

VIRGINIA: At a Regular Monthly Meeting of the Board of Supervisors for the County of Accomack held in the Board of Supervisors Chambers in Accomac, Virginia on the 16<sup>th</sup> Day of April, A.D., 2014 at 5:00 p.m..

Members Present: Wanda J. Thornton  
Ron S. Wolff  
John Charles "Jack" Gray, Chair  
Kay W. Lewis  
Laura Belle Gordy  
Robert D. Crockett  
C. Reneta Major, Vice-Chair  
Donald L. Hart, Jr.

Member Absent: Grayson Chesser

Others Present: Steven B. Miner, County Administrator  
Mark B. Taylor, County Attorney  
Michael Mason, Finance Director  
Shelia Goodman, Administrative Assistant

### **Call to Order**

The meeting was called to order by the Chair and opened with a prayer by Robert C. Crockett., after which the Pledge of Allegiance to the Flag was recited.

### **Adoption of the Agenda**

Mr. Hart made a motion to adopt the Agenda. Mr. Wolff seconded the motion.

The motion was unanimously approved with Mr. Chesser absent.

### **Public Comments**

The County Attorney read the rules governing conduct during the Public Comment period.

No one spoke.

### **Minutes**

Mr. Hart made a motion to approve the Minutes of and March 19 and March 31, 2014 meetings. Mrs. Thornton seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

### **Resolution of Commendation**

Mr. Wolff read and presented the following Resolution of Commendation to E. Phillip Hickman.

#### **RESOLUTION OF COMMENDATION**

**WHEREAS**, E. Phillip Hickman was appointed to the Accomack County Planning Commission on March 18, 1992; and

**WHEREAS**, he served as Chairman of the Planning Commission for the last seven years, during which time he presided over many controversial matters which were before the Planning Commission; and

**WHEREAS**, Mr. Hickman has provided sound and steady leadership and has

been instrumental in developing a collaborative environment among Commission members; and

**WHEREAS**, he has provided the Planning Commission and County staff with a candid perspective and practical insight based on his knowledge of Accomack County and Planning principles; and

**WHEREAS**, Mr. Hickman has been a dedicated member of the Planning Commission for twenty-one years and during that time, has provided countless hours towards the betterment of the planning efforts of Accomack County; and

**WHEREAS**, among his numerous contributions to Accomack County are his efforts towards the development of an up-to-date, sound and balanced Comprehensive Plan; and

**WHEREAS**, he has been a conscientious and devoted member of the Accomack County Planning Commission and displayed the highest example of civic service; now

**THEREFORE, BE IT RESOLVED**, that the Accomack County Board of Supervisors does hereby recognize Mr. Hickman's years of dedicated service and leadership on the Planning Commission; and

**BE IT FURTHER RESOLVED** that the Accomack County Board of Supervisors hereby commends and thanks E. Phillip Hickman for his outstanding contributions and valuable public service to the County of Accomack and to the citizens of Accomack County.

**Proclamation Proclaiming May 17 through May 23, 2014 as National Safe Boating Week**

Mrs. Thornton and Ms. Major read and presented the following Proclamation proclaiming May 17 through May 23, 2014 as National Safe Boating Week to representatives from the Coast Guard Auxiliary.

**PROCLAMATION  
PROCLAIMING  
MAY 17 THROUGH MAY 23, 2014  
as  
NATIONAL SAFE BOATING WEEK**

Recreational boating is fun and enjoyable, and we are fortunate that we have sufficient resources to accommodate the wide variety of pleasure boating demands. However, our waterways can become crowded at times and be a place of chaos and confusion. While being a marvelous source of recreation, boating, to the unprepared, can be a risky sport. Not knowing or obeying the Navigation Rules or the nautical "Rules of the Road," drinking alcohol or taking drugs while operating a boat, or choosing not to wear your life jacket when doing so is clearly NOT the smart thing to do, are all examples of human error or a lack of proper judgment. One particular behavior that can reduce the number of boaters who lose their lives by drowning each year by approximately 80% is the wearing of a life jacket. It is a simple task that has the potential to reduce terrible loss in lives.

**Whereas**, on average, 800 people die each year in boating-related accidents in the U.S.; nearly 70% of these are fatalities caused by drowning; and

**Whereas**, the vast majority of these accidents are caused by human error or poor judgment and not by the boat, equipment, or environmental factors; and

**Whereas**, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets; and

**Whereas**, modern life jackets are more comfortable, more attractive, and more wearable than styles of years past and deserve a fresh look by today's boating public; and

**Whereas**, U.S. Coast Guard Auxiliary Flotilla 12-02 Painter and Flotilla 12-06 Chincoteague provides safe boating instruction for persons of all ages in order to prevent boating accidents and to teach rescue and survival techniques in case one does occur; now

**Therefore**, we, the Accomack County Board of Supervisors, do hereby support the goals of the North American Safe Boating Campaign and proclaim May 17-23, 2014, as National Safe Boating Week and the start of the year-round effort to promote safe boating. And I encourage all boaters to wear their life jackets, boat responsibly, and enroll in a safe boating class.

**In Witness Whereof**, we urge all those who boat to “Boat Smart. Boat Safe. Wear it.” and practice safe boating habits.

**Proclamation Recognizing the 100<sup>th</sup> Anniversary of the Smith-Lever Act Establishing Cooperative Extension**

Chairman Gray read and presented the Proclamation Recognizing the 100<sup>th</sup> Anniversary of the Smith-Lever Act Establishing Cooperative Extension to the Cooperative Extension Office.

**PROCLAMATION  
Honoring  
The Centennial of the Smith-Lever Act Establishing  
Cooperative Extension**

**WHEREAS**, The Smith-Lever Act of 1914 established the Cooperative Extension Service, a state-by-state national network of extension educators who extend the university-based research and knowledge to the people in the counties; and

**WHEREAS**, the Cooperative Extension System is a nationwide educational network that is a collaboration of federal, state and local governments and Virginia Tech and Virginia State University, the state's land-grant universities; and

**WHEREAS**, the mission of the Cooperative Extension System is to disseminate research-based information on topics as varied as nutrition and health, youth development, agriculture, horticulture, animal husbandry, small business and personal finance. Every U.S. state and territory has a central state Extension office at its land-grant universities and county offices staffed by professionals; and

**WHEREAS**, Cooperative Extension of Accomack County, serves its residents through faculty and staff providing educational programs and research to meet the needs of the county; and

**WHEREAS**, The Smith-Lever Act of 1914 established the Cooperative Extension Service, a state-by-state national network of Extension educators who extend the university-based research and knowledge to the people in the counties; and

**WHEREAS**, for 100 years, the Smith-Lever Act has stimulated innovative research and vital educational programs for youth and adults through progressive information delivery systems that improved lives and shaped a nation; and

**WHEREAS**, Cooperative Extension educational programs in the areas of Family and Consumer Sciences, Agriculture and Natural Resources, 4-H Youth Development, and Community Viability have benefitted producers, businesses, families and youth in Accomack County; now:

**THEREFORE, BE IT PROCLAIMED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ACCOMACK**, as follows.

That this Board, on behalf of the citizens of Accomack County recognizes the 100th Anniversary of the Smith-Lever Act that established Cooperative Extension. We honor and thank all the faculty and staff, past, present and future, of Virginia Cooperative

Extension of Accomack County who serve residents of all ages and backgrounds and that all residents continue to grow in awareness and support, and reap the benefits of the programs and services provided by Virginia Cooperative Extension of Accomack County.

### **Consent Agenda**

Mrs. Thornton asked item 5.4 – Schedule Public Hearing on Enterprise Zone Application be removed after Consent Agenda because she had a questions.

Mr. Wolff made a motion to approve the following items under the Consent Agenda with 5.4 moved to be voted on separately. Mr. Hart seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

- 5.2 To schedule a Public Hearing on May 21, 2014 at 7:30 p.m. in the Board Chambers to receive public comments for the Proposed Secondary Road Six-Year-Plan FY2014-2015 – 2015-2020 and Improvement Priorities for FY14-15,
- 5.3 A letter from the Planning Commission Outlining Its 2014 Schedule -
- 5.5 To renew contract with Robinson, Farmer, and Cox for the provision of auditing services for FY14 in accordance with the terms, conditions, and renewal provisions of RFP 239,
- 5.6 To renew contract with Draper Aden for providing engineering services related to groundwater matters for the term of May 17, 2014 – May 16, 2015 in accordance with the terms, conditions, and renewal provisions of RFP 250,
- 5.7 To renew contract with CHA Consulting for the term of May 17, 2014 – May 16, 2015, RFP 250 for Engineering Services for Landfills
- 5.8 Contract Renewal – RFP 225 Inmate Food Services –Approve renewal of contract with CBM Managed Services for the provision of inmate food services for the term of April 29, 2014 – April 28, 2015 in accordance with the terms, conditions, and renewal provision of RFP 225,
- 5.9 To renew contract with Eastern Shore News for the provision of advertising services for the period of November 1, 2013 – October 31, 2014 in accordance with the terms, conditions, and renewal provisions of RFP 260,
- 5.10 To approve surplus and disposal of items via auction, sealed bid, or a recycling company.
- 5.11 Policy Revision – Cellular Telephone Policy adopt the revised Cellular Telephone Policy. The original policy was adopted by the Board on September 20, 2006. The revision amends the provisions for allowing the use of a personnel cellular phone for County Business. The policy provides for a \$25 monthly allowance when the employee meets the issuance standards. Approval of the allowance shall be given by the Department Director and the County Administrator,
- 5.12 To request a VDOT to conduct a speed study for the installation of School Bus Stop signs in the vicinity of 27300 Nelsonia Road (Rte. 187), west of Nelsonia, Virginia,
- 5.13 Authorized the County Administrator to execute the Purchase Agreement and all legal documents necessary to complete the County's purchase of the Planning Office property located at 23282 Courthouse Avenue, Virginia, from Robert J. Bloxom. The Purchase price of \$189,400.00 is

equal to the current County assessment of the property. Closing will take place at the end of April 2014 or as soon thereafter as possible.

- 5.14 Adopted the following Resolution to participate in the Virginia Juvenile Community Crime Control Act (VJCCCA) and authorized the County Administrator to execute a local plan on behalf of the County of Accomack.

Virginia Juvenile Community Crime Control Act (VJCCA)

#### **RESOLUTION**

**Be it resolved** that Accomack County will participate in the Virginia Juvenile Community Crime Control Act and accept funds appropriate for the purpose set forth in this Act until it notifies the Department of Juvenile Justice, in writing, that it no longer wishes to participate.

**Be it further resolved** that the County of Northampton will combine with the governing body of Accomack County as it pertains to participation in the Virginia Juvenile Community Crime Control Act and funds appropriated for the purpose set forth in this Act until it notifies the Department of Juvenile Justice, in writing, that it no longer wishes to participate. Accomack County will act as fiscal agent for these localities.

**Be it further resolved** that the Accomack County Administrator is hereby authorized to execute a local plan on behalf of the County of Accomack.

- 5.15 The 2014 Summer Food Service Program Grant Submittal ACP&R – Approval to apply for the Virginia Department of Health’s Summer Foods Service Program grant submittal. Program will begin on June 23, 2014 and end on August 1, 2014,
- 5.16 A Memorandum of Understanding (MOU) with the Eastern Shore Soil & Water Conservation District for Ag Assessments and authorize the County Administrator to execute the MOU on behalf of Accomack County.

#### **Item Removed from Consent Agenda**

##### **Enterprise Zone Application**

Mrs. Thornton told Mr. Miner she would like to have additional information on the Enterprise Zone concerning what is proposed for Public Hearing and a copy of changes in the State Code concerning Enterprise Zones.

Mrs. Thornton made a motion to schedule a Public Hearing on May 21, 2014 at 7:30 p.m. in the Board Chambers to receive public comments a Public Hearing on the County’s Enterprise Zone Application. Mr. Hart seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

##### **Wallops Research Park Projects Update**

Mr. Miner introduced Julie Wheatley, Manager of the Wallops Research Park Project who gave progress report on the status of the Wallops Research Park since she became the Project Manager.

Caroline Massey, Assistant Director, Management Operations Directorate, NASA, gave a briefing on the projects, infrastructure to attract clients, and the Phase 1 Business Plan and noted that a consultant had been hired.

Bill Remington, Project Manager, gave a brief outline of the following two projects. 1) Construction Bid Contract 1 – Road and Utility Extensions, and 2) Construction Design/Build Contract 2 - Taxiway, and explained same.

**Contract Award-IFB 671 WRP Road and Utilities Phase 1–**

Mr. Wolff made a motion to approve award the contract to the low bidder, Dixie Construction, in the amount of \$1,565,422.60 for Wallops Research Park Phase 1 Roads and Utilities as recommended by the Wallops Research Leadership Council, Timmons Group Engineers, and staff. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

**Contract Award –RFP 270 WRP Taxiway Design/Build –**

Mr. Wolff made a motion to approve the award for RFP 270 to E. V. Williams, Inc. for design and construction of Wallops Research Park Taxiway in the final negotiated amount of \$4,493,000. Mrs. Thornton seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

**Enterprise Zone Application Update**

Mr. Tom Brockenbrough, GIS Coordinator, gave an update and an overview related to the Enterprise Zone application and provided information about the program and the direction the Enterprise Zone was headed. He informed the Board the current Enterprise Zone, which is a joint project with Northampton County, has paid out \$1.5 million in grants to assist businesses along Route 13. He detailed the following:

- 1) That in Accomack County all election districts except District 5 had gotten part of the \$1.5 million;
- 2) That a new map has to be submitted outlining a request for continuing an Enterprise Zone and the benefits,
- 3) Explained the zone and noted it could be changed once every 12 months and on a statewide basis there are fewer slots each year and there were only 5 more slots available, and
- 4) That there were 15 applications for the June 30, 2014 approval process.

Mr. Brockenbrough responded to questions from the Board.

### **Virginia Juvenile Community Crime Control Act (VJCCCA) Grant Update**

Mrs. Erica Lawson, Director, 2A District Court Service Unit, stated the Deputy Director of Operations with the Department of Juvenile Justice issued a directive to Court Service Units that local positions funded through VJCCCA are not to be supervised by Court Service Unit staff effective with the FY15-Plan, beginning July 1, 2014. She gave an overview of the VJCCCA Program and what it provides for the juveniles. She said they had been requested to establish a clear line of authority through local government when funding the VJCCCA position that provides direct services to Court Service Unit referred juveniles; that a solution had not been established at the present time, but a plan would need to be developed with the locality for the transition of the supervision effective July 1, 2014. It was the consensus of the Board of Supervisors to have Mr. Miner research and determine why the State proposed to change its current plan.

### **Flood Map Review – Open House**

Mr. David Fluhart, Building and Zoning Director, presented new FEMA flood maps that will affect insurance rates for any mortgage or home equity loan in Accomack County. He told the Board there would be a public open house on Tuesday, May 13 at Metompkin Elementary School located at 24501 Parksley Road in Parksley Virginia from 5:00p.m. until 8:00p.m. for the public to review all the new maps. He said of the approximately 25,000 addresses in Accomack County, 3,400 would be affected by the floodplain. He said that this number would be reduced to approximately 2,300 which would mean 1,103 addresses will be removed from being subject to flood insurance and that the northern bayside of the County approximately 240 addresses in that area would see an increase in their flood insurance; that the County has a rating that would save property owners 10 percent on flood insurance which would equate to approximately \$245,000 in premiums and this would be a savings of about \$88 per policy. He also noted that the floodplain maps would be available for review on the County website before the Thursday, May 13 meeting and responded to questions from the Board.

### **Appointments**

#### **Accomack County Planning Commission (4 year term)**

Mrs. Lewis made a motion to appoint Stephen D. Corazza to the Accomack County Planning Commission to fill the unexpired term of Mr. George T. Parker who had resigned, beginning immediately and immediately on December 31, 2016. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

## **Payables**

Upon certification by the County Administrator, Mr. Hart made a motion to approve the Payables. Ms. Major seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

## **Recess**

By consensus, the Chair recessed the meeting until 7:30p.m.

## **Call to order**

The Chair called the meeting back to order.

## **Conditional Use Permit –Town Center Utility Facility, Inc. – Public Hearing**

County Attorney Mark Taylor read the rules governing conduct during Public Hearings.

Rich Morrison, Director of Planning and Community Development, told the Board that staff was requesting the Board of Supervisors approval of the Conditional Use Permit request from Town Center Utility Company, Inc., as recommended by the Accomack County Planning Commission on March 12, 2014, to allow for a central water and sewer facility as shown in application filed on February 4, 2014 and as depicted in the site plan package entitled “Town Center at Wallops Island Spaceport developed by Atlantic Group & Associates, Inc., which consists of sheets C-101 and C-102 and is dated February 4, 2014 for tax map numbers 27-A-115 and 27-A-116, subject to conditions 1-9, as prescribed by the Accomack County Planning Commission.

Mr. Mark Baumgartner Attorney for Atlantic Town Center, Inc., addressed the concern of the noise and said he felt he could comply with all the conditions and move forward with the project. A lengthy discussion ensued with Mr. Baumgartner responding to questions.

The Chair opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning a request for a Conditional Use Permit by Town Center Utility Company, Inc. to allow for a central water and sewer facility

The following comments were received:

Ronnie Thomas, Atlantic, addressed concerns including the noise, plant being too close to residences, smell, chemical storage, and the roadway.

Garrett Dickerson, Wattsville, addressed concerns about the roads, chemical storage.

Robert Tittle, Greenbackville, addressed concerns about the Atlantic Town Center Project, the widening of the road, water bills, and noise.

The Chair closed the Public Hearing.

Mr. Wolff made a motion to postpone any action on the Town Center Utility Company, Inc. Conditional Use Permit until March 22nd at 5:00p.m., to allow Mr. Chesser, who was absent due to illness, to be present, and that there would be no public participation. Ms. Major seconded the motion. A discussion ensued. Ayes: Mrs. Thornton, Mr. Wolff, Mrs. Lewis, Mr. Gray, Mr. Crockett, Ms. Major, Mr. Hart Nays: Mrs. Gordy. Absent: Mr. Chesser

### **Proposed Local Stormwater Management Ordinance Public Hearing**

Mr. Norman Pitt, Environmental Program Manager, told the Board as staff was preparing prepared for the public hearing, changes to the Stormwater law took effect on March 24, 2014. He said Senate Bill 423 was approved by the Governor. Mr. Pitt said on April 1, 2014, Noah Hill of DEQ provided the County with the updates to the ordinance and an updated implementation schedule. He said the County received the State's comments to the draft ordinance that was submitted on January 15, 2014.

Listed below are several key changes that have been made to the draft ordinance because of updated legislation:

- Reciprocity with programs in other states for the certification of proprietary best management practices (BMP's).
- The bill alters the permitting appeals process and allows for an agreement in lieu of a stormwater management plan, and it directs the State Water Control Board to adopt regulations relating to the issuance of permits for parcels in subdivisions.
- The bill also allows the submission of an agreement in lieu of a plan where land disturbing activity results from the construction of single family residence.
- The bill exempts single family residences from payment of the Department's portion of the fee for the State General Permit.

Mr. Pitt told the Board that staff had asked John Salm of J. W. Salm Engineering, Inc. to make comments on the draft ordinance with the newly proposed laws. One of the items mentioned were the civil charges in the ordinance that could be lowered.

Mr. Pitt told the Board the Bill gave localities the option to opt in/opt out which meant the County could turn the program over to the State or the County could run their own program. He explained in detail the Agreement in Lieu of a Plan and the reasons to have the County administer the program and reasons to have the State administer the program.

A lengthy discussion ensued and Mr. Pitt responded to questions from the Board.

The Chair opened the Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the following draft Stormwater Management Ordinance.

## ACCOMACK COUNTY DRAFT STORMWATER MANAGEMENT ORDINANCE

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APRIL 16, 2014

# Accomack County Stormwater Management Ordinance

## ACCOMACK COUNTY STORMWATER MANAGEMENT ORDINANCE

Pursuant to Virginia Code §[62.1-44.15:27](#), Accomack County is required to adopt a Stormwater Management Ordinance and establish a Stormwater Management Program.

### **1-1. PURPOSE AND AUTHORITY. (Section [9VAC25-870-20](#), [9VAC25-870-40](#))**

- (a) The purpose of this Ordinance is to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- (b) This Ordinance is adopted in accordance with Article 2.3 (§[62.1-44.15:24](#) et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

### **1-2. DEFINITIONS. ([9VAC25-870-10](#))**

In addition to the definitions set forth in [9VAC25-870-10](#) of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Administrator*" means the County Administrator or designee.

"*Agreement in lieu of a stormwater management plan*" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

"*Appeals Board*" means the VSMP authority, including local officials to be appointed by the Board of Supervisors. The Appeals Board will consist of an engineer, local developer, and an individual from the local Eastern Shore Soil and Water Conservation District.

"*Applicant*" means any person submitting an application for a permit or requesting issuance of a permit under this Ordinance.

"*Best management practice*" or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"*Chesapeake Bay Preservation Act land-disturbing activity*" means a land-disturbing activity, including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in the area delineated as the Chesapeake Bay Watershed on the official zoning map of Accomack County.

"*Common plan of development or sale*" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"*Control measure*" means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"*Clean Water Act*" or "*CWA*" means the federal Clean Water Act ([33 U.S.C §1251](#) et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"*Department*" means the Department of Environmental Quality.

"*Development*" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreational, transportation or

utility facilities or structures, or the clearing of land for non-agricultural or non-silvicultural purposes.

*"General permit"* means the state permit titled GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV ([9VAC25-880-1](#) et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

*"Land disturbance"* or *"land-disturbing activity"* means a man-made change to the land surface that potentially changes its runoff characteristics, including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Section 1-3 (c) of this Ordinance.

*"Layout"* means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

*"Minor modification"* means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

*"Operator"* means the owner or operator of any facility or activity subject to regulation under this Ordinance.

*"Permit"* or *"VSMP authority permit"* means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable.

*"Permittee"* means the person to whom the VSMP Authority Permit is issued.

*"Person"* means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

*"Regulations"* means the VSMP Permit Regulations ([9VAC25-870](#)) as amended.

*"Site"* means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channel ward of mean low water in tidal Virginia shall not be considered part of a site.

*"State"* means the Commonwealth of Virginia.

*"State Board"* means the State Water Control Board.

*"State permit"* means an approval to conduct a land-disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and Regulations, the Virginia Stormwater Management Act and the Regulations.

*"State Water Control Law"* means Chapter 3.1 ([§62.1-44.2](#) et seq.) of Title 62.1 of the Code of Virginia.

*"State waters"* means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

*"Stormwater"* means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

*"Stormwater management plan"* means a document(s) containing material describing methods for complying with the requirements of Section 1-6 of this Ordinance.

*"Stormwater Pollution Prevention Plan"* or *"SWPPP"* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and requirement the implementation of control measures and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in [Section 78-3](#) of Accomack County's Subdivision Ordinance.

"Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDL's can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Virginia Stormwater Management Act" or "Act" means Article 2.3 ([62.1-44.15:24](#) et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

### **1-3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.**

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator or designee in accordance with the provisions of this Ordinance.
- (b) A Chesapeake Bay Preservation Act Land-Disturbing Activity shall be subject to an erosion and sediment control plan consistent with the requirements of the Erosion and Sediment Control Ordinance, a stormwater management plan as outlined under Section 1- 6, the technical criteria and administrative requirements for land-disturbing activities outlined in Section 1-9, and the requirements for control measures long-term maintenance outlined under Section 1-10. Such land-disturbing activities shall not require completion of a registration statement or require coverage under the General Permit for Discharges of Stormwater from construction activities.
- (c) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
  - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
  - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 ([§10.1-1100 et seq.](#)) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of [§10.1-1163](#) of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
  - (3) Single-family residences separately built and disturbing less than one acre of land area and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
  - (4) Land-disturbing activities that disturb less than one acre of land area and not part of a larger common plan of development or sale that includes one acre or more of disturbance, except that CBPA land disturbing activities must comply with the requirements outlined under Section 1-3(b);
  - (5) Discharges to a sanitary sewer or a combined sewer system;

- (6) Activities under a State or Federal reclamation program to return an abandoned property to an agricultural or open land use;
- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and
- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator or designee shall be advised of the disturbance within 7 days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.

**1-4. STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.**

- (a) Pursuant to [§62.1-44.15:27](#) of the Code of Virginia, Accomack County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMP's promulgated by the State Board for the purposes set out in Section 1-1 of this Ordinance. The Board of Supervisors hereby designates the County Administrator or designee as the Administrator of the Virginia stormwater management program.
- (b) No VSMP authority permit shall be issued by the Administrator or designee until the following items have been submitted to and approved by the Administrator or designee as prescribed herein:
  - (1) A permit application that includes a general permit registration statement;
  - (2) An erosion and sediment control plan approved in accordance with the Accomack County Erosion and Sediment Control Ordinance [Chapter 38, Article III];
  - (3) A stormwater management plan that meets the requirements of Section 1-6 of this Ordinance.
- (c) No VSMP authority permit shall be issued until general permit coverage is obtained.
- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 1-15 are received or a reasonable performance bond received pursuant to Section 1-15 of this Ordinance has been submitted.
- (e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing; construction, disturbance, land development and drainage will be done according to the approved permit.
- (f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator or designee.

**1-5. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.**

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section [9VAC25-870-54](#) and must also comply with the requirements and general information set forth in Section [9VAC25-880-70, Section II](#) [stormwater pollution prevention plan] of the general permit.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

**1-6. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.**

- A. A stormwater management plan, or where appropriate, an agreement in lieu of a stormwater management plan, shall be developed and submitted to the VSMP authority. The stormwater management plan shall be implemented as approved or modified by the VSMP authority and shall be developed in accordance with the following:
- (1) The Stormwater Management Plan required in Section 1-4 of this Ordinance must apply the stormwater management technical criteria set forth in Section 1-9 of this Ordinance to the entire land disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.
  - (2) A Stormwater Management Plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- B. A complete Stormwater Management Plan, or where appropriate, an agreement in lieu of a stormwater management plan, shall include the following elements:
- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged, including surface waters or karst features if present, and pre-development and post-development drainage areas;
  - (2) Contact information including the name, address, and telephone number of the owner and the tax map reference number(s) and parcel number(s) of the property or properties affected;
  - (3) A narrative that includes a description of current site conditions and final site conditions or if allowed by the VSMP authority, the information provided and documented during the review process that addresses the current and final site conditions;
  - (4) A general description of the proposed stormwater facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
  - (5) Information on the proposed stormwater management facilities, including:
    - (i) The type of facilities;
    - (ii) Location, including geographic coordinates;
    - (iii) Acres treated; and
    - (iv) The surface waters or karst features into which the facility will discharge.
  - (6) Hydrologic and hydraulic computations, including runoff characteristics;
  - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of the VSMP Regulations.
  - (8) A map or maps of the site that depicts the topography of the site and includes:
    - (a) All contributing drainage areas;
    - (b) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    - (c) Boring locations and associated data locating the seasonal high water table;
    - (d) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
    - (e) Current land use, including existing structures, roads, and locations of known utilities and easements;
    - (f) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
    - (g) The limits of clearing and grading and the proposed drainage patterns on the site;
    - (h) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
    - (i) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities,

roads, and easements.

(9) If an operator intends to meet the requirements established in 9VAC25-870-63 or 9VAC25-870-66 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and

(10) If payment of a fee is required with the stormwater management plan submission by the VSMP authority, the fee and the required fee form in accordance with Part XIII must have been submitted.

C. Elements of the stormwater management plans that include activities regulated under Chapter 4 (§[54.1-400 et seq.](#)) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§[54.1-400 et seq.](#)) of Chapter 4 of Title 54.1 of the Code of Virginia.

D. A construction record drawing for permanent stormwater management facilities shall be submitted to the VSMP authority with 9VAC25-870-108 and 9VAC25-870-112. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

### **1-7. POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.**

A. Pollution Prevention Plan required by [9VAC25-870-56](#), shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

B. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

(1) Wastewater from washout of concrete, unless managed by an appropriate control;

(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;

(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

(4) Soaps or solvents used in vehicle and equipment washing.

C. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

### **1-8. REVIEW OF STORMWATER MANAGEMENT PLAN.**

A. The Administrator or designee shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:

(1) The Administrator or designee shall determine the completeness of a plan in accordance with Section 1-6 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is

deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.

- (2) The Administrator or designee shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then the plan shall be deemed complete and the Administrator or designee shall have 60 calendar days from the date of submission to review the plan.
- (3) The Administrator or designee shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
- (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.
- (5) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.

B. Approved stormwater plans may be modified as follows:

- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator or designee. The Administrator or designee shall have 60 calendar days to respond in writing either approving or disapproving such request.
- (2) The Administrator or designee may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator or designee, to address any deficiencies noted during inspection.

C. The Administrator or designee shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator or designee may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 1-10 (b).

**1-9. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.**

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, A c c o m a c k C o u n t y hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include [9VAC25-870-63](#) [water quality design criteria requirements]; [9VAC25-870-65](#) [water quality compliance]; [9VAC25-870-66](#) [water quantity]; [9VAC25-870-69](#) [offsite compliance options]; [9VAC25-870-72](#) [design storms and hydrologic methods]; [9VAC25-870-74](#) [stormwater harvesting]; [9VAC25-870-76](#) [linear development project]; and [9VAC25-870-85](#) [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (b) of this Section.

A. Any land disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:

- (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of the VSMP Regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
- (2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

B. Locality, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:

(1) There has been an obligation of locality, state or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

C. Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of the VSMP Regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

D. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

E. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

#### **1-10. LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES.**

A. The Administrator or designee shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator or designee and shall at a minimum:

(1) Be submitted to the Administrator or designee for review and approval prior to the approval of the stormwater management plan;

(2) Be stated to run with the land;

(3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;

(4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator or designee; and

(5) Be enforceable by all appropriate governmental parties.

B. At the discretion of the Administrator or designee, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator or designee that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator or designee.

C. If a recorded instrument is not required pursuant to Subsection 1-10 (b), the Administrator or designee shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator or designee.

## **1-11. MONITORING AND INSPECTIONS.**

- A. The Administrator or designee shall inspect the land-disturbing activity during construction for:
- (1) Compliance with the approved erosion and sediment control plan;
  - (2) Compliance with the approved stormwater management plan;
  - (3) Development, updating, and implementation of a pollution prevention plan;  
and
  - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- B. The Administrator or designee may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.
- C. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator or designee may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- D. Pursuant to [§62.1-44.15:40](#) of the Code of Virginia, the Administrator or designee may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish, when requested, such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.
- E. Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or designee pursuant to the County's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 1-10.

## **1-12. HEARINGS.**

- (a) Any permit applicant, permittee, or person subject to permit requirements under this Ordinance aggrieved by any action of the Administrator taken without a formal hearing, or by inaction of the Administrator or designee, may request, in writing, a formal hearing by the Administrator or designee causing such grievance, provided a petition requesting such hearing is filed with the Administrator or designee within 30 days after notice of such action or inaction.
- (b) The hearings held under this Section shall be conducted by the Appeals Board at a scheduled meeting.
- (c) A record of the proceedings of such hearings shall be taken and filed at the County Administrator's office. Depositions may be taken and read as in actions at law.
- (d) The Board shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the Board in the manner prescribed in [Va. Code §62.1-44.15:44](#). Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions.

## **1-13. APPEALS.**

- (a) Appeals of the Appeals Board decision shall be made in the Accomack County Circuit Court pursuant to [Va. Code §62.1-44.15:46](#). Such appeals shall be made to the Court within 30 days of the action by the Appeals Board.

## 1-14. ENFORCEMENT.

A. If the Administrator or designee determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator or designee.

(2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator or designee may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit, to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his/her address specified in the land records of the locality, or by personal delivery by an agent of the Administrator or designee. However, if the Administrator or designee finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 1-14 (c).

B. In addition to any other remedy provided by this Ordinance, if the Administrator or designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate informal and/or formal administrative enforcement procedures.

C. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator or designee may be compelled in a proceeding instituted in the Accomack County Circuit Court by Accomack County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

D. Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator or designee, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the Court. Each day of violation of each requirement shall constitute a separate offense.

(1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:

- (i) No state permit registration;
- (ii) No SWPPP;
- (iii) Incomplete SWPPP;
- (iv) SWPPP not available for review;
- (v) No approved erosion and sediment control plan;
- (vi) Failure to install stormwater BMPs or erosion and sediment controls;
- (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (viii) Operational deficiencies;
- (ix) Failure to conduct required inspections;
- (x) Incomplete, improper, or missed inspections; and
- (xi) Discharges not in compliance with the requirements of Section [9VAC25-880-](#)

[70](#) of the general permit.

- (2) The Administrator or designee may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
  - (3) In imposing a civil penalty pursuant to this Subsection, the Court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
  - (4) Any civil penalties assessed by a court as a result of a summons issued by Accomack County shall be paid into the treasury of Accomack County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the Court may, by order, direct.
- E. Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator or designee, any condition of a permit, or any order of a Court shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

**1-15. FEES.**

When a site or sites are purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to the following table.

Fee type	Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$81
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale	\$9,600	\$2,688

with land disturbance acreage equal to or greater than 100 acres)		
Individual Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000	\$15,000

\* If the project is completely administered by the Department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the Department.

**9VAC25-870-820. Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.**

The following fees apply, until June 30, 2014, to coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the department prior to a VSMP authority being approved by the board in the area where the applicable land-disturbing activity is located, or where the department has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency.

General/Stormwater Management- Phase I Land Clearing (“Large” Construction Activity- Sites or common plans of development equal to or greater than five acres.	\$750
General/Stormwater Management- Phase II Land Clearing (“Small” Construction Activity- Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450
General/Stormwater Management- Small Construction Activity/Land Clearing (Sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one acre) (Fee valid until July 1, 2014)	\$200
Individual Permit for Discharges of Stormwater from Construction Activities	\$15,000

The following total fees to be paid by applicant apply to (i) any operator seeking coverage under the a July 1, 2014 General Permit for Discharges of Stormwater from Construction Activities for or (ii) on or after July 1, 2014 to any operator seeking coverage under a General Permit for Discharges of Stormwater from Construction Activities, a state or federal agency that does not file annual standards and specifications or an individual permit issued by the board. On and after approval by the board of a VSMP authority for coverage under the General Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the base total fee to be paid by applicant set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with 9VAC25-870-108. The remaining total fee to be paid by applicant balance shall be due prior to the issuance of coverage under the General Permit for Discharges of Stormwater from Construction Activities.

The following fees apply, on or after July 1, 2014 to coverage under the General Permit for Discharges of Stormwater from Construction Activities issues by the board for a state or federal agency that has annual standards and specifications approved by the board.

General/Stormwater Management- Phase I Land Clearing (“Large” Construction Activity- Sites or common plans of development equal to or greater than five acres.	\$750
General/Stormwater Management- Phase II Land Clearing (“Small” Construction Activity- Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450

**9VAC25-870-825. Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities.**

The following fees apply to modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities issued by the board. If the state permit modifications result in changes to stormwater management plans that require additional review by the VSMP authority, such reviews shall be acreage of the site. In addition to the state permit medication fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in 9VAC25-870-820. No modification or transfer fee shall be required until such board-approved programs exist. These fees shall only be effective when assessed by a VSMP authority, including the department when acting in that capacity that has been approved by the board. No modification fee shall be required f or the General Permit for Discharges of Stormwater form Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but apply to all other state or federal agency projects.

Type of Permit	Fee Amount
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700
Individual Permit for Discharges of Stormwater from Construction Activities	\$5,000

Jim Belote, Onancock, offered comments concerning the proposed Stormwater Management Ordinance, property rights, and said he did not want the State to administer the program.

The Chair closed the Public Hearing.

Mr. Hart made a motion to authorize the County Administrator to return the paperwork to the State notifying them that the County would opt in and administer its Stormwater Program. Ms. Major seconded the motion.

A discussion ensued.

The motion was unanimously approved with Mr. Chesser absent.

### **Draft Rural Additions (Roads) Policy**

Stewart Hall, Public Works Director presented the following draft Rural Additions (Roads) Policy to the Board which had previously been requested. He explained the policy and said that the policy identified the County's procedures for processing requests for existing roads to be transferred into state maintenance.

He said the primary purpose of this policy was to define the procedures that the County will follow when receiving, evaluating, and managing requests for roads to be accepted into state maintenance.

	<b>SUBJECT:</b> <b>PROCESS FOR ACCEPTING EXISTING ROADS INTO STATE MAINTENANCE</b>	
	<b>POLICY NUMBER:</b> <b>XXX.X</b>	<b>PAGE:</b> <b>1 OF 4</b>
	<b>EFFECTIVE DATE:</b> <b>3/20/2014</b>	<b>REVISED DATE:</b> <b>3/20/2014</b>

**OVERVIEW:** This policy identifies and defines the County’s procedures for processing requests for existing roads to be transferred into state maintenance. By defining these procedures, the County intends to help citizens by providing guidance and also assuring that public resources are used in a fair, consistent, and efficient manner. The primary purpose of this policy is to define the procedures that the County will follow when receiving, evaluating, and managing requests for roads to be accepted into state maintenance.

**DEFINITIONS:**

1. Rural Addition Program: A program for adding roads into state maintenance with the purpose of adding public roads that exist as a result of past development. These roads either could not be, or were not proposed to be, accepted as part of the secondary system of state highways. **Program applies only to roads that were created prior to July 1, 1992.**
2. Virginia Department of Transportation (VDOT): The Commonwealth agency responsible for building, maintaining, and operating the state’s roads, bridges, and tunnels.

**PROVISIONS:**

**A. Background**

The Code of Virginia, § 33.1-72.1, provides the basis for what is known as the Rural Addition Program. This program has many requirements. For roads that ultimately meet the requirements and are approved, actual construction (to include paving) may take several years from the time the initial request is made. Details on this program can be found at the VDOT website ([www.virginiadot.org](http://www.virginiadot.org)). The information below provides a brief overview.

**General Requirements**

Roads must...

- have been created prior to July 1, 1992.
- be formally added to the system prior to improvements. This requires a formal resolution by the Board of Supervisors to approve the addition of roads to the secondary system of state highways and request VDOT maintenance.

	<b>SUBJECT:</b> <b>PROCESS FOR ACCEPTING EXISTING ROADS INTO STATE MAINTENANCE</b>	
	<b>POLICY NUMBER:</b> <b>XXX.X</b>	<b>PAGE:</b> <b>2 OF 4</b>
	<b>EFFECTIVE DATE:</b> <b>3/20/2014</b>	<b>REVISED DATE:</b> <b>3/20/2014</b>

- be available for the public to use 24 hours per day.  
**Note: A current, recorded plat that indicates the road is “private and not to be maintained by VDOT, Accomack County, Commonwealth of Virginia, or any other municipality” automatically disqualifies the road from consideration.**
- have a right of way that is available to be dedicated to public use and is:
  - wide enough (usually 40 feet) to meet minimum safety standards.
  - sufficient to permit future maintenance.
  - be unencumbered by utility placements.
- serve at least three occupied homes.
- be able to safely handle the traffic volume.
- connect to other roads already maintained by VDOT or a locality.
- have an identified funding source to be used to finance any improvements that are needed.
- have a certified copy of the plat indicating right of way, drainage easements, place of recordation, and a detailed record of lot ownership.

**Additional Program Conditions**

- Rural addition funds administered by VDOT are reserved for construction and engineering costs only. Costs for providing a clear, unencumbered right of way (including relocation of utilities) and outfall drainage work are not eligible expenses covered by rural addition funds.
- Rural additions to the secondary system are limited during any one fiscal year to not more than 1-1/4% of each county’ s secondary mileage.

- Ownership or partnership in two or more parcels, or equivalent frontage, abutting the road shall constitute a **speculative interest**. Speculative interests are assessed a pro rata share of the improvement costs.

	<b>SUBJECT:</b> <b>PROCESS FOR ACCEPTING EXISTING ROADS INTO STATE MAINTENANCE</b>	
	<b>POLICY NUMBER:</b> <b>XXX.X</b>	<b>PAGE:</b> <b>3 OF 4</b>
	<b>EFFECTIVE DATE:</b> <b>3/20/2014</b>	<b>REVISED DATE:</b> <b>3/20/2014</b>

**B. Program Consideration**

Written requests for consideration of road additions are received by the Public Works Director. Written requests must be accompanied by completed, signed, and notarized questionnaires from the owners of 75 percent or more of the platted parcels of land abutting the road, indicating their consent to dedicate the required right of way and their understanding that a special assessment (or private funding in the case of speculative interests) will be required. The Director will keep a log of all requests.

**C. County Review of Requests and Ranking**

In July of each year, provided the unallocated rural addition funds balance is greater than \$50,000, the Public Works Director will convene a meeting of the Road Additions Committee. This Committee consists of three members: the Public Safety Director or his/her designee, the Planning Director or his/her designee, and the Public Works Director or his/her designee.

The Committee will make a site visit to each road requested to observe current conditions and meet with interested landowners. Each Committee member will complete a rating form for each road. The form will be used to develop a total score for each road. The Public Works Director will calculate the mean of the individual scores to arrive at an average total score for each road.

The two roads receiving the highest average total scores will undergo further investigation by County staff, in consultation with VDOT representatives, to make a preliminary determination as to whether the roads are expected to qualify.

**D. Road Recommendations**

During the month of September following a County Review, the Committee will make a staff recommendation to the County Administrator and Board of Supervisors that VDOT be requested to perform a detailed qualification review(s) and prepare a cost estimate(s) for up to two roads resulting from the County Review, providing the road(s) appear likely to qualify. The committee will supply VDOT with any reference materials (e.g. deeds, plats, tax maps, drainage information) that have been compiled on the project(s) under consideration.

When the requested information has been received, the Public Works Director will convene a meeting of the Road Additions Committee, the Finance Director, the Ditch Maintenance Supervisor, and one or more VDOT representatives to review.

	<b>SUBJECT:</b> <b>PROCESS FOR ACCEPTING EXISTING ROADS INTO STATE MAINTENANCE</b>	
	<b>POLICY NUMBER:</b> <b>XXX.X</b>	<b>PAGE:</b> <b>4 OF 4</b>
	<b>EFFECTIVE DATE:</b> <b>3/20/2014</b>	<b>REVISED DATE:</b> <b>3/20/2014</b>

During the review of the Secondary Six-Year Plan (SSYP), the Road Additions Committee will make final recommendations to the County Administrator and Board of Supervisors.

**E. Non-Qualifying Roads**

Roads that have been determined to not qualify for the Rural Addition Program are not eligible for review in subsequent years unless there has been a change in road status or program requirements that renders them qualified.

**F. Program Funding**

The County is allowed to set aside five percent of the secondary road construction funds that are allocated in order to improve qualifying roads that are not state maintained. Rollover of these funds can be for five years and they may be used to fund one-half of the qualifying rural addition cost to bring the road up to the necessary minimum standards for acceptance. The other one-half of the qualifying rural addition cost must come from special assessments and county revenue. In Accomack County, special assessments shall be the primary means for funding the non-state portion of the qualifying rural addition cost, in addition to the costs for the required legal work, surveying, utility relocation, and outfall drainage improvements. No special assessment shall be made unless the Board receives written declarations from the owners of 75 percent or more of the platted parcels of land abutting the road stating their acquiescence in such assessments. For Accomack County, the basis of the special assessments shall be the proportion the value of each abutting parcel bears to total value of all abutting parcels on the road as determined by the current evaluation of the property for real estate

tax purposes. No such special assessment on any parcel shall exceed one-third of the current evaluation of such property for real estate tax purposes, excluding speculative interest parcels. For special assessments related to the Rural Additions Program in Accomack County, in no circumstances shall the collection term exceed 15 years. Special assessments will be billed to the landowner on an annual basis by the Treasurer who is also responsible for collection enforcement.

**G. Project Commencement**

Once funding has been secured and a project formally approved by the Board of Supervisors, County staff will work with VDOT representatives to complete the remaining requirements. Once all requirements have been met and the road added to the secondary system, VDOT will schedule and complete the construction.

A lengthy discussion took place concerning private roads, gravel roads, and state roads.

Mrs. Thornton made a motion to appoint Ms. Major to the Road Conditions Committee when it was formed. Mr. Wolff seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

**Board of Supervisors Comment Period**

Mrs. Gordy reported the Tourism had “The Sky is the Limit” summit last week and said it was a success in promoting Tourism on the Eastern Shore and was well attended.

**Closed Meeting**

Mr. Wolff made a motion to go into Closed Meeting for the following purposes. Mr. Crockett seconded the motion. The motion was unanimously approved with Mr. Chesser absent.

1. Pursuant to subsection 2.2-3711A(1) for discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and

**Open Session**

The Chair declared the meeting open to the public.

**Certification of Closed Meeting**

Mr. Hart made the motion to reconvene in Opening Meeting and to certify by roll call vote, pursuant to Section 2.2-3712 (D) of the Code of Virginia, 1950 as amended, that to the best of each member’s knowledge the only matters heard, discussed, or considered during the Closed Meeting were (1) public business matters lawfully exempted matters as were identified in the motion by which the Closed Meeting was convened. Ms. Major seconded the motion. The motion was unanimously approved.

**Roll Call**

Ayes:	Mrs. Thornton	Mr. Wolff	Mrs. Gordy
	Mr. Gray	Mrs. Lewis	Mr. Hart
	Mr. Crockett	Ms. Major	Nays: None

Absent: Mr. Chesser

**Adjournment**

Mrs. Thornton made a motion to adjourn to Tuesday, April 22, 2014 at 5:00 p.m. in the Board of Supervisors Chambers. Mr. Wolff seconded the motion. The motion was unanimously approved. The meeting adjourned at 9:40p.m.

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John Charles "Jack" Gray, Chair

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Date