HAMPTON ROADS PLANNING DISTRICT COMMISSION
2014 LEGISLATIVE AGENDA

In preparation for the 2014 Session of the Virginia General Assembly, the staff of the Hampton Roads Planning District Commission has developed this 2014 Legislative Agenda. It outlines, based on ongoing HRPDC projects, prior HRPDC legislative positions and work of the region's localities, a series of issues that warrant regional attention during the upcoming legislative session. It also provides a recommendation or recommendations addressing each of the issues for consideration by the HRPDC.

Uranium Mining

In September 2012, the HRPDC adopted Resolution 2012-02 reaffirming its opposition to uranium mining and to the lifting of the moratorium on uranium mining. Based on review of the several scientific studies that have been completed and the ongoing work of the state's Uranium Mining Work Group, the HRPDC does not believe that an adequate regulatory framework to address mining operations and waste disposal is either in place or likely to be developed and funded. The Hampton Roads region is dependent upon water from Lake Gaston as an integral component of the region's water supply. A catastrophic incident associated with uranium mining upstream from Lake Gaston, while of small probability, would result in enormous and unacceptable adverse consequences to this region.

The General Assembly of Virginia is requested to maintain the existing moratorium on uranium mining in Virginia.

Virginia Housing Trust Fund

Housing trust funds are distinct funds established by city, county, or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing opportunities for families and individuals to access decent affordable housing. Virginia received a total of $66 million from the National Mortgage Settlement funds. The General Assembly created the Virginia Housing Trust Fund last year utilizing $7 million of this settlement to provide funding in the second year of the 2012-14 biennium. The HRPDC supports legislation that would appropriate a dedicated funding stream to the VHTF for future housing programs and projects.

Emergency Management Funding

The frequent occurrence of natural disasters affecting the Hampton Roads area has stretched the budgets and capacity of local emergency managers. The HRPDC supports the Virginia Emergency Management Association's intention to propose the establishment of a dedicated funding stream for emergency management to provide adequate funding.

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Emergency Planning

The HRPDC supports legislation, proposed previously by the Virginia Emergency Management Association, requiring back-up power, development and certification of emergency plans for nursing homes, assisted living facilities, adult day care centers, and child day centers. The HRPDC supports efforts to minimize or eliminate costs for the required emergency planning for these facilities.

State Support for Readily Deployable Assets

The HRPDC supports efforts to provide liability coverage, hold harmless, and workers compensation to emergency responders. Additionally, the HRPDC supports the use of State resources for sustaining and replacing used/damaged equipment and supplies for the Hampton Roads Medical Metropolitan System Strike Team (HRMMST), Hampton Roads Incident Management Team (HRIMT), and other regional readily deployable assets, without activating the State Mutual Aid agreement and/or obtaining a federal emergency declaration.

Stormwater Management Program

In 2012, the General Assembly passed HB1065/SB407 that integrated the Erosion and Sediment Control Act, Chesapeake Bay Preservation Act, Virginia Stormwater Management Act and expanded the requirement to administer a qualified local program to all localities within the Commonwealth. While the HRPDC supported the intent of these Bills, their implementation has created confusion at the local level and identified inconsistencies in language. The HRPDC supports continued revision of the integrated stormwater management laws to provide clarity and consistency.

The HRPDC also supports amending the Stormwater Management Act to provide localities required to adopt VSMP for land-disturbing activities with the authorities necessary to implement and enforce the provisions of 10.1-603.3 and associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities. Localities may need explicit authority to conduct post construction inspection of stormwater BMPs on properties outside of MS4 permit boundaries.

Expansion of the Nutrient Credit Exchange Program

In 2012, the General Assembly directed the Soil and Water Conservation Board to adopt regulations to establish statewide procedures for the certification of nutrient credits other than those generated by waste water point sources or certified by the State Water Control Board. The HRPDC supported this action as it will allow the certification of credits generated by urban stormwater improvements and has actively participated in the development of these regulations. Due to the development of these regulations, the HRPDC does not anticipate that any nutrient trading legislation will be proposed during the 2014 session. However, we continue to advocate for a nutrient trading program that protects

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local water quality and allows localities the authority to review any trading proposed within their jurisdiction.

Water Quality Funding

The HRPDC urges the General Assembly to maintain its commitment to water quality through dedicated and adequate state appropriations to the Water Quality Improvement Fund and to make full and timely payments under point source upgrade contracts with local governments.

Concurrently, the General Assembly should address costs associated with the permit requirements of Municipal Separate Storm Sewer Systems (MS4) Permits, associated new EPA regulations and the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan. In 2013, the Stormwater Local Assistance Fund was established with a $35M budget in order to reduce non-point source pollution from stormwater runoff. The HRPDC encourages the General Assembly to approve a second appropriation for the Stormwater Local Assistance Fund and increase the funding to $50M for FY15.

HRPDC encourages the General Assembly to include $2M in the FY15 budget for land cover analysis throughout Virginia. Land cover GIS data is a key component to establishing the nutrient loads that are used in determining targets for the Chesapeake Bay TMDL and other local TMDLs for impaired waters. A state-wide land cover analysis would provide consistent data to support the state's Watershed Implementation Plan and save localities money by conducting the analysis in one large contract. The land cover data is also useful for other local government programs beyond TMDL implementation plans. **Virginia Geographic Information Network** ***(VGIN) already has aerial imagery across the state. The General Assembly should provide the additional funding to analyze the imagery and create a land cover data layer consistent with the Chesapeake Bay Program's Land Use Workgroup's recommendations.***

VDOT Requirements for Locality-owned Drainage Easements

VDOT has recently determined that drainage easements that convey runoff from the State maintained roadways must be owned by the locality. In counties, the secondary highway system, including streets developed for subdivisions and accepted into the secondary system, are County roads for which VDOT has operational control. If the locality will not accept the drainage easements, then VDOT will not accept maintenance responsibilities for these roads. Localities currently require homeowners associations to own the drainage easements and sign a maintenance agreement with the locality. VDOT is unnecessarily burdening localities with additional maintenance responsibilities.

Advertising of Required Public Notices

Many provisions of the Code of Virginia require the advertising of public notices in a "newspaper published or having general circulation in the locality." As newspaper circulation continues to decline and citizens look increasingly to the internet for news and information, it appears that alternative means of providing public notice would be appropriate. Increasingly, state agencies are using their websites and other electronic media to handle public notice requirements. The HRPDC supports legislation that would allow local governments, planning district commissions and other regional agencies to publish legal advertisements and public notices on their website and to use other media outlets, such as local public access channels, in order to meet legislative requirements for public notices.

Federal Facilities

The Hampton Roads region relies significantly on the defense sector. Proposals are moving forward from Hampton Roads localities to maintain state support for the industry and for protection of existing facilities. To assist its member localities to ensure the continued viability of the defense presence in Hampton Roads, the HRPDC supports proposals to:

- Maintain state funding for the land acquisition program supporting mitigation of encroachment around NAS Oceana in Virginia Beach and NALF Fentress in Chesapeake.

- Maintain state funding for the land acquisition program supporting mitigation of encroachment around Joint Base Langley-Fort Eustis in Hampton.

- Amend legislation governing the Federal Action Contingency Trust (FACT) Fund to clarify that such funds are to be used to encourage business growth and protect existing military resources and use of these funds is not contingent upon a new Base Realignment and Closure (BRAC) round or BRAC-like action.

- Ensure that DoD encroachment concerns are given full consideration when making onshore and offshore land use decisions affecting military bases in Hampton Roads. Specifically, carefully monitor all onshore and offshore energy proposals; support the development of any needed JLUS and all anti-encroachment activities.

Higher Education

The HRPDC recognizes the important role that public institutions of higher education play in contributing to the economic vitality of the Commonwealth and the well-being of its citizens. Hampton Roads is home to several public institutions with clear commitments to providing access to a top-quality and affordable higher education experience. The HRPDC supports proposals to ensure adequate funding to hire enough full-time faculty to bring the

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faculty student ratios in line with the average of 17-1. In addition, the HRPDC supports elevating the Base Adequacy Funding percentage of all institutions in the region.

K-12 Education

The lack of adequate state funding support for K-12 public education has placed an inordinate burden on localities. A strong public school system is essential to economic development and prosperity. The HRPDC opposes legislative efforts to further shift K-12 per pupil funding responsibility away from the Commonwealth and onto local governments.

Recycling Requirements

Each locality in the Commonwealth, individually or through a regional collaboration, is required to achieve a 25% recycling rate. A key constraint to local ability to achieve or exceed this recycling rate has been the lack of markets for the materials as well as access to industries that recycle or reuse the material. Recycling is an economic development tool as well as an environmental tool. Despite increased public awareness of the benefits of recycling, beverage container recycling has been declining in recent years, while the amount of beverage containers that are being sold and consumed has increased over time.

The HRPDC supports legislation that would:

- Grant localities the authority to require certain businesses to recycle glass.
- Prioritize incentives to businesses that recycle materials, such as glass, paper and electronics, while concurrently providing new employment opportunities.

Plastic Bags

Plastic bags that are not properly disposed of contribute to unsightly littering of Virginia's landscape, contaminate various agricultural crops, contribute to mortality of aquatic species and birds and contribute to urban stormwater problems. While voluntary recycling programs and substitution of reusable shopping bags has had some success in reducing the volume of plastic bags that must be disposed of, improper disposal of plastic bags appears to be increasing. In reaction to the problems associated with improper disposal of plastic bags, restrictions on the use of plastic bags by localities throughout the country is becoming more widespread. The HRPDC supports legislation that would provide localities the option of restrictions on the use of plastic bags through increased voluntary programs, incentives, taxes or outright bans.

Septic Tanks

The Chesapeake Bay TMDL establishes limits on the amount of nitrogen, phosphorus, and sediment that can enter the Bay. As part of the effort to meet the nitrogen limits set forth in the TMDL, reductions in the nitrogen load from the onsite sewage system sector must be

achieved. Monitoring of septic tank pump out (once per 5 years), as required by the Chesapeake Bay Preservation Act, should be conducted by the Virginia Department of Health not by localities. The HRPDC supports the following recommendations:

- Seek legislative changes necessary to establish state tax credits for upgrade/replacement of existing conventional systems with nitrogen reducing systems, or connection to existing sewer.
- Look into steps for gaining General Assembly approval to grant all counties the authority to require hook-ups to existing sewer lines when appropriate.
- Develop, in cooperation with state agencies, a legislative proposal to establish a cost share program, similar to what is done with the Agricultural BMP Cost Share Program, to assist with the cost of required upgrades or replacements and incentivize non-failing septic system owners to upgrade to a denitrifying system.
- Amend the Chesapeake Bay Preservation Act to require that regulation and enforcement of septic tank pump out requirements be conducted by the Virginia Department of Health. Localities would continue to maintain an inventory and tracking system for septic tank locations.

Sea Level Rise and Coastal Flooding

The HRPDC has identified the issue of sea level rise as a critical issue facing Hampton Roads. HRPDC staff studies to date have focused on the magnitude of the problem and its potential implications for the region. Ongoing work is addressing options for adaptation. The Virginia Institute of Marine Science, in cooperation with coastal localities and planning district commissions, recently finished a one-year study examining the severity of recurrent flooding in Tidewater Virginia. The Secure Commonwealth Panel has established a sub-panel to consider how to implement the recommendations from the VIMS report.

The HRPDC requests that the appropriate natural resource and emergency management agencies of the Commonwealth work in partnership with Virginia's coastal planning districts to investigate and implement the VIMS study's recommendations. The HRPDC supports this proposed initiative as the next step, along with the Secure Commonwealth Panel's work, in addressing the critical issue of coastal flooding in Hampton Roads and the rest of Tidewater Virginia.

Agriculture Programs

The HRPDC supports a well-financed and fully staffed state program to address the problem of non-point source runoff from agricultural operations. The program continue to include cost-share assistance to agriculture and should effectively encourage and incentivize implementation of priority best management practices such as nutrient management planning, use of cover crops, continuous no-till farming, development of forested riparian buffers, livestock stream exclusion and other practices essential to meeting agriculture's share of the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

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Expand Authority for Tree Canopy Requirements

The HRPDC supports the amendment of Virginia Code Section 15.2-961.1 that would enable all Virginia localities to adopt an ordinance containing a set of tree canopy preservation requirements based on development density. Section 15.2-961.1 was adopted during the 2008 General Assembly session and is currently applicable only to the localities within Planning District Eight. Increasing the urban tree canopy is an inexpensive method to reduce nutrient loading through runoff reduction and will allow localities to reduce the cost of achieving nutrient reductions for urban stormwater.

Increase Funding to PDCs

In FY 2001, HRPDC received $366,628 or $0.24 per capita in basic funding from the Commonwealth's budget through the Department of Housing and Community Development. The legislative agenda of the Virginia Association of Planning District Commissions supports overall funding of Virginia's Planning District Commissions at a level of $0.35 per capita or a minimum of $100,000 per commission, whichever is greater.

The Department of Conservation and Recreation (DCR) is relying on PDCs to facilitate the development of locality specific nutrient reductions in Phase II of the State's Watershed Implementation Plan.

The HRPDC supports an increase in funding to Virginia's Planning District Commissions by $500,000.

Collaborative Government Initiative

The Collaborative Government Initiative seeks to improve the efficiency and effectiveness of Virginia government by improving the capacity of Planning District Commissions (PDCs) to explore opportunities for additional collaboration and thereby reduce the overall cost and scope of governing. This proposal is not about regional government. This proposal seeks to incent local governments to think regionally in approaching common problems and services they already provide. In some instances, the initiative can help state and local government more effectively approach new services where they are needed or mandated.

To take advantage of the potential of costs savings and more efficient and effective regional collaboration, JLARC recommended that the General Assembly may wish to consider "providing financial incentives to encourage local governments, including local school divisions, to voluntarily pursue collaboration opportunities.

The CGI seeks to implement that recommendation in two ways. First to increase the base funding of PDCs by $500,000 per year and second to implement, as suggested by JLARC a series of pilot program grants that in JLARCs words "demonstrate the potential to yield state benefits."

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State Fees on Local Government Services (water, sewer, solid waste)

The HRPDC strongly opposes the imposition of a state fee, tax or surcharge on water, sewer, solid waste or any service provided by a local government or authority to finance the nutrient reductions imposed by the Chesapeake Bay TMDL.

Unfunded Mandates

The HRPDC opposes unfunded mandates by the Commonwealth. When funding for a mandated program is altered, the mandate should be suspended until full funding is restored. When legislation with a cost to localities is passed by the General Assembly, the cost should be borne by the state, and the legislation should contain a sunset clause providing that the mandate is not binding on localities until funding by the Commonwealth is provided. Furthermore, HRPDC opposes the shifting of fiscal responsibility from the state to localities for existing programs. Any unfunded mandate or shifting of responsibility, such as maintenance of state transportation facilities or litter control, should be accompanied by a full fiscal and program analysis to determine the relative costs to the state and to the locality and to assure the state is meeting its full funding responsibility before taking effect. ***A list of unfunded mandates can be found on the following website for the Task Force for Local Government Mandate Review.***
www.dhcd.virginia.gov/index.php/commission-on-local-government/mandates-on-local-governments/force-for-local-government-mandates-review.

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