



**AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

**ITEM #1: MINUTES OF December 16, 2009**

Minutes of the December 16, 2009 meeting are attached.

Attachment

**RECOMMENDED ACTION:**

Approval

**Hampton Roads Planning District Commission**  
**Executive Committee Meeting**  
**Minutes of December 16, 2009**

The Executive Committee Meeting of the Hampton Roads Planning District Commission was called to order at 9:39 a.m. at the Regional Boardroom, 723 Woodlake Drive, Chesapeake, Virginia, with the following in attendance:

**EXECUTIVE COMMITTEE:**

Bruce C. Goodson, Chairman (JC)	Paul D. Fraim (NO)*
James O. McReynolds, Treasurer (YK)	Douglas L. Smith (PO)*
William E. Harrell (CH)	J. Randall Wheeler (PQ)*
Rosa Lawrence (FR)*	Selena Cuffee-Glenn (SU)
Brenda G. Garton (GL)*	Tyrone W. Franklin (SY)
Molly Joseph Ward (HA)	Jeanne Zeidler (WM)*
W. Douglas Caskey (IW)	Louis R. Jones (VB)
Joe S. Frank (NN)	

**OTHER COMMISSIONERS:**

Ella P. Ward (CH)	Regina V.K. Williams (NO)
Amar Dwarkanath (CH)	Kenneth L. Chandler (PO)
Clifton E. Hayes, Jr. (CH)	Gordon C. Helsel, Jr. (PQ)*
Gregory Woodard (GL)*	Harry E. Diezel (VB)
James B. Oliver (HA)	Barbara M. Henley (VB)
Sanford B. Wanner (JC)	James K. Spore (VB)
Neil A. Morgan (NN)	Jackson C. Tuttle II (WM)
	Linda T. Johnson (SU)

\*Late arrival or early departure.

Absent: Dr. Alan P. Krasnoff (CH), Stan D. Clark (IW), June Fleming (FR), Sharon Scott (NN), Michael W. Johnson (SO), William D. Sessoms (VB)

**OTHERS RECORDED ATTENDING:**

John Gergely, Henry Ryto & Terri Boothe (Citizen); Bob Matthias (VB), Keith Cannady & Mary Bunting (HA); Earl Sorey (CH); Ellis W. James - Sierra Club Observer; Bryan Pennington (NO); Sherri Neil (PO); Senator Yvonne Miller - Senate of Virginia; Del. John Cosgrove - Gen. Assembly; Martha Gross - Virginia Tech; Ray Taylor & Vince Thomas - FHR; Jay Bernas - HRSD; Dennis Heuer - VDOT; Kristin Wells - Seventh Point-VB; Germaine Fleet - Biggs & Fleet; Peter Huber - Wilcox & Savage; Mark Geduldig-Yatrofsky - Portsmouth City Watch Org.; Randy Lougee - LWV-SHR; Thomas J. Wright - Isle of Wight BOS; Beverly Walkup - Isle of Wight Planning/Zoning; Staff: Dwight Farmer, John Carlock, James Clary, Nancy Collins, Richard Flannery, Kathlene Grauberger, Greg Grootendorst, Lisa Hardy, Frances Hughey, Jim Hummer, Rob Jacobs, Claire Jones, Brett Kerns, Mike Long, Ben McFarlane, Brian Miller, Glynis Mitchell, Keith Nichols, Kelli Peterson, Camelia Ravanbakht, Chris Vaigneur and Eric Walberg.

## **PUBLIC COMMENT**

No public comments.

## **APPROVAL OF AGENDA**

Mr. Dwight Farmer added two agenda items: The Lee Hall Dam Improvement Project and a Project Status Report supplement.

Mr. Jones Moved to approve the Agenda; seconded by Mr. Diezel. The Motion Carried.

## **CONSENT AGENDA**

The Consent Agenda contained the following items:

Minutes of November 18, 2009

Treasurer's Report

Regional Reviews

A. PNRS Items Review

B. Environmental Impact Assessment/Statement Review

Deconstruction and Transfer of Low-Turbulence Pressure Tunnel Complex at NASA LaRC; NASA; Hampton

Stormwater Program Effectiveness Indicators Report

Hampton Roads Technical Assistance Program Report

Mr. Hayes Moved to approve the Consent Agenda; seconded by Mr. McReynolds. The Motion Carried.

## **Regional Economic Benchmarking**

(Mr. Wanner, Mayor Fraim and Ms. Lawrence arrive)

Chairman Goodson introduced Greg Grootendorst to discuss the regional economic benchmarking study.

Mr. Grootendorst stated the original regional benchmarking study was released in 2005. It was part of an economic adjustment grant that was applied for and received by the PDC. The purpose of the study was to gather information on a variety of regional benchmarks for the purpose of providing community leaders, regional organizations and local governments with an assessment of the state of the region and a way in which to measure how progress is being made across a variety of indicators. At the time, the benchmarking report replaced a long-standing HRPDC economic outlook publication. This current edition marks the fifth edition of the benchmarking report. Along with the Commission's Data Book, the

benchmarking report plays a part in fulfilling one of the roles outlined for the PDC in the Regional Cooperation Act, especially assisting with the collection and dissemination of regional data.

(Mr. Smith arrives)

Throughout the report, an effort was made to provide the best information and maintain consistent data sources, which can prove somewhat difficult. As an example, in July of this year, the City of Newport News challenged the census estimates for its population. In October of this year, the Census Bureau re-released the estimates for the Newport News population bringing it up from just over 179,000 to 193,000. For consistency, the PDC staff use the Welden Cooper Center population estimates. In the event those numbers do not make sense, such as the Newport News example, updated census estimates are included.

The basic layout of the report has an introduction, which is a brief summary on each locality. There is a table that ranks Hampton Roads with the top one hundred MSAs. There is a section on the economy, which includes gross product and some employment and unemployment numbers, and industry data. There is a demographic section, which focuses on population, age, gender, race and ethnicity. There are sections on housing, transportation and a miscellaneous quality of life section followed by data tables for each of the indicators. The study uses graphic illustrations for each descriptive statistical benchmark as well as a brief description stating why it is important and how the region is doing.

Mr. Grootendorst stated the regional benchmarking study basically provides a relatively quick, consistent and broad based snapshot of regional conditions and progress. The document will continue to evolve over the next few years with input from outside organizations.

Chairman Goodson inquired if the study is on the HRPDC website, which it is.

Mr. Jones Moved to approve the benchmarking study for distribution; seconded by Mr. Diezel. The Motion Carried.

### **Regional Climate Change Project**

(Ms. Garton and Mr. Woodward arrive)

Chairman Goodson introduced Eric Walberg to give a presentation on the HRPDC Regional Climate Change Project.

Mr. Walberg stated the HRPDC is one of three PDCs in the coastal plain of Virginia working on climate change projects, the other two are the Middle Peninsula and the Northern Virginia Regional Commission. In all cases, they are three-year projects that are funded by the Virginia Coastal Zone Management Program. The primary goal for the HRPDC project is the development of an adaptive management framework for dealing with climate change. Given the relatively short timeframe and the limited budget for the project, it would not be

possible to develop the level of detail needed in all subject areas so it is important the framework be flexible. Adapting to sea level rise will be the most difficult and challenging aspect for the Hampton Roads region. It is not common to think in terms of economic development opportunities associated with climate change but, in the case of Hampton Roads, there are a couple of intriguing examples. Hampton Roads has the opportunity to be a leader in the wind energy industry. Several factors make Hampton Roads competitive in the development of wind energy. Hampton Roads' deep water port, shipbuilding infrastructure and central location on the East Coast all make for an ideal location for the fabrication and assembly of hardware associated with wind farms. It is important to note that this is an opportunity to service this industry all along the East Coast. Hampton Roads could serve wind farms directly off of Virginia but also in terms of developing wind farms off of the Virginia coast, Hampton Roads has two factors that make us competitive. The first is an electrical grid that supports the interconnection of wind energy into the grid. Hampton Roads also has Category 5 and Category 6 wind resources off the coast in shallow water areas which also support the development of offshore wind in Virginia waters. In the case of modeling and simulation, this is an opportunity to build on some of Hampton Roads' existing strengths. A couple of examples are the downscaling of global climate models and sea level rise and storm surge prediction. In both of these areas, there is the opportunity to service the global community.

In terms of climate change impacts in Hampton Roads, there is a 2008 report by the Governor's Commission on Climate Change that provides a good synopsis of some of the likely ramifications. Those include a three degree Celsius increase in air temperature, an 11 percent increase in precipitation and a 2.3 to 2.5 foot rise in sea level by the end of the century. Obviously, sea level rise is going to be an important issue for Hampton Roads with the possibility of some fairly extensive threats to our infrastructure and natural systems. Measurements at the Sewells Point tide gauge, which is near the mouth of the Chesapeake Bay, have been taken over the last 80 years. The rate is roughly 4.5 millimeters per year, and over that 80-year period of record, that is 14 inches of sea level rise. It is already causing a change in the storm surge damage that is seen associated with coastal storm events.

The Virginia Institute of Marine Science did an interesting study. They compared the 1933 hurricane to Isabel and, even though Isabel was a lesser storm, it resulted in storm surge flooding that was as bad or in some cases worse than the 1933 hurricane, and that was attributed to this 14 inch additional sea level rise. Unfortunately, going forward the rate is projected to nearly triple. One of the real wild cards in this is the rate of polar ice melting. A lot of sea level rise projections thus far have not done a very good job of capturing that. The most recent science seems to indicate that the polar ice caps are melting much more rapidly than previously predicted and the range that was discussed previously of up to five feet of sea level rise by the end of the century is certainly possible for Hampton Roads.

Another factor that exacerbates sea level rise for Hampton Roads is subsidence of the land. Roughly 35 million years ago, an asteroid traveling 70,000 miles per hour slammed into the area that is now the mouth of the Chesapeake Bay. The resulting crater, which is now buried in sediment, affects both the elevation and subsidence rates of the lands within and

adjacent to it. Another factor is the pumping of groundwater in the coastal plain of Virginia. Over time it is creating a slow subsidence of the entire coastal plain. These factors together have created a situation where Hampton Roads has an aggregate sea level rise rate in some cases twice what some other areas on the East Coast are experiencing.

Category 1 storm surge is typically three to five feet above normal sea level. As the sea level rises, a couple of things are going to happen. First of all, relatively minor storm events will create flooding in this area, which Hampton Roads is already starting to see. The other situation is those areas that historically have been categorized as storm surge areas for Category 2 and Category 3 storms will become vulnerable. Those areas that experience erosion to date, the sea level rise is going to exacerbate the problem.

An adaptive management approach will be used to develop a framework for response to climate change in Hampton Roads. Risk will be assessed by sector and management response will be formulated. The framework will be updated over time as new information becomes available. Modeling of storm surge for various sea level rise increments is needed and will be included as information becomes available. There are several related regional planning efforts that will be integrated. The first is the regional update of several hazard mitigation plans. Peninsula and Southside efforts will be aggregated. There is an evolving regional critical infrastructure project that will include sea level rise and climate change. The regional green infrastructure project is in the process of being updated. It will help to prioritize at-risk natural system areas. The State is attempting to obtain funding for a LIDAR acquisition project, which will improve the quality of elevation data for Hampton Roads. PDC staff have been reviewing several coastal climate change plans including examples from San Francisco, London, the State of Maryland and New York City. All of these elements are useful in considering how we frame this problem in Hampton Roads.

Based on internal discussions thus far, the PDC staff has identified local elected officials, federal, state and local government staff, Department of Defense representatives, representatives from business and industry, academia and environmental advocacy groups to form a climate change working group. This group will meet over the next year to identify key issues, research needs and adaptive response recommendations.

### **House Joint Resolution 155 Final Report – Mutual Aid for Emergency Services**

(Mayor Zeidler arrives)

Chairman Goodson introduced Richard Flannery to discuss the House Joint Resolution 155 Final Report.

Mr. Flannery stated this report is a follow-up to last year's House Joint Resolution 155 report, which was enacted by the General Assembly in 2008 for the Hampton Roads Planning District Commission to review emergency response operations across jurisdictional lines to determine if legislation was needed to improve cooperation amongst first responders. The premise for this was due to an incident regarding fire and EMS in which a citizen had questions in regards to whether responding public safety officials could come across jurisdictional boundaries. The initial report was submitted in December 2008

after being presented to the PDC. This is the final report of the two-year study to ensure all fire, emergency medical services and law enforcement agencies were included with regards to the House Joint Resolution request. The 911 dispatch centers were also included because they are the conduit to help with mutual and automatic aid.

Automatic aid occurs when a 911 dispatcher responding to a jurisdiction can deploy resources from another jurisdiction. This happens quite commonly especially in York County, James City County and the Williamsburg area. Mutual aid occurs when 911 dispatchers contact another jurisdiction and the contacted jurisdiction deploys the requested resources. Mutual aid is a long-standing practice. For instance, Norfolk has had mutual aid with the Naval Base since 1990 and York, James City County and Williamsburg have been using mutual aid for up to 30 years. York, James City County and Williamsburg use automatic and mutual aid extensively and this is probably the more robust arrangement for automatic aid currently in the Hampton Roads area. Efforts of the Fire Chiefs continue to improve. They work to continue to improve mutual aid on a regular basis. Whenever they respond to an incident and have any challenges presented as a result of automatic or mutual aid, the Fire Chiefs get together and work through them because they do not want any conflicts in their response. The Fire Chiefs also work very well with the military bases in our region to ensure they receive any mutual or automatic aid needed.

The Fire Chiefs are working on interoperable communications making sure their processes are coordinated to communicate with each other. They are working on resource typing so if one jurisdiction requests a ladder truck, they know exactly what they are getting. Surprisingly, what might be defined as a ladder truck in one jurisdiction might slightly differ in another jurisdiction. The Fire Chiefs are also working on computer-aided dispatch interoperability as well as looking toward having automatic vehicle locators installed in their emergency vehicles. This will allow 911 dispatchers more visibility as to where things are when they try to enact automatic or mutual aid.

EMS is predominantly under the Fire Department. However, there are some jurisdictions in which EMS is handled by private contractors although this applies to very few jurisdictions. Due to a number of factors, mutual aid for EMS is required under the Code of Virginia. One of those factors for this code is in response to a mass casualty incident, which is ongoing and facilitated by the Tidewater Emergency Medical Services as well as the Peninsula Emergency Medical Service.

Law enforcement required a lot more effort. Law enforcement includes all city police, sheriff's departments within cities and counties as well as higher education centers, Virginia Port Authority and military bases. Mutual aid is the preferred type of aid that law enforcement uses mainly because of the role to enforce laws and laws vary across jurisdictional borders. For law enforcement to cross borders to enforce laws can be challenging based on statutes. Regional Law Enforcement Mutual Aid Agreements exist to support agencies like the Virginia Port Authority as well as neighboring jurisdictions. The Chiefs of Police meet regularly and continue to have dialogue that usually includes how to support each other and those non-traditional jurisdictional agencies like universities, Virginia Port Authority and airports in the region.

In January 2009, there were two bills submitted in the Virginia House of Delegates and the Senate. One bill was to establish the Commonwealth Law Enforcement Mutual Aid Agreement. Each local police and sheriff's department in the Commonwealth automatically participates in the agreement unless the chief law enforcement officers provide the Virginia Department of Emergency Management with written notice to withdraw from the agreement. Both bills were referred to other committees and subsequently pulled shortly afterwards.

A portion of the report focuses on phone services provided in requesting 911 services. As communications gets more complex, phone numbers are not automatically typed to specific jurisdictions since we have cell phones and Voice-Over Internet Protocol as well as other communications devices. Automatic and mutual aid is generally left to first responders. However, they usually go through the 911 dispatch centers to facilitate any requests.

A national organization called the Association of Public Safety Communication Officials is working on a project called Project 36 in which the current initiative is focused on developing standard CAD-to-CAD, Computer Aided Dispatch interlinking platforms. They are looking at ways to link up the different types of computer aided dispatch systems as a result of 911 centers to facilitate any type of aid needed.

The report has a section on interdependencies, which was requested by the law enforcement officials, mainly the Chiefs of Police, to look at places such as the Norfolk International Airport, universities and the Virginia Port Authority to ensure current and existing mutual aid agreements or automatic aid agreements are in place and presented as part of the report. There is continuous and ongoing dialogue with law enforcement amongst the Chiefs of Police as well as other entities within the police departments to make sure strong working relationships are being fostered.

(Mayor Helsel and Mr. Wheeler arrive)

There is no legislative action required to facilitate automatic or mutual aid. Since 2001, over 8,000 incidents of mutual aid and over 1,600 incidents of automatic aid have occurred between fire, EMS and law enforcement. An example where it has occurred recently is the Suffolk tornado that took place last year. There was a lot of automatic and mutual aid put into place to support that effort.

Chairman Goodson expressed his appreciation for the recognition of James City County, York County and Williamsburg where seamless systems were created. He stated on a number of occasions there were outages of the 911 system that were seamlessly transferred to York County with very little effort.

Mayor Frank inquired if the State contributed any money toward putting together the report and why the report is being done if there is no response from the State. Mr. Flannery stated they did not contribute any money and the person who requested the report is no longer an elected official, which occurred shortly after this joint resolution

came about. He stated due diligence was done to ensure the joint resolution request was answered.

Mayor Frank Moved to approve the HJR 155 final report and authorize the Executive Director to submit it to the General Assembly; seconded by Mr. Harrell. The Motion Carried.

### **Western Branch Flood Prevention and Dam Safety Project**

Chairman Goodson introduced Mr. Dwight Farmer to discuss the Western Branch Flood Prevention and Dam Safety Project.

Mr. Farmer stated the City of Norfolk is seeking authorization for \$15 million for this Water Resources Development Act (WRDA) project, which affects several communities. The funding is for the construction of a new emergency spillway and rehabilitation of the existing primary spillway at the Western Branch Dam. The Dam is located in the City of Suffolk and is an important part of the water supply system for Norfolk, Virginia Beach, Portsmouth, Chesapeake and Suffolk. Over 120 properties including several small businesses, a major highway and raw water transmission mains are located directly downstream from the Dam and could be damaged by a dam failure.

Mr. Harrell Moved to approve the resolution on the Western Branch Flood Prevention and Dam Safety Project; seconded by Mr. Jones. The Motion Carried.

### **Lee Hall Dam Improvement Project**

Chairman Goodson introduced Mr. Dwight Farmer to discuss the Lee Hall Dam Improvement Project.

Mr. Farmer stated the City of Newport News is seeking authorization for \$15 million in Water Resources Development Act (WRDA) funding for renovations to the Lee Hall Dam to include the construction of a new emergency spillway and primary spillway. The Dam is located in the City of Newport News and is an important part of the water supply system for Newport News, Hampton, Poquoson, James City County and York County. Renovation of this dam will bring it into compliance with the state regulations, preserve the public water supply and mitigate potential flooding of three critical roadways.

Mayor Frank Moved to approve the resolution on the Lee Hall Dam Improvement Project; seconded by Mayor Fraim. The Motion Carried.

### **Project Status Report**

Chairman Goodson stated this agenda item does not require any action.

### **For Your Information**

Chairman Goodson stated this agenda item does not require any action.

## **Old/New Business**

Delegate Cosgrove announced a meeting with the Hampton Roads General Assembly Caucus at VMASC on December 21st to discuss issues such as high speed rail and military bases.

## **Adjournment**

With no further business to come before the Hampton Roads Planning District Commission, the meeting adjourned at 10:14 a.m.

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Dwight L. Farmer  
Executive Director/Secretary

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Bruce C. Goodson  
Chairman

**AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

**ITEM #2: TREASURER'S REPORT**

**FISCAL YEAR 2010  
DECEMBER 31, 2009  
BALANCE SHEET**

<b>ASSETS</b>		<b>LIABILITIES &amp; NET ASSETS</b>	
Cash & Cash Equivalents	309,285	Current Liabilities	620,729
Accounts Receivables	737,133	Net Assets	4,696,702
Investments	2,736,883		
Other Current Assets	664		
Net Capital Assets	<u>1,533,467</u>		
<b>Total Assets</b>	<u><u>5,317,430</u></u>	<b>Total Liabilities &amp; Equity</b>	<u><u>5,317,430</u></u>

**STATEMENT OF REVENUES AND EXPENDITURES**

<b>REVENUES</b>	<b>Annual Budget</b>	<b>Current Month</b>	<b>YTD</b>
Grant and Contract Revenue	12,751,264	378,169	2,259,941
VDHCD State Allocation	228,491	19,041	114,246
Interest Income	25,000	3,903	17,658
Local Jurisdiction Contributions	1,346,171	-	673,085
Other Local Assessment	1,281,943	5,753	767,717
Sales and Contract Revenue	1,078,120	-	20,660
<b>Total Revenue</b>	<u><u>16,710,989</u></u>	<u><u>406,866</u></u>	<u><u>3,853,306</u></u>
<b>EXPENDITURES</b>			
Personnel	4,269,377	290,423	1,632,446
Standard Contracts	188,985	347	456
Special Contracts / Pass-Through	11,045,564	584,736	1,697,447
Office Services	866,972	140,914	690,659
Capital Assets	149,950	-	-
<b>Total Expenses</b>	<u><u>16,520,848</u></u>	<u><u>1,016,420</u></u>	<u><u>4,021,008</u></u>
<b>Agency Balance</b>	<u><u>190,141</u></u>	<u><u>(609,555)</u></u>	<u><u>(167,701)</u></u>

HRPDC Quarterly Commission Meeting - January 20, 2010

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #3: REGIONAL REVIEWS – MONTHLY STATUS REPORT**

#### **A. PNRS Items (Initial Review)**

The HRPDC staff is routinely involved in the review of applications for grants to support projects involving federal or state funding. To ensure that all Commissioners are aware of projects being reviewed, brief summaries of these projects and anticipated review schedules are included in the Agenda. The HRPDC staff will continue to request comments directly from staff in localities that appear to be directly affected by a project. Review and comment by more than one locality is requested when a project may affect the entire region or a sub-regional area. Attached is a listing and summary of projects that are presently under review. As of January 13, 2010, there were no outstanding comments on these projects.

#### **B. Environmental Impact Assessment/Statement Review**

The HRPDC staff is routinely involved in the review of environmental impact assessments and statements for projects involving federal funding or permits as well as state development projects. To ensure that all Commissioners are aware of projects being reviewed, brief summaries of these projects and anticipated review schedules are included in the Agenda. The HRPDC staff will continue to request comments directly from staff in localities that appear to be directly affected by a project. Attached is a listing and summary of projects that are presently under review.

Attachment

#### **RECOMMENDED ACTION:**

None required.

# Project Notification and Reviews

**Date**  **CH #**

**Title**

**Applicant**

**State/Federal Program**

**Project Staff**  **Type of Impact**

**Project Description**

This funding will assist with Remedial Investigation Feasibility Study activities at Peck Iron and Metal Superfund site in Portsmouth, Virginia.

**FUNDING**

<input type="text" value="\$70,070.00"/>	<input type="text" value="\$0.00"/>	<input type="text" value="\$0.00"/>	<input type="text" value="\$0.00"/>	<input type="text" value="\$0.00"/>	<input type="text" value="\$0.00"/>
<b>Federal</b>	<b>Applicant</b>	<b>State</b>	<b>Local</b>	<b>Other</b>	<b>Program</b>
<b>TOTAL</b>			<input type="text" value="\$70,070.00"/>		

# Environmental Impact Reviews

**Date Received**

**Number**

**Name**

**Sponsor**

**Description**

The university proposes to construct a new hall to be located north of University Place and Tribble Library. The proposed site consists of the existing Wingfield Hall, an area of woods, and a portion of the existing parking lot to the north of the administration building.

**Affected Localities**

**Finding**

The proposed project is consistent with local and regional plans and policies.

**Comments Sent**

**Final State Comments Received**

**Date Received**

**Number**

**Name**

**Sponsor**

**Description**

The Hampton Roads Executive Airport proposes to remove obstructions (trees) in areas located off airport property in the cities of Chesapeake and Suffolk. These areas have been identified as containing tree obstructions to the proposed replacement Runway 10/28 approach surfaces based on Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, surface analyses. The tree removal would involve the cutting or topping of encroaching trees, without grubbing, on 98.40 acres of land located outside of airport property. The majority of the areas planned for obstruction removal consist of palustrine, forested wetland communities. Obstruction removal will result in the conversion of these communities to either a scrub-shrub or emergent wetlands. These habitats would then be maintained as emergent or scrub-shrub in accordance with an existing airport Vegetation Plan to comply with airspace protection standards. The proposed action will provide for a precision instrument ILS approach and an all-weather approach capability for the proposed replacement runway 10/28, thereby enhancing safety for aircraft operators and passengers.

**Affected Localities**

**Finding**

**Comments Sent**

**Final State Comments Received**

Date Received 12/23/2009

Number 09-227F

Name Richmond/Hampton Roads Passenger Rail Project

Sponsor USDOT/Federal Railroad Administration

**Description**

The Virginia Department of Rail and Public Transportation (DRPT), in cooperation with the Federal Railway Administration, proposes to implement higher-speed passenger rail service within the Richmond to Hampton Roads travel corridor. The alternatives considered include the following:

- Status quo. This alternative does not include any operational or physical changes to the existing Amtrak Peninsula passenger rail service. Two daily round-trip trains would operate between Richmond and Newport News at 79 miles per hour (mph) maximum speed.
- No Action Alternative. This alternative consists of the existing transportation network and committed highway, rail and airport improvement projects in the Richmond to Hampton Roads study area. This alternative provides for one more daily round-trip train over the Status Quo Alternative (a total of 3). Amtrak has provided plans for this enhanced service. The trains would operate at conventional speeds, limited to 79 miles per hour (mph).
- Alternative 1. This alternative would serve both sides of the James River. The south side would be served by trains operating on the Southside/Norfolk Southern (NS) route with six daily round-trip trains operating at either 90 or 110 mph maximum speed. The north side of the James would be serviced as proposed in the No Action Alternative with 3 daily round-trip trains.
- Alternative 2a. This alternative would serve both sides of the James River. The north side would be serviced by six daily round-trip trains operating at higher speeds of either 90 or 110 mph maximum speeds. The trains would run on the Peninsula/CSXT route. A new station servicing Newport News would be constructed. The south side would be serviced by three daily round-trip trains operating at a maximum speed limit of 79 mph on the Southside/NS route. New stations would be constructed in Norfolk, Bowers Hill and Petersburg, although the location of the Petersburg station is being considered under the Southeast High-Speed Rail (SEHSR) Project.
- Alternative 2b. This alternative would only service the north side of the James River by operating trains at either 90 or 110 mph maximum speed along the Peninsula/CSXT route. There would be nine daily round-trip trains with a new station proposed for Newport News. No passenger rail service would be offered south of the James River.

Affected Localities HRPDC

**Finding**

Comments Sent

Final State Comments Received

**Date Received**

**Number**

**Name**

**Sponsor**

**Description**

The U.S. Navy at Naval Air Station Oceana, Dam Neck Annex proposes to construct a sanitary sewer line to serve the new Special Operations Force Operations Facility (P-899) currently under construction in the City of Virginia Beach. Originally, the sewer line was to be routed north from the new operations facility to tie into existing sewer lines at Dam Neck. It has been determined that these sewer lines do not have sufficient capacity to carry the additional load from the new facility. Therefore, the Navy now proposes to route the sanitary sewer line south from the new operations facility approximately 2,700 feet, then east for approximately 1,200 feet where it would tie into existing sanitary sewer lines near the northern terminus of Tartar Avenue in the southern portion of Dam Neck. The 1,200-foot east-west run would be directional bored at a depth averaging fifteen feet below ground surface to avoid impacts to jurisdictional wetlands. The Navy finds the construction of the sanitary sewer line consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Resources Management Program (also called the Virginia Coastal Zone Management Program).

**Affected Localities**

**Finding**

**Comments Sent**

**Final State Comments Received**

**Date Received**

**Number**

**Name**

**Sponsor**

**Description**

The Department of the Navy submitted a federal consistency determination (FCD) to replace part of a concrete and granite stabilization structure on the south section of the Craney Island Fuel Terminal in Portsmouth. Part of the project was completed in 2005. This FCD describes the potential environmental impacts from installing 900 feet of riprap armoring along the shoreline for erosion control. There will be more than 1,800 square feet of impacts to vegetated tidal wetlands and 275 square feet of impacts to non-vegetated wetlands as a result of the project. The FCD finds the proposed project to be consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Resources Management Program.

**Affected Localities**

**Finding**

**Comments Sent**

**Final State Comments Received**

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #4: Metropolitan Medical Response System FY 2009 Award**

#### **SUBJECT:**

The Department of Homeland Security (DHS) has released information, through the Virginia Department of Emergency Management (VDEM), concerning the approved funding for FY 2009 awards. The HRPDC will be the recipient of its eighth Metropolitan Medical Response System (MMRS) award in the amount of \$1,284,884.

#### **BACKGROUND:**

Since 1999, Hampton Roads has received federal funding for the national Metropolitan Medical Response System (MMRS). This is the only nationally funded program solely designed to support a medical response to mass casualties resulting from either an act of terrorism or a natural disaster.

One element of the application package is a "Governing Body Resolution" that verifies Board approval for the HRPDC to accept this award.

#### **RECOMMENDED ACTION:**

Authorize the Chairman to sign the "Governing Body Resolution" accepting the FY 2009 MMRS funding.

#### **STAFF COMMENTARY**

Mrs. Nancy K. Collins, CFO for the HRPDC is also the Regional HRMMRS Coordinator and oversees all financial aspects of both the federal and local funds secured for this program. The HRMMRS and its Strike Team is the foremost Regional system in the nation, and has been used repeatedly as a National Model for other MMRS sites.

Attachment

(To Be Completed Once Funds are Awarded)

## Governing Body Resolution

*BE IT RESOLVED BY THE* Board of Commissioners  
(Governing Body)

*OF THE* Hampton Roads Planning District Commission  
(Name of Applicant)

Dwight L. Farmer, Executive Director OR  
(Name or Title of Authorized Agent)

John M. Carlock, Deputy Executive Director OR  
(Name or Title of Authorized Agent)

Nancy K. Collins, CFO,  
(Name or Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the named applicant, a public entity established under the laws of the State of Virginia, any actions necessary for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of Virginia.

Passed and approved this 20th day of January, 2010

### *Certification*

I, Bruce C. Goodson, duly appointed and  
(Name)

Chairman of the Board of Commissioners  
(Title) (Governing Body)

do hereby certify that the above is a true and correct copy of a resolution passed and approved by

the Board of Commissioners of the Hampton Roads Planning District Commission on the  
(Governing body) (Name of Applicant)

20th day of January, 2010.

Chairman  
(Official Position)

---

(Signature)

January 20, 2010  
(Date)

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #5: REGIONAL SOLID WASTE PLAN CONTRACTS**

#### **SUBJECT:**

Complete the five year update to the Regional Solid Waste Management Plan for Southeastern Virginia, which covers the SPSA service area, and the annual recycling reports for the eight SPSA member localities.

#### **BACKGROUND:**

The Virginia Solid Waste Planning and Recycling regulations require that designated solid waste management planning units maintain the regional solid waste management plan and once every five years complete a plan update. These regulations also require annual reporting of recycling activities to serve as the basis for determining whether the region's localities are meeting the state's 25% recycling rate requirement.

The Southeastern Public Service Authority of Virginia (SPSA) is the designated solid waste management planning unit for its eight member localities. The current regional plan for this area was completed and approved by the Virginia Department of Environmental Quality on July 27, 2005. The required update is to be completed by July 27, 2010. SPSA has requested that the HRPDC staff develop the plan update and the annual recycling rate reports under contract with SPSA. The plan update will also address the need for ongoing plan maintenance as new public and private waste disposal facilities are proposed.

#### **RECOMMENDED ACTION:**

Authorize the Executive Director to execute a contract with the Southeastern Public Service Authority of Virginia (SPSA) to prepare the Update to the Regional Solid Waste Management Plan for Southeastern Virginia and to develop the annual recycling rate report for the Southside localities.

Authorize the Executive Director to execute an amendment to the existing contract with SCS Engineers to assist in the development of the Update to the Regional Solid Waste Management plan for Southeastern Virginia.

#### **STAFF COMMENTARY:**

The HRPDC staff has prepared the 2005 Regional Solid Waste Management Plan for Southeastern Virginia as well as the initial plan and plan review during the 1990s. SCS Engineers, on behalf of the HRPDC, completed the 2008 Solid Waste Management Report in 2008. The HRPDC staff believes that the plan update process and recycling rate report completion are appropriate regional planning activities.

## **AGENDA NOTE – HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #6: 2010 ECONOMIC FORECAST**

#### **SUBJECT:**

The annual HRPDC regional economic forecast for 2010.

#### **BACKGROUND:**

Each January since 1990, the HRPDC Economics Staff has delivered a regional economic forecast for the coming year. The forecast presentation includes a review of local and national trends and provides a forecast for gross regional product, employment, unemployment, retail sales, residential construction, and hotel revenues. The HRPDC economic forecast was approved as part of the FY 2010 HRPDC Unified Work Program.

Mr. Greg C. Grootendorst, Chief Economist, will present the 2010 Economic Forecast.

#### **RECOMMENDED ACTION:**

Approve the release of the 2010 Economic Forecast.

#### **STAFF COMMENTARY:**

The HRPDC Economic Forecast is the staff assessment of what the region can expect for the coming year. The HRPDC forecast is often used for planning purposes by staff from the member jurisdictions as well as other regional organizations. Approving the release of the 2010 Economic Forecast will provide public access to the information.

## **AGENDA NOTE – HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #7: 2010 DECENNIAL CENSUS**

#### **SUBJECT:**

To determine HRPDC action as a 2010 Regional Census Partner.

#### **BACKGROUND:**

The HRPDC has played a substantial role as a Census Partner during the last four decennial censuses, including the 2000 Census by acting as a liaison between the Census and the member jurisdictions for the LUCA program (Local Update Census Addresses) and the Census Participant Statistical Areas Program (PSAP). The HRPDC also worked with the Census Public Affairs Office on its “Get the Word Out” campaign. Following the count, HRPDC staff assisted with the compilation and database management of Census data.

As the Census increasingly moves toward an electronic format, the needs of its regional partners have changed. Beginning in late 2008 the HRPDC assisted the Census by providing local contact information for the 2010 Census Participant Statistical Area Program. HRPDC requested that the CAO of each member locality provide a point of contact for the Census to assist in delineating new census tracts, block groups, census designated places (CDPs) and census county divisions (CCDs). HRPDC also offered support for any locality that required technical assistance with the GIS requirements. As an official regional 2010 Census Partner and PSAP contact, the HRPDC staff has contacted the Census Bureau’s Regional Census Center in Charlotte to offer our assistance in promoting the Census. To date, there has been no specific request by the Census for additional assistance.

Mr. Greg C. Grootendorst, Chief Economist, will provide a brief presentation regarding Census activity.

#### **RECOMMENDED ACTION:**

Authorize the HRPDC staff to work with the region’s localities, the U.S. Census Bureau and others to facilitate regional coordination of Census efforts including active promotion of participation in the Census and searching for opportunities to provide assistance in the collection, dissemination and analysis of information.

#### **STAFF COMMENTARY:**

Making certain that the Census Bureau is in the best position to make a complete and accurate count of the citizens of Hampton Roads not only ensures that our region receives its proportionate share of State and Federal funding, it also results in a better foundation of information with which to make informed decisions. Staff wants to be sure that every effort is made to improve the accuracy of the region’s Census.

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #8: WASTEWATER LEGISLATION – MARKING OF WATER AND SEWER LATERALS**

#### **SUBJECT:**

Delegate Purkey has introduced House Bill No. 115 to amend and reenact §§ 56-265.15 and 56-265.32 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.19:1, relating to the Underground Utility Damage Prevention Act; sewer laterals.

#### **BACKGROUND:**

The existing statute does not define private water or sewer laterals, water or sewer systems or operators of such systems. It also does not specify the responsibilities of operators of water and sewer systems in the marking of private water or sewer laterals prior to excavation by other utilities. Based on this, the State Corporation Commission (SCC) staff interpreted the existing statute to make local government utilities responsible for marking lines and assessed penalties for failure to comply.

Based on concerns expressed by the HRPDC Directors of Utilities Committee and others, the SCC convened a working group to resolve the conflicts. The proposed HB 115 is the product of the working group and is strongly endorsed by the Directors of Utilities Committee.

The proposed bill defines private water and sewer laterals, water and sewer systems and operators of such systems. It establishes requirements for sewer system operators to mark private laterals both inside and outside public rights of way or easements when an excavation involves construction or maintenance of gas or electric utility lines. Further, it establishes requirements for provision of records and cooperation among the various utilities when excavation is to occur on private property.

#### **RECOMMENDED ACTION:**

Approve the attached letter and authorize the Chairman to sign it for transmittal to the Hampton Roads General Assembly Delegation.

#### **STAFF COMMENTARY:**

The proposed legislation will not create additional burdens for the Hampton Roads public utilities. Historically, some sewer system operators outside of the Region have not been cooperative in assisting the electric and gas utilities in marking water and sewer lines and conflicts arose as to who was responsible for damage caused during excavations. The public utilities in the Region are agreeable to continue the level of marking they have been doing and would like to have the limits of these requirements clearly defined in the legislation.

Attachments



January 20, 2010

FORM Letter – General Assembly Delegation

RE: House Bill No. 115

Dear

Delegate Purkey has introduced House Bill No. 115 to amend and reenact §§ 56-265.15 and 56-265.32 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.19:1, relating to the Underground Utility Damage Prevention Act; sewer laterals. At its Quarterly Commission Meeting on January 20, 2010, the Hampton Roads Planning District Commission acted to urge your favorable support of this amendment.

The existing statute does not define private water or sewer laterals, water or sewer systems or operators of such systems. It also does not specify the responsibilities of operators of water and sewer systems in the marking of private water or sewer laterals prior to excavation by other utilities. Based on this, the State Corporation Commission (SCC) staff interpreted the existing statute to make local government utilities responsible for marking lines and assessed penalties for failure to comply.

Based on concerns expressed by the HRPDC Directors of Utilities Committee and others, the SCC convened a working group to resolve the conflicts. The proposed HB 115 is the product of the working group.

The proposed bill defines private water and sewer laterals, water and sewer systems and operators of such systems. It establishes requirements for sewer system operators to mark private laterals both inside and outside public rights of way or easements when an excavation involves construction or maintenance of gas or electric utility lines. Further, it establishes requirements for provision of records and cooperation among the various utilities when excavation is to occur on private property.

Thank you for your consideration of this request.

Sincerely,

Bruce C. Goodson  
Chairman

Attachment 8A

10102139D

**HOUSE BILL NO. 115**

Offered January 13, 2010

Prefiled January 5, 2010

A *BILL to amend and reenact §§ 56-265.15 and 56-265.32 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.19:1, relating to the Underground Utility Damage Prevention Act; sewer laterals.*

Patron—Purkey

Committee Referral Pending

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-265.15 and 56-265.32 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-265.19:1, as follows:**

§ 56-265.15. Definitions; calculation of time periods.

A. As used in this chapter:

"Abandoned" means no longer in service and physically disconnected from a portion of the underground utility line that is in use for storage or conveyance of service.

"Commission" means the State Corporation Commission.

"Contract locator" means any person contracted by an operator specifically to determine the approximate horizontal location of the operator's utility lines that may exist within the area specified by a notice served on a notification center.

"Damage" means any impact upon or removal of support from an underground facility as a result of excavation or demolition which according to the operating practices of the operator would necessitate the repair of such facility.

"Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment, or discharge of explosives which could damage underground utility lines.

"Designer" means any licensed professional designated by the project owner who designs government projects, commercial projects, residential projects consisting of twenty-five or more units, or industrial projects, which projects require the approval of governmental or regulatory authorities having jurisdiction over the project area.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Excavate" or "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass of material.

"Extraordinary circumstances" means floods, snow, ice storms, tornadoes, earthquakes, or other natural disasters.

"Hand digging" means any excavation involving nonmechanized tools or equipment. Hand digging includes, but is not limited to, digging with shovels, picks, and manual post hole diggers, vacuum excavation or soft digging.

"Notification center" means an organization whose membership is open to all operators of underground facilities located within the notification center's designated service area, which maintains a data base, provided by its member operators, that includes the geographic areas in which its member operators desire transmissions of notices of proposed excavation, and which has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by teletype, telecopy, personal computer, or telephone.

"Notify," "notice" or "notification" means the completed delivery of information to the person to be notified, and the receipt of same by such person in accordance with this chapter. The delivery of information includes, but is not limited to, the use of any electronic or technological means of data transfer.

"Operator" means any person who owns, furnishes or transports materials or services by means of a utility line.

"Person" means any individual, operator, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department or agency, and includes any

INTRODUCED

HB115

59 trustee, receiver, assignee, or personal representative thereof.

60 *"Private sewer lateral" means a privately-owned, legally authorized utility line that transports*

61 *wastewater from one or more buildings to a sewer system utility line owned by a sewer system operator.*

62 *"Private water lateral" means a privately-owned, legally authorized utility line that supplies water*

63 *from a water system utility line owned by a water system operator to one or more buildings or*

64 *properties.*

65 *"Sewer system" means a system of utility lines used for conveying wastewater, and includes sewer*

66 *system laterals but does not include private sewer laterals.*

67 *"Sewer system lateral" means a lateral utility line located in the public right of way or public utility*

68 *easement, owned by a sewer system operator, and used to transport wastewater to the operator's main*

69 *sewer line.*

70 *"Sewer system operator" means an operator of a sewer system.*

71 *"Soft digging" means any excavation using tools or equipment that utilize air or water pressure as the*

72 *direct means to break up soil or earth for removal by vacuum excavation.*

73 *"Special project notice" means a valid notice to the notification center by an excavator covering a*

74 *specific, unique or long-term project.*

75 *"Utility line" means any item of public or private property which is buried or placed below ground*

76 *or submerged for use in connection with the storage or conveyance of water, sewage,*

77 *telecommunications, electric energy, cable television, oil, petroleum products, gas, or other substances,*

78 *and includes but is not limited to pipes, sewers, combination storm/sanitary sewer systems, conduits,*

79 *cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground. The term*

80 *"sewage" as used herein does not include any gravity storm drainage systems. Except for any publicly*

81 *owned gravity sewer system within a county which has adopted the urban county executive form of*

82 *government, the term "utility line" does not include any gravity sewer system or any combination*

83 *gravity storm/sanitary sewer system within any counties, cities, towns or political subdivisions*

84 *constructed or replaced prior to January 1, 1995. No excavator shall be held liable for the cost to repair*

85 *damage to any such systems constructed or replaced prior to January 1, 1995, unless such systems are*

86 *located in accordance with § 56-265.19.*

87 *"Water system" means a system of utility lines used for supplying water, and does not include private*

88 *water laterals.*

89 *"Water system operator" means an operator of a water system.*

90 *"Willful" means an act done intentionally, knowingly, and purposely, without justifiable excuse, as*

91 *distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.*

92 *"Working day" means every day, except Saturdays, Sundays, and legal state and national holidays.*

93 *B. Unless otherwise specified, all time periods used in this chapter shall be calculated from the time*

94 *of the original notification to the notification center as provided in § 56-265.17. In addition, all time*

95 *periods exclude Saturdays, Sundays, and legal state and national holidays.*

96 *§ 56-265.19:1. Private sewer laterals and sewer system laterals.*

97 *A. Notwithstanding any provision of this chapter to the contrary, the protection of sewer system*

98 *laterals and private sewer laterals shall be implemented as provided in this section. When an excavation*

99 *is to take place within a public right of way or public utility easement, the sewer system operator shall*

100 *exercise reasonable care to mark the approximate horizontal location of sewer system laterals within the*

101 *public right of way or public utility easement as provided in § 56-265.19.*

102 *B. When (i) an excavation is to take place outside the public right of way or public utility easement,*

103 *(ii) the excavation involves the installation or maintenance of gas or electric utility lines by trenchless*

104 *technology, (iii) the potential for a conflict with a sewer lateral exists, and (iv) sewer system laterals are*

105 *located in the public right of way:*

106 *1. The sewer system operator shall exercise reasonable care to mark the approximate horizontal*

107 *location of sewer system laterals by:*

108 *a. Marking the location of the sewer system lateral where it meets the edge of the right of way or*

109 *public utility easement, if known; or*

110 *b. If the location described in subdivision B 1 a is unknown, marking the location where the sewer*

111 *system lateral connects to the sewer system main.*

112 *2. When the sewer system laterals have been marked in accordance with subdivision B 1 and the*

113 *excavator reasonably concludes that a private sewer lateral may be impacted by the planned excavation*

114 *based upon visual evidence, knowledge of the proposed excavation site, or other information available*

115 *to the excavator, the excavator shall exercise reasonable care to protect the private sewer lateral. For*

116 *purposes of this subdivision, reasonable care includes the following actions:*

117 *a. Reviewing information provided by the private sewer lateral owner;*

118 *b. Meeting with the sewer system operator on-site, if the sewer system operator has additional*

119 *information to provide about the location of private sewer laterals; or*

120 *c. Conducting a visual inspection of the proposed excavation site in an effort to determine the*

121 *probable path of the sewer lateral.*

122 *C. When (i) an excavation is to take place outside the public right of way or public utility easement,*  
123 *(ii) the excavation involves the installation or maintenance of gas or electric utility lines by trenchless*  
124 *technology, (iii) the potential for a conflict with a sewer lateral exists, and (iv) private sewer laterals*  
125 *are located in the public right of way or easement:*

126 *1. The sewer system operator shall assist the excavator by one of the following methods, unless the*  
127 *operator marks private sewer laterals in the manner required for its sewer system laterals under*  
128 *subsection B:*

129 *a. Provide copies of the best reasonably available records regarding the location of the private*  
130 *sewer laterals by electronic message, mail, facsimile, or other delivery method. If an excavation affects*  
131 *25 or more private sewer laterals, the sewer system operator's response shall be in accordance with the*  
132 *timelines set forth in § 56-265.17:3. If the provision of records required by this subsection imposes an*  
133 *unreasonable burden or substantial cost upon a sewer system operator, the excavator and the sewer*  
134 *system operator shall endeavor in good faith to reach an agreement to provide the sewer system*  
135 *operator with additional time to provide the records or any other mutually agreeable accommodation.*

136 *b. Provide the best reasonably available records on the Internet or another readily accessible*  
137 *electronic system in order that the records may be retrieved by the excavator from a remote location. If*  
138 *the sewer system operator has implemented such a system, then the sewer system operator shall have no*  
139 *further obligations to provide records under subdivision C 1 a.*

140 *c. If the sewer system operator has no such records, but has additional information to provide about*  
141 *the location of private sewer laterals, then the sewer system operator shall notify the excavator of such*  
142 *information and, upon request, either meet with the excavator on-site or convey such information to the*  
143 *excavator.*

144 *2. When the records have been made available in accordance with subdivision C 1 and the excavator*  
145 *reasonably concludes that a private sewer lateral may be impacted by the planned excavation based*  
146 *upon visual evidence, knowledge of the proposed excavation site, or other information available to the*  
147 *excavator, the excavator shall exercise reasonable care to protect the private sewer lateral. For*  
148 *purposes of this subdivision, reasonable care includes the following actions:*

149 *a. Reviewing information provided by the sewer system operator;*

150 *b. Reviewing information provided by the private sewer lateral owner;*

151 *c. Meeting with the sewer system operator on-site if the sewer system operator has additional*  
152 *information to provide about the location of private sewer laterals; or*

153 *d. Conducting a visual inspection of the proposed excavation site in an effort to determine the*  
154 *probable path of the sewer lateral.*

155 *D. Sewer system operators shall mark utility lines, other than sewer system laterals and private*  
156 *sewer laterals, as provided by other sections of this chapter.*

157 *E. Water system operators shall mark water system utility lines as provided by other sections of this*  
158 *chapter, except that a water system operator shall not be responsible for marking private water laterals.*

159 *F. Records regarding the location of private sewer laterals provided on the Internet or otherwise*  
160 *made accessible by an electronic system pursuant to subdivision C 1 b shall also be accessible to other*  
161 *public utilities and cable operators or excavators working on their behalf for purposes of compliance*  
162 *with this chapter.*

163 *G. In all excavations, the excavator shall exercise reasonable care to protect underground utility*  
164 *lines.*

165 *§ 56-265.32. Commission to impose civil penalties for certain violations; establishment of*  
166 *Underground Utility Damage Prevention Special Fund.*

167 *A. The Commission may, by judgment entered after a hearing on notice duly served on any person*  
168 *not less than ~~thirty~~ 30 days before the date of the hearing, impose a civil penalty not exceeding \$2,500*  
169 *for each violation, if it is proved that the person violated any of the provisions of this chapter as a result*  
170 *of a failure to exercise reasonable care. Any proceeding or civil penalty undertaken pursuant to this*  
171 *section shall not prevent nor preempt the right of any party to obtain civil damages for personal injury*  
172 *or property damage in private causes of action. This subsection shall not authorize the Commission to*  
173 *impose civil penalties on any county, city ~~or~~, town, or other political subdivision. However, the*  
174 *Commission shall inform the counties, cities ~~and~~, towns, and other political subdivisions of reports of*  
175 *alleged violations involving the locality or political subdivision and, at the request of the locality or*  
176 *political subdivision, suggest corrective action.*

177 *B. If the Commission asserts there is recurring noncompliance with any of the provisions of this*  
178 *chapter by a county, city, town, or other political subdivision, the Commission, upon written notice to*  
179 *the chairman of such operator's board or, in the case of a city or town, the mayor of such operator's*  
180 *council, and to such operator's chief executive officer, may require a written response by such person or*  
181 *his designee. Such response shall be made within 30 days of the operator's receipt of written notice*

182 *from the Commission. The response shall confirm that the operator will comply promptly or explain why*  
183 *it disputes any assertion by the Commission of noncompliance. If the operator is not able to return to*  
184 *compliance promptly, the operator shall describe its plan to achieve compliance in a corrective action*  
185 *plan to be submitted to the Commission no later than 60 days after the receipt of the written notice.*  
186 *Following submittal of a corrective action plan, the Commission may convene a hearing for the purpose*  
187 *of receiving additional evidence, determining whether noncompliance has occurred, and determining*  
188 *further suggested corrective action. The Commission may also convene such a hearing if the operator*  
189 *fails to provide a written response or a corrective action plan as required by this subsection, or*  
190 *provides a response that disputes the Commission's assertions. Nothing in this section shall limit the*  
191 *Commission's powers under this chapter with respect to persons who are not counties, cities, towns, or*  
192 *political subdivisions of the Commonwealth.*

193 C. The Underground Utility Damage Prevention Special Fund (hereinafter referred to as "Special  
194 Fund") is hereby established as a revolving fund to be used by the Commission for administering the  
195 regulatory program authorized by this chapter. The Special Fund shall be composed entirely of funds  
196 generated by the enforcement of this chapter. Excess funds shall be used to support any one or more of  
197 the following: (i) public awareness programs established by a notification center pursuant to subsection  
198 B of § 56-265.16:1; (ii) training and education programs for excavators, operators, line locators, and  
199 other persons; and (iii) programs providing incentives for excavators, operators, line locators, and other  
200 persons to reduce the number and severity of violations of the Act. The Commission shall determine the  
201 appropriate allocation of any excess funds among such programs, and shall establish required elements  
202 for any program established under clause (ii) or (iii).

203 *ED.* All civil penalties collected pursuant to this section shall be deposited into the Underground  
204 Utility Damage Prevention Special Fund. Interest earned on the fund shall be credited to the Special  
205 Fund. The Special Fund shall be established on the books of the Commission comptroller and any funds  
206 remaining in the Underground Utility Damage Prevention Special Fund at the end of the fiscal year shall  
207 not revert to the general fund, but shall remain in the Special Fund.

## **AGENDA NOTE – HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #9: WASTEWATER LEGISLATION – SEWER USE ORDINANCE ENFORCEMENT**

#### **SUBJECT:**

The Hampton Roads Directors of Utilities Committee has determined that local governments and authorities and regional authorities need enabling legislation allowing them to assess civil penalties for violations of sewage disposal system ordinances.

#### **BACKGROUND:**

Delegate Knight has introduced House Bill No. 82 to amend and reenact § 15.2-2122 of the Code of Virginia, relating to civil penalties for violations of local sewer use ordinances. The Virginia Association of Municipal Wastewater Agencies, Inc. (VAMWA) has proposed a modification of House Bill No. 82. Both proposals provide the authority that will allow the Hampton Roads localities to impose penalties and protect their infrastructure.

The Hampton Roads localities are under a Consent Order to reduce overflows from the sewer infrastructure. Sewage disposal ordinances may restrict the disposal of fats, oils, and grease which can clog the sewer lines and cause overflows. The proposed legislation, in either form, would enable localities to penalize persons who violate these ordinances.

#### **RECOMMENDED ACTION:**

Approve the attached letter and authorize the Chairman to sign it for transmittal to the Hampton Roads General Assembly Delegation.

#### **STAFF COMMENTARY:**

The language proposed by VAMWA is broader than the original bill. The penalties could be up to \$32,500 per day and the cost of damage to infrastructure could also be recovered. The penalty provision is consistent with the penalty provisions in the federal Clean Water Act and the State Water Control Law. The VAMWA proposal would apply to all local governments and regional authorities in the Commonwealth. The original bill would only allow localities under an order by DEQ to assess civil penalties. The maximum penalty for a violation would be \$3,000.

Attachments



January 20, 2010

FORM Letter – General Assembly Delegation

RE: House Bill No. 82

Dear

At its Quarterly Commission Meeting of January 20, 2010, the Hampton Roads Planning District Commission acted to urge your favorable support of legislation that would give localities new authority to assess civil penalties for violations of sewer use ordinances.

Delegate Knight, Virginia Beach, has introduced House Bill No. 82 to amend and reenact § 15.2-2122 of the Code of Virginia, relating to civil penalties for violations of sewer use ordinances. It would apply to localities operating under a Consent Order from the Department of Environmental Quality and allow them to assess civil penalties of up to \$3,000. The Virginia Association of Municipal Wastewater Agencies, Inc. (VAMWA) has proposed a modification of House Bill No. 82. The proposed substitute would allow all localities to assess civil penalties up to a maximum of \$32,500, which is consistent with the existing State Water Control Law and the Federal Clean Water Act. Both proposals provide the authority that will allow the Hampton Roads localities to impose penalties and protect their infrastructure.

The Hampton Roads localities are under a Consent Order to reduce overflows of the sewer infrastructure. Sewer use ordinances may restrict the disposal of fats, oils, and grease which can clog the sewer lines and cause overflows. The proposed legislation would give localities an additional tool to curtail violations and improve the performance of the sewer system as required by the Consent Order. It would assist localities to ensure that the substantial public investment being made to rehabilitate and enhance local wastewater systems will remain effective and assist in meeting water quality requirements.

Thank you for your consideration of this request.

Sincerely,

Bruce C. Goodson  
Chairman

Attachment 9A

10100628D

HOUSE BILL NO. 82

Offered January 13, 2010

Prefiled January 4, 2010

A BILL to amend and reenact § 15.2-2122 of the Code of Virginia, relating to civil penalties for violations of sewage disposal system ordinances.

Patron—Knight

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2122 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.

A. For the purpose of providing relief from pollution, and for the improvement of conditions affecting the public health, and in addition to other powers conferred by law, any locality shall have power and authority to:

1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property necessary for the operation of such system, subject to the approvals required by § 62.1-44.19.

2. Acquire as permitted by § 15.2-1800, real estate, or rights or easements therein, necessary or convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system and the property, in whole or in part, of any private or public service corporation operating a sewage disposal system or chartered for the purpose of acquiring or operating such a system, including its lands, plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, and have the right to dispose of property so acquired no longer necessary for the use of such system. However, any locality condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate rates, to the customers of any corporation whose property is condemned.

3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of the locality.

4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the establishment and operation of such sewage disposal system and make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.

5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for constructing and operating the sewage disposal system, and for the prevention of pollution.

6. Enter into contracts with the United States of America, or any department or agency thereof, or any person, firm or corporation, or the governing body of any other locality, providing for or relating to the treatment and disposal of sewage and industrial wastes.

7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal system; and, except in counties which are not otherwise authorized, require the connection of premises with facilities provided for sewage disposal services. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation.

9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and collected in accordance with and subject to the provisions of § 15.2-2119.

B. Any locality under an order of the Virginia Department of Environmental Quality issued pursuant to the authority of subdivision (8a) of § 62.1-44.15 may, in addition to any other powers or authority conferred by this section or by any other general or special law, adopt an ordinance establishing a uniform schedule of civil penalties for violations of specified provisions of ordinance governing the introduction of pollutants and wastes into the locality's public sewer system. The schedule of civil

INTRODUCED

HB82

59 penalties shall be uniform for each type of specified violation, and the penalty for any one violation  
60 shall be a civil penalty of not more than \$100 for the initial summons and not more than \$150 for each  
61 additional summons. Each day during which the violation is found to have existed shall constitute a  
62 separate violation, provided that a series of specified violations arising from the same operative set of  
63 facts shall not result in civil penalties exceeding a total of \$3000. Such penalties shall be paid into the  
64 treasury of the locality for the purpose of abating, preventing, or mitigating environmental pollution.

65 The locality's director of public utilities or his designee may issue a civil summons ticket for a  
66 scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an  
67 appearance in person or in writing by mail to the treasurer of the locality prior to the date fixed for  
68 trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil  
69 penalty established for the offense charged.

70 If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit  
71 liability, the violation shall be tried in the general district court in the same manner and with the same  
72 right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the  
73 burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission  
74 of liability or finding of liability under this section shall not be deemed an admission at a criminal  
75 proceeding.

76 No civil action authorized by this section shall proceed while a criminal action is pending.

HOUSE BILL NO. 82  
AMENDMENT IN THE NATURE OF A SUBSTITUTE

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2122 of the Code of Virginia is amended and reenacted as follows:

[INSERT EXISTING STATUTORY TEXT HERE]

10. Establish standards for the use and services of sanitary, combined and storm water sewers, treatment works and appurtenances operated and maintained by any locality, including but not limited to implementation of applicable pretreatment requirements pursuant to § 62.1-44.2 et seq., and the federal Clean Water Act, 33 U.S. C. § 1251 et seq. Such sewer use standards may be implemented by ordinance, regulation, permit or contract, and violations thereof may be enforced by the locality subject to the following limitations.

a. No order assessing a civil penalty for a violation shall be issued until after the user has been provided an opportunity for a hearing, except with the consent of the user. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, on any authorized representative of the user, at least 30 days prior to the hearing. The notice shall specify the time and place for the hearing, facts and legal requirements related to the alleged violation, and the amount of any proposed penalty. At the hearing the user may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and the user may examine any witnesses for the locality. A verbatim record of the hearing shall be made. Within 30 days after the conclusion of the hearing, the sewer authority shall make findings of fact and conclusions of law and issue the order.

b. No order issued by the sewer authority shall assess civil penalties in excess of the maximum amounts established in § 62.1-44.15(8a). The actual amount of any penalty assessed shall be based upon the severity of the violations, the extent of any potential or actual environmental harm or sewer damage, the compliance history of the user, any economic benefit realized from the noncompliance, and the ability of the user to pay the penalty. In addition to civil penalties, the order may include a monetary assessment for damages to sewers, treatment works and appurtenances, and for costs, attorneys' fees, and other expenses resulting from the violation.

c. Any order issued by the sewer authority, whether or not such order assesses a civil penalty, shall inform the user of its right to seek reconsideration or review within the locality, if authorized, and of its right to judicial review of any final order by appeal to circuit court on the record of proceedings before the sewer authority. To commence an appeal, the user shall file a petition in circuit court within 30 days of the date of the order. With respect to matters of law, the burden shall be on the user seeking review of the order to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record upon which the sewer authority could reasonably find them to be as it did.

Comment [CDP1]: Important reference. Makes connection to CWA and related penalty amounts under federal and state clean water laws.

Comment [CDP2]: The following provisions are described as "limitations" but in their effect they are authorizing. In fact, they make clear that certain authorities exist that may not exist currently due to shortcomings of the Virginia Code.

Comment [CDP3]: This hearing process is the key to the locality obtaining a deferential standard of review on appeal by the user to circuit court (as an alternative to the locality initiating suit and bearing the burden of proof. In other words, this puts the locality in a favorable position similar to that which occurs when DEQ is the enforcer.

Comment [CDP4]: User gets a reasonable process at the local agency level.

Comment [CDP5]: This provides a record on which will deferential "APA-like" review will be had.

Comment [CDP6]: \$32,500 per

Comment [CDP7]: These criteria are same as for DEQ enforcement and should help

Comment [CDP8]: Key provision.

Comment [CDP9]: Review on the administrative record.

Comment [CDP10]: The favorable APA standard that DEQ action enjoys.

46                   d.       *Civil penalties in excess of the maximum amounts established in § 62.1-*  
47 *44.15(8a) may be imposed only by a court in amount determined in its discretion but not to*  
48 *exceed the maximum amounts established in § 62.1-44.32. This section shall not preclude a*  
49 *locality from proceeding directly in circuit court to compel compliance with its sewer use*  
50 *standards or to seek civil penalties for violation of the same, nor shall this section be interpreted*  
51 *as limiting any otherwise applicable legal remedies or sanctions.*

52  
53                   e.       *For purposes of this subsection, “sewer authority” shall mean the*  
54 *locality’s director of public utilities or other designee of the locality with responsibility for*  
55 *administering and enforcing sewer use standards within the locality.*

56 **[ADD SIMILAR AMENDMENT TO AUTHORITIES ACT AT § 15.2-5114]**  
57  
58

**Comment [CDP11]:** \$32,500 per

**Comment [CDP12]:** Same as for DEQ for penalties greater than \$100,000.

**Comment [CDP13]:** \$32,500 per day per violation.

**Comment [CDP14]:** Clarifies that localities may seek civil penalties in circuit court. This is unclear today. One line of thought is that only criminal penalties (misdemeanor) are possible.

**Comment [CDP15]:** Purpose of this term is to implement the hearing process and order issuance at a staff level rather than local governing body level.

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #10: WATER LEGISLATION**

#### **SUBJECT:**

The Hampton Roads Directors of Utilities Committee supports a tiered fee structure for groundwater withdrawal permits. The fees for municipal water systems should be based on the population served. The permit fees for commercial, industrial, and agricultural uses of groundwater should be a separate tiered system based on the amount of groundwater withdrawn.

#### **BACKGROUND:**

The State Water Commission staff has drafted proposed legislation to increase the groundwater withdrawal permit fee from \$6,000 to \$12,000. The permits are for a period of 10 years. However, twelve thousand dollars is a significant cost compared to the revenues of the small groundwater systems in the region, even if the fee is annualized over 10 years.

The draft legislation has not been introduced as of January 10, 2010. In 2003, the HRPDC approved a statement of principles for environmental permit fees which identified several issues related to groundwater withdrawal permits. The Committee recommends that the HRPDC ask the Hampton Roads General Assembly Delegation to support legislation in line with the statement of principles and support tiered groundwater permit fees.

#### **RECOMMENDED ACTION:**

Approve the attached letter and authorize the Chairman to sign it for transmittal to the Hampton Roads General Assembly Delegation and the State Water Commission.

#### **STAFF COMMENTARY:**

The existing legislation states that the “permit application fees charged for Virginia Water Protection Permits, ground water withdrawal permits, and surface water withdrawal permits shall reflect the average time and complexity of processing a permit in each of the various categories of permits and permit actions and the size of the proposed impact”. The groundwater withdrawal permits have become more complex and continue to take more time to process than when the current fee of \$6,000 was established. The Groundwater Program of the Department of Environmental Quality is underfunded and inadequately staffed to process the existing requests for withdrawal permits.

Attachments



January 20, 2010

FORM Letter – General Assembly Delegation

RE: Groundwater Withdrawal Permit Fees

Dear

At its Quarterly Commission Meeting on January 20, 2010, the Hampton Roads Planning District Commission acted to request you to support legislation that would create a tiered rate structure for groundwater withdrawal permit fees.

The State Water Commission staff has drafted proposed legislation to increase the groundwater withdrawal permit fee from \$6,000 to \$12,000. The permits are for a period of 10 years. However, twelve thousand dollars is a significant cost compared to the revenues of the small groundwater systems in the region, even if the fee is annualized over 10 years.

Draft legislation on this issue has not been introduced as of January 10, 2010. Since we cannot comment on a specific legislative proposal, the HRPDC is endorsing the concept of tiered groundwater withdrawal fees. In 2003, the HRPDC approved a statement of principles for environmental permit fees which is enclosed. The statement of principle identifies several issues related to groundwater withdrawal permit fees.

The HRPDC recommends that fees for municipal water systems be based on the population served. The permit fees for commercial, industrial, and agricultural uses of groundwater should be a separate tiered system based on the amount of groundwater withdrawn.

Thank you for your consideration of this request.

Sincerely,

Bruce C. Goodson  
Chairman

Attachment 10A

**GUIDING PRINCIPLES FOR STATE ENVIRONMENTAL PERMIT FEES - STATEMENT OF  
THE HAMPTON ROADS PLANNING  
DISTRICT COMMISSION**

**PREAMBLE**

The Commonwealth of Virginia and specifically the Department of Environmental Quality must have adequate funding to implement its regulatory programs, including permit processing, education, assistance, inspections, enforcement and compliance. These programs and responsibilities are established in the Virginia Code and in delegation agreements between the U.S. Environmental Protection Agency and the State. As General Fund support for the natural resource and environmental quality programs of the Commonwealth has declined, the State has looked to permit fees and conditions on permits as means of covering program costs. The General Assembly has directed the Department of Environmental Quality to evaluate options for raising additional revenue through the permit program. Restructuring of the environmental permit fee program should be determined and evaluated in the context of other initiatives to evaluate the state tax structure and the provision of funding to support the natural resource responsibilities of the Commonwealth.

The Hampton Roads Planning District Commission through its Directors of Utilities Committee and its Joint Environmental Committees has reviewed materials developed by the Department of Environmental Quality concerning the structure and level of the permit fees. Those Committees have developed a set of Guiding Principles for use by the HRPDC in evaluating potential modifications to the State's permit fee structure. They have also identified several additional considerations for modifications to the State's permit fee structure that reflect the division of responsibilities among state and local government and the public service nature of local government activities.

**GUIDING PRINCIPLES**

Permit fees should bear a direct relationship to the service being provided by the Commonwealth. Fees, paid by applicants for environmental permits, should be used only to cover the cost of implementing the permit program.

To assist the Department of Environmental Quality in its efforts to enhance the efficiency and effectiveness of the regulatory programs, a local government oversight committee should be established to provide direct input to program reviews and establishment of permit fees.

The General Fund is the preferred and appropriate source of basic funding to support the regulatory programs, since they serve to implement Article XI of the Constitution of Virginia. The regulatory programs are designed to protect the public health, safety and welfare. Implementation of these programs is the overall responsibility of the State. The transfer of funding responsibility for those programs from the state budget to local budgets for municipal services to protect the public health and the environment is in effect a tax on the citizens of the Commonwealth.

To the extent that fee levels exceed the cost and value of the service being provided by the Commonwealth, i.e. administration of the permit program, they constitute an unfunded mandate.

Local governments and regional entities (political subdivisions) provide drinking water and manage wastes produced by the general public as public, non-profit services. This is a basic responsibility of government. Any fee system should reflect the public service, non-profit nature of local government and regional entity service provision and management activities.

Fee revenue should be placed in a non-reverting fund (enterprise account) to ensure the availability of such revenues to sustain the programs.

Programs of statewide application should not be funded through permit fees, but through the General Fund. These programs include, for example, water supply and water quality planning, citizen monitoring and environmental education.

## **AREAS OF CONSIDERATION**

In reviewing the Environmental Permit Programs of the Commonwealth and developing the “Guiding Principles for State Environmental Permit Programs,” the Hampton Roads Planning District Commission has considered a number of elements of the Permit Program, their potential implications to local government program operation, and measures that could be used to mitigate negative impacts on local governments, while recognizing their positive contributions to environmental quality in the Commonwealth. These other considerations serve as background information to support the “Guiding Principles” and should be considered in any effort by the Commonwealth to further evaluate and restructure the environmental permit fee program.

A number of other initiatives are underway in the Commonwealth to address the adequacy of funding for state programs. They include ongoing comprehensive evaluations of the state tax structure and potential steps to reform that structure. They also include a comprehensive initiative to determine funding needs and revenue sources for the Commonwealth’s natural resource agencies and programs. Restructuring of the environmental permit fee program should be determined and evaluated in the context of these other initiatives.

It is recognized that under the delegation agreements, the U. S. Environmental Protection Agency has the authority to take over the permit programs, if it determines that the Department of Environmental Quality is unable to properly implement the programs.

Nonpoint sources of water pollution, other than those discharged from permitted municipal separate storm sewer systems, are not governed by state regulatory permit programs, although the scientific community cites them as the primary causes of continued impairment of water quality. Because they are unregulated, they will not be affected by the fee program and, thus, will not contribute financially to program operation. The General

Fund is the only viable and equitable means of funding the costs of programs addressing nonpoint source pollution.

Local governments and regional entities (political subdivisions) manage wastes produced by the general public as a public, non-profit service. This is a basic responsibility of government.

Private individuals and corporations manage wastes as one element of producing goods and services for sale. They expect to make a profit from these ventures.

Any fee system should reflect the public service, non-profit nature of local government and regional entity management activities.

A system involving annual payments could support the goal of long-term program stability and provide certainty in the budget process. To facilitate local government budgeting, such fees should be established or adjusted no later than October/November to take effect on the following July 1<sup>st</sup>. Any upward adjustment should reflect projections of audited changes in program costs.

Fees should reflect the division of responsibility between state and local government.

Fees should reflect local government contributions to program development and implementation.

The fee system should be designed to provide an incentive to permittees to exceed regulatory requirements and to reflect the contributions of permittees to the implementation of the state program.

To provide incentives for permit holders to exceed permit requirements, fees could decline in amount based on incremental reductions in pollutant discharge that result in water quality that is better than required. Fees could be reduced on a dollar for dollar basis to reflect financial contributions to research and monitoring efforts that exceed permit requirements.

The HRPDC Guiding Principles indicate that fees should reflect local government contributions to program development and implementation. The following are potential approaches to accomplishing that Principle.

- Ground Water Withdrawal Permits. Credit should be given for local/regional financial support of model development as well as research and monitoring through installation and operation of observation wells.
- Stormwater/Erosion and Sediment Control. Localities are required to implement erosion and sediment control programs including plan review, permit issuance, inspections and enforcement. These requirements are mirrored in the VPDES Construction Activities General Permits. Program delegation, including the associated revenue, to local governments may be a viable option. Details of

program delegation should be developed individually at local option. Sharing of permit revenues with localities that are implementing these programs may be another option.

- Environmental Management Facility Inspections. Local or regional entities, such as local governments, waste management authorities, sanitation districts, municipal and regional water suppliers and local or regional stormwater agencies, should receive less frequent inspections, and as a quid pro quo for reducing DEQ inspection costs, reduced fees, if they have achieved ISO 14000 or Emergency Management System (EMS) certification.

The fee system needs to reflect the inability of local governments in some instances of long-term contractual relationships to pass along the increased costs. For example, it may be appropriate to levy fees on entities treating water rather than on entities withdrawing water.

The funding system, including permit fees, should be structured in a manner conducive to program stability. Funding systems involving combinations of fees, surcharges and annual payments should be balanced among the funding sources.

Commitment by permit holders through annual funding to support state environmental permit programs should be matched by a commitment from the State to provide appropriate levels of funding from the General Fund to support those environmental management activities that are of statewide application and not discrete elements of the permit program.

Program redundancy, involving implementation of similar programs by multiple agencies is not cost-effective. Integration of programs, such as stormwater management, into one program implemented by one agency should lead to reductions in cost and increases in program efficiency. As cost-savings from program integration are realized, they should be passed along to permittees through reduced fees.

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact § 62.1-44.15:6 of the Code of Virginia, relating to ground water  
2 withdrawal permit fee.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 62.1-44.15:6 of the Code of Virginia is amended and reenacted as follows:**

5 § 62.1-44.15:6. Permit fee regulations.

6 A. The Board shall promulgate regulations establishing a fee assessment and collection system to  
7 recover a portion of the State Water Control Board's, the Department of Game and Inland Fisheries' and  
8 the Department of Conservation and Recreation's direct and indirect costs associated with the processing  
9 of an application to issue, reissue, amend or modify any permit or certificate, which the Board has  
10 authority to issue under this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of  
11 this title, from the applicant for such permit or certificate for the purpose of more efficiently and  
12 expeditiously processing permits. The fees shall be exempt from statewide indirect costs charged and  
13 collected by the Department of Accounts. The Board shall have no authority to charge such fees where  
14 the authority to issue such permits has been delegated to another agency that imposes permit fees.

15 B1. Permit fees charged an applicant for a Virginia Pollutant Discharge Elimination System  
16 permit or a Virginia Pollution Abatement permit shall reflect the average time and complexity of  
17 processing a permit in each of the various categories of permits and permit actions. However,  
18 notwithstanding any other provision of law, in no instance shall the Board charge a fee for a permit  
19 pertaining to a farming operation engaged in production for market or for a permit pertaining to  
20 maintenance dredging for federal navigation channels or other Corps of Engineers sponsored dredging  
21 projects or for the regularly scheduled renewal of an individual permit for an existing facility. Fees shall  
22 be charged for a major modification or reissuance of a permit initiated by the permittee that occurs  
23 between permit issuance and the stated expiration date. No fees shall be charged for a modification or  
24 amendment made at the Board's initiative. In no instance shall the Board exceed the following amounts  
25 for the processing of each type of permit/certificate category:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major Industrial	\$24,000
Major Municipal	\$21,300
Minor Industrial with nonstandard limits	\$10,300
Minor Industrial with standard limits	\$ 6,600
Minor Municipal greater than 100,000 gallons per day	\$7,500
Minor Municipal 10,001-100,000 gallons per day	\$6,000
Minor Municipal 1,000-10,000 gallons per day	\$5,400
Minor Municipal less than 1,000 gallons per day	\$2,000
General-industrial stormwater management	\$ 500
General-stormwater management-phase I land clearing	\$ 500
General-stormwater management-phase II land clearing	\$ 300
General-other	\$ 600
2. Virginia Pollution Abatement	
Industrial/Wastewater 10 or more inches per year	\$15,000
Industrial/Wastewater less than 10 inches per year	\$10,500
Industrial/Sludge	\$ 7,500
Municipal/Wastewater	\$13,500
Municipal/Sludge	\$ 7,500
General Permit	\$ 600
Other	\$ 750

59           The fee for the major modification of a permit or certificate that occurs between the permit  
 60 issuance and expiration dates shall be 50 percent of the maximum amount established by this subsection.  
 61 No fees shall be charged for minor modifications or minor amendments to such permits. For the purpose  
 62 of this subdivision, "minor modifications" or "minor amendments" means specific types of changes  
 63 defined by the Board that are made to keep the permit current with routine changes to the facility or its  
 64 operation that do not require extensive review. A minor permit modification or amendment does not  
 65 substantially alter permit conditions, increase the size of the operation, or reduce the capacity of the  
 66 facility to protect human health or the environment.

67           B2. Each permitted facility shall pay a permit maintenance fee to the Board by October 1 of each  
 68 year, not to exceed the following amounts:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major Industrial	\$4,800
Major Municipal greater than 10	\$4,750

74	million gallons per day	
75	Major Municipal 2-10 million gallons	\$4,350
76	per day	
77	Major Municipal less than 2 million	\$3,850
78	gallons per day	
79	Minor Industrial with nonstandard	\$2,040
80	limits	
81	Minor Industrial with standard limits	\$1,320
82	Minor Industrial water treatment system	\$1,200
83	Minor Municipal greater than 100,000	\$1,500
84	gallons per day	
85	Minor Municipal 10,001-100,000 gallons	\$1,200
86	per day	
87	Minor Municipal 1,000-10,000 gallons	\$1,080
88	per day	
89	Minor Municipal less than 1,000	\$ 400
90	gallons per day	
91	2. Virginia Pollution Abatement	
92	Industrial/Wastewater 10 or more	\$3,000
93	inches per year	
94	Industrial/Wastewater less than 10	\$2,100
95	inches per year	
96	Industrial/Sludge	\$3,000
97	Municipal/Wastewater	\$2,700
98	Municipal/Sludge	\$1,500

99 An additional permit maintenance fee of \$1,000 shall be collected from facilities in a toxics  
100 management program and an additional permit maintenance fee shall be collected from facilities that  
101 have more than five process wastewater discharge outfalls. Permit maintenance fees shall be collected  
102 annually and shall be remitted by October 1 of each year. For a local government or public service  
103 authority with permits for multiple facilities in a single jurisdiction, the permit maintenance fees for  
104 permits held as of April 1, 2004, shall not exceed \$20,000 per year. No permit maintenance fee shall be  
105 assessed for facilities operating under a general permit or for permits pertaining to a farming operation  
106 engaged in production for market.

107 B3. Permit application fees charged for Virginia Water Protection Permits, ground water  
108 withdrawal permits, and surface water withdrawal permits shall reflect the average time and complexity  
109 of processing a permit in each of the various categories of permits and permit actions and the size of the  
110 proposed impact. Only one permit fee shall be assessed for a water protection permit involving elements  
111 of more than one category of permit fees under this section. The fee shall be assessed based upon the  
112 primary purpose of the proposed activity. In no instance shall the Board charge a fee for a permit  
113 pertaining to maintenance dredging for federal navigation channels or other U.S. Army Corps of

114 Engineers-sponsored dredging projects, and in no instance shall the Board exceed the following amounts  
 115 for the processing of each type of permit/certificate category:

117	Type of Permit	Maximum Amount
118	1. Virginia Water Protection	
119	Individual-wetland impacts	\$2,400 plus
120		\$220 per
121		1/10 acre of
122		impact over
123		two
124	Individual-minimum	acres, not to
125		exceed \$60,000
126	instream flow	\$25,000
127	Individual-reservoir	\$35,000
128	Individual-nonmetallic mineral mining	\$7,500
129	General-less than 1/10 acre impact	\$0
130	General-1/10 to 1/2 acre impact	\$600
131	General-greater than 1/2 to one acre	
132	impact	\$1,200
133	General-greater than one acre	
134	to two acres of impact	\$120 per 1/10
135		acre of impact
136	2. Ground Water Withdrawal	<del>\$6,000</del> <u>\$12,000</u>
137	3. Surface Water Withdrawal	\$12,000

138 No fees shall be charged for minor modifications or minor amendments to such permits. For the  
 139 purpose of this subdivision, "minor modifications" or "minor amendments" means specific types of  
 140 changes defined by the Board that are made to keep the permit current with routine changes to the  
 141 facility or its operation that do not require extensive review. A minor permit modification or amendment  
 142 does not substantially alter permit conditions, increase the size of the operation, or reduce the capacity of  
 143 the facility to protect human health or the environment.

144 B4. The Board may establish a schedule for annualizing the ground water withdrawal permit fee.

145 C. When promulgating regulations establishing permit fees, the Board shall take into account the  
 146 permit fees charged in neighboring states and the importance of not placing existing or prospective  
 147 industries in the Commonwealth at a competitive disadvantage.

148 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board  
 149 shall make a report on the implementation of the water permit program to the Senate Committee on  
 150 Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House  
 151 Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources  
 152 and the House Committee on Finance. The report shall include the following: (i) the total costs, both

153 direct and indirect, including the costs of overhead, water quality planning, water quality assessment,  
154 operations coordination, and surface water and ground water investigations, (ii) the total fees collected  
155 by permit category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal  
156 funds received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number  
157 of permit applications received by category, (vii) the number of permits issued by category, (viii) the  
158 progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and  
159 indirect costs to neighboring states of administering their water permit programs, including what  
160 activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders  
161 and applicants.

162 E. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund  
163 appropriation to the Board.

164 F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any  
165 additional permits that may be required by the federal government and administered by the Board, or  
166 any new permit required pursuant to any law of the Commonwealth.

167 G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit  
168 fees for facilities that have established a record of compliance with the terms and requirements of their  
169 permits and shall establish criteria by regulation to provide for reductions in the annual fee amount  
170 assessed for facilities accepted into the Department's programs to recognize excellent environmental  
171 performance.

172 #

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #11: FEDERAL CLEAN WATER LEGISLATION - REAUTHORIZATION OF THE CHESAPEAKE BAY PROGRAM**

#### **SUBJECT:**

On October 20, 2009, Senator Ben Cardin (MD) and three other senators introduced the Chesapeake Clean Water and Ecosystem Restoration Act of 2009. On the same day, Congressman Elijah Cummings (Maryland), and ten other House members introduced a nearly identical bill. These two bills seek to amend the federal Clean Water Act to ensure that the six states of the Bay watershed and the District of Columbia develop and implement detailed plans to reduce pollution sufficiently to achieve the Bay-wide pollution reduction targets for nitrogen, phosphorus, and sediment by 2025. The Regional Stormwater Management Committee has some concerns about the economic impact of these Regulations.

#### **BACKGROUND:**

The proposed bills will: 1) Codify the Bay-wide Total Maximum Daily Load (TMDL) for nitrogen, phosphorus, and sediment that the Environmental Protection Agency (EPA) will develop by December 31, 2010. 2) Give the federal government authority to compel the states to reduce nitrogen, phosphorus, and sediment loads to meet the TMDL allocations. 3) Require states to submit "watershed implementation plans" to the EPA Administrator by May 2011, explaining how they will achieve their pollution loads from all sources by May 2025. 4) Require states to submit biennial progress reports, beginning in 2014. 5) Require EPA to develop new federal stormwater standards for development or redevelopment projects beginning in 2013. 6) Authorize \$1.5 billion to help local government pay for projects to reduce stormwater runoff. 7) Authorize \$625 million more in other implementation, monitoring, and assistance grants, including the stipulation that not less than \$96 million be used for technical assistance for agricultural producers. 8) Authorize citizens to bring civil actions against the states and EPA for failure to act.

#### **RECOMMENDED ACTION:**

Authorize the Chairman to sign a letter detailing concerns about the impacts of this legislation on local governments in Hampton Roads to the Hampton Roads Congressional Delegation. The HRPDC staff recommends the letter, which is being developed, be reviewed by the AD HOC Stormwater Committee, composed of HRPDC Board Members, prior to it being sent.

#### **STAFF COMMENTARY:**

The HRPDC staff and Regional Stormwater Management Committee are developing comments on the proposed legislation. The Regional Stormwater Management Committee agrees that a timeline for implementation and adequate funding are necessary for a Bay clean up to be successful, but they are concerned that this legislation would set unrealistic goals and inadequate funding. The Committee also has serious concerns with language in the House bill that would require retention of the 95 percentile precipitation event on site for new development projects greater than one acre. This would be technically infeasible on many sites in Hampton Roads and prohibitively expensive on others.

## AGENDA NOTE – HRPDC QUARTERLY COMMISSION MEETING

### ITEM #12: PROJECT STATUS REPORTS

#### A. Joint Environmental Committees

The Joint Environmental Committee met on January 7, 2010. The Regional Stormwater Management and Hampton Roads Chesapeake Bay Committees held separate meetings following the Joint Environmental Committee meeting. The Committee received briefings on the following:

- **Formation of Regional Climate Change Working Group:** The HRPDC is working on a multiyear regional climate change project. The Committees discussed the formation of a regional working group on climate change issues and reached consensus on the general structure for the group. HRPDC staff will develop a description of the working group structure that will be circulated to the appropriate agencies and organizations to solicit participation.
- **Virginia Stormwater Regulations:** The Notice of Intended Regulatory Action (NOIRA) to “Establish water quality criteria for new development activities within the Chesapeake Bay Watershed” was discussed. HRPDC Staff will monitor and participate in the NORIA process, on behalf of the Committee.
- **Regional Land Use/Land Cover Data:** The need to develop a regionally consistent land use/land cover data set for use in stormwater management and Total Maximum Daily Load requirements was discussed. The consensus of the Committees is that these data will be needed and that the HRPDC should develop a set of high-level guidelines that can be used to gage the level of effort and approach needed. HRPDC staff will develop the guidelines prior to the next Joint Environmental Committee Meeting.
- **Social Marketing Campaign for Wetlands Education:** The City of Norfolk is exploring the development of a social marketing campaign for wetlands education. Kevin Dubois with the Norfolk Division of Environmental Services provided an overview of Norfolk’s educational efforts and discussed the possibility of a regional effort on this topic. Reaction was generally positive with several localities expressing interest in pursuing the idea.

At its meeting, the Hampton Roads Chesapeake Bay Implementation Subcommittee addressed the following:

- Department of Chesapeake Bay Local Assistance (DCBLA) staff provided the Chesapeake Bay Subcommittee with an overview of the Phase III Advisory Review process and upcoming second round of Compliance Evaluations.

- The Subcommittee reviewed the Proposed Compliance Evaluation Review Elements and expressed concerns regarding the proposed comprehensive plan implementation requirement.
- The Subcommittee suggested that existing ordinances and Capital Improvement Plans provide the best tools to evaluate implementation.
- The Subcommittee expressed concerns regarding local government enforcement responsibilities related to agricultural lands.
- The Subcommittee plans to meet again and compile comments regarding the proposed advisory review and compliance evaluation procedures.

The Regional Stormwater Management Committee is continuing to work on a number of initiatives, most of which were discussed at its January 7, 2009 meeting. They include:

- MS4 Permits for the Phase I localities. Work with DCR on these permits has been delayed by the state priority on finalizing the stormwater management regulations.
- Chesapeake Bay TMDL. The Committee discussed the ongoing state and federal process for developing the TMDL. Following further Committee review and analysis, the HRPDC expects to brief the HRPDC at its Executive Committee meeting in March.
- Federal Stormwater Legislation. The Committee developed recommended comments on this legislation, which will be considered by Congress during 2010. See Agenda Item #11.
- New Chesapeake Bay Water Quality Criteria. DCR is convening an advisory panel to assist in the development of new stormwater requirements to meet the evolving Chesapeake Bay water quality criteria and the Bay TMDL. The Committee recommended several local government and HRPDC staff to serve on this Committee.
- Stormwater Management Regulations. The Board of Soil and Water Conservation adopted the proposed Stormwater Management Regulations at its December 2009 meeting. The Joint Commission on Administrative Rules is addressing the stormwater regulations at its meeting on January 12, 2010. The HRPDC staff may have further comments at the HRPDC meeting.

#### **B. Directors of Utilities Committee Meeting:**

The Directors of Utilities Committee met on January 6, 2010. The Committee addressed the following:

- The Committee endorsed House Bill No. 115 introduced by Delegate Purkey which addresses marking sewer laterals and recommends that the HRPDC advise the Hampton Roads General Assembly Delegation of its support. See Agenda Item #8.
- The Committee discussed alternative approaches to local government authority for enforcement of sewer use ordinances through the assessment of civil penalties. See Agenda Item #9.
- The Committee discussed legislation being proposed by the State Water Commission. Based on proposed revisions to this legislation, the Committee decided not to recommend that the HRPDC take action on the proposal to consider the state water supply plan when reviewing surface water withdrawal permits. However, the Committee recommends a revision to the draft legislation to amend and reenact § 62.1-44.15:6 of the Code of Virginia, relating to ground water withdrawal permit fees. See Agenda Item #10.
- The HRPDC staff briefed the Committee on the regional education program being conducted through HR FOG to address proper disposal of fats, oils and grease and the impact of improper disposal on the regional wastewater system.
- The region's representatives on the Regulatory Advisory Panel, convened by DEQ to address changes to the state's groundwater management regulations, briefed the Committee on the ongoing effort.
- The Committee is submitting two projects for the UASI grant. The HRPDC staff reviewed UASI schedule:
  - January 15 - draft project proposals due to UAWG
  - February 25 – selection of projects for this year's package
  - December 2010 - funding will be available to begin projects

The Committee discussed activities being undertaken through the current HRPDC work program and possible changes for FY 2011. New initiatives included research on climate change as related to utilities; investigation of new technologies for meter reading and billing, including the potential for joint ventures; and investigation of partnering with electric, gas, and telecommunications companies to share GIS data for utility systems to avoid conflicts and damage caused in excavation.

The Capacity Team continues to meet monthly to coordinate regional efforts under the Consent Order on Sanitary Sewer Overflow issues with DEQ.

### **C. Emergency Management Project Update**

#### **House Joint Resolution 155**

The final report has been received by the General Assembly and posted on the Assembly's website <http://legis.state.va.us> under "Studies and Commissions" (Reports to the General Assembly) as: "HD23 - Hampton Roads Automatic Aid Between Emergency Services Part II."

## **Debris Management**

No new activity this period.

## **Hampton Roads Regional Jail and Inmate Evacuation Committee**

The Committee met this month and a discussion for their role and plans in catastrophic planning was facilitated by the consultants working in the region on the DHS Regional Catastrophic Planning initiative. Also, the committee has been developing an investment for submission to the Urban Area Working Group as part of the FY10 Urban Areas Security Initiative Grant application process. The committee will be asking for an assessment of local and regional jails emergency preparedness and exercises to test plans to identify gaps for continued planning.

## **Hampton Roads Tactical Regional Area Network (HRTacRAN)**

The EM Administrator continues to work with the Hampton Roads Interoperability Communications Advisory Committee (HRICAC) Oversight Group in an effort to finalize an RFP for the HRTacRAN follow-on service and maintenance procurement.

## **Peninsula Local Emergency Planning Commission (PLEPC)**

The Emergency Management staff has prepared a VDEM grant application for funds to update the current Peninsula Local Emergency Response Plan. The grant application was presented to the PLEPC in December. According to VDEM, the HRPDC could not submit it on behalf of the localities. A locality was required to submit it and the PLEPC agreed to allow the City of Hampton to submit it. The City of Hampton submitted the grant application on behalf of the PLEPC.

## **FY 2010 Healthcare Organization Emergency Preparedness Seminars (HOEPS)**

The Emergency Management staff continues to make progress in developing this seminar with public health partners and multiple health care organizations. The dates for this event are May 6 on the Peninsula and May 7 in Virginia Beach. Venues for this event have been contracted.

## **Hazard Mitigation Planning**

VDEM has entered the two applications in the Federal Emergency Management Administrations grant portal. Notification of an award is expected in the spring of 2010. Additionally, the Emergency Management staff worked with the City of Hampton's Emergency Manager to assist with the re-scoping of their Pre-Disaster Mitigation grant for submission to FEMA. Once approved by FEMA, the Emergency Management staff will provide support to update the Peninsula Mitigation plan.

## **Regional Catastrophic Planning Grant Program (RCPGP) Support**

The Emergency Management staff continues to support the Regional Catastrophic Planning Team for the three workgroups to ensure existing projects and data is integrated. With recovery efforts underway from the November Nor'easter, progress has resumed in all components of the project.

### **Urban Area Security Initiative (UASI)**

The Emergency Management staff continues to support the Hampton Roads Urban Areas Security Initiative (UASI) Grant Program for the Urban Area Working Group (UAWG). The FY 2010 UASI grant guidelines have been released and the Emergency Management staff has been diligently working with all stakeholders to develop draft investment justifications. These draft investments will be reviewed and considered by the UAWG for submission to FEMA in April. Also, a notice to eligible non-profit agencies that qualify for the "Non-profit UASI Grant" has been released. The notice describes the eligibility requirements and a date for the briefing on this grant. Finally, the FY09 UASI grant allocation letters are now being sent to the project managers for the approved investments.

### **Hampton Roads Medical Special Needs WebEOC Implementation Update (FY 2007 & FY 2008 UASI Project)**

No new activity this period. Normal activities in progress continue to be implemented.

### **Maritime Security and Response (FY 2007 UASI Project)**

The Emergency Management staff working with the Area Maritime Security Committee (AMSC), VDEM, and a contractor (CRA) completed a Tabletop Exercise (TTX) on November 10, 2009. Currently, the after action report and improvement plan is being vetted by the AMSC. A final after action report is expected to be delivered in February.

### **Multi-Region Target Capabilities Assessment (FY 2008 UASI Project)**

The Emergency Management staff, on behalf of and in cooperation with the Hampton Roads and Central Virginia (Richmond area) UASI regions, provide program management and implementation support for the Target Capabilities Assessment (TCA), through the UASI Grant program. Currently, a detailed listing of regional critical infrastructure is being compiled to complete the risk verification analysis for this region. This is nearly completed and will be presented by the contractor in late January. Interviews with localities in Hampton Roads for assessing the selected target capabilities will begin in late January.

### **Pet Sheltering Support (FY 2009 UASI Project)**

The Committee supporting this effort met this month and further refined what equipment and supplies need to be procured for the trailers to support pet management in shelters. Lessons learned from the recent Nor'easter by the City of Hampton are being incorporated into this planning process.

### **First Responder Authentication Credential (FRAC)**

The Emergency Management staff continues to foster the First Responder Authentication Credential (FRAC) pilot program in Hampton Roads initiated and lead by the Governor's Office of Commonwealth Preparedness (OCP) through State Homeland Security Grant funds. A contract with Verizon was completed in late December allowing this project to move forward. Initial activities will be establishing issuing stations at agreed upon locations.

### **Critical Infrastructure/Key Resources (CI/KR)**

Strategic planning by the Emergency Management staff for the development of a regional Critical Infrastructure and Key Resources (CI/KR) program is on-going in coordination with the Office of Commonwealth Preparedness Critical Infrastructure Protection Coordinator. The development of a cooperative agreement/contract with UVA, who will subcontract JMU for support, is in progress and nearly done. Also, the identification of members for the steering committee is being vetted with OCP.

## **D. Regional Housing Program**

### **Hampton Roads Loan Fund Partnership**

The staff is continuing to provide down-payment and closing cost assistance to qualified first-time homebuyers in the region. The deadline to utilize the Federal Housing Tax Credit for First-Time Home Buyers through the American Recovery and Reinvestment Act of 2009 was extended to April 2010 in an effort to stimulate more homeownership transactions. The staff is also working with the Virginia Housing Development (VHDA) to host training at the HRPDC on lending guidelines and VHDA affordable loan products in February.

### **Housing and Human Service Technical Support**

The Housing & Human Services Staff is working with the newly reorganized South Hampton Roads Disability Services Board to implement its new program and training to educate and support Local Government entities with hiring persons with disabilities. A stakeholders meeting was held in December with representation from over fifteen additional agencies and organizations such as Norfolk State University, The Department of Veterans Affairs, The Up Center, Equal Employment Opportunity Commission (EEOC), Wounded Warrior Program and Hampton Roads Transit (HRT). A follow up meeting is scheduled for January.

Staff is also working with the Hampton Roads Housing Consortium to develop a framework of developing regional housing priorities. HRHC has developed a tool to survey HRHC member organizations on pinpointing regional housing concerns. A facilitated planning meeting is scheduled for late January.

## **E. Regional Economics Program**

### **Technical Assistance**

Economics staff routinely provides technical assistance and support to regional organizations and member jurisdictions. Over the past month, Economics staff delivered a presentation on the Franklin Mill closure to the Southampton County Board of Supervisors. Staff also made a presentation regarding work on the region's Comprehensive Economic Development Strategy to the Board of the Hampton Roads Partnership.

### **Comprehensive Economic Development Strategy**

In April of 2009, Bob Gittler from the Economic Development Administration provided a presentation to the HRPDC on the process of developing a Comprehensive Economic Development Strategy (CEDS). In May, the Hampton Roads Partnership (HRP) began the process of developing *Vision Hampton Roads*; a CEDS for the Hampton Roads region. HRPDC Chief Economist Greg Grootendorst serves on the Vision Hampton Roads steering committee as well as on each project's sub-committees. Working with Dr. Larry Filer from the Department of Economics at Old Dominion University, HRPDC staff is providing support for this effort. The draft document, titled *Vision Hampton Roads*, was released for public comment on January 5, 2010. The document is available for review on the HRPDC website at [http://www.hrpdc.org/Public\\_Notices.asp](http://www.hrpdc.org/Public_Notices.asp).

### **Hampton Roads Economic Quarterly**

The Winter 2010 edition of the Hampton Roads Economic Quarterly (HREQ) will be released on January 20, 2010. This most recent publication contains information on the employment levels in Hampton Roads along with a decade in review; a compilation of economic indicators marking the region's progress over the past decade. The HREQ will also include a synopsis of the current regional economic climate with graphical illustrations of regional economic indicators.

### **F. Southside Grit and Grease Drying Facility**

The Hampton Roads Sanitation District Commission (HRSD) has completed construction of the Regional Residuals (Grit and Grease Drying) Facility at the Nansemond Wastewater Treatment, located in Suffolk. The ribbon cutting for the new facility was held on January 6, 2010 in conjunction with the Directors of Utilities Committee meeting. Following training of operators, the facility will begin operations in March.

This facility is the result of a cooperative effort involving HRSD and the Cities of Chesapeake, Norfolk, Portsmouth and Suffolk. The facility was recommended in the 2001 Regional Grit and Grease Drying Facility Feasibility Study, completed by the HRPDC staff. The HRPDC staff has continued to facilitate development of the agreements among HRSD and the localities for system financing and operations.

Work on a similar facility for the Peninsula communities has been reactivated.

## **AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

### **ITEM #13: FOR YOUR INFORMATION**

#### **A. VIRGINIA RESOURCES AUTHORITY REPORT**

Attached is a report from Virginia Resources Authority (VRA) Executive Director Bailey summarizing VRA project financing by Planning District Commission. The report also provides a summary of project financing in Hampton Roads by locality and agency. The summary shows that Hampton Roads projects have received substantial financial assistance through this program over the past several years.

Attachment

#### **B. FEBRUARY 2010 EXECUTIVE COMMITTEE RETREAT**

Commissioners are reminded that the Annual HRPDC Retreat will be held on February 10, 2010 at 9:30 AM in the HRPDC Board Room. This is a change in the normal monthly meeting date. The HRPDC Retreat will be followed at 11:30 AM by the HRTPO Retreat.

#### **C. OTHER MATTERS OF INTEREST**

December 31, 2009

Dwight L. Farmer  
Executive Director  
Hampton Roads Planning District Commission  
723 Woodlake Drive  
Chesapeake, VA 23320

Dear Mr. <sup>Dwight</sup> Farmer:

I enjoyed attending the Virginia Association of Planning District Commissions' (VAPDC) October 28<sup>th</sup> luncheon where many dynamic initiatives were discussed. VAPDC and its member planning districts have done much to advance regional growth and development across the Commonwealth.

As a follow-up to the luncheon discussions and to specific requests regarding investments in infrastructure, enclosed is a summary listing of the Virginia Resources Authority's (VRA) total infrastructure financings in every planning district statewide during FY2006-CYE2009 and a detailed listing of VRA investments in your specific planning district during this same period.

As you can see, VRA invested over \$2.2 billion in Virginia's vital infrastructure during FY2006-CYE2009, producing over 40% of VRA's lifetime performance. A 2009 study by Chmura Economics and Analytics confirmed/documentated that these investments served as a major economic engine for Virginia's communities in the last four years. According to the Chmura study, VRA's vital infrastructure investments in FY2006-FY2009 generated over \$3.3 billion of construction spending and over 31,000 one-time construction jobs, and are supporting over \$13.0 billion of additional sustained spending and over 124,000 permanent jobs. These tremendous economic impacts are enhancing the vitality and economic growth of every planning district in the Commonwealth.

During the luncheon, I mentioned VRA's planned Fall Pooled Bond Sale. I am delighted to report that VRA's Series 2009B bond sale of nearly \$200 million for 15 local borrowers turned out to be one of its most successful and cost-effective financings. An all-in total interest cost of 3.85% was achieved on the 30-year bonds, the lowest in the history of the Virginia Pooled Financing Program (VPFP). VRA adopted several new strategies for this bond sale that reaped significant returns, generating a total of \$33.4 million of savings for borrowers in this Pool.

Attachment 13A

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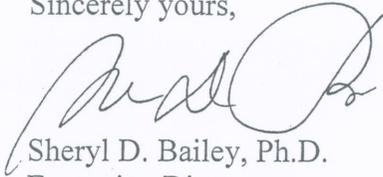
**HRPDC**

Dwight L. Farmer  
December 31, 2009  
Page 2

Like VAPDC, VRA continues to look at opportunities for potential collaboration and partnership. I, along with the VRA Board of Directors, am committed to providing innovative, cost-effective, and sustainable financial solutions to build vibrant and healthy Virginia communities.

Again, thank you for including me in your informative luncheon meeting. Please feel free to contact me if I can be of service in any way.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'Sheryl D. Bailey', written in dark ink.

Sheryl D. Bailey, Ph.D.  
Executive Director

Enclosures

## Total Financings FY2006 – Present By Planning District Commission

### *Summary*

<i>PDC</i>	<i>Number of Loans</i>	<i>Amount Invested</i>
LENOWISCO	35	\$ 36,348,750
Cumberland Plateau	36	\$ 41,853,655
Mount Rogers	30	\$ 25,992,565
New River Valley	5	\$ 5,902,125
Roanoke Valley/Alleghany	30	\$ 134,437,763
Central Shenandoah	36	\$ 201,888,237
Northern Shenandoah	29	\$ 231,511,893
Northern Virginia	32	\$ 525,601,681
Rappahannock-Rapidan	14	\$ 53,073,645
Thomas Jefferson	8	\$ 20,822,885
Region 2000	14	\$ 150,793,382
West Piedmont	4	\$ 11,795,685
Southside	7	\$ 15,667,183
Piedmont	2	\$ 1,883,256
Richmond Regional	20	\$ 99,256,863
George Washington	12	\$ 105,922,971
Northern Neck	4	\$ 5,923,096
Middle Peninsula	8	\$ 20,246,852
Crater	5	\$ 35,490,000
Accomack-Northampton	4	\$ 8,874,253
Hampton Roads	34	\$ 497,393,392
<b>Total</b>	<b>369</b>	<b>\$ 2,230,680,132</b>

**Hampton Roads Planning District Commission  
Total Financings FY2006 - Present**

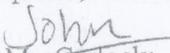
<i>Locality/Authority</i>	<i>Number of Loans</i>	<i>Project Description</i>	<i>Amount</i>
Hampton Roads Regional Jail Authority	1	Refinancing - economic savings	\$13,960,857
Hampton Roads Sanitation District	6	Sewer line replacement Sewer treatment plant expansion Sewer system improvements	69,590,026
Mercury Mall Associates	1	Brownfield remediation	1,500,000
Newport News, City of	5	Water & sewer system improvements	32,923,000
Norfolk, City of	4	Sewer lines and pump upgrades	50,250,000
Onancock, Town of	2	Water & sewer system upgrades	8,146,260
Portsmouth, Town of	1	Water system improvements	4,808,249
Southampton Co.	1	Sewer treatment plant construction. Sewer line extensions Sewer pump station	32,060,000
Southeastern PSA	3	Solid waste improvements Refinancing - economic savings	89,725,000
Suffolk, City of	6	Water & sewer system improvements Refinancing - economic savings	158,555,000
Transportation District Commission of Hampton Roads	2	Bus acquisitions	17,745,000
Truxton Development LLC	1	Brownfield remediation	900,000
York Co.	1	Athletic field complex 3 Fire station renovations	17,230,000
<b><i>Total Loans Funded</i></b>	<b><i>34</i></b>		<b><i>\$497,393,392</i></b>



DEPARTMENT OF CIVIL AND ENVIRONMENTAL ENGINEERING  
FRANK BATTEN COLLEGE OF ENGINEERING AND TECHNOLOGY  
NORFOLK, VIRGINIA 23529-0241  
PHONE: (757) 683-3753  
FAX: (757) 683-5354

December 14, 2009

John Carlock, AICP  
Hampton Roads Planning District Commission  
723 Woodlake Drive  
Chesapeake, VA 23320

  
Dear ~~Mr.~~ Carlock:

On behalf of the Old Dominion University Civil and Environmental Engineering Visiting Council (CEEVC), I would like to thank you for your participation and presentation at our Fall Seminar on November 19, 2009. CEEVC proceeds from the seminar fund an endowment that sustains scholarships for ODU Civil and Environmental Engineering students at both the graduate and undergraduate level. The Fall and Spring Seminars have been continuously held now for 20 years.

This 2009 Fall Seminar for State and Federal agencies was our first joint event with the Society of American Military Engineers Tidewater Chapter (SAME) and it was a great success and we look forward to a continued partnership. SAME seminar proceeds also help with their scholarship funding.

Your continued participation and support enable us to continue with our efforts in assisting and encouraging students in obtaining higher education. We hope you found the seminar beneficial for your agency to share your needs, requirements and expectations. Please feel free to contact me or the Seminar Chair with any suggestions for improvements.

Sincerely,



Gary Schafran, Ph.D.  
Professor and Chair  
Civil and Environmental Engineering Department

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**COMMONWEALTH of VIRGINIA**  
Office of the Governor

Robert P. Crouch, Jr.  
Assistant to the Governor  
for Commonwealth Preparedness

January 7, 2010

Mr. Richard Flannery  
Emergency Management Administrator  
Hampton Roads Planning District Commission  
The Regional Building  
723 Woodlake Drive  
Chesapeake, Virginia 23320

Dear Mr. Flannery:

As the Kaine Administration concludes its tenure, the Office of Commonwealth Preparedness would like to express our appreciation to you for your outstanding assistance in making the Commonwealth a leader in preparedness.

Thanks to your willingness to fully partner with us, we have established programs that will ensure a safe, secure, and prepared Virginia. Our collaboration has produced a seamless, coordinated security and preparedness strategy that will continue to improve the Commonwealth's preparedness and lead the nation. Your participation has been vital to the process and to the positive position we have achieved in preparedness.

Thank you for your commitment to the Commonwealth. I wish you continued success.

With kind regards.

Sincerely,

A handwritten signature in black ink that reads "Bob Crouch".

Robert P. Crouch, Jr.

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JAN 11 2010

**HRPDC**

# Certificate of Completion

This Document Certifies That

**John Sadler**

Has participated in the 24 hour

**Critical Infrastructure & Key Resource Asset Protection  
Technical Assistance Program (CAPTAP)**

**November 9<sup>th</sup> – 11<sup>th</sup>, 2009**

*The CAPTAP service assists State and local law enforcement, first responders, emergency management, and other homeland security officials in understanding the steps necessary to develop and implement a comprehensive CIKR protection program in their respective jurisdiction, through the facilitated sharing of best practices and lessons learned.*

*Ricky D. Morgan*

Ricky D. Morgan  
CAPTAP Training Coordinator  
Department of Homeland Security

*[Signature]*  
CAPTAP Instructor

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*Ricky D. Morgan*

Ricky D. Morgan  
CAPTAP Training Coordinator  
Department of Homeland Security

*[Signature]*  
CAPTAP Instructor

**AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING**

**ITEM #14: OLD/NEW BUSINESS**