

VIRGINIA:

At a recessed meeting of the Board of Supervisors of the County of Northampton, Virginia, held in the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 28th day of April, 2014, at 5:00 p.m.

Present:

Larry LeMond, Chairman

Richard L. Hubbard, Vice Chairman

Laurence J. Trala

Granville F. Hogg, Jr.

Oliver H. Bennett

The meeting was called to order by the Chairman.

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that a late-arriving item be added to the agenda as Action Item #6 – two contracts relative to home elevation in Red Bank. All members were present and voted “yes.” The motion was unanimously passed.

Mr. Hogg indicated that he had several items which he would like added to the agenda as identified below.

Motion was made by Mr. Hogg that a stormwater issue on Townfield Road be added to the agenda. Due to lack of a second, the motion failed.

Motion was made by Mr. Hogg that stormwater management pond maintenance, generally, be added to the agenda. Due to lack of a second, the motion failed.

Motion was made by Mr. Hogg that a traffic safety issue at the median crossing south of the Cape Charles Light be added to the agenda. There was no second to the motion; however, the Chairman suggested that VDOT officials may be able to answer those questions later in the

meeting.

Motion was made by Mr. Hogg that an item relative to signage as it relates to economic development be added to the agenda. Mr. Bennett indicated that he would second the motion, provided that Mr. Hogg's questions were not answered by VDOT.

Motion was made by Mr. Hogg that an item relative to how we might improve the image of Northampton County with regard to what can be viewed from the public roads be added to the agenda. Due to lack of a second, the motion failed.

Motion was made by Mr. Hogg that the Board consider temporarily withdrawing both proposals (zoning and removal of the seaside Bay Act) and that the Board clearly state the purpose of the amendment to the agenda is to have a discussion about a temporary withdrawal of both these proposals to allow more participation by the citizens. Due to lack of a second, the motion failed.

Chairman LeMond asked that, in the future, Mr. Hogg would contact either himself, the Vice Chairman, or the County Administrator in order to place items on the Board's agenda in advance.

Board & Agency Presentations:

(1) Delegate Robert S. Bloxom, Jr., addressed the Board and updated the members on activities of the Virginia House of Delegates, indicating that they are still working on the state budget. Mr. Hubbard questioned Delegate Bloxom with regard to the Transient Occupancy Tax request which was contained on last year's legislative agenda (*support legislation to extend in the imposition and collection of the local transient occupancy tax to state owned parks and campgrounds that provide for lodging*). Delegate Bloxom indicated that he was hopeful that he would be able to assist.

(2) Mr. Tony Gibson, AICP, and Mr. Chris Isdell of the Virginia Department of Transportation shared with the Board the following powerpoint presentation with regard to the VDOT Secondary Roads Six Year Plan for 2014-2020:



Northampton County Secondary Six Year Program FY2015 – FY2020

April 28, 2014
Secondary Six Year Program

A thick, orange, curved line arches across the page, positioned below the date and title information.

Estimated Program Allocations

Fiscal Year	Regular Construction (Change from FY14-FY19)	Formula Secondary (Change from FY14-FY19)	Total
2015	\$36,772 (\$1,260)	\$0	\$36,772
2016	\$36,772(\$1,260)	\$0	\$36,772
2017	\$36,772(\$1,260)	\$0 (\$67,168)	\$36,772
2018	\$36,772(\$1,260)	\$0 (\$83,898)	\$36,772
2019	\$36,772(\$1,260)	\$0 (\$101,473)	\$36,772
2020	\$36,772	\$0	\$36,772
Total	\$220,632 (\$6,300)	\$0 (\$252,539)	\$220,632

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Advertisement Dates for Current Six Year Plan Projects County's #1 Priority

Per County Resolution dated February 12, 2013

#1 Priority - UPC 103391
Route 642 – Old Cape Charles Road
From: Route 1117
To: Route 184

Current project estimate is \$6,451,892

3

Allocations, Estimates, and Expenditures for Current Six Year Plan Projects

	UPC	ALLOCATIONS	ESTIMATE	EXPENDED	REMAINING BALANCE
#1	103391	\$6,451,892	\$6,451,892	\$114,605 As of 4/21/2014	\$0
#2	1850	\$474,310	\$6,009,346 PE - \$474,310 RW - \$2,394,703 CN - \$3,140,333	\$99,746 As of 10/17/2013	(\$5,535,036)
#2	1851	\$35,554	\$494,788 PE - \$35,554 RW - \$269,040 CN - \$190,194	\$29,191 As of 8/7/2013	(\$459,234)

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* * * * *

Mr. Gibson noted that the Board's #1 priority, the Harbor Access Road, is fully funded. Mr. Wally Zaman, VDOT Project Manager for this project, updated the Board, indicating that the survey has been completed and that the wetlands determination is progressing. He anticipated receipt of preliminary field drawings on May 14th with a projected construction timeline of March 2017 for project advertisement. He said that he would try to push this date ahead as much as possible. Supervisor Hubbard asked if there were any plans to tie in the bike path and Mr. Zaman replied that all projects have to consider bike and pedestrian access.

Supervisor Trala asked if there were any funds available for repairs to Rt. 602 – Cemetery Road. Mr. Isdell responded that regular maintenance funds will be used to alleviate some of the dangerous issues with that road (overhead branches, drainage concerns, edge of

pavement repairs).

Mr. Hogg said that several citizens have commented on the traffic safety issues at the Food Lion intersection near Cape Charles. In the past, there was a suggestion to reconstruct the road leading into Cheriton over the railroad right-of-way. He asked if there was any funding available for such relief and agreed to bring this matter back to the next meeting for consensus from the Board.

Mr. Isdell reported that additional signage has been added over the past several years and that VDOT is willing to work with the Board for further review and study.

Mr. LeMond asked about installation of flashing signs which say "Congestion Ahead". Mr. Isdell replied that a resolution would be needed from the Board but that highway improvement funds had been used in Accomack County for a troublesome location there.

Mr. Hogg asked about re-installation of intermittent flashing red lights approaching the Cape Charles intersection rather than the constant flashing signage there now. Mr. Isdell said that the new flashing method was put in place at the recommendation of the traffic engineers.

Mr. Hubbard asked about a recent speed study request for Courthouse Road and Mr. Isdell responded that he was hopeful to have the results by the end of this week.

Mr. Bennett asked Mr. Isdell to provide him with crash data for the last two years for Route 13 between Birdsnest and Nassawadox.

County Administrator's Report:

(3) The County Administrator presented the following memorandum with regard to a new state program entitled, "Court Appointed Special Advocate":

MEMORANDUM:

TO: Board of Supervisors

FROM: Katie H. Nunez
County Administrator

DATE: April 25, 2014

SUBJECT: Consideration to Create CASA Program

After meeting and receiving information from Judge Croxton Gordon from the Juvenile & Domestic Relations Court, I am forwarding information to you for consideration to see if the County would like to establish a local Court Appointed Special Advocate (CASA) program. The County would need to provide the initial set-up costs, estimated to be around \$20,000, which would cover the advertising and hiring of a CASA manager and some initial office start-up costs (computer, office supplies, etc.). Moving forward, there is a grant program that would cover the bulk of the costs associated with personnel. The maximum grant award is \$29,200.00 with a County match of 25% or approximately \$9,700.00 that we would need to supply annually.

I have enclosed all of the program material for your review and have invited Judge Gordon to join us for discussion on this matter.

* * * * *

Juvenile & Domestic Relations Court Judge Croxton Gordon was recognized and said that the CASA program uses lay volunteers to help in the foster care program. Although there is friction in some social services' departments, the Northampton County Department of Social Services is in favor of establishing such a program. Accomack County has declined to participate. Currently six individuals are in foster care in Northampton County; four of which are 18 years or older. The CASA program would assist with the two younger clients. Motion was made by Mr. Trala, seconded by Mr. Bennett, that this request be tabled pending further discussion. All members were present and voted "yes." The motion as unanimously passed.

(4) The County Administrator presented the following memorandum with regard to the Stormwater Management Act and the "Opt-in"/"Opt-out" decision:

MEMORANDUM:

TO: Board of Supervisors

FROM: Katherine H. Nunez
County Administrator

DATE: April 25, 2014

SUBJECT: Stormwater Management: County as VSMP Local Authority
Opt In or Out Decision

Local development is now and has been required to comply with stormwater management law and related rules for land disturbance; the threshold that triggers these laws has been anything in excess of 2,500 square feet which is imposed as a result of the entire County being a part of the Chesapeake Bay Preservation Area.

In 2012, the General Assembly amended the law related to stormwater management (Article 2.3 of Chapter 3.1 of Title 62.1 of the Code of Virginia) to provide for the creation of local implementation of stormwater management through counties and cities acting as a “VSMP Local Authority” on behalf of the Commonwealth and VDEQ (see attached slides [Attachment A] presented to the Board in January 2014 by ANPDC). In addition, the new law changes the methods of calculating water quality and quantity of runoff from a site development. For single family homes not part of a common plan of development and with a land disturbance of less than one acre, they may not be required to create an engineered site plan if they are able to use an “agreement in lieu of a stormwater plan”. The current law will go into effect July 1, 2014.

For over a year, staff has been working toward implementation of the new Virginia Stormwater Management Act. However, in the 2014 General Assembly legislative session, two bills were passed that changed the law allowing localities to “Opt in” for its role in implementing the ordinance as the VSMP Local Authority or to Opt Out by having DEQ implement this program for the locality. Correspondence was recently received from DEQ that established a deadline of April 30, 2014 that the county needs to notify DEQ of the County’s “Opt in” decision on this issue (Attachment B). If we Opt In, we have a proposed stormwater ordinance (Attachment C) that will require the Board to move out to public hearing. We would be proposing that this be scheduled for May 13, 2014 public hearing. Either decision, “Opt in” or “Opt out”, will require changes to other County ordinances.

There is still some uncertainty as to how this impacts the towns within our locality. Before this issue of “Opt in” vs. “Opt out” was on the table, the County notified each town of the changes occurring with this law and the role each town needed to take to determine if they would fall under the County’s oversight or move forward in adopting its own ordinance (see Attachment D – sample letter). While no town has given any indication that they will be taking up their own ordinance, the state has not been able to provide clear guidance on how they are impacted if the

County “Opts out” and does not have a local ordinance.

The “Opt in” or “Opt out” provision does not relieve the County from overseeing and managing all land disturbance activities less than 1 acre. As a county that has wholly placed itself under the CBPA, the threshold for stormwater management is lowered and becomes applicable for any land disturbance area greater than 2500 sq. ft. For example, a 10 foot by 10 foot shed would create a land disturbance over 2,500 square feet because of the way land disturbance is measured.

Based on current information as supplied to us from VDEQ, relative to the requirements of this law and the developing regulations, staff has developed a summary of Pros and Cons related to the County’s “opting out” or “opting in” the program.

Reasons to “Opt Out”

- Unfunded mandate from the Commonwealth
- County assumes responsibility for enforcement now and in the future including the potential maintenance of stormwater systems put in place by the private sector under the regulation but not maintained due to default of a private owner. This could create a future County liability. Inspection obligations are strict including, for example, that job sites be inspected after every rain. Moreover, there is a requirement of ongoing inspection even after project completion to ensure proper maintenance into the indefinite future.
- The public may find the rules ‘over reaching’ and respond directly to the implementing body (the Northampton County Board of Supervisors) with complaints. For example, the model ordinance includes provisions purporting to give the County authority to go on to private property to inspect without a search warrant both during the project and ever after. The “Administrator” (i.e., the County if the County opts in) is also given the authority to require applicants or permittees (i.e., those who have already been given permits and completed their projects) to provide information “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” the Stormwater Management Act. Such authority on the County’s part and such an obligation on the landowner’s part may rightly be seen as overbearing, onerous and even unconstitutional.
- “Opting Out” removes the County from being responsible for accepting, reviewing, inspecting and approving General Permits for all projects greater than one acre of land disturbance. The County is still responsible for administering locally any land disturbance less than 1 acre and would need to amend its Erosion & Sediment Control and Chesapeake Bay Preservation Act ordinances to incorporate current stormwater management law. The County staff will simply refer applicants to VDEQ.
- Response time from VDEQ may be up to 60 days and VDEQ approval is a requirement whether the applications are handled locally by the County or solely by the State.

- Even if the County were to “opt in”, each project must be reviewed and approved by state inspectors which may take up to 60 days. Therefore, there is insufficient local control over insuring a timely processing of application review and approval less than 60 days.
- The terms of the local ordinance are essentially mandated by DEQ so that, though the Board of Supervisors assumes great responsibility, it has virtually no authority.

Reasons to “Opt In”

- Greater control of development approvals at the local level for all locally-governed actions and the timing of inspections. Property owners seeking to develop property will not be required to work directly with VDEQ staff in Virginia Beach to achieve compliance.
- County inspectors are at the site of development for Erosion & Sediment Control and CBPA activity already and, if the County also administers Stormwater Management, there will be more frequent, immediate identification of potential issues.
- Since the majority of projects in the County disturb less than one acre of land, the County is and will continue to be responsible for administering these projects. Therefore, it may not be a significant stretch for the County to take on the responsibility for projects exceeding the one-acre threshold.
- The regulations stipulate a minimum fee schedule. If we serve as the VSMP Local Authority, a portion of those fees will remain in the County; otherwise, the entire fee would be paid to the State. See attachment E for fee schedule. The portion of the fees that would remain with the locality are set by the locality and would assist in covering the cost of administering the program thus being borne by the users of anybody doing development greater than one acre.

Other Points of Consideration:

The Board should also be aware that we have received the grant from DEQ (Contract No. 15740 with VDEQ for Stormwater Program Development & Implementation). This contract provides 50% reimbursement for hardware and staff time related to preparing for the County’s role in implementing the law as a VSMP Local Authority. The contract benefit to the County is \$60,000 with an additional benefit to the ANPDC as a subcontractor in the amount of \$15,000. If the Board decides to ‘opt out’ these funds will not be funded beyond our estimated current spend of \$6,000 which will be eligible for reimbursement from VDEQ under the contract and we would need to terminate this grant. Please see Attachment F.

If the County should alter the location of the Chesapeake Bay Preservation Area, as is currently being proposed in the zoning ordinance to pull this area back from the seaside, then the rules are applicable only for land disturbance areas of greater than one acre. For any disturbance that

must meet these new rules, the applicant must make surface water run-off calculations and mitigate the impact of such new runoff by assuring water quality is maintained and excess stormwater runoff is does not exceed standards set by VDEQ.

To date, we have verified that Southampton and Accomack Counties (the other counties in this VDEQ district) have already ‘opted in’ to program as the VSMP Local Authority.

* * * * *

(Attachment A)





Presentation Overview



1. Purpose of Regulations
2. General SWMP Description
3. Stormwater Requirements: Now vs. July 2014
4. Benefits of New Program
5. SWMP BMP Options
6. Funding & Staffing Plan
7. Current Timeline / Next Steps

January 14, 2014

Accomack-Norhampton Planning District Commission

Purpose of Regulations



1. Require local governments to adopt stormwater programs and review and approve Construction General Permit Applications.
 - Local control over permit approvals
 - Improved compliance with regulations
2. Establish Statewide Criteria to protect water quality.
 - Allows new development to be consistent with the Chesapeake Bay TMDL requirements.
3. Establish a statewide fee schedule for permits.
 - 72% of fee for local governments and 28% for DEQ program oversight.

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General SWMP Description

- Virginia mandates that each locality develop a program that includes:
 - Reviewing stormwater plans & calculations for new construction
 - Operating a post-construction enforcement program that ensures that stormwater features are inspected & maintained in good order; and
 - Administering the state permit program for construction activities. This includes:
 - Entering project information to a state website
 - Inspecting sites to ensure that sediment & other types of pollution are not entering the drainage system
 - Enforcing other requirements of the state general permit



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Benefits of New Program

- County has many of the required elements in place now, but not receiving funding for it
- County can control speed of plan review & approval
 - Economic development advantage
 - Address local issues
- Regulations are equal if not slightly better than current criteria resulting in better protection of natural resources
- Based on sound science & current treatment technologies
- Expect reduction in legislative case proffers or conditions. Only state-approved BMPs will be permitted and County will not be held liable for approving alternative BMPs
- One-stop shopping for developers/contractors
 - Developed to be as similar as possible to Accomack's SWMP



January 14, 2014

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Stormwater Requirements: Now vs. July 2014

EXISTING REQUIREMENTS	ITEM	NEW PROGRAM
DEQ	ADMINISTRATION	COUNTY
DEQ	INSPECTIONS & MONITORING	COUNTY
DEQ	ENFORCEMENT	COUNTY
QUALITY & QUANTITY	TECHNICAL CRITERIA	QUALITY & QUANTITY, BUT NEW COMPUTATION METHODS & CRITERIA
PAID TO STATE FOR PERMIT COVERAGE: <ul style="list-style-type: none"> 1-<5 ACRES = \$450 (DEQ for Construction General Permit) and \$300 (DCR for VSMP General Permit) ≥5 ACRES = \$750 (DEQ) and \$500 (DCR) 	FEEES	PAID TO COUNTY (72%) & DEQ (28%) TO COVER ALL COSTS <ul style="list-style-type: none"> 1-<5 ACRES = \$2,700 ≥5 ACRES = \$3,400 to \$9,000
For >2,500 FT ² in CBPA <ul style="list-style-type: none"> Permit fees only 	CBPA/RMA	FOR >2,500 FT ² AND <1 ACRE : <ul style="list-style-type: none"> \$290 for VSMP Permit and Engineered Site Plan costs

January 14,
2024

Accomack-Norhampton Planning District Commission

Stormwater Requirements: Now vs. July 2014

EXISTING REQUIREMENTS	ITEM	NEW PROGRAM
APPROVED PLAN REQUIRED FOR >2,500 FT ² (Done by DEQ)	EROSION & SEDIMENT CONTROL PLANS	APPROVED PLAN REQUIRED FOR >2,500 FT ² (Done by County)
For >2,500 FT ² in CBPA (Done by DEQ) <ul style="list-style-type: none"> Requires Plan approval for development for >16% impervious coverage Requires BMP maintenance agreements for all BMPs 	STORMWATER MANAGEMENT PLANS	FOR >2,500 FT ² AND <1 ACRE : <ul style="list-style-type: none"> Requires technical review & approval including adherence to water quality & quantity provisions Provision for long-term maintenance agreements for all BMPs Provision for off-site compliance options FOR >1 ACRE or Within Common Plan of Development : <ul style="list-style-type: none"> Require VSMP Permit Registration with DEQ Requires technical review & approval including adherence to water quality & quantity provisions Provision for long-term maintenance agreements for all BMPs
REVIEW REQUIRED FOR >2,500 FT ² (Done by DEQ)	SWPPP	REVIEWED ON-SITE BY COUNTY FOR >1 ACRE or Within Common Plan of Development (Done by County)

January 14,
2024

Accomack-Norhampton Planning District Commission

SWMP Best Management Practice Options



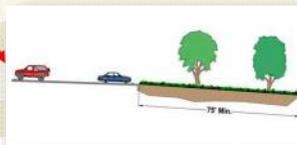
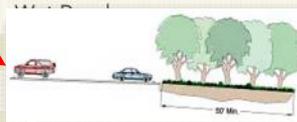
#	Practice
1	Rooftop Disconnection
2	Sheetflow to vegetated filter or open space
3	Grass Channel
4	Soil Amendments
5	Vegetated Roof
6	Rainwater Harvesting
7	Permeable Pavement
8	Infiltration
9	Bioretention
9	Urban Bioretention
10	Dry Swale



SWMP Best Management Practice Options



#	Practice	#	Practice
1	Rooftop Disconnection	11	Wet Swale
2	Sheetflow to vegetated filter or open space	12	Filtering Practice
3	Grass Channel	13	Constructed Wetland
4	Soil Amendments	14	Wet Swale
5	Vegetated	15	Wet Swale
6	Rainwater Harvesting		
7	Permeable Pavement		
8	Infiltration		
9	Bioretention		
9	Urban Bioretention		
10	Dry Swale		



SWMP B



#	Practice
1	Rooftop
2	Sheetfl
3	Grass C
4	Soil Am
5	Vegeta
6	Rainwater Harvesting
7	Permeable Pavement
8	Infiltration
9	Bioretention
9	Urban Bioretention
10	Dry Swale

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Funding & Staffing Plan



Stormwater Program Function	Staff	Implementation Tasks	Additional workload shown in % of total hours worked for one position / per year	Annual Funding Amount- Estimate
Plan Review	Contract Engineer - Certified Plan Reviewer	Plan Review / SWPPP Plan Review**	**10%	**\$20,800
	Zoning Staff - Certified Plan Reviewer / Administrator	Agreement in Lieu of a Plan Review	10%	\$6,550
	Zoning Staff - Certified Plan Reviewer / Administrator	Minor Plan Review	10%	\$6,550
	Zoning Staff - Certified Plan Reviewer / Administrator	CAP / Wetlands /BZA Review, Staff Support and Reporting	5%	\$3,275
Inspections	Zoning Staff - Certified Inspector	SWMP / SWPPP Inspections	85%	\$30,055
Administration	Zoning Staff - Certified Administrator	Administrative Program Duties & Tasks (plus supplies, equipment and position support)	5%	\$3,275
	Zoning Staff - Certified Administrator	Enforcement Process	5%	\$3,275
	Zoning Staff - Certified Administrator	Education and Training	3%	\$3,000
	County Attorney	County Attorney Legal Review	1%	\$1,000
Totals:			*134%	*\$87,780

- Expected workload increase of 134% (most from inspections)
- Estimated funding increase of additional \$87,780/year

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Current Timeline / Next Steps



- **January 2014:** Preliminary SWMP Application Package Submitted to DEQ for review
 - Draft Ordinance
 - Funding & Staffing Plan
 - Policies & Procedures Document
- **May 15, 2014:** Submittal deadline for Final SWMP Application Package to DEQ
 - Ordinance must be adopted by BOS prior to deadline
- **June 13, 2014:** DEQ deadline for approval of SWMP
- **July 1, 2014:** Deadline for SWMP implementation

January 14, 2014

Accomack-Northampton Planning District Commission



Curt Smith
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Accomack-Northampton
Planning District Commission
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757-787-2936





A-NPDC

VSMF Fees for Permit Issuance

- *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.*

Fee type	Total fee to be paid by Applicant (includes both VSMF authority and Department portions where applicable)	Department portion of total fee to be paid by Applicant* (based on 28% of total fee paid*)
CBPA 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 with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688



Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

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

Permit Maintenance Fees

- General permit coverage maintenance fees shall be paid annually to Accomack County, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

Type of Permit	Fee Amount
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)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
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)	\$500
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)	\$650
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)	\$900
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)	\$1,400



(Attachment B)



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

Fax: 804-698-4019 - TDD (804) 698-4021

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Faylo
Director

(804) 698-4020
1-800-392-5482

April 8, 2014

Ms. Katherine Nunez
Northampton County Administrator
P.O. Box 66
Eastville, VA 23347

Subject: Amended Stormwater Management Act
Formal Notification of VSMP Adoption "Opt In"

Dear Chief Administrative Officer:

As you may be aware, during its 2014 session, the General Assembly adopted amendments to the Stormwater Management Act (Act) (Chapter 303 of the 2014 Acts of Assembly). As revised, the Act now only requires localities that operate a regulated Municipal Separate Storm Sewer System ("MS4") to adopt a Virginia Stormwater Management Program (VSMP) and allows all other localities to "opt in" to the program if so desired. You are receiving this correspondence because your locality is not a regulated MS4 and therefore you are no longer required to adopt a VSMP. The purpose of this letter is to communicate information about the legislation, identify next steps and to seek your locality's decision as to whether or not you intend to opt in to the program.

Information about the Amended Stormwater Management Act

As set forth in the amended Act, if your locality does not elect to "opt in" and adopt a VSMP, DEQ will operate the program within your locality and address post-construction stormwater runoff for land disturbing activities beginning July 1, 2014. The Act also now allows towns to be subject to the county's VSMP, establish a town VSMP or have DEQ operate the VSMP. The attached table describes the legislative timelines for the localities that are required to adopt a VSMP and adoption options for those who may opt in. The table further identifies DEQ's role should your locality choose not to adopt a program.

DEQ understands that the needed changes to your ordinance based on the recent legislation may affect your locality's ability to meet the current VSMP adoption schedule. Accordingly, we are

April 8, 2014
Amended Stormwater Management Act
Formal Notification of VSMP Adoption "Opt In"

providing flexibility to allow provisional approval of programs and more time for localities to incorporate these recent changes.

I would also like to make you aware of additional program considerations.

1. Localities deciding not to adopt a VSMP are still required to satisfy the new post development stormwater management quantity requirements (effective July 1, 2014) contained in the VESC law. Your locality will need to ensure that your erosion and sediment control ordinance includes this requirement.
2. Non-MS4 localities that are subject to the Chesapeake Bay Preservation Act do not have to adopt a VSMP, but must adopt requirements to regulate Chesapeake Bay Land Disturbing activities (between 2,500 ft² and an acre) consistent with the VSMP regulations. DEQ will assist such localities in incorporating these requirements into their local ordinances.
3. Non-MS4 localities that adopted stormwater programs in accordance with an earlier version of the Stormwater Management Act (Act), may opt-in to the VSMP program and amend the existing ordinances to conform to the current version of the Act, or elect to have DEQ operate the program. A locality cannot maintain an existing stormwater program that is inconsistent with the current Act.

Next Steps

- DEQ has provided localities the amendments to the Stormwater Management Act that need to be reflected in the local VSMP ordinances as well as an updated schedule for adoption which allows for provisional approval - March 31, 2014.
- DEQ will issue guidance to address changes in the Act and the General Permit for Discharges of Stormwater from Construction Sites – April through June, 2014.
- DEQ will complete review of submitted final local VSMP application packages, so that localities can begin implementing VSMPs that are consistent with the Stormwater Management Act by July 1, 2014.

Opt in

If your locality intends to opt in and adopt a VSMP, please return the enclosed form to me as soon as possible but **no later than April 30, 2014**. We look forward in continuing to work with your locality to successfully implement these recent legislative changes. If you have any questions on this issue, please contact Joan Salvati (804-698-4230 / joan.salvati@deq.virginia.gov) or myself at (804-698-4038 / melanie.davenport@deq.virginia.gov).

Sincerely,



Melanie D. Davenport,

Director, Water Division

Locality VSMP OPT In Form

_____ VSMP Adoption Opt In

If applicable, please list the Towns that are included in your VSMP:

Name of Locality (Print)

Name and Title of Chief Administrative Officer (Print)

Chief Administrative Officer (Signature)

Date

Local VSMP Adoption Options in Accordance with House Bill 1173 and Senate Bill 423

Categories of Localities	Must Adopt VSMP?	Required VSMP Implementation Date	Local Options	Role of DEQ as VSMP Authority
1. Existing MS4 Counties & Cities, & the New MS4 Cities as of Jan. 1, 2014 (Radford, Staunton & Waynesboro)	Yes	July 1, 2014	Adopt a VSMP	None
2. New MS4 Counties as of Jan. 1, 2014 (Augusta, Montgomery & Fauquier)	Yes	January 1, 2015	Adopt a VSMP, with an optional six-month delay until 1/1/15	During the six-month deferral period, DEQ will operate the VSMP and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls.
3. MS4 Towns	Yes	July 1, 2014	1. Adopt a VSMP; or 2. Become subject to the VSMP of the County in which town lies, if the County operates one. Note: Towns that become subject to the VSMP of a new MS4 county choosing to defer until January 1, 2015 will also be subject to the County's deferral schedule, with DEQ administering the program in the meantime.	None
4. Non-MS4 Localities	No	July 1, 2014	1. Don't adopt a VSMP/Department will operate the VSMP; or 2. Adopt a VSMP; or 3. If a town, become subject to the County VSMP, if County operates one. Note: Towns that become subject to the VSMP of a new MS4 county choosing to defer until January 1, 2015 will also be subject to the County's deferral schedule, with DEQ administering the program in the meantime.	if option 1 is chosen, DEQ will operate the VSMP and address post-construction stormwater runoff and the required design criteria

Note 1. Counties electing to defer still are required to comply with the stormwater flow rate capacity and velocity requirements of the Erosion and Sediment Control Law for their E&SC program.

Note 2. All Bay Act localities, whether or not they adopt a VSMP, required to adopt requirements to regulate Chesapeake Bay Preservation Act Land Disturbing Activities.

(Attachment C)

4 – 23 – 2014 PUBLIC HEARING DRAFT

**NORTHAMPTON COUNTY CODE OF ORDINANCES
TITLE XV: LAND USAGE
CHAPTER 160: STORMWATER MANAGEMENT**

§ 160.101 PURPOSE AND AUTHORITY.

(A) The purpose of this Chapter is to ensure the general health, safety, and welfare of the citizens of Northampton County and 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 Chapter is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

§ 160.102 STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

(A) Except as provided herein, no person may engage in any land-disturbing activity until a Virginia stormwater management program authority permit has been issued by the Program Administrator in accordance with the provisions of this Chapter.

(B) A Chesapeake Bay Preservation Act Land-Disturbing Activity shall be subject to an erosion and sediment control plan consistent with the requirements of Chapter 153: Erosion and Sediment Control, a stormwater management plan as outlined under § 160.105 Stormwater Management Plans; Contents of Plans, the technical criteria and administrative requirements for land-disturbing activities outlined in § 160.108 Technical Criteria for Regulated Land Disturbance Activities and the requirements for control measures for long-term maintenance outlined under § 160.109 Long-term Maintenance of Permanent Stormwater Facilities.

(C) Notwithstanding any other provisions of this Chapter, 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; not located within Chesapeake Bay Preservation Areas as defined in Chapter 158: Chesapeake Bay Preservation Areas and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (4) Single-family residences separately built and disturbing less than 2,500 square feet; located within Chesapeake Bay Preservation Areas as defined in Chapter 158: Chesapeake Bay Preservation Areas and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (5) Land disturbing activities that are not located within Chesapeake Bay Preservation Areas as defined in Chapter 158: Chesapeake Bay Preservation Areas, disturbing less than one acre of land area, or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
- (6) Land disturbing activities that are located within Chesapeake Bay Preservation Areas as defined in Chapter 158: Chesapeake Bay Preservation Areas, disturbing less than 2,500 square feet of land area, or activities that are part of a larger common plan of development or sale that is 2,500 square feet or greater of disturbance;
- (7) Discharges to a sanitary sewer or a combined sewer system;
- (8) Activities under a county, state or federal reclamation program to return an abandoned property to an agricultural or open land use;
- (9) 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
- (10) 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 Program Administrator shall be advised of the disturbance within seven 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.

§ 160.103 STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.

(A) Pursuant to § 62.1-44.15:27 of the Code of Virginia, Northampton County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in § 160.101 Purpose and Authority of this Chapter. The Northampton County Board of Supervisors hereby designates the County Administrator as the Program Administrator of the Virginia stormwater management program (VSMP).

(B) No VSMP authority permit shall be issued by the Program Administrator, until the following items have been submitted to and approved by the Program Administrator as prescribed herein:

- (1) A permit application that includes a general permit registration statement; and
- (2) An erosion and sediment control plan approved in accordance with the Chapter 153: Erosion and Sediment Control; and
- (3) A stormwater management plan that meets the requirements of § 160.105 Stormwater Management Plans; Contents of Plans of this Chapter.

(C) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.

(D) No VSMP authority permit shall be issued until the fees required to be paid pursuant to § 160.114 Fees, are received and a reasonable performance bond required pursuant to § 160.115 Performance Bond of this Chapter 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 Program Administrator.

§ 160.104 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.

§ 160.105 STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

(A) 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 § 160.103 Stormwater Management Program Established; Submission and Approval of Plans; Prohibitions of this Chapter, must apply the stormwater management technical criteria set forth in § 160.108 Technical Criteria for Regulated Land Disturbance Activities of this Chapter to the entire land-disturbing activity.
- (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 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, the subsurface seasonal high water table and the predevelopment and post development drainage areas;
- (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
- (3) A narrative that includes a description of current site conditions, both surface and subsurface, and final site conditions;
- (4) A description of the proposed stormwater management 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:
 - (a) The type of facilities;
 - (b) Location, including geographic coordinates;
 - (c) Acres treated; and
 - (d) The surface waters or karst features, if present, 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 § 160.108 Technical Criteria for Regulated Land Disturbance Activities of this Chapter; and
- (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, if applicable;
 - (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.

(C) If an operator intends to meet the water quality and/or quantity requirements set forth in § 160.108 Technical Criteria for Regulated Land Disturbance Activities of this Chapter through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.

(D) 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.

(E) A construction record drawing for permanent stormwater management facilities shall be submitted to the Program Administrator. 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. A Program Administrator may elect not to require construction record drawings for stormwater management facilities for which maintenance agreements are not required pursuant to § 160.109 (B) Long-term Maintenance of Permanent Stormwater Facilities.

§ 160.106 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.

§ 160.107 REVIEW OF STORMWATER MANAGEMENT PLAN.

- (A) The Program Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
- (1) The Program Administrator shall determine the completeness of a plan in accordance with § 160.105 Stormwater Management Plans; Contents of Plans of this Chapter, 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 Program Administrator 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 subsection (1), then plan shall be deemed complete and the Program Administrator shall have 60 calendar days from the date of submission to review the plan.
 - (3) The Program Administrator 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 Chapter.
 - (5) If a plan meeting all requirements of this Chapter is submitted and no action is taken within the time provided above in subsection (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 Program Administrator. The Program Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
- (2) The Program Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Program Administrator, to address any deficiencies noted during inspection.

(C) The Program Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Program Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to § 160.109 (B) Long-term Maintenance of Permanent Stormwater Facilities.

§ 160.108 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, Northampton County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-62 thru 99 of the regulations, which shall apply to all land-disturbing activities regulated pursuant to this Chapter, 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 conditional zoning plan, proffered 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 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 or 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 project not under construction shall become subject to the any new technical criteria adopted by the State Water Control 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 of the VSMP Regulations.

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

§ 160.109 LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES.

(A) The Program Administrator 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 Program Administrator and shall at a minimum:

- (1) Be submitted to the Program Administrator 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 Program Administrator; and
- (5) Be enforceable by all appropriate governmental parties.

(B) At the discretion of the Program Administrator, 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 Program Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Program Administrator.

(C) If a recorded instrument is not required pursuant to § 160.109 (B) Long-term Maintenance of Permanent Stormwater Facilities, the Program Administrator 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 Program Administrator.

§ 160.110 MONITORING AND INSPECTIONS.

(A) The Program Administrator 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 where such exists.

(B) The Program Administrator may, at reasonable times and under reasonable circumstances, enter with at least 24 hours notice 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 Chapter.

(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 Program Administrator 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 Program Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Chapter, 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 Chapter.

(E) Post-construction inspections of stormwater management facilities required by the provisions of this Chapter shall be conducted by the Program Administrator pursuant to the Northampton 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 § 160.109 Long-term Maintenance of Permanent Stormwater Facilities.

§ 160.111 HEARINGS

(A) Any permit applicant or permittee, or person subject to Chapter requirements, aggrieved by any action of Northampton County taken without a formal hearing, or by inaction of Northampton County, may demand in writing a formal hearing by the Board of Supervisors causing such grievance, provided a petition requesting such hearing is filed with the Program Administrator within 30 days after notice of such action is given by the Program Administrator.

(B) The hearings held under this section shall be conducted by the Board of Supervisors at a regular or special meeting of the Board of Supervisors, or by at least one member of the Board of Supervisors designated by the Board of Supervisors to conduct such hearings on behalf of the Board of Supervisors at any other time and place authorized by the Board of Supervisors.

(C) A verbatim record of the proceedings of such hearings shall be taken and filed with the Board of Supervisors. Depositions may be taken and read as in actions at law.

(D) The Board of Supervisors or its designated member, as the case may be, 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 of Supervisors, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

§ 160.112 APPEALS.

Appeals of the Board of Supervisors decision shall be made in the Northampton County Circuit Court. Such appeals shall be made to the court within 30 days of the action by the Board of Supervisors. Any appeal to this Chapter shall be pursuant and consistent with the limitations within § 62.1-44.15:46 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

§ 160.113 ENFORCEMENT.

(A) If the Program Administrator 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 Program Administrator.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Program Administrator 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.
- (3) Such orders shall be issued in accordance with Northampton County stormwater management policies and procedures and shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Program Administrator. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the Northampton County, or by personal delivery by an agent of the Program Administrator. However, if the Program Administrator 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 Program Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with § 160.113 (C) Enforcement.

(B) In addition to any other remedy provided by this Chapter, if the Program Administrator or his designee determines that there is a failure to comply with the provisions of this Chapter, they may initiate such 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 Program Administrator may be compelled in a proceeding instituted in the Northampton County

Circuit Court by Northampton County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

(D) Any person who violates any provision of this Chapter or who fails, neglects, or refuses to comply with any order of the Program Administrator, 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:
 - (a) No state permit registration;
 - (b) No SWPPP;
 - (c) Incomplete SWPPP;
 - (d) SWPPP not available for review;
 - (e) No approved erosion and sediment control plan;
 - (f) Failure to install stormwater BMPs or erosion and sediment controls;
 - (g) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
 - (h) Operational deficiencies;
 - (i) Failure to conduct required inspections;
 - (j) Incomplete, improper, or missed inspections; and
 - (k) Discharges not in compliance with the requirements of Section 9VAC 25-880-70 of the general permit.
- (2) The Program Administrator 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 the Northampton County shall be paid into the treasury of Northampton County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the Northampton County and abating environmental pollution

therein in such manner as the court may, by order, direct.

- (5) 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 Chapter, any order of the Program Administrator, 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.

§ 160.114 FEES.

Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed and paid at the time of plan submission in accordance with a schedule adopted by the Board of Supervisors.

§ 160.115 PERFORMANCE BOND.

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, for the construction and implementation of approved stormwater management plans with an estimated cost of \$100,00.00 or more or such other legal arrangement acceptable to the Northampton County Attorney, to ensure that measures could be taken by Northampton County at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If Northampton County takes such action upon such failure by the Applicant, Northampton County may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

§ 160.116 DEFINITIONS.

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 Chapter have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Administrator*" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

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

"*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 all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, *Code of Virginia*, § 10.1-2100, et seq. *Required for localities within Tidewater Virginia.*

"*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, recreation, 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 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 § 160.102 Stormwater Permit Requirement; Exemptions (C) of this Chapter.

"*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 Chapter.

"Permit" or *"VSMP Authority Permit"* means an approval to conduct a land-disturbing activity issued by the Program Administrator for the initiation of a land-disturbing activity, in accordance with this Chapter, and which may only be issued after evidence of general permit coverage has been provided by the Department.

"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.

"Program Administrator" means the VSMP authority including Northampton County staff person or department responsible for administering the VSMP on behalf of the Northampton County.

"Regulations" means the Virginia Stormwater Management Program (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 channelward 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 Virginia 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 § 160.105 Stormwater Management Plans; Contents of Plans of this Chapter.

"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 Chapter. In addition the document shall identify and require 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 Chapter 156: Subdivision.

"Total maximum daily load" or *"TMDL"* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs 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 Northampton County 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.

(Attachment D)



**DEVELOPMENT DEPARTMENT
NORTHAMPTON COUNTY, VIRGINIA**

Development Department
Charles McSwain, Director
- Planning
- Zoning
- Building
- Code Compliance
- Economic Development

1640^{1/2} Courthouse Road
P.O. Box 538
Eastville, VA 23047
Phone: 757-678-0443
Fax: 757-678-0483
www.co.nq.thampton.va.us

November 26, 2013

Town of Exmore
The Honorable Douglas W. Greer, Sr.
PO Box 1234
Exmore VA 23350-1234

Dear Mayor Greer:

Northampton County has begun the process of developing its Virginia Stormwater Management Program (VSMP) as required by the Virginia Department of Environmental Quality (DEQ) to be finalized and locally adopted by April 14, 2014. The Virginia State Water Control Board's (VSWCB) final approval of our local program is expected by June 14, 2014, with full implementation of the program effective July 1, 2014. As a first step in our program development, we have begun to draft a stormwater management ordinance, attached with a copy of the Northampton County VSMP development schedule.

Pursuant to § 62.1-44.15:27, any towns lying within Northampton County shall be subject to the Northampton VSMP unless the town has adopted its own VSMP approved by the VSWCB. Please review the attached draft stormwater management ordinance along with the schedule for the development of our VSMP. If you have any questions regarding the draft stormwater management ordinance or the VSMP development schedule, please contact Charles McSwain, Development Director, or me at (757) 678-0443 ext. 541 or 544. If you are interested in development and implementation of a separate VSMP for your town you must contact Shawn E. Smith, DEQ Principal Environmental Planner, at (804) 527-5037 or shawn.smith@deq.virginia.gov.

Sincerely,

Melissa S. Burgard Kellam, CZA
Zoning Administrator

Enclosed: draft stormwater management ordinance, VSMP development schedule, policies and procedures checklist and ordinance checklist

(Attachment E)

**NORTHAMPTON COUNTY VSMP FEES
FOR AN INDIVIDUAL PERMIT OR PERMIT COVERAGE UNDER THE GENERAL PERMIT FOR
DISCHARGE OF STORMWATER FROM CONSTRUCTION ACTIVITIES.**

The following total fees to be paid by applicant apply to (i) any operator seeking coverage under a July 1, 2014 General Permit for Discharges of Stormwater from Construction Activities 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 Virginia State Water Control Board. On and after approval by the Virginia State Water Control Board of a VSMP authority for coverage under the General Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the 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 of the VA Stormwater Management Program Regulations. 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.

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 DEQ portions where applicable)	DEQ 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	\$290	\$81

less than one acre)		
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 one acre and less than five 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 five 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 with land-disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater	\$15,000	\$15,000

from Construction Activities (This will be administered by the department)		
* If the project is completely administered by the DEQ 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 DEQ.		

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

Fee type	Total fee
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

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 Virginia State Water Control 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 subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the state permit modification 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 Virginia Department of Environmental Quality when acting in that capacity that has been approved by the Virginia State Water Control Board. No modification fee shall be required for the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects

Fee type	Total fee
General / Stormwater Management – Small Construction Activity/Land Clearing	\$20

(Areas within common plans of development or sale with land disturbance acreage less than one acre)	
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 one and less than five 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 five 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

(Attachment F)



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

Fax: 804-698-4019 - TDD (804) 698-4021

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
1-800-592-5482

April 8, 2014

Ms. Katherine Nunez
Northampton County Administrator
P.O. Box 66
Eastville, VA 23347

Subject: VSMP Program Development Grant Requirements

Dear Chief Administrative Officer:

As noted in the DEQ April 8, 2014 letter to you (Formal Notification of VSMP Adoption "Opt In") changes have been made to the Stormwater Management Act that affect local Virginia Stormwater Management Programs (VSMPs) currently under development. You are receiving this correspondence because your locality is not a regulated MS4 (and therefore is no longer required to adopt a VSMP) and is the recipient of a VSMP Program Development grant from DEQ. Given this situation, it is our fiscal responsibility to determine whether you will be establishing your own VSMP as stipulated in your agreement and if not, to stop the additional expenditure of grant funds as soon as possible.

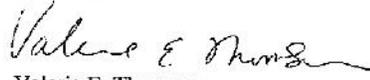
Until your locality decides to "opt in" and adopt a VSMP your locality must stop all VSMP grant related expenditures immediately. If DEQ does not receive an "opt in" form by April 30, 2014 this letter shall serve as the DEQ's notification of termination and your grant agreement is terminated May 8, 2014 (see "Termination for Convenience" provision of your agreement). The DEQ will reimburse your locality for all approved costs incurred prior to the May 8, 2014 termination date, to include costs for which goods/services have been provided within that timeframe, but not yet invoiced to your locality; DEQ will not reimburse your locality for any expenses incurred after the termination date.

Thank you in advance for your attention to this letter and for your locality's efforts toward the development of a local VSMP. If you have any questions on this issue, please contact Walter

April 8, 2014
VSMP Program Development Grant Requirements

Gills (804-698-4133 / walter.gills@deq.virginia.gov) or Melanie Davenport (804-698-4038 / melanie.davenport@deq.virginia.gov).

Sincerely,



Valerie E. Thomson
Director of Administration

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* * * * *

Ms. Melissa Kellam, Zoning Administrator, was recognized and led the Board through an explanation of the aforementioned materials and answered questions from Board members.

Supervisor Hogg questioned whether a decision was needed tonight. The County Administrator responded that the stormwater management regulations take effective July 1, 2014 and that if the Board chooses not to act, for whatever reason, that is, in effect, a default position

equivalent to “opting-out”. The State has requested that each locality notify it by the end of this month as to whether it is “opting-in” or “opting-out”.

Mr. Hogg stated that this was not going to be a cheap program and would be on-going. The County Attorney reminded the Board that whether the County chooses to “opt-in” or “opt-out”, DEQ must approve all projects. Ms. Kellam stated that probably 95% of the projects in the County are for single-family homes and exceed 2500 sq. ft. but are less than one acre in land disturbance. She also indicated that she believed the state was working on an annual “open window” concept to allow localities to change their minds about “opting-in” or “opting-out” of the program.

Mr. Hogg made a motion (which he later withdrew), to table this discussion until the May meeting.

The County Administrator recommended that the Board proceed to public hearing in May and receive public comment. It could then take some time to debate and discuss the issue.

Motion was made by Mr. Hubbard, seconded by Mr. Trala, that the Board advertise for public hearing the following ordinance: “Northampton County Code of Ordinances; Title XV: Land Use; Chapter 160: Stormwater Management” at its May 13, 2014 meeting. All members were present and voted “yes.” The motion was unanimously passed.

Action Items:

(5) Motion was made by Mr. Trala, seconded by Mr. Hubbard, that the Board adopt the following resolution. All members were present and voted “yes.” The motion was unanimously passed. Said resolution as adopted is set forth below:

Virginia Juvenile Community Crime Control Act (VJCCCA)

RESOLUTION

BE IT RESOLVED that the County of Northampton 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; and

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 the fiscal agent for these localities.

BE IT FURTHER RESOLVED that the County Administrator is hereby authorized to execute a local plan on behalf of the County of Northampton.

(6) Consider approval of contracts for the Hazard Mitigation Grant Program project.

Motion was made by Mr. Bennett, seconded by Mr. Trala, that the Board approve two contracts for home elevation (\$34,000) and construction of support structures (\$75,000) for property located at 11115 Red Bank Road, Marionville, Virginia, and owned by Betty Lou Stevens. All members were present and voted “yes”, with the exception of Mr. Hogg who abstained. The motion was passed. Mr. Hogg stated that he had an issue from a financial standpoint; i.e., the assessed value of the home is approximately \$100,000 and the federal government is proposing to spend another \$100,000 on the home’s foundation.

Mr. John Aigner of the Accomack-Northampton Planning District Commission, which entity oversees the Hazard Mitigation Grant Program on behalf of the County, was recognized and stated that FEMA does not consider the assessed value of the home and in fact, the Red Bank property scored very high on FEMA’s benefit cost analysis.

Closed Session

Motion was made by Mr. Trala, seconded by Mr. Hogg, that the Board enter Closed Session in accordance with Section 2.2-3711 of the Code of Virginia of 1950, as amended:

Paragraph 3: Discussion or consideration of the condition, acquisition, or use of real property for public purpose, or of the disposition of publicly held property.

Paragraph 7: Consultation with legal counsel and briefings by staff members, consultants, or attorneys pertaining to actual or probable litigation, and consultation with legal counsel employed or retained by the Board of Supervisors regarding specific legal matters requiring the provision of legal advice by such counsel.

Demolition of Exmore-Willis Wharf School

All members were present and voted “yes.” The motion was unanimously passed.

After Closed Session, the Chairman reconvened the meeting and said that the Board had entered the closed session for those purposes as set out in paragraphs 3 and 7 of Section 2.1-3711 of the Code of Virginia of 1950, as amended. Upon being polled individually, each Board member confirmed that these were the only matters of discussion during the closed session.

Adjourn

Mr. Hogg read the following comments:

Below is the Point of Clarification made last night at the close of the meeting. The area of Proposed COMMERCIAL ZONING which Ms. Nunez reflects upon in the sketch is 1.68 miles. Currently in the Exmore and Onley areas a similar 1.7± mile stretch has 5 stoplights. The Proposed strip is increased by approx. 0.5 Miles± even after removing Mr. Scott's property. U.S. 13 is an Evacuation Route.

The statement made is there is the opportunity to create a Commercial Strip along U.S. 13 approximately 3 1/2 miles in length. It would begin near Mile Post 78.5 and continue North to the Town Limit of Cheriton near Mile Post 80.5. (AS PROPOSED IN THE PSA PROPOSAL AND THE INITIAL NORTHAMPTON TAX MAP PROPOSAL. Recently Mr. Scott has requested the 80± Ac Tract be removed.) The Town of Cheriton controls the U.S. 13 Road frontage to Hanby Branch Near Mile Post 81.5, beyond that is Nottingham Seafood, the Car Wash and Cheriton Quick Mart near Mile Post 82 for a length of 3 1/2 miles.

Town of Cheriton has strongly indicated in the past it desired and would promote Commercial Development along U.S. 13. Currently Suntrust Bank, the Former Seafood shop, A.J.'s Meat Market, Sunnyside Garden, Wagners Construction equipment on both side East and West sides of U.S. 13, are commercial uses currently present in the area.

Please enter the comments and Maps into the County minutes for last nights meeting after the Executive Session

Quoting Katie Nunez <knunez@co.northampton.va.us>:

> To the Board:
>
>
> In the Board's strategic retreat session, a distance of just over 3
> miles was referenced for the proposed southern end commercial zone. I
> have asked Peter Stith to provide an exact measuring of this
> commercial zone and its frontage on Route 13. Attached is the map he
> has provided - please see his e-mail below with notes on the coloring
> of the map. Hope this information is helpful.
>
>
> Katie
>
>>
> From: Peter Stith [<mailto:pstith@co.northampton.va.us>]
> Sent: Wednesday, March 05, 2014 10:07 AM
> To: knunez@co.northampton.va.us
> Subject: Commercial distance near CC light
>
>
> Katie,
>
>>
> The distance between the two black "X" marks on the attached map is
> approximately 1.68 miles. I also highlighted the commercial parcels
> (red with blue outline) that currently have a commercial designation
> - TE-CG, EB or C-1. The red parcels that are not highlighted are
> newly proposed commercial parcels.
>
>
>
> Peter Stith, AICP
>
> Long Range Planner/GIS Coordinator
>
> PDR Program Administrator
>
> Northampton County
>
> 16404 Courthouse Rd.
>
> Eastville, VA 23347
>
> p. 757-678-0440 x545
>
> f. 757-678-0483
>
> pstith@co.northampton.va.us
>
>
>
>



The statement made is there is the opportunity to create a Commercial Strip along U.S. 13 approximately 3 1/2 miles in length. It would begin near Mile Post 78.5 and continue North to the Town Limit of Cheriton near Mile Post 80.5. (AS PROPOSED IN THE PSA PROPOSAL AND THE INITIAL NORTHAMPTON TAX MAP PROPOSAL. Recently Mr. Scott has

requested the 80± Ac Tract be removed.) The Town of Cheriton controls the U.S. 13 Road frontage to Hanby Branch Near Mile Post 81.5, beyond that is Nottingham Seafood, the Car Wash and Cheriton Quick Mart near Mile Post 82 for a length of 3 1/2 miles.

Town of Cheriton has strongly indicated in the past it desired and would promote Commercial Development. Currently Suntrust Bank, the Former Seafood shop, A.J.'s Meat Market, Sunnyside Garden, Wagners Construction equipment on both side East and West sides of U.S. 13, are commercial uses currently present in the area.

U.S. 13 is a Hurricane Evacuation Route

* * * *

While a letter had been received from Superintendent Walter Clemons, requesting that the Board recess until May 8th in order to meet with the School Board for a tour of the high school and further discussion relative to the Capital Improvement Plan, several Board members indicated conflicts with that date. In addition, the Board indicated that it continued to wait for certain information requested from the School Board including a full accounting of the existing capital improvement projects as well as a listing of remaining balances of CIP project funds, and that the Board was not willing to meet in joint session with the School Board until that documentation was provided. Motion was made by Mr. Trala, seconded by Mr. Hogg, that the meeting be adjourned. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was adjourned.

_____ CHAIRMAN

_____ COUNTY ADMINISTRATOR