

Agenda
Board of Supervisors
Isle of Wight County
August 1, 2024

1. Call to Order (6:00 P.M.)
2. Approval of Agenda
3. Invocation – Vice-Chairman Don Rosie
4. Public Hearings
 - A. Beaver Dam Precinct Polling Place
Relocation of District 5 Beaver Dam Precinct Polling Place
5. County Administrator's Report
 - A. County Fair Update
County Fair Spring Events Update
 - B. Energy Task Force Update
Special Presentation: Energy Task Force
 - C. Reassessment Desktop Review
Staff Presentation – Real Estate Reassessment Desktop Review
 - D. Open Burning Regulations
Discussion of Model Ordinance Regulating Open Burning
 - E. Stormwater Legislation
Proposed Repeal of Chapter 14A Stormwater Management and Revisions to Chapter 6 Erosion and Sedimentation Control, Chapter 17 Wetlands Zoning, and Appendix B-2 Coastal Primary Sand Dune Ordinance
 - F. Audit Committee

Discussion of the Formation of an Audit Committee

6. Adjournment

ISSUE:

Relocation of District 5 Beaver Dam Precinct Polling Place

BACKGROUND:

The Board has received a request to consider a proposed ordinance amendment to change the location of the polling place for District 5 Beaver Dam Precinct from the VFW Auxiliary Post 4411 located at 3385 Beaverdam Road, Franklin, VA, to the Carrsville Community Center located at 5336 Carrsville Highway, Carrsville, VA 23315.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt an ordinance amendment to change the polling place for the Beaver Dam Precinct of the District 5 Election District.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance Amendment	Ordinance	7/23/2024

AN ORDINANCE TO AMEND AND REENACT THE ISLE OF WIGHT COUNTY CODE
BY AMENDING AND REENACTING CHAPTER 5. ELECTIONS. ARTICLE III. PRECINCTS.
SECTION 5-11. ENUMERATED

WHEREAS, the Board of Supervisors of Isle of Wight County, Virginia, deems it necessary to revise its local ordinance related to elections in order to revise certain provisions of the election ordinance relating to the designation of a voting place for the Beaver Dam Precinct of the District 5 Election District;

NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors that Chapter 5. Elections. Article III. Precincts. Section 5-11 be amended and reenacted as follows:

Sec. 5-11. - Enumerated.

1. The precincts for each election district and the polling place for each precinct shall be as set forth below:

(a) District 1 election district.

- (1) Pagan River precinct:
Polling place – Smithfield Center
220 N. Church Street
Smithfield, VA
- (2) Cypress Creek A precinct:
Polling place - Smithfield Assembly of God
1800 S. Church Street
Smithfield, VA
- (3) Cypress Creek B precinct:
Polling place - Smithfield Assembly of God
1800 S. Church Street
Smithfield, VA

(b) District 2 election district.

- (1) Bartlett precinct:
Polling place – Carrollton Baptist Church
14007 Carrollton Boulevard
Carrollton, VA
- (2) Nike Park A precinct:
Polling Place – 13036 Nike Park Road
Carrollton, VA
- (3) Nike Park B precinct:
Polling place – 13036 Nike Park Road
Carrollton, VA

(c) District 3 election district.

- (1) Rushmere precinct:
Polling place – First Gravel Hill Baptist Church
5230 Old Stage Highway

Smithfield, VA

(2) Pons precinct

Polling place – Emanuel Baptist Church
11150 Emmanuel Church Road
Smithfield, VA

(3) Benns Church precinct:

Polling place – Benns United Methodist Church
14571 Benns Church Boulevard
Smithfield, VA

(4) New Towne precinct:

Polling place – Carrollton Ruritan Club
14138 Norsworthy Drive
Carrollton, VA

(d) District 4 election district.

(1) Bowling Green precinct:

Polling place – Calvary Baptist Church
15155 Turner Drive
Smithfield, VA

(2) Windsor precinct:

Polling Place – Windsor Town Center
23361 Courthouse highway
Windsor, VA

(3) Cedar Grove precinct:

Polling place – Faith Free Will Baptist Church
16053 Carrollton Boulevard
Carrollton, VA

(e) District 5 election district.

(1) Walters precinct:

Polling place – Walters Ruritan Club
27746 Walters Highway
Carrsville, VA

(2) Beaver Dam precinct:

Polling place Carrsville Community Center 5336 Carrsville Highway
Carrsville VA

(3) Fire Tower precinct

Polling Place - Living Hope Community Fellowship Church
10001 Firetower Road
Windsor, VA

(4) Bethany Church precinct.

Polling place – Bethany Church United Methodist Church
13717 Bethany Church Road
Smithfield, VA

(6-24-71, § 2; 5-20-81, § 2; 4-25-91, §2; 8-18-94; 4-15-99; 5-3-2001, §2; 11-21-05; 2-13-07; 12-5-08; Ord. No. 2011-7-C, 4-21-11, 3-16-17, 5-17-18, 4-18-19, 3-3-22, 8-1-24.)

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Adopted this _____ day of _____, 2024.

Joel C. Acree, Chairman

Carey Mills Storm, Clerk

Approved as to form:

Robert W. Jones, Jr., County Attorney

ISSUE:

County Fair Spring Events Update

BACKGROUND:

Danny Byrum, County Fair Committee Chairman, and Parks and Recreation staff will update the Board regarding the activities planned for this year's County Fair.

Everyone is encouraged to attend the Isle of Wight County Fair and related events to be held at the Joel C. Bradshaw Fairgrounds September 11-15, 2024.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

For the Board's information.

ISSUE:

Special Presentation: Energy Task Force

BACKGROUND:

Lynn Briggs, Chairwoman, will provide a final report from the Energy Task Force, which includes priorities and recommendations for the Board's consideration.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

For the Board's information.

ATTACHMENTS:

Description	Type	Upload Date
Final Report	Backup Material	7/31/2024



Local Roots, Global Reach
ISLE OF WIGHT
COUNTY, VIRGINIA

ENERGY TASK FORCE

**FINAL REPORT TO THE ISLE OF WIGHT COUNTY
BOARD OF SUPERVISORS**

AUGUST 1, 2024

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I. Background

In November 2022, the Isle of Wight County Planning Commission recommended supervisors form an Energy Task Force (ETF) to review Isle of Wight's existing energy infrastructure, remaining capacity in high-voltage transmission lines, future energy generation projects and emerging energy generation technologies. The Board of Supervisors voted in February 2023 to create the task force and decided on a seven-member body consisting of one representative from each of the county's five voting districts and two at-large members. The at-large slots would eventually be filled by a representative from the Windsor and Smithfield town councils. No representative was appointed from District 5 for the duration of the ETF. (Appendix A)

The ETF held its inaugural meeting on June 5, 2023, and established a meeting schedule where the group would meet on the second Monday of each month at 4:00pm. Meetings were held in the Board of Supervisors' meeting room at the Isle of Wight County Courthouse Complex. (Appendix B) Typically, the ETF welcomed presentations from various energy-related organizations during the first hour of the meeting. The second hour was reserved for discussion and/or work of the ETF. (Appendix C)

In early meetings, the ETF designated a chair and vice chair, Lynn Briggs and Thomas DiStefano, respectively. The group also drafted a mission statement and goals to focus the work of the committee. The mission states: The Energy Task Force (ETF) will assess the strengths, weaknesses, opportunities, and vulnerabilities of the county's energy planning to date and provide recommendations to enhance sustainability, reliability, and economic growth. (Appendix D) ETF goals include:

1. The ETF will concentrate on gaining information from knowledgeable sources on existing energy infrastructure capacity, current and emerging energy generation and storage technologies, strategies and programs underway by energy providers and diversification strategies for traditional and renewable energy relevant to local government purview, regulation and influence.
2. The ETF will provide periodic progress reviews to the Board of Supervisors to ensure the ETF is meeting the Board's intent.
3. The ETF will make a comprehensive set of recommendations to the Board of Supervisors in June 2024 or as directed by the Board. Examples of possible recommendations include:
 - a. develop energy-related amendments to the County's Comprehensive Plan and additional areas for inclusion in the county's Zoning Ordinance
 - b. identify the emergence of future energy sources with potential job creation and other economic development enhancements.

- c. assess the complexity and rapidity of change in the energy environment and make a recommendation to the Board of Supervisors on the necessity for an enduring advisory organization.

The ETF operationalized the goals through the creation of five specific deliverables:

1. Identify energy-related gaps in the County's Comprehensive Plan and additional areas for inclusion in the County's Zoning Ordinance.
2. Recognize opportunities for leveraging increased shares of job creation and economic development from emerging energy sources for the County.
3. Define the complexity and rapidity of change in the energy environment for the County.
4. Provide an assessment on the need for an advisory organization or other resources for ongoing technical analysis.
5. Recommend methods for the County to educate the public, including the business community, and gain input on energy-related matters.

The ETF applied a SWOT analysis (Strengths, Weaknesses, Opportunities, Threats) to each deliverable and presented the findings in the form of a quad chart. (Appendix E)

From the SWOT analysis, the task force identified overall strengths and weaknesses related to energy growth in Isle of Wight County. Using the strengths and weaknesses, the ETF compiled specific priorities and recommendations for the Board of Supervisors regarding energy expansion in the county.

II. Strengths and Weaknesses

Strengths

Isle of Wight County is uniquely positioned with its significant energy supply lines, including multiple electric transmission lines and the largest natural gas pipeline in the Hampton Roads area. These lines, while not guaranteeing direct access, present potential opportunities for energy growth through significant private investment. The county's skilled workforce, drawn by our proximity to naval installations, Surry Nuclear Power Plant, and multiple nuclear-certified shipyards, is a valuable asset for the energy sector. Isle of Wight's investment in career and technical education at local high schools

is also nurturing a generation of 'homegrown' energy sector workers, further bolstering potential for energy expansion.

Additionally, Isle of Wight County recognizes the importance of energy to the future of the economy. The creation of an Energy Task Force acknowledges this importance and is novel among other local governments. The Virginia Clean Economy Act (VCEA) is creating incentives to diversify energy production and, in some cases, mandating aspects of energy policy. It is wise for the County to proactively manage its destiny rather than having it dictated by development and state-level edicts. While the public does not overtly demonstrate an awareness of general energy policy, citizens are quick to show an interest when the positive or negative impacts of county-level energy decisions are made obvious to them.

Weaknesses

When the first solar projects were introduced to Isle of Wight County, the Planning Commission and Board of Supervisors were not prepared for the nuances of energy projects, at least from an ordinance perspective. While the County was wise to implement initial ordinance measures to manage solar growth, revisiting those ordinances is imperative given the maturity of awareness and knowledge the county now has. The ETF specifically recommends the county ensure that its decommissioning ordinances and bond requirements are still sufficient. The ETF has also discovered that modeling energy production growth capacity is difficult due to proprietary protections on available transmission line capacity. Therefore, establishing goals associated with particular types of energy production in the County is not advised. Lastly, current solar ordinances are effective at managing utility-scale solar but restrict community-level solar. Community-level solar energy is likely to be more acceptable and strike a better balance between the general population's opinions on solar energy and individual landowner rights. The ETF therefore recommends the County adding less restrictive "community scale" considerations to the ordinance.

The ETF predicts battery storage will be the next wave of energy projects to reach the County. This statement is based on presentations from experts and research by members of the ETF. A thoughtful and safe investment in battery storage will be a positive for the County as battery storage will dramatically increase the efficiency of solar energy and reduce the overall acreage requirements of future solar projects. Regrettably, it seems the current market will not incentivize retrofitting battery storage into solar projects already in production. The County should consider this situation when approving future solar projects that do not have plans or the capability to add battery storage efficiencies in the future. Battery storage is also an effective means to maximize current transmission line infrastructure.

While the ETF generally supports battery storage, the County's current ordinances and emergency management procedures do not specifically nor adequately address the particulars of battery storage. The common idea of allowing an electrical generation or storage facility to "burn itself out" may seem reasonable in theory, but the idea of a battery facility being allowed to burn for days will almost certainly be unacceptable to county residents if ever executed in practice. Therefore, it is critical that strict ordinances are in place before proposed battery storage developments come calling to Isle of Wight. The cost involved in these preventative measures may not be popular with some developers, but it will be in the best long-term interest of the County.

The task force considered other forms of energy generation, such as hydroelectric, wind, natural gas, and small modular nuclear reactors (SMR). Geographic and climate factors make Isle of Wight uncompetitive for hydroelectric and wind power. Our proximity to the area's largest natural gas pipeline would seem to favor peak-loading natural gas plants. However, Hampton Roads is the end of the pipeline, which creates restrictions on natural gas growth. Also, Virginia's policies over the past ten years have mostly tilted against non-renewable energy production, which makes natural gas investment risky for private investors. Governor Youngkin and other state leaders have expressed an interest in SMR technology, but existing regulations and costs will continue to create a high initial barrier to entry. Existing regulations were developed to govern traditional nuclear power generation activities, such as a Surry Nuclear Power Plant. Federal government efforts to tailor regulations for SMR power generation have not yet resulted in a regulatory environment necessary to promote near-term deployment within our county. The ETF assesses the most likely initial locations to be co-located with existing nuclear power infrastructures, such as Surry and North Anna nuclear power plants. However, Isle of Wight County's proximity to Surry may provide indirect opportunities, such as supporting industry or workforce housing. Additionally, if ongoing federal regulation studies result in reduced regulatory constraints, Isle of Wight has many of the characteristics, such as transmission capability and access to water, necessary for SMR deployment and the ETF suggests pursuing SMR energy production.

III. Priorities and Recommendations

Comprehensive Plan

The County is moving forward with reviewing and updating the current Comprehensive Plan. This provides Isle of Wight an opportunity to address future energy needs and growth as part of the process. Specifically, the ETF recommends the following actions occur in conjunction with the Comprehensive Plan update:

1. Visually depict current utilities across the county (large transmission lines, natural gas pipelines, water/sewer lines, etc.) as well as wetlands and other impediments to development. These graphics would show how utilities drive residential, commercial, and industrial development and help inform where future utility development is best suited.
2. Investigate the interest and demand for electric vehicle charging stations in new construction (for example, housing developments, parking lots, and gas stations). The ETF does not have a specific position on the necessity of electric vehicles but acknowledges their increasing numbers and the influence of state and federal legislation to increase infrastructure to support electric vehicles.

Ordinance Considerations

The ETF acknowledges the critical role effective ordinances play in managing economic development and protecting the well-being of citizens. Although the ETF was not chartered to draft specific ordinances, it is within the group's responsibilities to make recommendations where ordinances are lacking or should be revised.

1. The County should immediately develop ordinances to regulate the construction, operation, emergency management planning, and decommissioning of energy storage capabilities and facilities. As previously mentioned, the ETF believes energy storage will be the next type of energy projects proposed to the County for development. Being proactive now, before any projects are proposed, will better position Isle of Wight to educate citizens on energy storage, acquire community input on ordinances, and provide energy storage developers with clear standards for their projects.
2. The County should revisit its solar energy ordinances and consider the following:
 - a. Are the decommissioning provisions strong enough to ensure the land can be returned to its original use and the surety bonds will cover the cost? This should be reviewed regularly as the solar industry learns more about decommissioning facilities over time.
 - b. There is a potential need to expand the solar ordinances to differentiate between utility-scale solar, community-scale solar, and microgrids. The current ordinances only cover utility-scale solar. Community-scale solar and microgrids may provide additional solar opportunities and empower property rights without some of the controversial issues the county has witnessed under utility solar. Additionally, community-scale solar and microgrids will enable solar capacity in areas of the county that are currently not feasible for utility-scale solar due to distance from or capacity of large transmission lines. One item of concern is ensuring community-scale solar ordinances do not become a way around utility-scale solar

constraints. Therefore, the distinctions between the two must be more specific than size or energy output alone.

Other Energy Storage Considerations

Energy storage is an emerging technology that will significantly increase the viability of solar energy production. The biggest drawbacks for solar energy are its less than 30% efficiency, high land use to megawatt (MW) ratio compared to other energy-producing methods, and wasted energy when the grid cannot handle the amount of energy generated during peak production. Energy storage addresses and improves upon each of those issues. However, it was disheartening to learn from the experts who presented to the ETF that retrofitting current solar facilities with energy storage is unlikely because it is not economically viable.

Emergency management is an issue that needs careful consideration regarding energy storage. The batteries involved in energy storage present considerably more risk than solar panels and, therefore, require separate emergency management planning. Electric discharge from a battery in a casualty scenario is extremely dangerous considering the amount of heat concentrated in the battery and the potential release of toxins in the case of a fire. The best way to mitigate these risks is through the initial design of the energy storage facility by incorporating safeguards and physical separation requirements that are dictated through strong ordinances and site plan reviews. Once an emergency has occurred, ensuring county emergency response personnel have the proper equipment, training, and procedures will be critical to limiting the spread of the casualty to other batteries and keeping first responders and the public safe. Due to the dangers of fighting a battery fire, the general emergency management response is to allow the fire to burn itself out. While this seems sufficient in theory, in practice, it will likely have severe consequences with respect to public response. Therefore, citizens must be educated on emergency response and kept informed throughout any response scenario, to include accurate and timely air quality analysis.

Sustaining Energy Expertise

Over the past year, the ETF received a wealth of information from industry experts regarding challenges and opportunities related to the future of energy in Isle of Wight. The ETF discovered a common theme throughout the numerous resources provided to the group: the energy industry is in a state of constant and rapid change driven by technology, economics, conservation, and political policy. Given Isle of Wight's size, location, and needs, it is difficult to recommend an easy and economical solution as to how the County can maintain an adequate pulse on the energy industry. However, the ETF offers the following items for consideration:

1. The ETF, in its current form, is not a viable long-term solution for addressing energy needs in Isle Wight. Monthly meetings with industry experts proved beneficial to rapidly increasing the group's knowledge of the energy industry and using that knowledge to identify current challenges and opportunities. The dilemma is how the ETF can convey the knowledge gained into something that can provide the County with timely advice and future planning without encroaching on County staff and Planning Commission responsibilities. It may be more realist to fold the ETF into a smaller subcommittee of the Planning Commission with the purpose of reviewing energy matters on a quarterly to annual basis. This action would require additional thought and better guidance with respect to future expectations. The subcommittee would also have potential limitations in finding citizens with the right level of expertise who are available and willing to serve in such a role.
2. The ETF considered the idea of the County hiring an additional staff member with energy expertise, but decided, at this point, it is unlikely the position would have enough consistent work to justify the cost. Acquiring an energy consultant on retainer was also considered, but the ETF decided County staff would be the appropriate entity to determine the level of need and cost efficiency of a consultant on retainer.
3. The ETF recommends leveraging area resources, such as the Hampton Roads Alliance and other regional entities, when possible.

High Priorities

Isle of Wight County is facing energy challenges from current and pending projects. Many of the concerns revolve around county ordinances mainly geared towards utility scale projects, which to this point have strictly been solar.

The ETF recommends Isle of Wight County address the following items as high priorities:

1. Develop ordinances related to energy storage to prepare for future projects throughout the community.
2. Clean up solar energy ordinances, especially for microgrids and community scale projects, through the use of specialized ordinances.
 - The ETF recommends staff write ordinances with input and review by an energy-related body, such as the ETF or a subcommittee of the Planning Commission.
3. Improve emergency management response to hazardous situations at energy storage facilities.

- a. Energy storage facility materials should be known prior to installation and communicated to Emergency Management staff for identification potential hazards and development of a detailed emergency response plan.
 - b. Emergency Management staff should review the “let it burn” practice with respect to public relations, such as advanced public awareness of the practice and engagement during casualty events.
 - c. Emergency Management should consider methods to conduct rapid air sampling for developing public health advisories to ensure the safety of citizens. This may require the County to develop air sampling capabilities rather than relying on agencies outside of Isle of Wight.
- 4. The County should engage with the public to provide factual and unbiased energy-related information to the highest extent possible. In the event biased information is offered to the public, Isle of Wight should consider directing the community to reliable, factual sources that provide a balanced assessment of different types of energy. Ideas for public engagement include:
 - a. Surveys: Periodically gather feedback regarding what the public wants to know more about related to county energy production.
 - b. Develop a webpage specifically devoted to energy, including approved energy projects, energy projects under review, energy ordinances, and Frequently Asked Questions (FAQ).
 - c. Use social media and the county website to share resource links.
 - d. Display energy-related informational videos during the closed meeting broadcast and on the county-run PEG channel to reach members of the community.
 - e. Share the location of the county’s energy-related web site and resources during public hearings to direct attention to relevant information.
 - f. Incorporate energy growth as part of the comprehensive plan development and review process.
 - g. Distribute energy-related information at an existing Isle of Wight County booth during the annual County Fair.

Actions to prepare for: long range

- 1. The ETF found that high energy consumers, such as data centers, have a general opinion that regional weather threats make the Hampton Roads area an undesirable location for operations from a risk perspective. The ETF considers the County to have considerably less risk than more coastal communities in the region and recommends addressing this narrative through economic development channels.

2. With established industries and naval facilities, and vibrant technical education programs in the public schools, Isle of Wight County has the potential for a highly skilled workforce to support energy growth. The County should consider partnering with educational agencies to develop training opportunities for citizens. A built-in workforce would enhance the attractiveness of the county for development of future energy projects.
3. The ETF recommends the County develop a comprehensive map identifying the locations of all utilities available in Isle of Wight. While much of this data is currently available to the public, the ETF found that a single, inclusive resource on the County's website would be beneficial

Final Thoughts

The Energy Task Force has created guidance for the County, although not necessarily the specifics, for energy growth in Isle of Wight. Over fourteen months of collaboration, all members of the ETF agreed that the details are best left to the current experts, including Emergency Management, the Planning Commission, and the Economic Development department. The task force realized that energy guidelines are a hot topic, frequently changing, sometimes confidential, and often lacking. Technology to address emergencies is not keeping up with energy advancements. It appears the growth of energy projects is moving exponentially, while advancements in safety and technology to support such projects are not keeping pace. In addition, energy growth in the Commonwealth is itself mired in politics, as evidenced by legislation introduced during the 2024 General Assembly. The Virginia Clean Economy Act establishes benchmarks for Virginia, especially with renewable energy, that can only be met if localities are supportive of renewable energy projects. A bill was proposed that would have given state agencies the ability to override local decisions with regards to approval. Fortunately, this bill was defeated, but it does emphasize the dilemma facing Virginia as a whole versus counties and cities. In addition, the prevailing political party in the Commonwealth can adjust policy to align with their position, making future planning, especially at the local level, significantly challenging, but not impossible. Planning is the key to success, for as the saying goes, "failing to plan is planning to fail." Isle of Wight County must make planning for energy growth a priority, otherwise it will fail to learn from past mistakes. The ETF has identified items of highest importance the County should tackle first to prepare for ongoing energy projects and those just on the horizon. The five citizen volunteers on the task force, along with the Director and staff of Economic Development, and the numerous presenters embraced the opportunity to participate in this unique project. The creation of an Energy Task Force demonstrates the County's commitment to a comprehensive approach to energy growth for the benefit of citizens and the economy. The members of the ETF are appreciative of their role in preparing Isle of Wight County for the future.

APPENDIX A: ISLE OF WIGHT COUNTY ENERGY TASK FORCE MEMBERS

<u>APPOINTEES</u>	<u>DISTRICT</u>	<u>DATE APPOINTED</u>
Thomas Distefano 15151 Batiste Court Carrollton, VA 23314 757-708-0880	2	2/23/2023
Lewis Edmonds 23427 John Henry Street Windsor, VA 23487 757-871-6550	4	3/16/2023
Lynn Barlow Briggs 211 North Mason Street Smithfield, VA 23430 757-365-1611	1	3/16/2023
David Tucker 6251 Old Stage Hwy. Smithfield, VA 23430 757-334-3726	3	3/16/2023*
VACANT	5	N/A
Michael G. Smith 104 Commerce Street Smithfield, VA 23430 757-576-4203	AT-LARGE APPOINTEE (Town of Smithfield)	4/27/2023
Edward (Gibby) Dowdy 9 Bank Street Windsor, VA 23487	AT-LARGE APPOINTEE (Town of Windsor)	6/1/2023

**Resigned effective 11/16/2023*

APPENDIX B: ENERGY TASK FORCE MEETING DATES

Kick-off Meeting

June 5, 2023

Meeting #2

July 10, 2023

Meeting #3

August 14, 2023

Meeting #4

September 11, 2023

Meeting #5

October 9, 2023

Meeting #6

November 13, 2023

Meeting #7

December 11, 2023

Meeting #8

January 8, 2024

Meeting #9

February 12, 2024

Meeting #10

March 11, 2024

Meeting #11

April 8, 2024

Meeting #12

May 6, 2024

Meeting #13

June 10, 2024

APPENDIX C: ENERGY TASK FORCE SPEAKERS & TOPICS

Jonathan Thompson, Community Electric Cooperative
Electric Co-op History / Role in Energy

Mark Repsher, PA Consulting
Energy Road Map for Hampton Roads

Justin Pope, Dominion Energy
Infrastructure / Innovations / Long Range Programs

Gina Slaunwhite, Columbia Gas of Virginia
Natural Gas Distribution / Supply & Demand / Future of Gas Derivatives

Matt Smith, Hampton Roads Alliance
Offshore Wind / Energy Road Map for Hampton Roads

Erich Fritz & Kelsie Jewell, Dominion Energy
Solar, Battery Storage, SMRs & PJM Relationship

Brett Malone, VT Corporate Research Center
Green Hydrogen Technology / VT-NN Hydrogen demonstration project

Larry Corkey, Virginia Department of Energy
VA's Energy Plan 2022 / Other Commonwealth energy initiatives

Amy Ring, Isle of Wight County Community Development
Comprehensive Plan Update & County Zoning Ordinance

Emily M. Jordan, Virginia State Senate, District 17
Solar Legislation

Will Drewery, Isle of Wight County Fire Rescue
Emergency Management Plan / Fire Rescue Response

APPENDIX D: ENERGY TASK FORCE MISSION & GOALS

Mission:

The Energy Task Force will assess the strengths, weaknesses, opportunities, and vulnerabilities of the county's energy planning to date and provide recommendations to enhance sustainability, reliability, and economic growth.

Goals:

- The ETF will concentrate on gaining information from knowledgeable sources on existing energy infrastructure capacity, current and emerging energy generation and storage technologies, strategies and programs underway by energy providers and diversification strategies for traditional and renewable energy relevant to local government purview, regulation and influence.
- The ETF will provide periodic progress reviews to the Board of Supervisors to ensure the ETF is meeting the Board's intent.
- The ETF will make a comprehensive set of recommendations to the Board of Supervisors in June 2024 or as directed by the Board; examples of possible recommendations include:
 - develop energy-related amendments to the County's Comprehensive Plan and additional areas for inclusion in the county's Zoning Ordinance.
 - identify emerging and future energy sources with potential job creation and other economic development enhancements.
 - assess the complexity and rapidity of change in the energy environment and make a recommendation to the Board of Supervisors on the necessity for an enduring advisory organization.

APPENDIX E: ENERGY TASK FORCE ANTICIPATED DELIVERABLES & SWOT ANALYSIS

1. Identify energy-related gaps in the County's Comprehensive Plan and additional areas for inclusion in the County's Zoning Ordinance.
2. Recognize opportunities for leveraging increased shares of job creation and economic development from emerging energy sources for the County.
3. Define the complexity and rapidity of change in the energy environment for the County.
4. Provide an assessment on the need for an advisory organization or other resources for ongoing technical analysis.
5. Recommend methods for the County to educate the public, including the business community, and gain input on energy-related matters.

Goal #1: Identify energy-related gaps in the County's Comprehensive Plan and additional areas for inclusion in the County's Zoning Ordinance.

Strengths

- High transmission lines cross the county
- Natural gas pipeline crosses the county
- Broadband data lines cross the county (need to verify)

Weaknesses

- Coastal weather threat stereotypes
- Hampton Roads is the end of the natural gas pipeline
- Does county electrical code account for charging stations (residential/commercial)
- Current definition of "utility scale solar" does not account for smaller/microgrid projects
- Ord 4.H. does not cover decommissioning
- Ord 4.J. potential to discourage capital improvement and impacts smaller/microgrid projects
- Ord 4.O. County Emergency Management doesn't have a standardized risk matrix for solar
- Energy is a gap in the current comprehensive plan

Opportunities

- Create a standard risk matrix details responses and/or mitigations for a defined set of circumstances and environmental factors such as
 - Weather: flooding, wind hurricane, wildfire, earthquake, extreme temps
 - Electrical failure
 - Cyber failure (loss of monitoring, hacking, etc.)
- Pushback on coastal weather threats vs rest of Hampton Roads
- Explore opportunities to "tap into" resource streams transiting through the county (electric, gas, broadband)
- Encourage charging stations in developments/new businesses (gas stations)
- Set standards for energy storage via ordinances/code
- Broaden 2% rule to allow microgrids within developments

Threats

- Lack of emergency management plans/procedures for energy generation and storage
- Lack of monitoring standards for energy storage facilities
- "Let it burn" emergency management response to energy facility fires is unlikely to be acceptable during a crisis
- Energy storage projects would potentially incur more cost to the county in terms of emergency management that may not be offset by current tax scheme

Goal #2: Recognize opportunities for leveraging increased shares of job creation and economic development from emerging energy sources for the County.

Strengths

- Skilled workforce
- High transmission lines cross the county
- Natural gas pipeline crosses the county
- Broadband data lines cross the county
- Citizens have indicated an interest in energy projects in the County, especially ones that directly impact them.

Weaknesses

- Restrictions or “gaps” related to zoning
- Regulatory restrictions/issues
- Understanding the implications of the Virginia Clean Energy Act
- No long-term energy plan for the county
- Energy expansion within the county so far has been limited to solar
- Members of the Planning Commission and Economic Development Department do not currently have technical expertise regarding various forms of energy.

Opportunities

- Partner with local industry and educational institutions for workforce training opportunities to support energy growth in the county.
- Capitalize on workforce with nuclear experience due to Surry plant and Navy ships
- Explore opportunities to “tap into” resource streams transiting through the county (electric, gas, broadband)
- Focus on energy opportunities as part of the upcoming review of the county’s comprehensive plan.
- Increase awareness and demand for clean and sustainable energy
- Identify “good fit” emerging energies for IOW.

Threats

- Citizen concerns with development of energy facilities and environmental impacts.
- Gaps in existing county code/ordinances could delay review/approval process.s
- Plans for emergencies and natural disasters
- Regional cooperation in other areas of Virginia is more organized than Hampton Roads

Goal #3: Define the complexity and rapidity of change in the energy environment for the county.

Strengths

- Availability of land
- Access to the grid
- Skilled workforce
- Energy Task Force shows county's commitment to energy development

Weaknesses

- Restrictions or "gaps" related to zoning
- Regulatory restrictions/issues
- Understanding the implications of the Virginia Clean Energy Act
- Limited technical expertise on energy in county government
- No long-term energy plan for the county
- Energy expansion within the county so far has been limited to solar

Opportunities

- Partner with local industry and educational institutions for workforce training opportunities to support energy growth in the county.
- Focus on energy opportunities as part of the upcoming review of the county's comprehensive plan.
- The Virginia Clean Energy Act falls across multiple categories.
- Capitalize on workforce with nuclear experience due to Surry plant and Navy ships
- Increase awareness and demand for clean and sustainable energy
- Identify "good fit" emerging energies for IOW

Threats

- Areas of Virginia are becoming "centers" for specific types of energy-related industries
 - Southwest VA--green energy (Delta Lab)
 - Northern VA--data centers
 - Western Tidewater--solar
- Citizen concerns with development of energy facilities and environmental impacts.
- Gaps in existing county code/ordinances could delay review/approval process.s
- Plans for emergencies and natural disasters

Goal #4: Provide an assessment on the need for an advisory organization or other resources for technical analysis.

Strengths

- The county established an Energy Task Force to to assess the strengths, weaknesses, opportunities, and vulnerabilities of the county's energy planning to date and provide recommendations to enhance sustainability, reliability, and economic growth.
- Existing county entities, such as the Planning Commission and the Department of Economic Development, serve as current monitors for establishment of new energy facilities.

Weaknesses

- Members of the Planning Commission and Economic Development Department do not currently have technical expertise regarding various forms of energy

Opportunities

- Partnerwith Hampton Roads Regional Alliance or other regional groups to advise on new energy facilities.
- Identify individuals locally with expertise on various types of energies.
- Promote the county's focus on and commitment to emerging energy opportunities.

Threats

- Financial obligations related to ongoing energy advisory group or consultant.
- Finding individuals with technical expertise on various types of emerging energies.
- Lack of clear purpose for an advisory organization and how they fit into current hierarchical structure.

Goal #5: Recommend methods for the County to educate the public, including the business community, and gain input on energy-related matters.

Strengths

- The public has demonstrated interest in energy projects that directly impact them (e.g. proximity to the project, etc.). More active engagement will result in greater public feedback perhaps, soliciting feedback from a more representative sampling of the community.

Weaknesses

- The ETF assess that the general public's knowledge level is currently relatively low on policy topics influencing energy production. For example, the Virginia Clean Economy Act (VCEA) requires electricity to be delivered from 100% renewable sources by 2045 with iterative milestones to implementation leading to that end state.
- Cost of energy per production type is not well known. Consumer cost has been demonstrated to be a high priority to the public, therefore more study and public information is necessary

Opportunities

- IOW should use engagements with the public to provide factual and unbiased information to the highest extent possible. In the event biased information is offered to the public, IOW should consider indicating the bias of the source and also offer counter position informational sources. Ideas for public engagement include:
 - Using public hearings to direct attention to relevant information.
 - IOW county website resource links
 - Comprehensive plan engagement during public outreach and publication
 - County Fair – include information at an existing IOW booth
 - Social media postings
 - Peg Channel
 - Advertisements during the closed session portion of County meeting broadcast.
 - Public survey questions. What does the public want to know more about. FAQ section on website.
- Review currently publicized information on services that run through county (e.g. gas, power, water, fiber, sewer, fiber, etc.) to ensure County is providing most all relevant information to attract desired energy producers and consumer business opportunities.
- ETF present to IOW BOS, Town governments (Windsor, Smithfield)

Threats

- Lack of knowledge could lead to uniformed opinions and decisions.

ISSUE:

Staff Presentation - Real Estate Reassessment Desktop Review

BACKGROUND:

Gerald Gwaltney, Commissioner of Revenue, will provide information regarding the potential advantages/disadvantages of implementing a biennial real estate reassessment.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

For the Board's information.

ISSUE:

Discussion of Model Ordinance Regulating Open Burning

BACKGROUND:

Staff will provide information regarding the model ordinance vs. the County's current ordinance for regulating open burning.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

For the Board's information.

ISSUE:

Proposed Repeal of Chapter 14A Stormwater Management and Revisions to Chapter 6 Erosion and Sedimentation Control, Chapter 17 Wetlands Zoning, and Appendix B-2 Coastal Primary Sand Dune Ordinance

BACKGROUND:

The Department of Environmental Quality recently approved the County's request to be removed from the Virginia Stormwater Management Program. The County Attorney's Office proposes that Chapter 14 be repealed.

Additionally, the Code of Virginia was recently amended, requiring the County to adopt model ordinances for erosion and sedimentation control, wetlands zoning, and coastal primary sand dunes. The County Attorney's Office proposes Chapter 6, 17 and Appendix B2 be repealed and the model ordinances be adopted.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion and direction.

ATTACHMENTS:

Description	Type	Upload Date
Wetlands Ordinance	Ordinance	7/24/2024
Sand Dune Ordinance	Ordinance	7/24/2024
Erosion & Sediment Ordinance	Ordinance	7/24/2024

CHAPTER 17. - WETLANDS ZONING

Sec. 17-1. - Title, Purpose and Authority.

The governing body of Isle of Wight County, acting pursuant to Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.

Sec. 17-2. - Definitions.

As used in this ordinance, unless the context requires a different meaning:

"Back Bay and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina state line; Capsies Creek north of the Virginia-North Carolina state line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shipps Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds, and natural waterways adjacent to or connecting with the above-named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any of the services provided by this county to its citizens for the purpose of maintaining this county, including but not limited to such services as constructing, repairing, and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.

"Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: the North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; and all named and unnamed streams, creeks, and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except West Neck Creek north of Indian River Road, Pocaty River west of Blackwater Road, Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where Blackwater Road crosses the Blackwater River at the village of Blackwater, and Millbank Creek west of Blackwater Road.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrchia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three-square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrowhead (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

"Vegetated wetlands of Back Bay and its tributaries" or "vegetated wetlands of the North Landing River and its tributaries" means all marshes subject to flooding by normal and wind tides but not hurricane or tropical storm tides, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), black needlerush (*Juncus roemerianus*), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), cattail (*Typha* spp.), three-square (*Scirpus* spp.), dock (*Rumex* sp.), smartweed (*Polygonum* sp.), yellow pond lily (*Nuphar* sp.), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), arrowhead (*Sagittaria* sp.), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

"Wetlands" means both vegetated and nonvegetated wetlands.

"Wetlands board" or "board" means a board created pursuant to § [28.2-1303](#) of the Code of Virginia.

Sec. 17-3. - Permitted uses.

The following uses of and activities in wetlands are authorized if otherwise permitted by law:

A. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges, observation decks, and shelters and other similar structures, provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;

B. The cultivation and harvesting of shellfish, and worms for bait;

C. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting on shooting preserves, provided that no structure shall be constructed except as permitted in subdivision 1 of this section;

- D. Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;
- E. Grazing, haying, and cultivating and harvesting agricultural, forestry, or horticultural products;
- F. Conservation, repletion, and research activities of the Commission, the Virginia Institute of Marine Science, the Department of Wildlife Resources and other conservation-related agencies;
- G. The construction or maintenance of aids to navigation that are authorized by governmental authority;
- H. Emergency measures decreed by any duly appointed health officer of a governmental subdivision acting to protect the public health;
- I. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad beds, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;
- J. Governmental activity in wetlands owned or leased by the Commonwealth or a political subdivision thereof;
- K. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize the construction of any drainage ditch; and
- L. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § [28.2-104.1](#).

Sec. 17-4. - Application for permitted uses – generally.

- A. Any person who desires to use or develop any wetland within this county, other than for the purpose of conducting the activities specified in Section 3 of this ordinance, shall first file an application for a permit directly with the wetlands board or with the Commission.
- B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, the location of the proposed work thereon, the area of existing and proposed fill and excavation, the location, width, depth, and length of any proposed channel and disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a statement indicating whether use of a living shoreline as defined in § [28.2-104.1](#) for a shoreline management practice is not suitable, including reasons for the determination; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce

detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense involved.

Sec. 17- 5. - Same-Public inspection.

All applications, maps, and documents submitted shall be open for public inspection at the Isle of Wight County Department of Planning and Zoning and specified in the public notice for public hearing required under Section 6 of this ordinance.

Sec. 17- 6. - Same-notice of hearing.

Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Wildlife Resources, the State Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The Commission or board shall mail or email these notices not less than 20 days prior to the date set for the hearing. The board shall also (i) cause notice of the hearing to be published at least once in the seven days prior to such hearing in a newspaper of general circulation in this county; (ii) post a notice of the hearing on its website at least 14 days prior to such hearing; and (iii) provide a copy of such notice to the Commission for submittal to the Virginia Regulatory Town Hall. The published notice shall specify the place or places within this county where copies of the application may be examined. The costs of publication shall be paid by the applicant. In the event that the board submits a correct and timely notice for publication and the newspaper fails to publish the notice or publishes the notice incorrectly, the board shall be deemed to have met the notice requirements of this subsection so long as the notice is published in the next available edition of such newspaper.

Sec. 17- 7. - Same-decision of board.

A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section, "act" means taking a

vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the same office as was designated under Section 5 of this ordinance.

Sec. 17- 8. - Permit bond; revocation or suspension of permit.

The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Sec. 17- 9. - Responsibility of board.

In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards promulgated by the Commission pursuant to §28.2-1301 of the Code of Virginia.

Sec. 17- 10. - Same-Basis for decision to approve, etc.; granting of approval or denial.

A. In deciding whether to grant, grant in modified form, or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;
2. The impact of the proposed development on the public health, safety, and welfare; and
3. The proposed development's conformance with standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.
2. The proposed development conforms with the standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.
3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13

(§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

Sec. 17- 11. - Permits; generally.

A. The permit shall be in writing and signed by the chairman of the board or his authorized representative. A copy of the permit shall be transmitted to the Commissioner.

B. No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

Sec. 17- 12. - Affect of permit.

No permit granted by a wetlands board shall in any way affect the applicable zoning and land use ordinances of this county or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

Sec. 17-12. - Violations; penalty.

Any person who knowingly, intentionally or negligently violates any order, rule or regulation of the wetlands board of Isle of Wight County, Virginia, or any provision of this chapter, or any provision of a permit granted pursuant to this chapter, shall be guilty of a Class I misdemeanor. Following a conviction, every day the violation continues is a separate offense.

APPENDIX B-2. - COASTAL PRIMARY SAND DUNE ORDINANCE.

Sec. 1001. – Title, Purpose, and Authority.

The governing body of Isle of Wight County, acting pursuant to Chapter 14 (§ [28.2-1400](#) et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of coastal primary sand dunes. Whenever coastal primary sand dunes are referred to in this ordinance, such references shall also include beaches.

Sec. 1002. – Definitions.

As used in this ordinance, unless the context requires a different meaning:

"Beach" means the shoreline zone comprised of unconsolidated sandy material upon which there is a mutual interaction of the forces of erosion, sediment transport, and deposition that extends from the low water line landward to where there is a marked change in either material composition or physiographic form such as a dune, bluff, or marsh, or where no such change can be identified, to the line of woody vegetation (usually the effective limit of stormwaves), or the nearest impermeable man-made structure, such as a bulkhead, revetment, or paved road.

"Coastal primary sand dune" or "dune" means a mound of unconsolidated sandy soil that is contiguous to mean high water, whose landward and lateral limits are marked by a change in grade from 10 percent or greater to less than 10 percent, and upon which is growing any of the following species: American beach grass (*Ammophila breviligulata*); beach heather (*Hudsonia tomentosa*); dune bean (*Strophostyles* spp.); dusty miller (*Artemisia stelleriana*); saltmeadow hay (*Spartina patens*); seabeach sandwort (*Honckenya peploides*); sea oats (*Uniola paniculata*); sea rocket (*Cakile edentula*); seaside goldenrod (*Solidago sempervirens*); Japanese sedge or Asiatic sand sedge (*Carex kobomugi*); Virginia pine (*Pinus virginiana*); broom sedge (*Andropogon virginicus*); and short dune grass (*Panicum amarum*). For purposes of this ordinance, "coastal primary sand dune" shall not include any mound of sand, sandy soil, or dredge spoil deposited by any person for the purpose of temporary storage, beach replenishment, or beach nourishment, nor shall the slopes of any such mound be used to determine the landward or lateral limits of a coastal primary sand dune.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"County," means the governing body of Isle of Wight County.

"Governmental activity" means any of the services provided by the Commonwealth or a county, city, or town to its citizens for the purpose of maintaining public facilities, including but not limited to, such services as constructing, repairing, and maintaining roads; providing street lights and sewage facilities; supplying and treating water; and constructing public buildings.

"Wetlands board" or "board" means the board created pursuant to § [28.2-1303](#) of the Code of Virginia.

Sec. 1003. – Permitted uses.

The following uses of and activities in dunes are authorized if otherwise permitted by law:

1. The construction and maintenance of noncommercial walkways that do not alter the contour of the coastal primary sand dune;
2. The construction and maintenance of observation platforms that are not an integral part of any dwelling and that do not alter the contour of the coastal primary sand dune;
3. The planting of beach grasses or other vegetation for the purpose of stabilizing coastal primary sand dunes;
4. The placement of sand fences or other material on or adjacent to coastal primary sand dunes for the purpose of stabilizing such features, except that this provision shall not be interpreted to authorize the placement of any material that presents a public health or safety hazard;
5. Sand replenishment activities of any private or public concern, provided no sand shall be removed from any coastal primary sand dune unless authorized by lawful permit;
6. The normal maintenance of any groin, jetty, riprap, bulkhead, or other structure designed to control beach erosion that may abut a coastal primary sand dune;
7. The normal maintenance or repair of existing roads, highways, railroad beds, and facilities of the United States, this Commonwealth or any of its counties or cities, or of any person, provided no coastal primary sand dunes are altered;
8. Outdoor recreational activities, provided the activities do not alter the natural contour of the coastal primary sand dune or destroy the vegetation growing thereon;
9. The conservation and research activities of the Commission, Virginia Institute of Marine Science, Department of Wildlife Resources, and other conservation-related agencies;
10. The construction and maintenance of aids to navigation that are authorized by governmental authority;
11. Activities pursuant to any emergency declaration by the governing body of any local government or the Governor of the Commonwealth or any public health officer for the purposes of protecting the public health and safety;
12. Governmental activity in coastal primary sand dunes owned or leased by the Commonwealth or a political subdivision thereof; and
13. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § [28.2-104.1](#).

Sec. 1004. – Application for permitted uses-generally.

A. Any person who desires to use or alter any coastal primary sand dune within this county, other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall first file an application directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities and a map, drawn to an appropriate and uniform scale, showing the area of dunes directly affected, the location of the proposed work thereon, the area of any proposed fill and excavation, the location, width, depth, and length of any disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense. No person shall be required to file two separate applications for permits if the proposed project will require permits under this ordinance and Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia. Under those circumstances, the fee shall be established pursuant to this ordinance.

Sec. 1005. – Same-Public inspection.

All applications, maps, and documents submitted shall be open for public inspection at the Isle of Wight County Department of Planning and Zoning.

Sec. 1006. – Same-notice of hearing.

Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the coastal primary sand dunes in question, the Virginia Institute of Marine Science, the Department of Wildlife Resources, the State Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The Commission or board shall mail or email these notices not less than 20 days prior to the date set for the hearing. The board shall also (i) cause notice of the hearing to be published at least once in the seven days prior to such hearing in a newspaper of general circulation in this county; (ii) post a notice of the hearing on its website at least 14 days prior to such hearing; and (iii) provide a copy of such notice to the Commission for submittal to the Virginia Regulatory Town Hall. The costs of publication shall be paid by the applicant. In the event that the board submits a correct and timely notice for publication and the newspaper fails to publish the notice or publishes the notice incorrectly, the board shall be deemed to have met the notice requirements of this subsection so long as the notice is published in the next available edition of such newspaper.

Sec. 1007. – Same-decision of board.

- A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.
- B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may appear and be heard at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.
- C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved.
- D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the Isle of Wight County Department of Planning and Zoning.

Sec. 1008. – Permit bond; revocation or suspension of permit.

The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Sec. 1009. – Responsibility of board.

In fulfilling its responsibilities under this ordinance, the board shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. However, whenever practical, the board shall accommodate necessary economic development in a manner consistent with the protection of these features.

Sec. 1010. – Same-Basis for decision to approve, etc.; granting of approval or denial.

A. In deciding whether to grant, grant in modified form, or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;
2. The impact of the proposed development on the public health, safety, and welfare; and

3. The proposed development's conformance with standards prescribed in § 28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1401 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.
2. The proposed development conforms with the standards prescribed in § 28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1401 of the Code of Virginia.
3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 14 (§ 28.2-1400 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

Sec. 1011. – Permits; generally.

A. The permit shall be in writing and signed by the chairman of the board. A copy of the permit shall be transmitted to the Commissioner.

B. No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

Sec. 1012. – Permit affect.

No permit granted by a wetlands board shall in any way affect the right of any person to seek compensation for any injury in fact incurred by him because of the permitted activity.

Sec. 1013. – Violations.

Any person who knowingly, intentionally, or negligently violates any order, rule or regulation of the commission or wetlands board, any provision of Chapter 14, Article 2 of Title 28.2 of the Code of Virginia, or of this Coastal Primary Sand Dune Zoning Ordinance, enacted pursuant to Chapter 14, Article 2 of Title 28.2 of the Code of Virginia, or any provision of a permit granted pursuant to Chapter 14, Article 2 of Title 28.2 of the Code of Virginia is guilty of a Class I misdemeanor. Following a conviction, every day the violation continues is a separate offense.

Sec. 1014. - Injunctions.

Upon the petition of the commission or the wetlands board to the Circuit Court of the Isle of Wight County, Virginia, the court may enjoin the unlawful act and order the defendant to take any steps necessary to restore, protect, and preserve the dunes or beaches involved. This remedy shall be exclusive of and in addition to any criminal penalty which may be imposed under Section 28.2-1418 of the Code of Virginia.

Sec. 1015. - Penalties.

A. Without limiting the remedies which may be obtained under this appendix B-2, any person who violates any provision of this appendix B-2 or who violates or fails, negates, or refuses to obey any commission or wetlands board notice, order, rule, or regulation, or permit condition authorized by this appendix B-2 shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed twenty-five thousand dollars (\$25,000.00) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county, city, or town in which the violation occurred for the purpose of abating environmental damage to or restoring dunes or beaches therein, in such a manner as the county may, by order, direct, except that where the violator is the county, city or town itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

B. Without limiting the remedies which may be obtained under this appendix B-2, and with the consent of any person who has violated any provision of this appendix B-2 or who has violated or failed, neglected, or refused to obey any commission or wetlands board order, rule, regulation or permit condition authorized by this appendix B-2, the commission or wetlands board may provide, in an order issued by the commission or wetlands board against such person, for the one-time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000.00) for each violation under subsection a. of this section. Civil charges may be in addition to the cost of any restoration ordered by the commission or wetlands board.

CHAPTER 6. - EROSION AND SEDIMENT CONTROL

Sec. 6.1. - Purpose of chapter.

A. This ordinance shall be known as the ‘Erosion and Sediment Control Ordinance of Isle of Wight County.’ The purpose of this ordinance is to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources of the County by establishing requirements for the effective control of soil erosion, sediment deposition and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

B. This ordinance is authorized by § 62.1-44.15:54 of the Code of Virginia.

Sec. 6.2 . -Definitions.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

"Agreement in lieu of a plan" means a contract between the County and the owner that specifies conservation measures that must be implemented to comply with the requirements of this ordinance for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; this contract may be executed by the County in lieu of formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

"Board" means the State Water Control Board.

"Certified inspector for ESC" means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of project inspection or (ii) is enrolled in the department’s training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer for ESC" means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of plan review, (ii) is enrolled in the department’s training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator for ESC" means an employee or agent of the VESCP authority who holds a certification from the department in the classification of program administrator or (ii) is enrolled

in the department's training program for program administration and successfully completes such program within one year after enrollment.

"Chesapeake Bay Preservation Act" means Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Chesapeake Bay Preservation Area" means any land designated by a local government pursuant to Part III (9VAC25-830-70 et seq.) of the Chesapeake Bay Preservation Area Designation and Management Regulations and § 62.1-44.15:74 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area as defined in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

"Clearing" means any activity which removes the vegetative ground cover including, root mat removal or topsoil removal.

"County" means the County of Isle of Wight

"Department" means the Virginia Department of Environmental Quality.

"District" or "Soil and Water Conservation District" refers to the Peanut Soil and Water Conservation District, a political subdivision of this Commonwealth organized in accordance with the provisions of Articles 3 (section 10.1-506, et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia as amended.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Excavating" means any digging, scooping or other methods of removing earth materials.

"Filling" means any depositing or stockpiling of earth materials.

"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Land-disturbing permit or approval" means a permit or an approval allowing a land-disturbing activity to commence issued by County after the requirements of § 62.1-44.15:55 of the Code of Virginia have been met.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bank full storm event within its banks and allows larger flows to access its bank full bench and its floodplain.

"Owner" means the same as provided in § 62.1-44.3 of the Code of Virginia. For a land-disturbing activity that is regulated under Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and this ordinance, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Responsible Land Disturber" or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan or permit as defined in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) as a prerequisite for engaging in land disturbance. The RLD must be designated on the erosion and sediment control plan or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Single-family detached residential structure" means a noncommercial dwelling that is occupied exclusively by one family.

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

"Transporting" means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. (Optional or local definition.)

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the department that is established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of the Erosion and Sediment Control Law (ESCL).

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority," for purposes of this ordinance means Isle of Wight County that has been approved by the department to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1, the State Water Control Law, of Title 62.1 of the Code of Virginia.

"VESCP plan-approving authority" means the County of Isle of Wight Utility Services Department, as may be assisted by consulting services, responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

"VPDES Permit" means a General VPDES (Virginia Pollutant Discharge Elimination System) Permit for Discharges of Stormwater from Construction Activities, 9VAC25-880, issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity.

Sec. 6.3. - Local Erosion and Sediment Control Program.

Pursuant to § 62.1-44.15:54 of the Code of Virginia, the County hereby establishes a Virginia Erosion and Sediment Control Program (VESCP) and adopts the regulations promulgated by the Board (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources). In accordance with § 62.1-44.15:52 of the Code of Virginia, any plan approved prior to July 1, 2014 that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site

in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

- A. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified 9VAC25-875-600, unless such land-disturbing activities are in accordance with the grandfathering provisions of 9VAC25-875-490.
- B. Pursuant to § 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer for ESC. Inspections of land disturbing activities shall be conducted by a certified inspector for ESC. The Erosion and Sediment Control Program of Isle of Wight County shall contain a certified program administrator for ESC, a certified plan reviewer for ESC, and a certified inspector for ESC (who may be the same person.)
- C. The County hereby designates the County's Utility Services Department as the VESCP plan-approving authority.
- D. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Utility Services Department.

Sec. 6.4. - Regulated Land-Disturbing Activities.

A. Land-disturbing activities that meet one of the criteria below are regulated as follows:

- 1. Land-disturbing activity that disturbs 10,000 or [smaller area specified by the locality] square feet or more not in an area of a locality designated as a Chesapeake Bay Preservation Area, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).
- 2. Land-disturbing activity that disturbs 2,500 or smaller area specified by the locality square feet or more and in an area of a locality designated as a Chesapeake Bay Preservation Area is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

Sec. 6.5. - Activities Not Required to Comply With The Escl.

- A. Notwithstanding any other provisions of the Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program (ESCL), the following activities are not required to comply with the ESCL unless otherwise required by federal law:

1. Disturbance of a land area of less than 10,000 square feet in size or less than 2,500 square feet in an area designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia)];
2. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work.
3. Installation, maintenance, or repair of any individual service connection.
4. Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced.
5. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system.
6. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia.
7. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia.
8. Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles.
9. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Virginia Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to the ESCL and the regulations adopted pursuant thereto.

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESCP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsections 1.6, 1.7 and 1.8 of this ordinance are required within 30 days of commencing the land-disturbing activity.
11. Discharges to a sanitary sewer or a combined sewer system that are not from a land disturbing activity; and
12. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

Sec. 6.6. - Submission and Approval of Plans; Contents Of Plans.

- A. Except as provided herein, no person may engage in any regulated land-disturbing activity until he or she has submitted to the County an erosion and sediment control plan for the regulated land-disturbing activity and such plan has been approved by the County. No approval to begin a land disturbing activity will be issued unless evidence of VPDES permit coverage is obtained where it is required.

Where the land-disturbing activity results from the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the County.

- B. The standards contained within the "Virginia Erosion and Stormwater Management Regulation (9VAC25-875)" and the Virginia Stormwater Management Handbook, as amended and are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The VESCP plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Erosion and Stormwater Management Regulation shall take precedence.
- C. The VESCP plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of the Erosion and Sediment Control Law for Localities not Administering a Virginia Erosion and Stormwater Management Program and 9VAC25-875, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this ordinance. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan,

the person responsible for carrying out the plan shall provide the name of the responsible land disturber to the VESCP authority, as required by 9VAC25-875-300 and 9VAC25-875-550 , who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber, prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.

- D. When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved, and the person authorized to proceed with the proposed activity.
- E. The County shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.
- F. The County may require changes to an approved plan when:
 - 1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - 2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the VESCP plan-approving authority and the person responsible for carrying out the plans.
- G. Variances: The VESCP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
 - 1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the VESCP plan-approving authority shall be documented in the plan.
 - 2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the VESCP plan-approving authority. The VESCP plan-approving authority shall respond in writing either approving or disapproving such a request. If the VESCP plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

3. The County shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- H. In order to prevent further erosion, the County may require approval of a plan for any land identified in the local program as an erosion impact area.
 - I. When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
 - J. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34 of the Code of Virginia to the County, any person engaging in more than one jurisdiction in the creation and operation of a wetland mitigation or stream restoration bank that has been approved and is operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) a wetlands mitigation or stream restoration bank, pursuant to a mitigation banking instrument signed by the Department, the Marine Resources Commission, or the U.S. Army Corps of Engineers, or (ii) a stream restoration project for purposes of reducing nutrients or sediment entering state waters may submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted.

Sec. 6.7. - Erosion and Sediment Control Plan; Contents of Plans.

- A. An erosion and sediment control plan shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall be consistent with the criteria, techniques, and methods in 9VAC25875-560. The erosion and sediment control plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives in 9VAC25-875-560. The erosion and sediment control plan may include:
 1. Appropriate maps.
 2. An appropriate soil and water plan inventory and management information with needed interpretations; and
 3. A record of decisions contributing to conservation treatment.
- B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land disturbing activity to the VESMP authority. The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia.

- C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner.
- D. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA, ESCL, or this ordinance if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Sec. 6.8. - Permits; Fees; Security For Performance.

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan, certification that the plan will be followed and evidence of VPDES permit coverage where it is required.
- B. No person may engage in any land-disturbing activity until he or she has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance), has paid the fees, and has posted the required bond.
- C. An administrative fee of as set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the Board of Supervisors, as it may be amended, shall be paid to the County at the time of submission of the erosion and sediment control plan.
- D. No land-disturbing permit shall be issued until the applicant submits with his or her application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.
- E. All applicants for permits shall provide to the County a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the County Attorney, to ensure that measures could be taken by the County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him or her by the approved plan as a result of his land-disturbing activity.

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the County to

take such conservation action, the County may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of adequate stabilization, as determined by the Utility Services Department in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Sec. 6.9. - Monitoring, Reports, and Inspections.

- A. The responsible land disturber, as provided by § 62.1-44.15:52, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The person responsible for carrying out the plan shall monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- B. The Utility Services Department shall periodically inspect the land-disturbing activity in accordance with 9VAC25-875-330 to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection and shall such inspection in accordance with § 62.1-44.15:60 and the land-disturbing permit.

If the Utility Services Department determines that there is a failure to comply with the plan, notice to comply may be served upon the permittee or person responsible for carrying out the plan. Such notice shall be served by delivery by facsimile, e-mail, or other technology; by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, if available, or in the land records of the locality; or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice to comply shall specify the measures needed to comply with the land disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify a reasonable time within which such measures shall be completed. Upon failure to comply within the specified time, any plan approval or land-disturbance approval may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this ordinance.

- C. Upon issuance of an inspection report denoting a violation of § 62.1-44.15:55 of the Code of Virginia, the Utility Services Department may, in conjunction with or subsequent

to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the Utility Services Department may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan, such a stop work order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The stop-work order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the County or permit holder for appropriate relief to the Circuit Court of Isle of Wight County. The County shall serve such order for disturbance without an approved plan upon the owner by mailing with confirmation of delivery to the address specified in the land records. The order shall be posted on the site where the disturbance is occurring and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan within seven days from the date of service of the stop work order, the Utility Services Department may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan has been obtained. Such an order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the plan or the land records of the County.

The owner may appeal the issuance of an order to the Circuit Court of Isle of Wight.

Any person violating or failing, neglecting or refusing to obey an order issued by Utility Services Department may be compelled in a proceeding instituted in the Circuit Court of Isle of Wight County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

Upon completion and approval of corrective action or obtaining an approved plan, the order shall immediately be lifted.

Nothing in this section shall prevent the Utility Services Department from taking any other action authorized by this ordinance or other applicable laws.

Sec. 6.10. - Penalties, Injunctions, and Other Legal Actions .

- A. Any person who has violated or failed, neglected, or refused to obey any order, notice, or requirement of the County, any condition of a land-disturbance approval, or any provision of this ordinance shall, upon a finding of the District Court of Isle of Wight County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.
- B. The Utility Services Department, or the owner of property which has sustained damage, or which is in imminent danger of being damaged, may apply to the Circuit Court of Isle of Wight County to enjoin a violation or a threatened violation of §§ 62.1-44.15:55 or 62.1-44.15:58 of the Code of Virginia, without the necessity of showing that an adequate remedy at law does not exist.
However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.
- C. In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to Isle of Wight County in a civil action for damages.
- D. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the County.

Any civil penalties assessed by a court shall be paid into the treasury of Isle of Wight County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- E. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, or order of the

County, the County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection A or D.

- F. The Commonwealth's Attorney shall, upon request of the County, take legal action to enforce the provisions of this ordinance.

Sec. 6.11. - Appeals and Judicial Review.

- A. Final decisions of the County under this ordinance shall be subject to review by the Isle of Wight County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

ISSUE:

Discussion of the Formation of an Audit Committee

BACKGROUND:

At the Board's regular meeting on May 16, 2024, Supervisor McCarty advised that he would introduce discussion of the creation of an Audit Committee during the Board's work session on June 6, 2024.

Following discussion by the Board on June 6, 2024, regarding who should serve on an Audit Committee, it was the consensus of the Board to contact the School Superintendent relative to him serving on the Audit Committee.

The Board may wish to further discuss its expectations and directions for an Audit Committee.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion and direction.

ATTACHMENTS:

Description	Type	Upload Date
Audit Committee Overview	Backup Material	5/22/2024

Isle of Wight County Audit Committee

Audit Committee Overview (McCarty)

The Audit Committee will be established by the Isle of Wight County Board of Supervisors to carry out its oversight responsibilities by reviewing financial information provided in the County's Comprehensive Annual Financial Report, by reviewing any material weaknesses in the County's system of internal accounting controls, as reported by the external auditor, by reviewing the annual audit process and its results, and by providing advice to the entire Board of Supervisors regarding the exposure of Isle of Wight County government to risk, such as financial, operational, and reputational risks. To accomplish this purpose, the Audit Committee has tasks enumerated in the County Board Charge. These tasks include:

- Reviewing and understanding the County's Financial Audit and all benchmarks regarding the audit schedule and overall draft audit work plan;
- Receiving final audit reports from the Auditing Firm and reviewing the results with the County Board of Supervisors;
- Receiving and reviewing the County's periodic finance reports and providing recommendations and or corrective action to be taken by management, along with the follow-up to those actions with the Board of Supervisors.
- Consulting with the County Administrator / CFO on funds proposed for consideration by the County Board of Supervisors to carry out the needs of the organization.
- Presenting a review of findings and corrective actions needed to the full Board of Supervisors in a timely fashion in line with the Commonwealth of VA law.
- Receiving an annual report of all revenue streams to include all federal, state and local funding streams.
- Receiving an annual report of all county-wide expenses to validate that compliance with all funding stream designations has been adhered to.
- Receiving an annual update regarding the results of the County's investments and fiscal health in all financial matters.
- Meeting with the County Treasurer to ensure all finances held in our trust are

Examples of agenda topics may include:

- Capital Projects and Five-Year Plan Update
- Citizens Budget Advisory Committee Update
- Closed session with elected officials to provide feedback for performance review of Internal Audit Director
- Draft Comprehensive Annual Financial Report
- Employee Benefits Update
- External Audit Contract Renewal-Selection
- External Audit Post-Audit Overview
- External Auditor Pre-audit Overview
- Financial Policies Update
- Fund Balance and Debt Policy Compliance Projections
- Internal Audit Annual Report
- Internal Audit Reports
- Investment Income and Tax Collection Update
- Next Fiscal Year Budget Process
- Periodic Year-End Financial Projections
- Preliminary Year-End Financial Results
- Proposed Internal Audit Plan
- Technology Systems Update

Audit Committee Members

The Audit Committee is composed of **seven members**. Two Isle of Wight County Board members serve as committee co-chairs. The committee has three community members at large: the County Administrator, and County CFO. The IOW Commissioner of Revenue and Treasurer may be an added option, which would take the committee to nine instead of seven.

Meeting Schedule: The Audit Committee meets at least four times per year and Audit Committee meetings are open to the public.