

**Chesapeake Bay Local Assistance Board  
Monday, March 19, 2012  
Conference Room 3, Patrick Henry Building  
Richmond, Virginia**

**Chesapeake Bay Local Assistance Board Members Present**

Gregory C. Evans, Chairman  
James N. Belote, III  
Al Peschke

Barry L. Marten, Vice Chairman  
Patricia W. Cowan

**Chesapeake Bay Local Assistance Board Members Not Present**

William E. Duncanson  
Charles B. Whitehurst

Rebecca Reed

**DCR Staff Present**

Jeb Wilkinson, Chief Deputy Director  
David C. Dowling, Director of Policy and Planning  
Reese Peck, Director, Division of Stormwater Management  
Virginia Snead, Regulatory Programs Manager  
Joan Salvati, Program and Guidance Development Manager  
John McCutcheon, ESC Program Manager  
Shawn Smith, Principal Environmental Planner  
Daniel Moore, Principal Environmental Planner  
Nancy Miller, Principal Environmental Planner  
Anne Crosier, Enforcement and Compliance Manager  
Michael R. Fletcher, Board and Constituent Services Liaison  
Elizabeth Andrews, Office of the Attorney General

**Others Present**

Karen Holloway, City of Poquoson  
Gary Mitchell, Town of Colonial Beach  
Wilmer Stoneman, Virginia Farm Bureau Federation  
Deborah Vest, City of Poquoson

**Call to Order**

Chairman Evans called the meeting to order and asked for the calling of the roll. There was not a quorum present. Chairman Evans said that the agenda would be arranged to have reports first and that items requiring action would be postponed until such time as a quorum was attained.

### **Director and Program Development and Guidance Manager's Report**

Mr. Wilkinson gave the Director's report. He distributed a handout that outlined actions taken toward integrating the Virginia Stormwater Programs during the General Assembly Session.

Mr. Wilkinson said that the legislation looked at the overlapping elements of Erosion and Sediment Control, Stormwater Management and the Chesapeake Bay Act. The legislation received overwhelming support in both houses. He said that this builds on previous efforts to coordinate local programs.

Mr. Wilkinson said that effective July 1, 2012, the Chesapeake Bay Local Assistance Board would be eliminated and the functions transferred to the Virginia Soil and Water Conservation Board.

Ms. Cowan asked why VACO had opposed the legislation.

Mr. Wilkinson said that VACO had seen this as an unfunded mandate. However, he noted that this was a fee based program and if localities needed a fee increase they can request authorization from the Soil and water Conservation Board.

Ms. Salvati said that what the stormwater management regulations do is take what had been a federally backed construction site permit as well as the Erosion and Sediment control program and invest the locality with the authority to implement these programs. She said that 100% of the fees had previously gone to the state. Going forward localities will be able to capture 72% of those fees. This is not a new fee, just a different distribution of the same fees.

Mr. Evans expressed concern regarding the consolidation. He said that one of the things provided by the CBLAB and staff was technical assistance. He asked if that would still be available.

Ms. Salvati said that the integration does not change anything in the Bay Act. She said that the work responsibilities of the four liaisons had not changed.

Mr. Evans expressed concern that the programs would bottle neck at the Soil and Water Conservation Board level.

Ms. Salvati said that the Board would be very busy. She said that the agency has a regulation rollout team working to develop a variety of tools for localities. She said that staff will provide a lot of assistance, including a significant amount of training for stormwater in the western part of the state.

At this time, Mr. Belote arrived and a quorum was achieved.

Ms. Salvati said that beginning in 2011 staff had begun a test project of doing concurrent reviews for Erosion and Sediment Control and the Bay Act. This began in Stafford County. Other localities are Accomack and Northampton, which will be done together. Also, the City of Alexandria and perhaps Hanover County. Staff will consider the specific benefits and how processes should be changed.

Ms. Salvati introduced John McCutcheon. Mr. McCutcheon will be overseeing all compliance issues for Stormwater and the Bay Act.

Mr. Marten asked if the Chesapeake Bay Local Assistance Board would cease to exist as of July 1, 2012.

Mr. Evans asked if there would be a transition.

Mr. Dowling said that functionally there would be a transition. He said that a body of regulations has to be repealed from the Chesapeake Bay Local Assistance Board and re-promulgated under the Soil and Water Conservation Board. He said that the changes were more administrative in nature.

Mr. Belote asked if the Soil and Water Conservation Board would be completely reappointed.

Mr. Dowling said that no changes were being made to the Soil and Water Conservation Board at this time. The Board will stand as currently constituted.

Mr. Evans noted that when the Soil and Water Conservation Board assumed the responsibility for Stormwater Management that the Board was expanded. He said that it would be helpful to brief the Soil and Water Conservation Board.

Mr. Dowling said that there would be appropriate orientations. He said that the skill set requirements for Board members were essentially the same as that for CBLAB.

### **Program Compliance Evaluation**

#### *Town of Colonial Beach*

Ms. Salvati gave the report for Colonial Beach on behalf of Ms. Lassiter. She recognized Gary Mitchell, Director of Planning and Community Development for the Town of Colonial Beach.

Located in Westmoreland County in Virginia's Northern Neck along the Potomac River to the east and Monroe Bay to the southwest, nearly three-quarters of the Town of Colonial Beach is surrounded by large expanses of open water. Colonial Beach is a

resort town, with a population of 3,500 swelling to 10,000 or more during the summer months. The Town's economy is mixed and heavily influenced by tourism and fishing.

Although in practice, the Town has historically treated all land that is not Resource Protection Area as Resource Management Area, until recently their ordinance only designated certain features as RMA. As a result of the Phase III Advisory Review that was initiated in November of 2009, the Town amended their program to apply their CBPA program jurisdiction-wide. The director of Planning and Community Development is responsible for the implementation of the Town's Bay Act program.

Department staff initiated the compliance evaluation for Colonial Beach on August 31, 2011. Meetings with town staff were held on October 24<sup>th</sup> and December 29<sup>th</sup>. The compliance evaluation revealed that although the Town is working to implement its local Bay Act program effectively, there is one program element that requires improvement. The Town of Colonial Beach has an outdated erosion and sediment control ordinance, but they do not currently have a program and have never been reviewed by the Department for consistency with the Virginia Erosion and Sediment Control Law and Regulations. In order for the Town's Bay Act program to be found compliant, the Town must adopt a valid Erosion and Sediment Control ordinance, develop an Erosion and Sediment Control program consistent with State requirements, and submit the program for review to the Virginia Soil and Water Conservation Board by December 31, 2012. Or, as an alternative, land disturbing activities must be reviewed, approved and inspected in accordance with Westmoreland County's Erosion and Sediment Control ordinance.

The Town of Colonial Beach is effectively implementing the three general performance criteria as required under the Regulations and their local Bay Act ordinance. Site plan review and field visits indicate that clearing and grading is minimized. Plan review of one site evaluated during the compliance evaluation, the redevelopment of a single family home, revealed that although the house could have been expanded because it was in the RMA, it was built in exactly the same footprint as the previous house. Plan review and field visits also confirmed that indigenous vegetation is preserved as much as practicable. Several mature trees, some quite close to the single family home just mentioned, had been unharmed during redevelopment. The projects reviewed also minimized impervious cover. In particular, one site evaluated during the compliance evaluation, a mod-pod addition to the high school, revealed that no additional parking was proposed, even though it was estimated that 8 new staff members would be hired.

The Town of Colonial Beach is also implementing other important components of their local Bay Act program. While Bay Act agricultural requirements do not apply because there is no active agriculture in the Town, The Town's Comprehensive Plan, adopted by the Town Council in September 1999 and found consistent by the CBLAB on December 17, 1999, was recently updated and adopted by the Town on January 14, 2010. Chapter 6, the Environmental Addendum, which contains the required Chesapeake Bay Preservation Act elements, was not changed and is still consistent with Phase II requirements. In addition, the Town has strengthened its Chesapeake Bay Preservation Area Overlay District Ordinance by making the RMA jurisdiction-wide instead of feature

based, adding tree restoration ratios, and requiring Woodlot Management Permits. The Town has also drafted a low impact development ordinance currently awaiting action by the Town Council.

To conclude, Staff recommends that the Board find that certain aspects of the Town of Colonial Beach's Phase I program do not fully comply with the Act and Regulations, and that the Town address the 1 recommended condition contained in the staff report by December 31, 2012.

Mr. Evans asked if the Town was planning to hire a GIS person.

Mr. Mitchell said that the Town wanted to combine the programs and have one person responsible for those. He said that his hope was that the position would be included in this year's budget and that the Town would be able to hire by fall.

MOTION: Mr. Marten move that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Town of Colonial Beach's Chesapeake Bay Preservation Act 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, the Town of Colonial Beach be directed to undertake and complete the one recommended condition contained in the staff report no later than December 31, 2012.

SECOND: Ms. Cowan

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

**March 19, 2012**

**RESOLUTION**

**LOCAL PROGRAM COMPLIANCE EVALUATION**  
**TOWN OF COLONIAL BEACH**

**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 June 18, 2008 for the purposes of reviewing local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board approved Compliance Evaluation Review Elements on June 21, 2010; and

WHEREAS in Fall 2011 through Winter 2012, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Colonial Beach's Chesapeake Bay Preservation Act program in accordance with the adopted compliance evaluation process and approved review elements; and

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Town of Colonial Beach's Chesapeake Bay Preservation Act program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Colonial Beach to undertake and complete the one recommended condition contained in the staff report no later than December 31, 2012.

1. As required by Section 9 VAC 10-20-120 6 of the Regulations and Section 22-9 B 3 of the Town's Chesapeake Bay Preservation Area Overlay District ordinance, the Town must adopt a valid Erosion and Sediment Control ordinance, develop an Erosion and Sediment Control program consistent with State requirements, and submit the program for review to the Virginia Soil and Water Conservation Board by December 31, 2012, or land disturbing activities must be reviewed, approved and inspected in accordance with Westmoreland County's Erosion and Sediment Control ordinance.

BE IT FINALLY RESOLVED that failure by the Town of Colonial Beach to meet the above established compliance date of December 31, 2012 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 Colonial Beach 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 19, 2012 by the Chesapeake Bay Local Assistance Board.

---

David Johnson  
Director  
Department of Conservation and Recreation

Mr. Evans asked procedurally if the December 31, 2012 date would work when the responsibilities are transferred to the Soil and Water Conservation Board.

Mr. Dowling said that staff would have to map that out. He said that there is a December meeting of the Soil and Water Conservation Board but that adjustments might have to be made.

Mr. Evans said that if that could be taken into consideration prior to the June meeting of the Chesapeake Bay Local Assistance Board that the Board could take action to amend if necessary.

#### *Town of Windsor*

Ms. Smith gave the report for the Town of Windsor. No one was present from the Town of Windsor.

The Town of Windsor, located in Isle of Wight County was incorporated in 1902 and has a population of around 2500.

The Town's Chesapeake Bay Preservation Areas (CBPAs) include all required Resource Protection Area (RPA) components, and its Resource Management Area (RMA) extends to the remainder of the town that lies within the Chesapeake Bay watershed. Generally, the Town's CBPA includes nearly the entire town as the majority of the Town lies within the Chesapeake Bay watershed. The Town did not designate any Intensely Developed Areas.

The Town relies on Isle of Wight County for the implementation of erosion and sediment control and stormwater management requirement review and approvals. In addition, the County issues building permits in the Town. The Town coordinates with the County on development reviews to ensure that all applicable Town requirements are appropriately addressed, through their review and approval of zoning permits

Department of Conservation and Recreation staff initiated the compliance evaluation for the Town of Windsor on October 6, 2011, with a meetings held between Department staff Town staff on November 15, 2011 and December 15, 2011 to gather information, review plans and files and perform site visits.

Staff recommends that the Board find that a certain aspect of the Town of Windsor's implementation of its Chesapeake Bay Preservation Act program does not fully comply and that the Town of Windsor undertake and address the one condition recommended in this staff report no later than March 31, 2013.

The single recommended condition relates to the five-year pump-out notice. The Town has few onsite septic systems in its designated CBPA as the Town has a public sewer system. However, the Town has not sent out notices as they were under the impression that Isle of Wight County was implementing the pump-out program as part of the County's program. The Town is currently working with the County to identify the property owners that will need to be notified of the pump-out requirement. As the Town requires all new plats to tie into the Town's public sewer system, the number of onsite systems will not increase and will, over time, likely be reduced as existing systems fail and are connected to the Town's sewer system.

Mr. Evans asked why the County was not sending out the notices.

Ms. Smith said that apparently records were destroyed in a fire at the health department. She said that she believed the issue was a miscommunication between the County and the Town.

MOTION: Mr. Marten moved that the Chesapeake Bay Local Assistance Board find that the implementation of a certain aspect of the Town of Windsor's Chesapeake Bay Preservation Act 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, the Town of Windsor be directed to undertake and complete the recommended condition contained in the staff report no later than March 31, 2013.

SECOND: Ms. Cowan

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD  
March 19, 2012**

**RESOLUTION**

**LOCAL PROGRAM COMPLIANCE EVALUATION  
TOWN OF WINDSOR**

**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 June 18, 2008, for the purposes of reviewing local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board approved Compliance Evaluation Review Elements on June 21, 2010; and

WHEREAS in Winter of 2011-12, the Department of Conservation and Recreation conducted a compliance evaluation of the Town of Windsor's Chesapeake Bay Preservation Act program in accordance with the adopted compliance evaluation process and approved review elements; and

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of a certain aspect of the Town of Windsor's Chesapeake Bay Preservation Act 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 Windsor to undertake and complete the recommended condition contained in the staff report no later than March 31, 2013.

1. Pursuant to Section 9 VAC 10-20-120 7 a of the Regulations and Section 57-11.B(6) of the Town's CBPA Ordinance, the Town of Windsor must develop and implement a septic pump-out program.

BE IT FINALLY RESOLVED that failure by the Town of Windsor to meet the above established compliance date of March 31, 2013, will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Windsor to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on March 19, 2012, by the Chesapeake Bay Local Assistance Board.

---

David A. Johnson  
Director  
Department of Conservation and Recreation

*City of Poquoson*

Ms. Miller gave the report for the City of Poquoson. She introduced Debbie Vest, Director of Community Development and Karen Holloway, Environmental Compliance Officer for the City.

Located in the Peninsula region of HRPDC, the City of Poquoson has a population of approximately 12,150 people and total land area of approximately 15.6 square miles. Bordering York County, the City is otherwise surrounded by water, primarily the Poquoson and Back Rivers and the Chesapeake Bay. With approximately 168.5 miles of shoreline, the City is noted for its extensive wetlands, which comprise about 5,089 acres or 51% of its total land area. The City includes the largest salt marsh in the lower Chesapeake Bay, Plum Tree Island Marsh, with 4,100 acres.

The City has designated CBPAs jurisdiction-wide, has not designated any IDAs, and the City's Department of Community Development staff coordinates and administers the local Bay Act program.

DCR staff initiated the compliance evaluation by letter on November 1, 2011, met with City staff on December 15, 2011 to brief them on the process, and held additional meetings to review plan files and to carry out field investigations on January 4, 5, 6 and 10, 2012. Numerous follow-up phone conversations and email exchanges were held with City staff throughout the process to discuss the City's site plan review process and Ordinance implementation policies.

In regard to the Plan and Plat requirements, evaluated in the City's Advisory Review in the fall of 2010 and incorporated in the compliance evaluation: Site plans reviewed confirmed that the City's requirements to delineate buildable area on development *plans* is typically satisfied, and most plats included in the site plan files reviewed depicted the limits of the RPA. Notations satisfying the requirements to retain an undisturbed and vegetated 100-foot RPA buffer and limits on permitted development in the RPA were not found. The two plan and plat requirements for on-site septic systems are not applicable, as on-site sewage treatment systems are not permitted; existing systems are being phased out, and the City requires all new construction to connect to the central sewage treatment system.

There is no requirement in the City's ordinances for the depiction of RPAs on submitted plats. There is also no requirement for the notation to retain an undisturbed and vegetated 100-foot wide buffer area, nor is there a requirement for the notation that specifies permitted development in the RPA is limited to water dependent facilities or redevelopment. Staff offers the following recommendation:

As required by § 9 VAC 10-20-191 A 4 of the Regulations, the City must amend its local ordinances to include the requirements for the depiction of the RPA on plats, and for notations on plats requiring an undisturbed 100-foot RPA buffer and permissible development within the 100-foot RPA buffer, as outlined under this section of the Regulations.

Staff recommends that the Board find that certain aspects of the City's implementation of its program do not fully comply with the Act and the Regulations, and that the City of Poquoson undertake and address the condition recommended in this staff report no later than March 31, 2013.

Ms. Vest said that even though the requirement is not in the Code, the City does require that the RPA be shown on all plats. She said that the City had not overlooked the requirement, while it was not in the Code; it was a policy that they had implemented.

Mr. Evans asked if the Code would be amended.

Ms. Vest said that she did not see that as a problem.

Mr. Marten commended the City on their efforts.

MOTION: Mr. Marten moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the City of Poquoson's Chesapeake Bay Preservation Act 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, the City of Poquoson be directed to undertake and complete the recommended condition contained in the staff report no later than March 31, 2013.

SECOND: Ms. Cowan

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

**March 19, 2012**

**RESOLUTION**

**LOCAL PROGRAM COMPLIANCE EVALUATION**  
**CITY OF POQUOSON**

**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 June 18, 2008, for the purposes of reviewing local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board approved Compliance Evaluation Review Elements on June 21, 2010; and

WHEREAS in Fall 2011 through Winter 2012, the Department of Conservation and Recreation conducted a compliance evaluation of the City of Poquoson's Chesapeake Bay Preservation Act program in accordance with the adopted compliance evaluation process and approved review elements; and

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the City of Poquoson's Chesapeake Bay Preservation Act 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 Poquoson to undertake and complete the recommended condition contained in the staff report no later than March 31, 2013.

1. As required by § 9 VAC 10-20-191 A 4 of the Regulations, the City must amend its local ordinances to include the requirements for the depiction of the RPA on plats, and for notations on plats requiring an undisturbed 100-foot RPA buffer and permissible development within the 100-foot RPA buffer, as outlined under this section of the Regulations.

BE IT FINALLY RESOLVED that failure by the City of Poquoson to meet the above established compliance date of March 31, 2013, 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 Poquoson 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 19, 2012, by the Chesapeake Bay Local Assistance Board.

---

David A. Johnson  
Director  
Department of Conservation and Recreation

*Stafford County*

Mr. Moore gave the report for Stafford County.

DCR staff initiated the compliance evaluation for Stafford County by sending a notification letter of the upcoming evaluation to the County Administrator on October 17, 2011. Department staff met with the County's Planning Director on November 14, 2011, to discuss the compliance evaluation process and the local program and review additional information needed. Additional meetings to review site plan files and to carry out field investigations took place on January 20<sup>th</sup>, 26<sup>th</sup>, and February 10, 2011.

Stafford County's Chesapeake Bay Preservation Act program was last reviewed by the Board on March 22, 2004 in response to the revised Regulations. At that time all the County's required local ordinances were found consistent with the Act and Regulations. On March 18, 2002, the Board found that the County was properly implementing the required Phase I components of its local Bay Act program.

The County's designated Chesapeake Bay Preservation Areas (CBPAs) include all of the Resource Protection Area (RPA) features required by the Regulations. The County uses the terms Critical Resource Protection Area (CRPA) for its RPA lands and Land/Resource Management Area (LRMA) for its RMA lands, and these terms are referenced in all pertinent ordinances. (For the purposes of this report, CBPA lands will be referenced by RPA or RMA.) There are no Intensely Developed Areas (IDA) lands in the County, nor has the County provided for the adoption of IDAs in their Zoning Ordinance.

Administration of the County's Chesapeake Bay Preservation Act program is through the plan of development review process as described late in this report, and is implemented and enforced by the County's Department of Planning and Zoning, in cooperation with the County's Department of Public Works.

A review of the County's ordinances and plan review processes during the September 2009 advisory review revealed that only two of the six requirements found within § 9 VAC 10-20-191 A 4 & 5 had been satisfied.

Recommended Condition #1:

For compliance with § 9 VAC 10-20-191 A 4 i-iii of the Regulations the County must require a notation on plats submitted as part of a plan of development application of:

1. the requirement to retain an undisturbed and vegetated 100-foot wide buffer area;
2. the requirement for pump-out and 100% reserve drainfield sites for on-site sewage treatment systems, and that;
3. permitted development in the RPA is limited to water dependent facilities or redevelopment, including the 100-foot vegetated buffer.

Recommended Condition #2:

For compliance with § 9 VAC 10-20-120-9 of the Regulations the County must develop a plan to require, for lands in active agricultural, that a conservation assessment use be conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Act and Regulations.

DCR staff reviewed five approved plans as part of this compliance evaluation. Field investigations carried out on February 9, 2012, involved site visits to two residential subdivision projects and a County Civil War park. During the process of site plan and file review and follow-up field investigations, DCR staff determined that the County enforces existing ordinance provisions and policies such that impervious cover is minimized, land disturbance is minimized and indigenous vegetation is preserved.

County staff have not had any Chesapeake Bay Preservation Act complaints or issued any violations in the past year. DCR staff finds County staff to be thorough in their plan of development review process and careful that all local ordinances are fully complied with. With the exception of the two recommended conditions referenced in the staff report, DCR staff finds that the County is otherwise enforcing the requirements of the Chesapeake Bay Preservation Act program in an appropriate manner. Based on the recommended conditions referenced in this compliance evaluation review, it is recommended that the Board find Stafford County's Chesapeake Bay Preservation Act program to be found not in compliance with the Act and Regulations.

Mr. Moore said that County staff was in full agreement with the conditions and that DCR staff recommended that the County be allowed until March 31, 2013 to address the conditions.

Ms. Salvati said that when the Board approved the compliance review elements one of the new provisions included assessments conducted on all agricultural lands. The Stafford County review is the first that shows progress in this regard.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

**March 19, 2012**

**RESOLUTION**

**LOCAL PROGRAM COMPLIANCE EVALUATION**  
**STAFFORD 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 June 18, 2008, for the purposes of reviewing local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board approved Compliance Evaluation Review Elements on June 21, 2010; and

WHEREAS in Fall 2011 through Winter 2012, the Department of Conservation and Recreation conducted a compliance evaluation of Stafford County's Chesapeake Bay Preservation Act program in accordance with the adopted compliance evaluation process and approved review elements; and

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

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Stafford County's Chesapeake Bay Preservation Act 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 Stafford County to undertake and complete the two recommended conditions contained in the staff report no later than March 31, 2013.

*For compliance with § 9 VAC 10-20-191 A 4 i-iii of the Regulations the County must require a notation on plats submitted as part of a plan of development application of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area; the requirement for pump-out and 100% reserve drainfield sites for on-site sewage treatment systems, and that; permitted development in the RPA is limited to water dependent facilities or redevelopment, including the 100-foot vegetated buffer.*

*For compliance with § 9 VAC 10-20-120-9 of the Regulations the County must develop a plan to require, for lands in active agricultural, that a conservation assessment use be conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Act and Regulations.*

BE IT FINALLY RESOLVED that failure by Stafford County to meet the above established compliance date of March 31, 2013 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 Stafford 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 19, 2012, by the Chesapeake Bay Local Assistance Board.

---

David A. Johnson  
Director  
Department of Conservation and Recreation

MOTION: Mr. Marten moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of Stafford County's Chesapeake Bay Preservation Act 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, Stafford County be directed to undertake and complete the two recommended conditions contained in the staff report no later than March 31, 2013.

SECOND: Ms. Cowan

DISCUSSION: None

VOTE: Motion carried unanimously



### **Minutes from the December 12, 2011 Meeting**

MINUTES: Mr. Peschke moved that the minutes of the December 12, 2011 meeting of the Chesapeake Bay Local Assistance Board be approved as submitted by staff.

SECOND: Mr. Belote

DISCUSSION: None

VOTE: Motion carried unanimously

#### *City of Petersburg*

Ms. Salvati said that the City of Petersburg was deemed to be non-compliant at the June 2011 meeting. She said that construction activities were not consistent with a valid Erosion and Sediment Control ordinance. A deadline of December 2011 was established. Although the deadline has passed, the City is still not fully compliant.

Ms. Crosier said that at the last meeting of the Board, the City Manager had spoken and emphasized the City's commitment to improving its program. The City has now entered into a consent order that includes a schedule of compliance to bring their Erosion and Sediment Control program into compliance with the minimum standard.

Ms. Crosier said that the City is ahead of the compliance schedule and has begun conducting inspections. Staff will be meeting with City representatives in the next two weeks to discuss progress. She said that the hope is within the next six weeks to recommend that the City be designated as compliant.

Mr. Evans said that it would be nice to have this matter completed prior to the June Board meeting.

#### *Chesapeake Bay TMDL WIP Phase II Update*

Ms. Salvati said that the Phase II update of the Chesapeake Bay TMDL WIP has been submitted for final executive review. The document has also been sent to the stakeholder advisory group. She said that local governments have provided significant information that has been helpful.

Localities were given a deadline of February 1 to offer recommend strategies and resources to put BMPs in place. Staff received about 1,000 recommendations. These have been aggregated and addressed on a state scale, resulting about 500 recommended strategies.

### **New Business**

There was no new business.

**Public Comment**

There was no further public comment.

**Next Meeting**

The next meeting of the Chesapeake Bay Local Assistance Board will be Monday, June 18, 2012. Mr. Evans stressed the importance of member attendance.

**Adjourn**

There was no further business and the meeting was adjourned.

Respectfully submitted,

Gregory C. Evans  
Chairman

David A. Johnson  
Director