

Agenda
Board of Supervisors
Isle of Wight County
January 4, 2024

1. Call to Order (11:00 A.M.)
2. Invocation – Vice-Chairman Joel C. Acree
3. Approval of Agenda
4. Organizational Meeting
 - A. Election of the Chairman
Nomination/Election of the Chairman
 - B. Election of the Vice-Chairman
Nomination/Election of the Vice-Chairman
 - C. Appointment of Clerk of the Board of Supervisors
Motion to Appoint the Clerk of the Board of Supervisors
 - D. Appointment of Deputy Clerk of the Board of Supervisors
Motion to Appoint the Deputy Clerk of the Board of Supervisors
 - E. Adoption of the Board of Supervisors' Meeting Schedule
Motion to Adopt the Board of Supervisors' Meeting Schedule for Calendar Year 2024
 - F. By-Laws and Rules of Procedure
By-Laws and Rules of Procedure of the Isle of Wight County Board of Supervisors for Calendar Year 2024
 - G. Board of Supervisors' Committee Appointments
Appointments to the Board of Supervisors' Committees
 - H. Board of Supervisors' Appointments to Regional Boards/Committees

Appointments to Serve on Regional Boards/Committees

5. County Administrator's Report

A. Annual Financial Report

Special Report - Annual Financial Report

B. Stormwater Fee - Solar Projects

Discussion of Application of the Stormwater Fee to Solar Projects

C. Use of RV/Camping on Property

Discussion of Use of RV/Camping on Private Residential Property

D. Ordinance Amendment - Discharging Firearms

Discussion of Chapter 12 - Offenses-Miscellaneous, Section 12 - 11.1 Discharging Firearms of the Isle of Wight Code of Ordinances

6. Adjournment

ISSUE:

Nomination/Election of the Chairman

BACKGROUND:

Per the Board's bylaws, the Board shall meet on the first (1st) Thursday of January of each year which shall be known as the annual organizational meeting. The County Administrator shall preside during the annual organizational meeting pending the election of the Chair of the Board.

The Chair shall be elected at the annual meeting for a term of one year, ending at the commencement of the organizational meeting the following year.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt a motion to elect the Chairman for calendar year 2024.

ISSUE:

Nomination/Election of the Vice-Chairman

BACKGROUND:

Per the Board's bylaws, following the election of the Chairman, he/she shall assume the Chair and conduct the election of the Vice-Chairman for the same one-year term.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt a motion to elect the Vice-Chairman for calendar year 2024.

ISSUE:

Motion to Appoint the Clerk of the Board of Supervisors

BACKGROUND:

Per the Board's bylaws, following the election of the Vice-Chairman, the Chairman shall conduct the election of the Clerk of the Board for the same one-year term.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt a motion to elect the Clerk of the Board for calendar year 2024.

ISSUE:

Motion to Appoint the Deputy Clerk of the Board of Supervisors

BACKGROUND:

The Board may wish to appoint a Deputy Clerk of the Board of Supervisors to serve in the absence of the Clerk.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt a motion to appoint the Deputy Clerk of the Board of Supervisors for calendar year 2024.

ISSUE:

Motion to Adopt the Board of Supervisors' Meeting Schedule for Calendar Year 2024

BACKGROUND:

The Board of Supervisors has traditionally held its regular meetings on the third Thursday of each month. The Board has also held a work session on the first Thursday of each month.

The Board will need to adopt a meeting schedule for calendar year 2024 to establish the dates and times for its regular meetings and work sessions.

At its regular meeting on December 14, 2023, the Board discussed rescheduling its regular meeting on Thursday, January 18, 2024 to Tuesday, January 16, 2024. Additionally, the Board suggested cancelling its work session scheduled for July 11, 2024.

It should be noted that the VACo/VML Legislative Day is currently scheduled for February 1, 2024, the same day as the Board's work session.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt the resolution to establish the meeting schedule for calendar year 2024 as presented.

ATTACHMENTS:

Description	Type	Upload Date
Resolution	Resolution	12/15/2023
Draft Meeting/Invocation Schedule	Backup Material	12/15/2023
2024 Holiday Schedule	Backup Material	12/15/2023

**RESOLUTION TO ESTABLISH REGULAR MEETING
AND WORK SESSION SCHEDULE FOR 2024**

WHEREAS, the Board of Supervisors of the County of Isle of Wight is required by Section 15.2-1416 of the Code of Virginia to organize at its first meeting in January; and,

WHEREAS, regular meetings of the Board of Supervisors (hereinafter referred to as “the Board”) shall be held in the Robert C. Claud, Sr. Board of Supervisors’ Room on the third (3rd) Thursday of the month unless otherwise set by the Board; and,

WHEREAS, regular meetings shall begin at 5:00 p.m. for closed session purposes only, with all other matters to be heard and considered at 6:00 p.m.; and,

WHEREAS, work session meetings shall be held on the first (1st) Thursday of every month, at the same place as regular meetings, and shall begin at 6:00 p.m. unless otherwise set by the Board.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that regular meetings and work sessions of the Board shall be held as shown on the attached calendar for 2024.

Adopted this 4th day of January, 2024.

Chairman

Carey Mills Storm, Clerk

Approved as to form:

Robert W. Jones, Jr., County Attorney

2024

Board of Supervisors'

Meeting/Invocation Schedule

<u>DATE</u>	<u>TIME</u>	<u>MEETING</u>	<u>INVOCATION</u>
Thursday, January 4 th	11:00 a.m.	Organizational	Acree
Thursday, January 4 th	Following Organizational	Work Session	
Tuesday, January 16 th	5:00 p.m.	Regular Meeting	Rountree
Thursday, February 1 st	6:00 p.m.	Work Session	Rosie
Thursday, February 15 th	5:00 p.m.	Regular Meeting	Jefferson
Thursday, March 7 th	6:00 p.m.	Work Session	McCarty
Thursday, March 21 st	5:00 p.m.	Regular Meeting	Acree
Thursday, April 4 th	6:00 p.m.	Work Session	Rountree
Thursday, April 18 th	5:00 p.m.	Regular Meeting	Rosie
Thursday, May 2 nd	6:00 p.m.	Work Session	Jefferson
Thursday, May 16 th	5:00 p.m.	Regular Meeting	McCarty
Thursday, June 6 th	6:00 p.m.	Work Session	Acree
Thursday, June 20 th	5:00 p.m.	Regular Meeting	Rountree
Thursday, July 11th	3:00 p.m.	Work Session	Rosie
Thursday, July 11 th	5:00 p.m.	Regular Meeting	Rosie
Thursday, August 1 st	6:00 p.m.	Work Session	Jefferson
Thursday, August 15 th	5:00 p.m.	Regular Meeting	McCarty
Thursday, September 5 th	6:00 p.m.	Work Session	Acree
Thursday, September 19 th	5:00 p.m.	Regular Meeting	Rountree
Thursday, October 3 rd	6:00 p.m.	Work Session	Rosie
Thursday, October 17 th	5:00 p.m.	Regular Meeting	Jefferson
Thursday, November 7 th	6:00 p.m.	Work Session	McCarty
Thursday, November 21 st	5:00 p.m.	Regular Meeting	Acree
Thursday, December 12 th	3:00 p.m.	Work Session	Rountree
Thursday, December 12 th	5:00 p.m.	Regular Meeting	Rountree
Thursday, January 2, 2025	11:00 a.m.	Organizational	Rosie
Thursday, January 2, 2025	Following Organizational	Work Session	

Holiday Schedule for 2024 Calendar Year

New Year's Day	Monday, January 1, 2024
Martin Luther King, Jr. Day	Monday, January 15, 2024
President's Day	Monday, February 19, 2024
Memorial Day	Monday, May 27, 2024
Juneteenth	Wednesday, June 19, 2024
Independence Day	Thursday, July 4, 2024
Labor Day	Monday, September 2, 2024
Election Day	Tuesday, November 5, 2024
Veteran's Day	Monday, November 11, 2024
Day before Thanksgiving	Wednesday, November 27, 2024**
Thanksgiving Day	Thursday, November 28, 2024
Day after Thanksgiving	Friday, November 29, 2024
Christmas Eve	Tuesday, December 24, 2024
Christmas Day	Wednesday, December 25, 2024

**** Offices close at noon**

ISSUE:

By-Laws and Rules of Procedure of the Isle of Wight County Board of Supervisors for Calendar Year 2024

BACKGROUND:

Every year, the Board of Supervisors, at it's annual organizational meeting, adopts its By-Laws and Rules of Procedure. This process allows for an annual review of the provisions therein to ensure that any necessary or requested revisions be adopted for the rest of the calendar year.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Adopt a motion to approve the Board's Bylaws and Rules of Procedure for calendar year 2024.

ATTACHMENTS:

Description	Type	Upload Date
By-laws and Rules of Procedure - 2024	Backup Material	12/18/2023



ISLE OF WIGHT COUNTY BOARD OF SUPERVISORS BY-LAWS AND RULES OF PROCEDURE

Revised and Adopted January 4, 2024

ARTICLE 1 – PURPOSE AND BASIC PRINCIPLES

SEC. 1-1. PURPOSE OF BY-LAWS AND RULES OF PROCEDURE

- A. To enable County government to transact business expeditiously, transparently and efficiently affording every opportunity for the citizens to witness and participate in the operation of government;
- B. To protect the rights of each individual Board Member;
- C. To preserve the spirit of cooperation among Board members; and
- D. To determine the will of the Board on all matters.

SEC. 1-2. FIVE BASIC PRINCIPLES UNDERLYING BY-LAWS AND RULES OF PROCEDURE

- A. Only one subject may claim the attention of the Board at one time;
- B. Each item presented for consideration is entitled to full and free discussion;
- C. Every member has rights equal to every other member;
- D. The will of the majority must be carried out, and the rights and opinions of the minority must be preserved and respected; and
- E. Each member shall remain respectful of fellow board members, even in times of disagreement, in speech and in behavior.

ARTICLE 2 – MEETINGS

SEC. 2-1. WHEN AND WHERE REGULAR AND WORK SESSION MEETINGS HELD

A. The time and place of regular meetings and work sessions of the Board of Supervisors (hereinafter referred to as “the Board”) shall be established at each annual organizational meeting. Such regular meetings shall be held in the Robert C. Claud, Sr. Board Room on the third (3rd) Thursday of the month unless otherwise set by the Board. Such meetings shall begin at 5:00 p.m. for closed session purposes only, with all other matters to be heard and considered at 6:00 p.m. Should the Board subsequently change the date, time or place of a regular meeting, it shall comply with the requirements of Section 15.2-1416 of the Code of Virginia (1950, as amended).

B. Work session meetings shall be held on the first (1st) Thursday of every month, at the same place as regular meetings, and shall begin at 6:00 p.m. unless otherwise set by the Board. The purpose of such work sessions shall be to allow the Board an opportunity to further review items either held over by the Board from a regular meeting or such other items as may come before the Board at a regular meeting in the future. The Board shall not take any action to approve or

deny any item before it during a work session, reserving such action solely to its regular meetings, except in matters which require immediate action due to time constraints or deadlines, fiscal policies and/or emergencies.

SEC. 2-2. CONTINUED MEETINGS

A regular or work session meeting shall be continued to the immediately following regular meeting date, time and place, unless otherwise set, if the Chair, or Vice Chair if the Chair is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

SEC. 2-3. MEETING ADJOURNMENT

Meetings of the Board shall adjourn when all business, or the agenda, before the body is complete, however it is not the Board's intent to begin a new agenda item after 11:00 p.m. unless and until a motion to extend the time has been offered and passed by a majority vote of the members present and voting. Any agenda item not conducted may be carried over to another meeting date. Any public hearing advertised for a regular meeting but not conducted may be rescheduled to another earliest possible convenient date, without further advertising when the date and time of the reconvened meeting is publicly announced at the preceding meeting.

SEC. 2-4. SPECIAL OR EMERGENCY MEETINGS

A. The Board may hold such special or emergency meetings, as deemed necessary, at such date, time and place as it may find convenient; and it may adjourn from time to time. A special or emergency meeting of the Board shall be called pursuant to Sections 15.2-1417 and 15.2-1418 of the Code of Virginia (1950, as amended).

B. Special or emergency meetings may be called by the Chair or any two (2) members in writing to the County Clerk for any purpose stated in the notice of the special or emergency meeting pursuant to Section 15.2-1418 of the Code of Virginia (1950, as amended). Only matters specified in the notice shall be considered unless all of the members of the Board are present.

C. Notice, reasonable under the circumstances, to the public and press of any special or emergency meeting shall be given contemporaneously with the notice provided the members of the Board, and the County Attorney.

SEC. 2-5. LEGAL HOLIDAY

When a regularly scheduled meeting falls on a legal holiday, the meeting shall be held on the preceding business day unless the meeting is cancelled by a majority of the Board.

SEC. 2-6. ANNUAL ORGANIZATIONAL MEETING

A. The Board shall meet on the first (1st) Thursday of January of each year which shall be known as the annual organizational meeting. The County Administrator shall preside during the annual organizational meeting pending the election of the Chair of the Board.

B. The Chair shall be elected at the annual meeting for a term of one year, ending at the commencement of the organizational meeting the following year.

C. Following the election of the Chair, he or she shall assume the Chair and conduct the election of the Vice Chair for the same term.

D. Following the election of the Vice Chair, the Board shall:

1. Appoint the Clerk of the Board (as set forth herein);
2. Establish dates, times and places for its regular meetings;
3. Adopt its By-Laws and Rules of Procedure; and
4. Appoint Board members to standing and ad hoc committee; and
5. Conduct any other necessary business as determined by a majority vote of the Board.

SEC. 2-7. PROCEDURE FOR ELECTION OF OFFICERS

A. The following procedures shall be followed to elect the Chair and Vice Chair:

1. The presiding officer shall call for nominations from the membership.
2. Any member, after being recognized by the presiding officer, may place one or more names in nomination and discuss his or her opinions on the qualifications of the nominee(s).
3. When all nominations have been made, the presiding officer shall close the nominating process and call for the vote.
4. Each member may cast one vote for any one nominee.
5. A majority of those voting shall be required to elect the officer.

B. Officers shall serve until replaced.

SEC. 2-8. SEATING ARRANGEMENT

The Board Chair shall occupy the center seat on the dais with the Vice Chair occupying the seat at his or her immediate left. The remaining members of the Board shall determine their seating arrangement by seniority with the most senior member selecting his or her seat first and the remaining members selecting their respective seats in seniority order based on years served on the Board. In the event that two or more Board members have equal seniority, the selection of seating for those members shall be by alphabetical order.

SEC. 2-9. QUORUM AND METHOD OF VOTING

- A. At any meeting, a majority of the Board shall constitute a quorum.
- B. All actions authorized by the Board shall be pursuant to a roll call vote which shall be taken by the Clerk or Deputy Clerk of the Board. The Clerk or Deputy Clerk shall call the name of each member and receive in reply the vote of such member as either “Yes” or “No” on the measure being considered. At the beginning of any meeting, the Clerk shall conduct a silent roll call of members present and absent.
- C. The order of voting shall be as called by the Clerk of the Board, with the Chair voting last.
- D. If there is an abstention, it shall be the responsibility of the Chair to note the abstention for the record and to request that the member abstaining state his or her reason for abstaining for the record.
- E. A tie vote fails.
- F. A motion to approve which fails shall be deemed a denial of the question on the floor.

SEC. 2-10. CLOSED MEETING

- A. Closed meetings shall only be used when the matter to be discussed is exempt from open meeting requirements pursuant to the Virginia Freedom of Information Act.
- B. No meeting shall become a closed meeting until the Board takes an affirmative recorded vote in open session. Any member dissenting in such vote shall state the reason for the dissent.
 - 1. The motion to move to closed session shall state specifically the purpose or purposes which are the subject of the closed meeting and reasonably identify the substance of the matters to be discussed. The motion shall make specific reference to the applicable exemption(s) under the Freedom of Information Act, which authorizes the closed meeting.

2. The County Attorney shall assist the members in formulating the proper motion to move to closed session in accordance with the requirements of the Freedom of Information Act.

C. No resolution(s), ordinance(s), rule(s), contract(s), regulation(s) or motion(s) considered in a closed meeting shall become effective until the Board reconvenes in an open meeting and takes a vote of the membership on such resolution(s), ordinance(s), rule(s), contract(s), regulation(s) or motion(s) which shall have its substance reasonably identified in the open meeting.

D. At the conclusion of a closed meeting, the Board shall reconvene in open session immediately thereafter and shall cast a vote certifying that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements were discussed; and

2. Only public business matters identified in the motion convening the closed meeting were heard, discussed or considered.

Any member who believes that there was a departure from the above requirements shall so state prior to the Chair's call for the vote, indicating the substance of the departure that, in his or her judgment, has taken place.

E. The failure of the certification to receive the affirmative vote of the majority of the members present during the closed meeting shall not affect the validity or confidentiality of the closed meeting with respect to matters considered therein in compliance with the Freedom of Information Act.

F. The Board may permit non-members to attend a closed meeting if their presence will reasonably aid the Board in its consideration of an issue.

G. Prior to the certification of a closed meeting pursuant to the Virginia Freedom of Information Act, the County Attorney shall be responsible for remind all closed meeting participants of the intent that such closed meeting discussions remain confidential, as provided for under the Virginia Freedom of Information Act, and that such matters as discussed in closed meeting should not be acted upon or discussed in public by any participant unless and until a formal action is taken by the Board in accordance with Section 2-10(C) above.

SEC. 2-11. ELECTRONIC MEETINGS

Except as provided for in this Section 2-11, the Board shall not conduct any meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled.

A. Quorum Physically Assembled – a Board member may participate in a meeting through electronic communication means from a remote location that is not open to the public if:

1. on or before the day of a meeting, the Board member notifies the Chair of the Board that he or she is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the emergency or personal matter, and the Board (a) approves the member's participation by a majority vote of the members present at a meeting and (b) the Board records in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated. In deciding whether or not to approve a Board member's request to participate from a remote location, the Board shall not consider the identity of the member making the request or the matters that will be considered or voted on at the meeting. If a Board member's participation from a remote location is disapproved, such disapproval will be recorded in the minutes with specificity. Such participation by a Board member shall be limited each calendar year to two meetings or twenty-five percent (25%) (rounded up) of the meetings of the Board, whichever is greater; or

2. a Board member notifies the Chair that he or she is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the Board records this fact and the remote location from which the member participated in the minutes.

A Board member may participate in a meeting by electronic means pursuant to this subsection A only when a quorum of the Board is physically assembled at the primary or central meeting location and the Board makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

B. Quorum Not Physically Assembled – the Board may meet by electronic communication means without a quorum physically assembled at one location when the Governor of the Commonwealth of Virginia has declared a state of emergency in accordance with Section 44-146.17 of the Code of Virginia (1950, as amended), *provided that*:

1. the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location, and

2. the purpose of the meeting is to address the emergency.

If it holds a meeting pursuant to this subsection B, the Board shall:

1. give public notice using the best available method given the nature of the emergency contemporaneously with the notice provided members of the Board;

2. make arrangements for public access to the meeting;

3. make available to the public, at the time of the meeting, agenda packets and all materials, unless exempt, that will be distributed to members of the Board in sufficient time for

duplication and forwarding, as best as practicable given the emergency, to all locations at which public access will be provided;

4. record minutes of the meeting; and
5. record in the minutes votes taken by name in roll-call fashion.

The nature of the emergency, the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held shall be stated in the minutes of the meeting.

C. Reporting – if a Board meeting is held by electronic communication means, the Board shall:

1. make a written report of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on Technology and Science by December 1 of each calendar year:

- a. the total number of electronic communication meetings held that year;
- b. the dates and purposes of the meetings;
- c. a copy of the agenda for each meeting;
- d. the number of sites for each meeting;
- e. the types of electronic communication means by which the meetings where held;
- f. the number of participants, including members of the public, at each meeting location;
- g. the identity of the members of the Board recorded as absent and those recorded as present at each meeting location;
- h. a summary of any public comment received about the electronic communication meetings; and
- i. a summary of the Board's experience using electronic communication meetings, including its logistical and technical experience.

2. make copies of the public comment form prepared by the Virginia Freedom of Information Advisory Council available to the public.

SEC. 2-12. SECURITY

A. In an effort to increase the safety of the citizens, staff and elected officials, security shall be provided at all official meetings of the Board (regular, work sessions meetings, special called and emergency meeting).

B. Security shall be provided at all informal gatherings scheduled by individual Board Members, which are scheduled offsite or after hours, such as Town Hall and informational meetings.

ARTICLE 3 – OFFICERS

SEC. 3-1. CHAIR AND VICE CHAIR

The Chair shall preside over all meetings of the Board. The Vice Chair serves in the absence of the Chair. In the absence from any meeting of both the Chair and Vice Chair, the members present shall choose one of their members as temporary chair. The Chair shall recommend all appointments to standing or ad hoc Board Committees to be approved by majority vote of the Board.

SEC. 3-2. CLERK

The Clerk of the Board shall be appointed by the Board at its annual organizational meeting, and the duties and responsibilities of the Clerk shall be as set out in Sections 15.2-1538 and 15.2-1539 of the Code of Virginia (1950, as amended). The Board may also designate a Deputy Clerk, and at the discretion of the Board, any County employee can be designated as Temporary Clerk.

SEC. 3-3. PARLIAMENTARIAN

The County Attorney, or his or her designee, shall serve as the Parliamentarian for the purpose of interpreting these By-Laws and Rules of Procedure, *Robert's Rules of Order* and the Code of Virginia, as may be directed by the Chair, or as required as a result of a point of order raised by any one or more Board member. If the County Attorney, or his or her designee, is unavailable, the County Administrator shall serve as the Parliamentarian.

SEC. 3-4. PRESERVATION OF ORDER

- A. At meetings of the Board, the Chair shall preserve order and decorum.
- B. Board members shall not speak until recognized by the Chair. Board members shall address the Chair or address other members through the Chair. After being recognized by the Chair, a Board member shall not be interrupted, except when a point of order is called or when requested to yield the floor by another member.

ARTICLE 4 – CONDUCT OF BUSINESS

SEC. 4-1. ORDER OF BUSINESS

- A. At regular meetings of the Board on the third (3rd) Thursday of the month, the order of business shall generally be as follows:
 - 1. Call to Order – Silent Roll Call of Members (commencing at 5 p.m.)
 - 2. Approval of Agenda

3. Closed Meeting (if necessary)
4. Return to Open Session/Public Meeting (commencing at 6 p.m.)
5. Invocation - Pledge of Allegiance
6. Citizens' Comments
7. Consent Agenda
8. Regional & Inter-Governmental Reports
9. Appointments (if necessary)
10. Special Presentations
11. Public Hearings (if necessary)
12. County Attorney's Report (if necessary)
13. County Administrator's Report
14. Unfinished/Old Business
15. New Business
16. Adjournment

B. The above order of business may be modified by the County Administrator, after the Chair has been notified, to facilitate the business of the Board.

C. Regional reports and special presentations are limited to five (5) minutes per speaker. This time may be extended at the discretion of the Chair.

D. Citizens' Comments shall be governed by the following rules:

1. Citizens' Comments shall be for the limited purpose of allowing members of the public to present any matter, which, in their opinion, deserves the attention of the Board. They shall not serve as a forum for debate with the Board or individual members of the Board.

2. Board members shall not discuss issues raised or questions raised by the public, within the same meeting, except by consent of a majority of the Board members present.

3. Citizens wishing to speak during the Citizens' Comments portion of the agenda shall sign the registration form, identifying, with reasonable certainty, the subject matter of his or her comments prior to the commencement of the Citizens' Comments portion of the

agenda. Citizens who do not sign the registration form prior to the commencement of Citizens' Comments may address the Board after all others who had signed the registration form have had an opportunity to speak.

4. Remarks shall be addressed directly to the Board and not to staff, the audience or the media.

5. The Chair shall open Citizens' Comments.

6. The Chair will explain the Citizens' Comments policy prior to the commencement of the first citizen's comment(s) being received by the Board.

7. The Chair will call on each speaker who has signed the registration form in the order upon which their name shall appear on the registration form.

Each speaker shall clearly state their name and address and/or election district of residence and shall be subject to a four (4) minute time limitation. A timer with a lighting system shall be used for keeping track of a Speaker's time. Speakers will receive a yellow light warning one (1) minute prior to the expiration of their presentation time. Speakers will receive a red light at the expiration of their time and shall be asked to end their comments. The Parliamentarian shall be responsible for noting the expiration of time limits, and the Chair shall be responsible for enforcing it. If the speaker represents a group of individuals in attendance at a particular meeting, there shall be a time limit of six (6) minutes. Members of a group in attendance shall forfeit their right to speak on the same topic. For purposes of this section, a "group" shall constitute ten (10) or more individuals. No speaker shall address the Board more than once during Citizens' Comments at any single Board meeting and citizens shall not donate their unused speaking time to another speaker. Notwithstanding the time limitations stated herein, the Chair may, at his or her discretion, allow any citizen to speak beyond the designated time limitation for a reasonable period of time in order to conclude his or her remarks.

8. There shall be no comment during Citizens' Comments on a matter for which a public hearing is scheduled during the same meeting.

9. There shall be no comment during Citizens' Comments on a matter which has already been the subject of a previous public hearing where no final vote has been taken by the Board.

10. Any issue raised by the public which the Board wishes to consider may be put on the agenda for the next Board meeting by a majority vote.

11. Public comment shall be germane to policies, affairs and services of the county government.

12. The above rules notwithstanding, members of the public may present written comments to the Board or to individual Board members at any time during the meeting. Such written comments shall be submitted through the Clerk and shall become a part of the record.

SEC. 4-2. CONSENT AGENDA

A. The Consent Agenda shall be introduced by a motion “to approve”, and shall be considered by the Board as a single item.

B. Upon the request of any Board member, an item may be removed from the Consent Agenda for consideration after approval of the remaining items on the consent agenda.

SEC. 4-3. SPECIAL PRESENTATIONS

Special presentations shall be for the purpose of informing the Board of matters of public interest, as well as to provide the Board an opportunity to properly recognize individuals and organizations, either public or private, for the outstanding service or work they perform for or in Isle of Wight County. Any governmental agencies or entity, organization or individual wishing to present an item to the Board shall contact the County Administrator fourteen (14) days prior to the Board’s regularly scheduled meeting to seek inclusion in the Board’s agenda.

SEC. 4-4. CONDUCT OF MEETINGS

When two or more members of the Board wish to speak at the same time, the Chair shall name the one to speak. The Chair may call a brief recess at any time. The Chair may order the expulsion of a disorderly member of the public, subject to appeal to the full Board. The Chair may automatically adjourn, without benefit of any motion or debate, any meeting of the Board. All Board members shall maintain proper decorum when addressing any citizens and applicants that appear before the Board.

SEC. 4-5. FORM OF PETITIONS, ETC.

Every petition, communication or address to the Board shall be in respectful language and is encouraged to be in writing.

SEC. 4-6. MOTIONS

A. Members are required to obtain the floor before making motions or speaking, which they can do while seated.

B. Motions need not be seconded.

C. Informal discussion of a subject is permitted while no motion is pending.

D. An amended or substitute motion shall be allowed to any motion properly on the floor; it shall have precedence over an existing motion and may be discussed prior to being voted

on. If the amended or substitute motion fails, the former motion can then be voted upon. If the amended or substitute motion passes, the amended or substitute motion shall be deemed the main motion and shall stand as having been passed by such vote. If an amended or substitute motion fails, a second amended or substitute motion may be made. No more than two (2) amended or substitute motions may be made.

E. When a motion is under debate, no motion shall be received unless it be one to amend, substitute, commit or refer for study, postpone, call for the previous question, lay on the table, or to adjourn.

F. The Chair can speak in all discussion and can make motions and vote in the same fashion as all other members.

G. A motion to call for the question is in order and the right of every Board member to call when they feel discussion has been exhausted and or repeated, thus belaboring the business before the governing body. A motion to call for the question requires a two-thirds majority vote of those present. The Chair shall not recognize a motion to call for the question until every Board member desiring to speak on the main motion has had such an opportunity.

H. When a vote upon any motion has been announced, it may be reconsidered on the motion of any member who voted with the prevailing side provided that such motion shall be made at the session of the Board at which it was decided. Such motion for reconsideration shall be decided by a majority of the votes of the members present. A member present at the meeting but temporarily absent during a vote may move for reconsideration.

I. Subject to applicable law, the Board may consider a motion to rescind at any time to address a matter or issue upon which a vote has been taken, following such notice as may be required.

J. Should a decision be made to reconsider or rescind a land use decision, subject to notice and public hearings, as may be required by law, the Board may choose to act on such request without referring the matter to the Planning Commission for its consideration.

K. A motion to adjourn shall always be in order and supersedes all business before the Board.

SEC. 4-7. DECISIONS ON POINTS OF ORDER

The Chair, when presiding at a meeting of the Board, without vacating the chair, shall refer any point of order to the Parliamentarian. The Parliamentarian shall advise the Chair who shall then make a ruling on the point of order. A Board member may appeal the ruling of the Chair to the full Board which shall decide the matter by majority decision.

SEC. 4-8. SUSPENDING RULES

One or more of these By-Laws and Rules of Procedure may be temporarily suspended by a majority vote of the members present, or by unanimous consent.

SEC. 4-9. ROBERT’S RULES OF ORDER

The proceedings of the Board, except as otherwise provided in these By-Laws and Rules of Procedure and by applicable state law, shall be governed by *Robert’s Rules of Order*.

ARTICLE V – PUBLIC HEARINGS

SEC. 5-1. PUBLIC HEARING AUTHORIZATION

The County Administrator, or his/her designee, shall be authorized to set public hearings for such regular meetings as are appropriate in order to effectuate the timely consideration of matters requiring Board consideration.

SEC. 5-2. FORMAT FOR PUBLIC HEARINGS

A. The following format shall be followed for all Public Hearings conducted before the Board:

1. The Chair will make a brief statement identifying the matter to be heard and verify that all legal notification requirements have been met.

2. The Chair will call upon the appropriate county staff member to present the item to be heard. Staff presentations should be concise.

3. The applicant may appear on his own behalf, or be represented by counsel or an agent. The applicant, or his counsel or agents, shall have a combined total of ten (10) minutes to speak to the application.

4. The Chair will open the floor to public comment, if any, after the applicant, or his counsel or agent, has spoken. Any private citizen may speak for or against the issue. The Clerk shall prepare a registration form for citizens to sign their name, address and/or election district of residence. The Chair shall call each speaker in the order that their name appears on the registration form. Each speaker shall clearly state his or her name, address and/or election district of residence for the record. Citizen comments are limited to four (4) minutes per citizen speaker. If the speaker represents a group of individuals in attendance at a particular meeting, there shall be a time limit of six (6) minutes. Members of a group shall forfeit their right to speak on the same topic. For purposes of this section, a “group” shall constitute ten (10) or more individuals. The applicant, or his counsel or agent, shall be given the opportunity for rebuttal, which shall last for no more than five (5) minutes. Notwithstanding the time limitations stated herein, the Chair may, at his or her discretion, allow any citizen to speak beyond the designated time limitation for a reasonable period of time in order to conclude his or her remarks.

5. A timer with a lighting system shall be used for keeping track of a Speaker's time. Speakers will receive a yellow light warning one (1) minute prior to the expiration of their presentation time. Speakers will receive a red light at the expiration of their time and will be asked to end their comments.

6. The Parliamentarian shall be responsible for noting the expiration of time limits, and the Chair shall be responsible for enforcing it.

7. Upon the conclusion of public comments or the applicant's rebuttal, the Chair shall close the public hearing.

B. When a public hearing shall have been closed by order of the Chair, no further public comments shall be received by the Board. However, any Board member may ask a question of any person who spoke during the public hearing after being recognized by the Chair to do so.

C. Following the close of the public hearing, the Chair may entertain a motion to dispose of the issue and the Board may debate the merits of the issue.

ARTICLE 6 – AGENDA

SEC. 6-1. PREPARATION

A. The Clerk shall prepare an agenda, at the direction of the County Administrator, for the regularly scheduled meetings conforming to the order of business specified in Section 4-1 entitled "Order of Business".

B. All items which are requested to be placed on the agenda which have not been submitted within the prescribed deadline, as set by the County Administrator, shall be placed on the next regular agenda for consideration.

C. Nothing herein shall prohibit the Board from adding or removing items to the agenda, provided that such a request is in the form of a motion, voted upon by a majority of the Board. Members must use discretion in requesting the addition of items to the agenda. It is considered desirable to have items listed on the published agenda.

SEC. 6-2. DELIVERY OF AGENDA

The Board agenda and related materials shall be received by each member of the Board and the County Attorney on the Friday before the scheduled regular meeting. The Clerk of the Board may request an adjustment to the delivery schedule due to special circumstances.

SEC. 6-3. COPIES

The Clerk shall prepare or cause to be prepared extra copies of the agenda and shall make the same available to the public and the press in the Office of the County Administrator and on the County website. The Clerk shall also have at least one hard copy available at each regular meeting.

SEC. 6-4. COMMENTS, QUERIES OF BOARD MEMBERS

Board members are to observe the following rules during the discussion of agenda items:

1. The Chair shall ensure that Board comments are constructive and contain no personal attacks of staff or other Board members.
2. The Chair shall keep discussion germane to the subject. Points of clarification shall be limited to questions only. The Chair shall rule other comments out of order.
3. Board members may address questions to the County Administrator or staff member presenting at the meeting. Staff members should be at the podium when addressing Board members' questions. All legal questions should be addressed to the County Attorney.

ARTICLE 7 – BOARD, AUTHORITIES, COMMISSIONS AND COMMITTEES

SEC. 7-1. APPOINTMENTS TO BOARDS, AUTHORITIES, COMMISSIONS & COMMITTEES

Members of all boards, authorities, commissions and committees shall be appointed by a majority of the Board after review of qualifications and discussion in Closed Meeting. Proposed appointments shall be voted upon under the Appointments section of the Agenda. Appointees' terms shall run in accordance with the applicable by-laws of such boards, authorities, commission or committees to which the appointee is appointed, unless a shorter term is specified by the Board. Subject to any state law provisions to the contrary, all appointees to boards, commissions and committees serve and may be removed, with or without cause, at the pleasure of the Board.

SEC. 7-2. ATTENDANCE

Members of any standing or ad hoc board, authority, committee or commission of the Board, or of any committee to which the Board appoints a member, shall be expected to attend every scheduled meeting of the body to which they have been appointed. It shall be the duty of the chair of any Board of Supervisors' appointed committee to annually report to the Board, but in no event later than the Board's regular meeting in March, the level of attendance of members for that particular body for the prior calendar year. Any member of an appointed body who fails to attend a minimum of seventy-five percent (75%) of the scheduled meetings of that particular body in any given calendar year may, at the discretion of the Board, be deemed to have forfeited his or her membership on that body. In the event that the Board determines that an appointee has forfeited his or her appointment pursuant to this section, the Clerk of the Board shall notify, in writing, the appointee of his or her removal from that body based upon his or her failure to attend there required percentage of scheduled meetings and shall thank the appointee for his or her service to the community. Upon the appointment of any appointee, the Clerk of the Board shall forward to the member a copy of this section.

SEC. 7-3. PLANNING COMMISSION MEMBERS ATTENDANCE

Notwithstanding the foregoing provision, a member of the Planning Commission may be removed from office by the Board without limitation in the event that the commission member is absent from any three (3) consecutive meetings of the commission, or is absent from any four (4) meetings of the commission within any twelve (12) month period. In either such event, a successor shall be appointed by the Board for the unexpired portion of the term of the member who has been removed.

SEC. 7-4. BY-LAWS AND RULES OF PROCEDURE OF BOARDS, AUTHORITIES, COMMISSIONS AND COMMITTEES

The By-Laws and Rules of Procedure of any board, authority, commission or committee not established by state law shall be submitted to the Board for approval prior to becoming effective.

SEC. 7-5. ROLE OF STANDING OR AD HOC BOARD COMMITTEES; DESIGNATED STANDING COMMITTEES; MEETING REQUIREMENTS

A. The role of any standing or ad hoc committee(s) of the Board, as they may be created from time to time, shall be to review and consider all matters properly placed before them by motion of the Board. After review and consideration of such matters, the standing or ad hoc committee shall provide the Board with its formal recommendation for action through such report as may be determined appropriate by the County Administrator in the Board's regular agenda as set forth herein.

B. The following standing committees are hereby created by the Board for the purposes stated:

1. Public Works – responsible for the review and recommendation of matters related trash/refuse, public buildings and fleet issues;
2. Community Development – responsible for the review and recommendation of matters related to economic development, planning and zoning, inspections and public utilities;
3. Parks, Recreation and Cultural – responsible for the review and recommendation of matters related to parks and recreation and cultural development;
4. Personnel – responsible for the review and recommendation of matters related to personnel policies and procedures, wages and benefits for public employees, oversight of the timely coordination of the County Administrator and County Attorney's performance reviews, participation in periodic review of recommendations related to the organizational structure of County departments, and participation in the review of recommendations regarding contracted services for the County;

5. Public Safety – responsible for the review and recommendation of matters related to law enforcement, fire and rescue and all support services related thereto;

6. Franklin Intergovernmental Relations – responsible for the review and recommendation of matters related to intergovernmental operations between Isle of Wight County the City of Franklin;

7. Smithfield Intergovernmental Relations – responsible for the review and recommendation of matters related to intergovernmental operations between Isle of Wight County and the Town of Smithfield;

8. Windsor Intergovernmental Relations – responsible for the review and recommendation of matters related to intergovernmental operations between Isle of Wight County and the Town of Windsor; and

9. Joint Tourism – responsible for the review and recommendation of matters related to the efforts of the jointly funded tourism office by Isle of Wight County and the Town of Smithfield.

ARTICLE 8 – GENERAL OPERATING POLICY

SEC. 8-1. ACTIONS BY INDIVIDUAL MEMBERS OF THE BOARD

It shall be the policy of the Board that no member(s) shall exert individual action or direct any county employee or initiate any action or assert their individual preference(s) in a manner that would require a county employee to perform any action contrary to the laws, ordinances or policies of Isle of Wight County or which would require the expenditure of public funds in any amount without the approval of the Board. Further, no member of the Board shall seek nor accept more favorable treatment from county officers or employees than would be given to other members of the Board, nor attempt to influence the decisions or recommendations of county appointees, officers or employees. Notwithstanding the foregoing, each Board member may, and is encouraged, to share information with county appointees, officers and employees and to promote a positive working environment for all employees.

SEC. 8-2. NUMBERING AND INDEXING OF RESOLUTIONS, ORDINANCES AND PROCLAMATIONS

It shall be the responsibility of the Clerk to number and index all resolutions, ordinances and proclamations of the Board. Resolutions and proclamations shall be numbered consecutively and use the last two digits of the calendar year. For example, for the first resolution in January, 2014, the resolution number would be shown as: Resolution No. 14-01.

SEC. 8-3. MINUTES OF THE BOARD

The minutes of the Board meeting shall reflect the official acts of the Board and names of the public commenting during public hearings and citizen comments, as well as a summary of the

Board's proceedings at each meeting. They shall reflect the issues discussed and Board comments in summary form.

SEC. 8-4. AMENDING BY-LAWS

These by-laws may be amended with the concurrence of two-thirds (2/3) of the members present at any meeting subsequent to the introduction of a suggested by-laws amendment.

SEC. 8-6. ENACTMENT OF BY-LAWS AND RULES OF PROCEDURE

No later than December 1st of each year, the County Attorney shall deliver a copy of the most recently enacted By-Laws and Rules of Procedure to each member and member-elect of the Board, soliciting any proposed changes to the same. The County Attorney shall prepare proposed amendments based on any such Board comments as directed by passage of a motion and include them in the Agenda for consideration at the Organizational Meeting.

Adopted this 4th day of January, 2024.

Chair

Carey Mills-Storm, Clerk

Approved as to form:

Robert W. Jones, Jr., County Attorney

ISSUE:

Appointments to the Board of Supervisors' Committees

BACKGROUND:

The Chairman may wish to consider Committee appointments of the Board. Attached is a listing of the various Committees and the Board members who served during calendar year 2023.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion and direction.

ATTACHMENTS:

Description	Type	Upload Date
Board of Supervisors' Committees	Cover Memo	12/19/2023

2023
BOARD OF SUPERVISORS' COMMITTEES

COMMITTEES

MEMBER

Capital Improvements Plan	Grice McCarty
Commission on Aging	Jefferson
Community Development (ED, Planning, Inspections, Utilities)	Grice Rosie
Franklin Intergovernmental Relations Committee	Acree Rosie
Intergovernmental Water & Sewer Task Force	Acree Grice
Joint Tourism	Jefferson McCarty Keaton (Alternate)
Parks, Recreation & Cultural	Jefferson McCarty
Personnel	Jefferson Acree
Public Safety (Fire, EM, 911, Sheriff)	Jefferson Acree
Public Works (Trash, Bldg, Refuse, Fleet)	Acree McCarty
Smithfield Intergovernmental Relations Committee	Jefferson Grice
Social Services Board	Jefferson
Special Needs Task Force	Acree Rosie
Stormwater Advisory Committee	Grice McCarty
Windsor Intergovernmental Relations Committee	Acree Rosie

ISSUE:

Appointments to Serve on Regional Boards/Committees

BACKGROUND:

The Board may wish to consider and make appointments of Board members to various regional organizations.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion and direction.

ATTACHMENTS:

Description	Type	Upload Date
Board of Supervisors Regional by Member & Org	Cover Memo	12/19/2023

2023
BOARD OF SUPERVISORS'
REGIONAL ORGANIZATIONS (BY MEMBER)

ACREE

- . *Hampton Roads Planning District Commission*
- . *Western Tidewater Water Authority*
- . *Western Tidewater Community Transportation Collaborative*

GRICE

- . *Eastern Virginia Regional Industrial Facility Authority*
- . *Hampton Roads Alliance*
- . *Hampton Roads Workforce Council*
- . *Western Tidewater Water Authority*

JEFFERSON

- . *Western Tidewater Regional Jail*

McCARTY

- . *Hampton Roads Transportation Advisory Committee*
- . *Hampton Roads Transportation Planning Organization*
- . *Western Tidewater Regional Jail*

ROSIE

- . *Hampton Roads Military Federal Facilities Alliance*

KEATON

- . *Hampton Roads Planning District Commission*
- . *Hampton Roads Transportation Planning Organization*
- . *Southeastern Public Service Authority*
- . *Western Tidewater Regional Jail*
- . *Western Tidewater Water Authority*

2023
BOARD OF SUPERVISORS'
REGIONAL ORGANIZATIONS (BY ORGANIZATION)

<i>Eastern Virginia Regional Industrial Facility Authority</i>	<i>Grice</i>
<i>Hampton Roads Alliance</i>	<i>Grice</i>
<i>Hampton Roads Military & Federal Facilities Alliance:</i>	<i>Rosie</i>
<i>Hampton Roads Planning District Commission:</i>	<i>Acree</i> <i>Keaton</i>
<i>Hampton Roads Transportation Accountability Committee:</i>	<i>McCarty</i>
<i>Hampton Roads Transportation Planning Organization:</i>	<i>McCarty</i> <i>Keaton</i>
<i>Hampton Roads Workforce Council</i>	<i>Grice</i>
<i>Southeastern Public Service Authority</i>	<i>Keaton</i> <i>Etheridge -</i> <i>(Alternate)</i>
<i>Western Tidewater Community Transportation Collaborative</i>	<i>Acree</i>
<i>Western Tidewater Regional Jail:</i>	<i>Jefferson</i> <i>McCarty</i> <i>Keaton</i>
<i>Western Tidewater Water Authority:</i>	<i>Grice</i> <i>Acree</i> <i>Keaton</i>

ISSUE:

Special Report - Annual Financial Report

BACKGROUND:

Each year the County undergoes an annual audit of its financial records and internal controls with a report presented to the Board of Supervisors.

Robinson, Farmer, Cox Associates, the County's audit firm, will discuss the auditor's report in connection with the annual report of the County's financial statements.

BUDGETARY IMPACT:

None

RECOMMENDATION:

For the Board's information.

ISSUE:

Discussion of Application of the Stormwater Fee to Solar Projects

BACKGROUND:

Staff provided information at the Board's Work Session on December 14, 2023 regarding the potential application of stormwater fees to solar projects.

The Virginia Department of Environmental Quality has determined that solar panels are, for purposes of stormwater, impervious.

In this regard, the County's Stormwater Advisory Committee (SAC) recommends solar panel surface areas be billed at the current stormwater utility billing rate as all other developed commercial properties within the County for the following reasons:

- The DEQ defined solar panel surface areas as impervious based on the attached memorandum dated March 29, 2022
- The ordinance requires impervious areas on developed properties to be billed for stormwater management per the attached excerpt from the County's stormwater management ordinance.
 - by the use of the word shall
 - by virtue of the property being developed
 - as it's not subject to any exceptions
- The County bills other entities, such as churches, per their impervious area
- A subsequent memorandum was released on April 14, 2022 that softened the definition for design purposes to a future date in 2025 when they will be considered impervious
 - It did not change the definition and both memos are silent on stormwater utility billing

Staff will provide additional information regarding the potential opportunities and challenges relative to the SAC recommendation.

BUDGETARY IMPACT:

TBD

RECOMMENDATION:

For the Board's information.

ATTACHMENTS:

Description	Type	Upload Date
SAC Recommendation	Backup Material	12/8/2023
DEQ Solar Memo - March 2022	Backup Material	12/8/2023
DEQ Solar Memo - April 2022	Backup Material	12/8/2023

TO: Isle of Wight County Board of Supervisors

FROM: Isle of Wight County Stormwater Advisory Committee (SAC)

RE: **Stormwater Utility Fee billing for Solar Farm developments**

DATE: **November 26, 2023**

This memorandum is provided as a result of an SAC discussion at the September Regular meeting. The Committee has discussed alternatives to the County's approach on Solar Farm development projects as related to stormwater utility billing.

The County Stormwater Division, to date, has billed solar farm facilities based on the impervious area needed for access roads, parking areas, buildings, etc.. The solar panel surface area itself has been included as pervious cover. This categorization was allowed in concept since the surface beneath the panel can be pervious and the overland flow can travel unobstructed beneath the panel.

On March 29, 2022 DEQ issued the attached Memorandum that changed the stormwater design parameters used for defining the panel cover itself to be considered **impervious**. This definition change, coupled with the mandatory Stormwater Ordinance requirement to bill the Owner of all developed properties based on impervious cover, prompted the Stormwater Division to consider whether all (existing and future) solar farm projects should be subject to increased Stormwater Utility Fee billing to include the effective impervious solar panel surface area itself.

On April 14, 2022 the DEQ issued a subsequent attached memo that softened DEQ's position for design purposes to allow an extension of the effective date where panels must be considered as impervious.

The County attorney provided the attached legal opinion on March 9, 2023 regarding the potential to bill the panel areas as impervious.

Last, the County Stormwater ordinance, excerpt attached, outlines the criteria for billing and requires the County to bill all developed properties based on their impervious cover.

RECOMMENDATION

The SAC recommends solar panel surface areas be billed at the current stormwater utility billing rate as all other developed commercial properties within the County for the following reasons:

- The DEQ defined solar panel surface areas as impervious based on the attached memorandum dated March 29, 2022
- The ordinance requires impervious areas on developed properties to be billed for stormwater management per the attached excerpt from the County's stormwater management ordinance.
 - o by the use of the word shall
 - o by virtue of the property being developed
 - o as it's not subject to any exceptions
- The County bills other entities, such as churches, per their impervious area
- A subsequent memorandum was released on April 14, 2022 that softened the definition for design purposes to a future date in 2025 when they will be considered impervious
 - o It did not change the definition and both memos are silent on stormwater utility billing



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community,
All Local Virginia Stormwater Management Program Administrators

From: Michael S. Rolband, PE, PWD, PWS Emeritus
Director, Department of Environmental Quality 

Date: March 29, 2022

Subject: Post-development Stormwater Management at Solar Projects

Dear All:

To date, the Department of Environmental Quality (DEQ) has not required solar projects that are subject to Virginia Stormwater Management Program (VSMP) requirements to account for the imperviousness of the solar panels when applying the Commonwealth's post-development stormwater management technical criteria. When performing water quantity (rainfall-runoff) calculations, DEQ's practice has been to consider only the solar panel support posts and beams as impervious areas. However, this approach has the potential to underestimate the post-development runoff volume or runoff rate from solar panel arrays, which in turn has the potential to negatively impact downstream waterways or properties. Additionally, the Environmental Protection Agency's (EPA) Chesapeake Bay Program considers the solar panels to be impervious areas for the purposes of performing water quality modeling/calculations for the Chesapeake Bay Total Maximum Daily Load.

To safeguard the protection of downstream waterways and properties as well as ensure consistency with EPA's Chesapeake Bay Program, DEQ will be implementing a stronger post-development stormwater management policy for solar projects that are subject to VSMP requirements. The new policy will go into effect **immediately** (i.e., the policy applies to all stormwater management plans not approved prior to the date of this memorandum regardless of the stage of design), and is as follows:

1. **Water Quantity.** Solar panels are to be considered unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. Current information regarding the application of unconnected impervious areas can be found in Chapter 9 (Hydrologic Soil-Cover Complexes), Part 630 (Hydrology) of the Natural Resource Conservation Service's National Engineering Handbook.
2. **Water Quality.** Solar panels are to be considered impervious areas when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM). To account for the disconnection of the solar panels from the overall drainage system, the area of the solar panels may be entered into the applicable "Simple Disconnection" stormwater best management practices section of the VRRM compliance spreadsheet (i.e., 2a – Simple Disconnection to A/B Soils or 2b – Simple Disconnection to C/D Soils).
3. **Alternative Methods.** This policy does not prohibit any alternative method. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with the appropriate laws and regulations.

DEQ staff are currently preparing an agency guidance document to provide additional clarity on the implementation of this memorandum. Until the guidance document is finalized, please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov or 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov or 757-374-4621) should you have any questions.



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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community
All Local Virginia Stormwater Management Program Administrators

From: Mike Rolband
Director, Department of Environmental Quality

A handwritten signature in blue ink, appearing to read "Mike Rolband".

Date: April 14, 2022

Re: Implementation of the March 29 Memorandum regarding Post-Development
Stormwater Management for Solar Projects

Background

This memorandum provides additional details regarding the implementation of the Department of Environmental Quality (DEQ or Department) requirement that the surface area of solar panels are subject to the Virginia Stormwater Management Program (VSMP) and are considered impervious surfaces when applying the Commonwealth's post-development stormwater technical criteria to solar projects.

The Department's March 29, 2022, memorandum provided clarification to the regulated community that existing regulations for solar projects regarding impervious surfaces includes the solar panels as well as the base posts. This memorandum applies to *water quantity* when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. This memorandum also applies to *water quality* when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM).

The prior memorandum noted that this does not prohibit any alternative method that might achieve the regulatory aims of DEQ and federal regulations. Please refer to the Department's March 29, 2022, memorandum in its entirety for full context.

Implementation

The Department recognizes the contractual, financial, and other obligations with many utility-scale or community solar projects currently in design—especially for those in advanced stages of

design or implementation. Therefore, any solar project that does not obtain an interconnection approval by a regional transmission organization or electric utility by December 31, 2024 must comply with the requirements detailed in the Department's March 29, 2022, memorandum, which will be further clarified in an agency guidance document.

After the agency guidance document is approved, solar projects submitted to DEQ and accepted for evaluation or those projects completed prior to March 29, 2022, may submit adjusted design criteria for an expedited review process from the DEQ to certify compliance with state and federal regulations for no additional fee (when DEQ is the VSMP Authority).

Additionally, DEQ recognizes that the primary issue related to the VSMP is the length of time required to receive a permit. The Department is committed to a significant reduction of the time required to receive a permit, and DEQ will develop details for further implementation of federal and state regulations and an expedited review process with the stakeholder community in conjunction with the guidance document process and future additional actions. The Department reserves the right, following additional conversations with stakeholders and an evaluation of all relevant factors, to update guidance documents and relevant regulations to achieve the public policy goals of the Commonwealth.

Current Requirements

DEQ reminds all parties that:

1. This memorandum does not relieve any party from compliance with existing local, state, or federal laws and regulations—including 9VAC25-840-40 Minimum Standards,¹ and in particular Minimum Standard 19, which requires that: "Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff ...", (ii) Virginia's Phase III Watershed Implementation Plan goals on the Chesapeake Bay TMDL; and (iii) other local, state, or federal water quality criteria standards.
2. Early compliance with the March 29, 2022, memorandum to the extent practicable (as determined by the applicant) is encouraged as the DEQ expedites plan reviews given current staff and budget constraints.

As noted in the Department's March 29, 2022, memorandum, DEQ staff are currently preparing an agency guidance document pursuant to Va. Code § 2.2-4101 and § 2.2-4007.2. The guidance document process provides interested parties an opportunity to comment prior to the start of public comment published in the Virginia Register. Please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov; 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov; 757-374-4621) should you have questions.

¹ Statutory authority: Va. Code § 62.1-44.15:52. Former 4VAC50-30-40 derived from VR625-02-00 § 4; eff. September 13, 1990; amended, Virginia Register Volume 11, Issue 11, eff. March 22, 1995; Volume 29, Issue 4, eff. November 21, 2012; amended and renumbered, Virginia Register Volume 30, Issue 2, eff. October 23 2013; amended, Virginia Register Volume 31, Issue 24, eff. August 26, 2015; Volume 33, Issue 4, eff. November 17, 2016.

ISSUE:

Discussion of Use of RV/Camping on Private Residential Property

BACKGROUND:

The Board has previously expressed interest in discussing the use of recreational vehicles for the purpose of camping on private residential property. The County Attorney will provide information regarding the provisions outlined in the County's current ordinances.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion.

ISSUE:

Discussion of Chapter 12 - Offenses-Miscellaneous, Section 12 - 11.1 Discharging Firearms of the Isle of Wight Code of Ordinances

BACKGROUND:

Citizens have expressed concerns relative to the discharging of firearms across property lines in the County. The Board may wish to discuss potential options to address citizens' concerns.

The County's current ordinance is as follows:

Sec. 12-11.1 - Discharging firearms.

(a) No person shall discharge any firearm within the county within one thousand feet of a (i) platted subdivision; (ii) business establishment; (iii) public building; (iv) public gathering; or (v) public meeting place, unless engaged in lawful hunting. For purposes of this subsection (a), a "platted subdivision" shall mean a single-family residential subdivision of more than five lots platted at the same time.

(b) Any person violating the provisions of this section shall be punishable as a Class 1 misdemeanor.

(c) This section shall not apply to a (i) law-enforcement officer in the performance of his official duties; (ii) any person whose discharge of a firearm is justifiable or excusable at law in the protection of life or property; (iii) the discharge, on land zoned for agricultural use, of a firearm for the killing of deer pursuant to Section 29.1-529 of the Code of Virginia (1950, as amended); (iv) the discharge of a firearm that is otherwise specifically authorized by law; (v) the discharge of black powder firearms using blanks as part of historical re-enactments, historical living history programs and historical demonstrations; (vi) the discharge of starter blank weapons to initiate athletic competitions; or (vii) ceremonial and patriotic displays. (10-2-08.)

For state law as to authority of the county to regulate the discharge of firearms, see Code of Va., §§ 15.2-1209, 18.2-280 and 29.1-527.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion and direction.