian Pathways and Driveways

Phase III Local Review Process

1. Philosophy: A cooperative approach, with some components of a self assessment
2. Locality will be asked to provide copies of all relevant ordinances and related documents
3. Locality & DCR-CBLA staff will complete the checklist by reviewing local ordinances and related documents
4. If deficiencies are found, locality will be given time to address the issues.
5. An opportunity for an advisory review will be available prior to formal review
6. Review process with Board and locality notification, etc., to pattern after Compliance Review process

Phase III Recent Activities and Results

- Draft checklist was “tested” using five localities’ ordinances
- Results:
 - √ None of the given localities had all of the six required items in their ordinances (Part I)
Range: High of 4, low of 1
 - √ Where CBLA staff and locality staff both reviewed ordinances, review was generally consistent
 - √ Scoring on the general performance criteria of the checklist varied among localities and considerably among categories

Phase III Outreach Activities

- Local Government Outreach:
 - √ met directly with staff representing 43 of 46 cities and counties and most larger towns, primarily through group meetings at PDCs
 - √ Direct communication to localities in December and early February soliciting comment on checklists
 - √ One on one discussions with local staff as a component of other liaison discussions
- Conducted presentations/work sessions for local staff at 16 PDC meetings

- Met with advocacy/technical groups (incl. CBF, JRA, CWP)
- Draft checklist and program description on DCR website
- To date, written comments received from 10 localities; comments also received from localities involved in “testing”

Phase III Program Adjustments made or underway

- Checklist Part 1 (6 required items):
 - √ Slight modification to wording of questions
 - √ Commitment to provide clarification regarding what is acceptable plat notation and when required
- Substantial modification to Checklist Part II (general performance criteria)
 - √ Reduction in total number of questions by about 50 percent; inclusion of more specific measures
 - √ Elimination of questions providing only marginal water quality benefit
 - √ Addition of bonus questions

Phase III Remaining Activities

- Advisory Committee members will be asked to review their ordinances using the revised draft checklist. (additional volunteer localities may also be identified).
- Based on feedback from Committee review, a revised draft checklist and suggested threshold will be posted on website requesting locality review and comment
- Still actively seeking comment on program components

Phase III - Current Schedule

Sept. /Nov. 2007:	Checklist questions and review approach developed with Advisory Committee assistance
Nov. /Dec. 2007:	CBLAB Policy Committee and Board update
Nov. /Dec. 2007:	Initial meetings with locality staff at PDCs
Dec. 2008:	Draft checklist on local programs, continued outreach, and program adjustments
March 2008:	CBLAB update and further discussion
April 2008:	Revised materials available for public review

- May/June 2008: CBLAB adoption of Phase III review process, review materials and locality deadlines
- July 2008: Official Notification to Localities and beginning of Advisory Reviews of Programs
- January 2010: Begin formal (CBLAB) Review of Programs

Public Comment

There was no additional public comment.

Next Meetings

Northern/Southern Area Review Committees – May 6, 2008
Board – June 16, 2008 – location to be determined

Ms. Salvati asked the Board to consider rescheduling the NARC and SARC meetings to May 13. There was considerable discussion and it was determined that the change would be left to the discretion of the Chair and the Director after consulting with Board members not in attendance.

Executive Session

MOTION: Mr. Whitehurst moved the following:

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, Mr. Baxter, Mr. Dowling, Mr. Sacks and Mr. Moore 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.

SECOND: Mr. Taylor

VOTE: Aye: Davis
Reed
Taylor
Whitehurst
Zeugner

No: None

Not voting: None

Not present at the meeting: Evans
Duncanson
Harper
Roberts

MOTION: Mr. Whitehurst moved that the original motion be amended to include Mr. Dowling and Mr. Brown among the staff present.

SECOND: Mr. Taylor

VOTE: Aye: Davis
Reed
Taylor
Whitehurst
Zeugner

No: None

Not voting: None

Not present at the meeting: Evans
Duncanson
Harper
Roberts

MOTION: Mr. Taylor moved the following:

WHEREAS, the Board has convened a closed meeting on December 11, 2006 pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

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

NOW, THEREFORE, the Chesapeake Bay Local Assistance Board hereby certifies that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

SECOND: Mr. Zeugner

VOTE: Aye: Davis
Reed
Taylor
Whitehurst
Zeugner

No: None

Not voting: None

Not present at the meeting: Evans
Duncanson
Harper
Roberts

Adjourn

As there was no further business, the meeting was adjourned.

Respectfully submitted,

Donald W. Davis
Chair

Joseph H. Maroon
Director

Attachment #1

GENERAL ASSEMBLY REPORT
March 17, 2009 – Chesapeake Bay Local Assistance Board

A. Bay Preservation Act

SB386 Chesapeake Bay Preservation Act; redefines localities that are under jurisdiction.

Patron: Martin

Redefines the localities that are under the jurisdiction of the Chesapeake Bay Preservation Act (CBPA). The bill changes the definition of which localities constitute Tidewater Virginia to include only those localities wholly east of Interstate 95.

Status: Stricken at request of Patron in Senate Agriculture, Conservation and Natural Resources

HB528 Chesapeake Bay Preservation Act; ordinance appeals.

Patron: Pogge

Allows localities subject to the Chesapeake Bay Preservation Act to adopt an ordinance that establishes a time limit of at least 30 days for an aggrieved party to appeal a decision of the local board to the circuit court.

Status: Approved by Governor (Chapter 15)

HB1335 NR funding for Ag BMPs; allocates revenue generated by sales and use tax. (Companion to SB511)

Patrons: Landes, Armstrong, Barlow, Bouchard, Brink, Carrico, Dance, Gilbert, Ingram, Lewis, Lingamfelter, Lohr, Marshall, D.W., May, Moran, Morgan, Nutter, Peace, Plum, Pogge, Poindexter, Saxman, Scott, E.T., Shannon, Sherwood, Sickles, Valentine, Ware, O., Ware, R.L. and Wright; *Senators:* Blevins, Deeds, Edwards, Hurt, Lucas, Puckett, Quayle, Reynolds, Ticer and Vogel

Status: Passed House and Senate

SB511 NR funding; revenue generated by sales and use tax to fund agricultural practices. (Companion to HB1335)

Patrons: Whipple, Blevins, Deeds, Edwards, Hurt, Lucas, Northam, Obenshain, Puckett, Quayle, Reynolds, Ticer and Vogel; *Delegates:* Armstrong, Barlow, Bouchard, Brink, Dance, Ingram, Lewis, Lingamfelter, Moran, Morgan, Plum, Scott, E.T., Shannon, Sherwood, Sickles, Valentine and Wright

Status: Passed House and Senate

Establishes the Virginia Natural Resources Commitment Fund. The Fund would be capitalized with appropriated funds and moneys from public and private sources. Beginning July 1, 2008, and for the next 10 years, moneys in the Fund would be distributed to the Department of Conservation and Recreation's Agricultural Best Management Practices Cost-Share Program for the implementation of agricultural best

management practices (BMP). Fifty-seven percent of the moneys are to be used for matching grants to implement BMPs on agricultural lands exclusively in the Chesapeake Bay watershed and 38 percent of the moneys would be used for all other lands in the Commonwealth. Five percent of the moneys would be allocated to soil and water conservation districts.

HB727 NR funding; allocates annually percentage of revenue generated by sales & use tax to Ag BMPs and local PDR programs; includes a phase-in.

Patron: Scott, E.T.

Allocates annually to natural resources funding a percentage of the revenue generated by a one percent sales and use tax. The allocations would be as follows: (i) 5 percent of the revenue generated by a one percent sales and use tax for the 2008-2009 fiscal year; (ii) 7.5 percent for the 2009-2010 fiscal year; (iii) 10 percent for the 2010-2011 fiscal year; and (iv) 12.5 percent for the month of July 2011 and for each month thereafter but ending for the month of June 2018. The allocation for any fiscal year would not exceed \$175 million.

One-third would be used to provide matching grants to the local purchase of development rights programs and two-thirds would be distributed to the Ag BMPs.

Status: Left in House Appropriations

SB470 NR funding; uses recordation tax and unused land preservation tax credits; would fund PDR, VLCF, Ag BMPs.

Patron: Hanger

Provides annual funding for natural resources from (i) 20 percent of the remaining revenues of state recordation taxes that are not currently allocated and (ii) unallocated land preservation tax credits in each calendar year. Of the revenues allocated to natural resources, 17 percent would be used to provide matching grants to local purchase of development rights programs, 16 percent would be distributed to the Virginia Land Conservation Fund, and 67 percent would be distributed to the Agricultural Best Management Practices Cost-Share Program for agricultural best management practices.

Status: Continued to 2009 in Senate Finance

SB513 and HB360 Nonpoint source pollution reduction; Clarifies that the Governor & General Assembly can provide direct funding to DCR for WQIF. (AGENCY BILLS)

SB513 Patron: Hanger

HB360 Patrons: Bulova and Plum

Authorizes the Governor and General Assembly to provide additional funding in excess of the amount deposited in the Water Quality Improvement Fund from a budget surplus to fund nonpoint source pollution reduction activities.

Status: SB513 Approved by Governor (Chapter 278); HB360 Passed House and Senate

HB392 Stormwater ordinances; authorizes localities classified as MS4 to enact.

Patron: Bulova

Authorizes localities classified as MS4 stormwater localities to enact ordinances to enforce stormwater permits. The bill would give these localities the authority to seek civil charges and injunctive relief, and impose civil penalties. Any person who willingly or knowingly violated the ordinance would be subject to a criminal penalty of a Class 1 misdemeanor.

Status: Approved by Governor (Chapter 14)

HB962 and SB454 Residential Property Disclosure Act; disclosure of stormwater detention facilities.

HB962 Patron: Shannon

SB454 Patrons: Petersen; Delegate: Eisenberg

Requires the owner to disclose to the purchaser prior to settlement the presence of any storm water detention facilities on the property.

Status: HB962: Left in General Laws

Status: SB454: Continued to 2009 in Senate Courts of Justice; Subject matter referred by letter to Housing Commission pursuant to Senate Rule 20 (L)

HB976 and SB457 Single lot development; developers to provide stormwater management.

HB976 Patron: Shannon

SB457 Patrons: Petersen; Delegate: Eisenberg

Provides that the developer of a single lot shall provide storm water management where substantial redevelopment of such lot is proposed. Substantial redevelopment" shall be deemed to occur when land-disturbing activities occur on more than 15 percent of the square footage of any single lot.

Status: HB976: Stricken from docket by Counties, Cities and Towns

Status: SB457: Stricken at request of Patron in Committee on Local Government

HB1552 E&S plan; file specifications for stream restoration banks annually.

Patron: Lingamfelter

Allows any person creating and operating stream restoration banks in more than one jurisdiction to file general erosion and sediment control specifications for stream restoration banks annually with the Virginia Soil and Water Conservation Board.

Status: Approved by Governor (Chapter 23)

HB1567 Nutrient management training; voluntary program for commercial providers of lawn care, etc.

Patron: Marsden

Expands an existing training program for nutrient management training to include a voluntary program for commercial providers of lawn care or landscaping services to reduce nonpoint source pollution.

Status: Continued to 2009 in House Agriculture, Chesapeake and Natural Resources

SB135 Fertilizers; commercial applicator to obtain soil analysis of property.

Patron: Stuart

Requires the Board of Agriculture and Consumer Services to adopt regulations to certify the competence of contractor-applicators and licensees who apply any regulated product to nonagricultural lands. The regulations shall establish (i) training requirements and (ii) proper nutrient management practices in accordance with § 10.1-104.2, and including soil analysis techniques, equipment calibration, and the timing of the application. The Board is to consult with the Department of Conservation and Recreation and a committee of stakeholders in the development of the regulations. Any contractor applicator who applies the regulated product without first obtaining training required by the regulation is subject to up to a \$250 civil penalty. Specifies that contractor-applicators and licensees who apply any regulated product to nonagricultural lands shall comply with the regulations within 12 months of the effective date of the regulations.

Status: Passed Senate and House

SB378 Soil & Water Conservation Board to promote reuse and reclamation of stormwater.

Patron: Stuart

This amended legislation in the nature of a substitute provides the Department of Conservation and Recreation's Virginia Soil and Water Conservation Board authorization to adopt regulations that promote the reclamation and reuse of stormwater in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters.

Status: Approved by Governor (Chapter 405)

HB119 Attorney General to represent soil and water conservation districts.

Patron: Landes

Requires the Attorney General to represent Soil and Water Conservation Districts in any suits or actions brought by the districts or district directors. Currently, attorneys for the Commonwealth are charged with the responsibility of representing districts and district directors.

Status: Approved by Governor (Chapter 577)

State Parks

HB109 Firearms; regulation thereof by state entities.

Patron: Cole

Prohibits a state agency, council, commission, or other entity from adopting any rules, regulations, or policies governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combinations thereof, unless expressly authorized by statute. The prohibition does not apply to state, local, and regional correctional facilities or mental health facilities, nor is it to be construed to prohibit a law-enforcement officer from acting within the scope of his duties. Any rule,

regulation, or policy adopted prior to July 1, 2007, except for those specifically authorized by statute, will be invalid.

Status: Left in House Militia, Police and Public Safety

HB378 Golden Age Card Program; DCR to establish.

Patrons: Marshall, D.W., Athey, Carrico, Cole, Cosgrove, Crockett-Stark, Massie, Merricks, Morgan and Sherwood

Provides for DCR to establish a Virginia Golden Age Card authorizing citizens of the Commonwealth who are 60 years of age or older to enter the camping facilities of Virginia's state parks at a 50% discount for a maximum of 14 days in any calendar year.

Status: Continued to 2009 in House Agriculture, Chesapeake and Natural Resources

HB1448 State park employee housing; DCR authority to lease private residential property.

(AGENCY BILL)

Patron: Plum

Authorizes the Director of DCR to lease private residential properties that are near state parks and then subsequently sublease these properties to state park employees.

Status: Approved by Governor (Chapter 22)

SB261 Law Officers' Retirement System; adds conservation officers as member.

Patron: Deeds

Adds conservation officers of DCR as members of VALORS.

Status: Continued to 2009 in Senate Finance

SB303 Lake Anna State Park; authorizes right-of-way easement.

(AGENCY BILL)

Patron: Houck

Authorizes DCR to grant a 30-foot-wide easement across a portion of Lake Anna State Park in exchange for the extinguishment of an existing right-of-way easement.

Status: Approved by Governor (Chapter 271)

SB254 Staunton River State Park; authorizes 20-foot wide easement across portion.

(AGENCY BILL)

Patron: Ruff

Authorizes DCR to grant a 20-foot wide easement across a portion of the Staunton River State Park in exchange for the extinguishment of an existing right-of-way easement.

Status: Approved by Governor (Chapter 270)

Dam Safety

HB837 Dam break inundation zones; localities with authority to address development. (AGENCY BILL)

Patrons: Sherwood, Eisenberg, Landes, Nichols, Plum, Scott, E.T., Shuler and Ware, R.L.; *Senators:* Deeds, Hanger, Puckett and Ticer

Provides localities with the authority to address development in dam break inundation zones. The bill directs developers to assist dam owner with required upgrades and requires additional disclosure and notification procedures for dam owners. The bill contains an enactment clause that specifies that the bill's provisions do not affect site plans or subdivision plans submitted prior to the effective date of the act.

Status: Passed House and Senate with Governor's recommendations; Re-enrolled

SB594 Exempts dam owners of those not dangerous & historically significant from correcting deficiencies.

Patrons: Norment and McDougle; *Delegates:* Barlow, Hamilton and Pogge

Exempts the owners of historically significant dams that do not present an imminent danger from having to correct deficiencies identified in a dam safety inspection conducted by DCR.

Status: Left in Senate Agriculture, Conservation and Natural Resources

HB260 Abandoned railroad corridors; allows DCR to acquire.

Patron: Fralin

Allows the Department to acquire abandoned railroad corridors for use as greenways, linear parks, or potential transportation corridors.

Status: Tabled in House Agriculture, Chesapeake and Natural Resources

HB1142 Delays reversion of Virginia Explore Park to Commonwealth.

Patron: Fralin

Delays the reversion of title to real property from the Virginia Recreational Facilities Authority to the Commonwealth, in the event that the Authority ceases to operate a project, until July 1, 2009. This bill contains an emergency clause.

Status: Passed House and Senate

HB1496 and SB740 Establishes Southwest Regional Recreation Authority.

HB1496 Patron: Bowling

SB740 Patron: Puckett

Establishes an authority for Southwest Virginia to create a multi-purpose regional recreational area similar to, and potentially adjoining, such areas in West VA and KY. The recreational area might consist of various trails and other amenities on private open-space lands where members of the public could, for example, hunt, fish, boat, camp, ride motorcycles or all-terrain vehicles, ride mountain bikes, or ride horses. The SW Regional Recreation Authority would have various powers to manage the area by raising funds, employing staff, and adopting rules punishable by civil penalties. Landowners participating in the recreation area would be afforded a limited liability for persons engaging in recreational activities on their property.

Status: HB1496: Passed House and Senate

Status: SB740: Passed Senate and House; Governor's Recommendations advanced

HJ100 Study by DCR of privatizing hospitality-related services at state parks.

Patron: Poisson

Provides for DCR to study the privatization of hospitality-related services and functions at Virginia's state parks.

Status: Stricken from the docket by House Rules

B. *Scenic River*

HB455 and SB40 Designates portions of North and South Mayo Rivers in Henry County as State scenic rivers.

HB455 Patrons: Merricks, Armstrong and Marshall, D.W.; Senator: Reynolds

SB40 Patrons: Reynolds and Hurt; Delegate: Eisenberg

Status: HB455: Approved by Governor (Chapter 14)

Status: SB40: Approved by Governor (Chapter 336)

HB662 Land preservation tax credit program; confidentiality of taxpayer information. (AGENCY BILL)

Patron: Lewis

Includes as a confidential tax document any document that is required to be filed with the DCR under the land preservation tax credit program.

Status: Passed House and Senate; Tax privacy issue to be discussed in Senate Finance subcommittee

HB1283 Land preservation tax credit; elimination of verification of conservation value.

Patrons: Athey, Carrico, Cole, Lohr, Merricks, Scott, E.T. and Sherwood

Eliminates DCR verification of conservation value of land donations that will result in \$1 million or more in land preservation tax credits. Currently, as a condition of the issuance of a land preservation tax credit, the Department must verify the conservation value of donations that will result in \$1 million or more in tax credits. The bill also would establish a review and administrative appeal process in which proposed conveyances of donations would be reviewed by the Department of Taxation for purposes of determining whether the proposed donation would qualify for a land preservation tax credit. The review process would eliminate the current requirement that the taxpayer execute or record the land donation prior to applying for a land preservation tax credit.

Status: Left in House Finance

SB259 Land preservation tax credit; elimination of verification of conservation value.

Patrons: Deeds and Houck; Delegate: Scott, E.T.

Eliminates DCR verification of conservation value of land donations resulting in \$1 million or more in tax credits if the grantee for the donation is the Virginia Outdoors Foundation.

Status: Continued to 2009 in Senate Finance

SB641 Land pres. tax credit; conveyance for public parks, recreational areas, or trails.

Patron: Ticer

Increases the land preservation tax credit to 60 % of fair market value of any land that is conveyed for the purpose of a public park, public recreational facility, or public trail access easement. The board of supervisors of the county or the council of the city in which such land is located would be required to pass a duly adopted resolution.

Status: Continued to 2009 in Senate Finance

SB744 Land preservation tax credit; establishes process where properties are registered with Dept. of Tax.

Patron: Hanger

Establishes a process by which properties are to be registered with the Dept. of Taxation prior to any tax credit being allowed for a donation. Requires a written certification by a licensed reviewer certifying that the property, or interest therein, is in compliance with pre-registration standards established by the Department. Includes standards for the public benefit derived from the donation and standards for the use of the property by the donee. The Tax Dept. would be authorized to license qualified applicants to perform the review for certification; be allowed to levy and collect fees for licensure to cover the direct expenses for the program. The substitute retains DCR's review of tax credits of \$1 million or greater.

Status: A substitute was introduced and the bill was continued to 2009 in Senate Finance

HB1547 Creates the 21st Century Capital Improvement Program.

Patrons: Putney, Abbitt, Albo, BaCote, Bowling, Brink, Cox, Dance, Frederick, Hamilton, Hogan, Howell, A.T., Howell, W.J., Hugo, Hull, Ingram, Joannou, Jones, S.C., Landes, Lingamfelter, May, Morgan, O'Bannon, Phillips, Rust, Scott, J.M., Shannon, Sherwood, Tata and Ware, O.

Creates the 21st Century Capital Improvement Program for the orderly and systematic programming and financing of capital projects throughout the Commonwealth that will be revised annually for the acquisition, development, enhancement, planning, or replacement of public facilities over a multiyear period. In addition, the bill provides an initial list of the Program's projects; a list of projects to be constructed by bonds issued by the Virginia College Building Authority and the Virginia Public Building Authority, and a list of projects whose planning costs will be appropriated in the Budget Bill.

Status: In conference committee

SB795 College Building Authority; certain projects financed thereby.

Patrons: Charles J. Colgan

Authorizes the issuance of bonds under the Virginia Public Building Authority in a principal amount not to exceed \$1,103,600,000, and under the Virginia College Building Authority with the principal amount of bonds issued for all such projects not to exceed \$1,353,729,000. The bill also authorizes the State Treasurer to advance treasury loans in an amount not to exceed the costs of planning for certain capital projects with the total amount of treasury loans advanced for the costs of planning of all such projects not to exceed \$95,570,000.

Status: In conference committee

Attachment #2

BUDGET AMENDMENT SUMMARY
2008 General Assembly Session
Final Legislative Amendments to Governor Kaine's Introduced Budget
As of March 13, 2008

C. *DCR Operating Budget Overview*

	<u>Total</u>	<u>GF</u>	<u>NGF</u>	<u>FTE</u>
FY 08 (current yr)	\$77M	\$50M	\$27M	534
FY 09*	\$120M	\$49M	\$71M	551
FY 10*	\$99M	\$49M	\$50M	556

(* As proposed in Legislative Budget; Does Not include capital budget items such as land conservation, dam repair bonds, park development and construction.)

D. *Land Conservation*

- GOVERNOR'S BUDGET: \$ 50 M bonds for land acquisition by DCR, Historic Resources, Forestry and Virginia Outdoors Foundation.
 - Legislative budget reduces bonds for land acquisition to \$30 M; at least \$ 5 M for civil war battlefields.
- GOVERNOR'S BUDGET: adds \$ 950,000 each year for Virginia Outdoors Foundation operational support
 - Legislative budget provides that the increase for operational support will be \$225,000 annually for a total of \$1,525,000 each year.
- GOVERNOR'S BUDGET: Continued \$ 3 M per year for VLCF grants.
 - Legislative budget reduces the \$ 3 M to \$ 2 M each year.

E.

F. *Dam Safety*

- GOVERNOR'S BUDGET: \$ 20 M bonds for repairs to district and DCR dams;
 - Legislative budget increases total to \$30 M (to include \$ 5 M for T. Nelson Elliott Dam (Manassas) and \$ 5 M for Stoney Creek Reservoir Dam (Bedford).)
- GOVERNOR'S BUDGET: \$ 2.7 M for loan program

- Legislative budget reduces by \$750,000 leaving \$ 1.2 M (\$600,000 each year).
- GOVERNOR'S BUDGET: 2 FTE dam engineers (no funds needed);
Included in legislative budget.
 - G. *Stormwater Management*
 - GOVERNOR'S BUDGET: 10 Stormwater positions (paid from permit fees).
Included in legislative budget.
 - H. *Water Quality Improvement Fund*
 - GOVERNOR'S BUDGET: \$ 20 M Nonpoint (FY 2009) WQIF (includes \$ 6 M new GF; \$ 5 M reserve; \$ 9 M point source interest earnings)
 - Legislative budget leaves total funding amount of \$ 20M for FY 2009, but replaces \$6 M of general funds with interest from DEQ WQIF. Funds to be deposited into and dispersed from the Virginia Natural Resources Commitment Fund for agricultural BMPs and 5% for soil and water districts implementation.
 - I. *Soil and Water Conservation Districts*
 - J. *Districts' 5 % reduction (\$ 386,500) was not restored; districts will receive \$7,347,940 in state support after the reduction for FY 09 and FY 10. Includes operating support and dam repair and maintenance funding.*
 - K.
 - L. *State Parks Operating Support*
 - GOVERNOR'S BUDGET: \$ 1.5 Million and 15 FTE (FY 10)
 - Legislative budget changed to \$250,000 and 5 FTEs in FY 2009 and an additional \$ 250,000 and 5 more FTEs (for a total of 10 FTEs and \$500,000) in FY 2010. (It is expected that 2 of the positions will be used for High Bridge with remainder going to address continued re-benchmarking.)

Chippokes Farm and Forestry Foundation

- GOVERNOR'S BUDGET: Merger and transfer 2 FTE from Chippokes.
 - Legislative budget provides that Chippokes will remain a separate agency .
- M. *Grand Caverns (possible new state park)*
 - Legislative budget includes language requiring progress report on Grand Caverns transfer to DCR by September 1.

N. *State Parks Capital Budget – TO BE DETERMINED BY APRIL 23 RECONVENED SESSION*

- GOVERNOR'S BUDGET: \$ 3 M Powhatan State Park; High Bridge \$ 4.5 M
- Powhatan State Park first-time funding: Outcome to be determined.
- High Bridge State Park continued funding: Outcome to be determined.
- Mayo River first-time funding: Outcome to be determined.
- Shenandoah River State Park additional cabins and campgrounds: Outcome to be determined.

O. *Maintenance Reserve*

- GOVERNOR'S BUDGET: Provides for increase and funding in FY 2008. Legislative budget moves increase to upcoming biennium. Provides \$609,000 in FY 2009 and \$643,000 in FY 2010.

P. *Non-General Fund Interest*

- Legislative budget keeps interest earned on various special funds in 2008 and 2008-2010. (Natural Area Preservation Fund; Chesapeake Bay Restoration Fund; Virginia Stormwater Management Fund; Flood Prevention and Protection Assistance Fund; Virginia Land Conservation Fund - Unrestricted; Virginia Water Quality Improvement Fund; Virginia Water Quality Improvement Fund Reserve)

Q.

R. *Additional Reduction Plan*

- Legislative budget requires an additional \$ 17.5 M in cuts across state government for FY 2009 and FY 2010 that are yet to be determined. Agencies are expected to receive targets soon. DCR's share is unknown at this time.

S. *State Employee Compensation*

- Legislative budget includes 2% increase in November 2008 and 2% in November 2009.

T. *Miscellaneous*

- Aquia Creek Dredging: Legislative budget adds \$250,000 to DCR budget for dredging Aquia Creek, Stafford County
- LEED Standards: Legislative budget includes language requiring all new and renovated state buildings over 5000 square feet to be

built to at least meet LEED standards (i.e., using energy and environmental designs).

- Energy Star rated Appliances and Equipment: State agencies and institutions are required to purchase these when available.
- Daniel Boone Visitor's Center: The \$100,000 annual grant proposed by the Governor was eliminated in legislative budget.
- Non-profit language: The amendment that would have permitted non-profit organizations to conduct revenue generating activities in state parks to benefit department programs was not added to the legislative budget.